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Air Pollution Regulations in State Implementation Plans: Minnesota

Abcor Inc, Wilmington, MA Walden Div

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Air Pollution Regulations in State Implementation Plans:
Minnesota

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16. ABSTRACT
This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the 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:

Minnesota

by

Walden Division of Abcor, Inc.
Wilmington, Massachusetts

Contract No. 68-02-2890

EPA Project Officer: Bob Schell

Prepared for

U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Air, Noise, and Radiation
Office of Air Quality Planning and Standards
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Publication No. EPA-450/3-78-073

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

MINNESOTA

Submittal	Approval	Description
7/25/72	9/22/72	APC-3

FEDERAL REGULATIONS

Section No.	Description
52.1224	Public availability of emission data.
52.1225	Review of new or modified indirect sources.
52.1234	Prevention of significant deterioration.

DOCUMENTATION OF CURRENT EPA-APPROVED
STATE AIR POLLUTION REGULATIONS

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(4.0) APC 1 AMBIENT AIR QUALITY STANDARDS

(a) The "primary" air quality standards are levels of air pollutants above which, on the basis of present knowledge, health hazards or impairment may be produced. Health hazards include not only production, aggravation or possible production of disease, but also interference with function. Health impairment includes sensory irritation and impairment of well being by such phenomena as odor. The "secondary" air quality standards are levels which are desirable to protect the public welfare from any known or anticipated adverse effects, such as injury to agricultural crops and livestock, damage to or deterioration of property, annoyance and nuisance of person, sensory impairment and obstruction, or hazards to air and ground transportation.

(b) No person shall emit any pollutant in such an amount or in such a manner as to exceed any ambient air quality standard herein beyond such person's property line, without respect to whether emission regulations stated in other air pollution control regulations of the Agency are also being violated.

(c) State Ambient Air Quality Standards (a) (b) (c)

Pollutant/Air Contaminant	Concentration	Remarks
(1) Hydrogen Sulfide[d] (primary standards)	0.05 ppm by volume (70.0 micrograms per cubic meter)	1/2 hr. average not to be exceeded over 2 times per year.
	0.03 ppm by volume (42.0 micrograms per cubic meter)	1/2 hr. average not to be exceeded over 2 times in any 5 consecutive days.
(2) Photochemical[e] Oxidants (primary and secondary standards)	0.07 ppm by volume (130 micrograms per cubic meter)	maximum 1 hr. concentration not to be exceeded more than once per year.

(3) Carbon Monoxide[f] (primary and secondary standards)	9 ppm by volume (10 milligrams per cubic meter)	maximum 8 hr. concentration not to be exceeded more than once per year.
	30 ppm by volume (35 milligrams per cubic meter)	maximum 1 hr. concentration not to be exceeded more than once per year.
(4) Hydrocarbons[g] (primary and secondary standards)	0.24 ppm by volume (160 micrograms per cubic meter)	maximum 3 hr. concentration (6 to 9 a.m.) not to be exceeded more than once per year, corrected for methane.
(5) Sulfur Oxides[h] (primary and secondary standards)	0.02 ppm by volume (60 micrograms per cubic meter)	maximum annual arithmetic mean.
	0.1 ppm by volume (260 micrograms per cubic meter)	maximum 24 hr. concentration not to be exceeded more than once per year.
	0.25 ppm by volume (655 micrograms per cubic meter)	maximum 3 hr. concentration not to be exceeded more than once per year.
(6) Particulate Matter[i] (primary standard)	75 micrograms per cubic meter	maximum annual geometric mean
	260 micrograms per cubic meter	maximum 24 hr. concentration not to be exceeded more than once per year.

Particulate Matter (secondary standard)	60 micrograms per cubic meter	maximum annual geometric mean
	150 micrograms per cubic meter	maximum 24 hr. concentration not to be exceeded more than once per year
(7) Nitrogen Oxides (j) (primary and secondary standards)	0.05 ppm (100 micrograms per cubic meter)	maximum annual arithmetic mean

Footnotes:

(a) All standards apply throughout the State of Minnesota.

(b) All measurements of ambient air quality are corrected to a reference temperature of 25° C. and a reference pressure of 760 mm of mercury.

(c) All measurements and tests shall be conducted by the methodology referenced herein, or other methodology as the Director shall hereafter approve.

(d) By methylene blue, or other method approved by the Director.

(e) Neutral-buffered one percent potassium iodide colorimetric detection technique corrected for SO_2 and NO_2 interference, gas phase chemiluminesence, or other method approved by the Director.

(f) Nondispersive infrared spectrometry (N.D.I.R.), or other method approved by the Director.

(g) Flame ionization, or other method approved by the Director.

(h) By pararosaniline, coulometric, or other method approved by the Director.

(i) High volume method, or other method approved by the Director.

(j) Jacobs-Hochheiser, or other method approved by the Director.

[July 7, 1969; amended June 3, 1970; amended February 18, 1971; amended February , 1972]

CHAPTER TWO: APC 2

(1.0) APC 2 DEFINITIONS, PROVISIONS FOR RECREATIONAL FIRES, ACCESS TO PREMISES,
(51.13) VARIANCES, CIRCUMVENTION AND SEVERABILITY
(5.0)
(2.0) (a) "Definitions": As used in these regulations except as otherwise specifically provided or where the context indicates otherwise, the following words shall have the meanings ascribed to them in this regulation:

(1) "Criteria": Means technical information to be utilized as decisional guidelines in considering air quality goals, air quality standards and determining air quality alert levels.

(2) "Director": Means the Director of the Minnesota Pollution Control Agency.

(3) "Existing": A modifier for equipment, machines, devices, articles, contrivances or installations which are in being at the time these regulations become effective; except that any existing equipment, machine, device, article, contrivance or installation which is altered, repaired or rebuilt at an aggregate cost of 30 percent or more of its replacement cost at the time of such alteration, repair or rebuilding, shall be reclassified as "new", but only if such alteration or repair constitutes an additional or greater source of air pollution.

(4) "Garbage": Animal and vegetable matter such as that originating in homes, restaurants, and food service and processing establishments.

(5) "Minneapolis-St. Paul Metropolitan Area": The geographical area comprised of the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington including all municipalities located partially or wholly within such counties.

(6) "Multiple Chamber Incinerator": Any article, machine, equipment, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning, and consisting of three or more refractory lined combustion furnaces in series, 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.

(7) "New": A modifier for equipment, machines, devices, articles, contrivances or installations built or installed on or after the effective date of these regulations, and installations existing at said stated time which are later altered, repaired or rebuilt at a cost of 30 percent or more of replacement cost at the time of such alteration, repair or rebuilding, and constitute an additional or greater source of air pollution.

(8) "Opacity": A state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view.

(9) "Open Burning": Burning any matter whereby the resultant combustion products are emitted directly to the open atmosphere without passing through an adequate stack, duct, or chimney.

(10) "Particulate Matter": Material, except uncombined water, which exists at standard conditions in a finely divided form as a liquid or solid.

(11) "Person": As defined in Minnesota Statutes 1967, Section 116.06, Subd. 8.

(12) "Processes or Process Equipment": Any action, operation, or treatment embracing chemical, industrial, or manufacturing facilities such as ovens, mixing kettles, heating and reheating furnaces, kilns, stills, dryers, roasters, and equipment used in connection therewith, and all other methods or forms of manufacturing or processing that may emit any air contaminant such as smoke, oder, particulate matter, or gaseous matter.

A salvage operation is not a process within this definition.

(13) "Process Weight": The total weight of all material excluding air, gas and oil used solely as fuel, but including solid fuel used in a potential dust producing process, which is connected directly or indirectly to dust collecting or dust abating equipment or system. The allowable emission rate of particulate matter by weight (Table 1 of Regulation APC 5) or dust concentration (Table 2 of Regulation APC 5) is calculated from the material weight (weight rate) introduced into the dust collecting or dust abating equipment or system.

(14) "Refuse": As defined in Minnesota Pollution Control Agency Solid Waste Regulation SW 1 (12).

(15) "Refuse Collection Service": As defined in Minnesota Pollution Control Agency Solid Waste Regulation SW 1 (13).

(16) "Residual Fuel Oil": Fuel oil known as Bunker C, PS400 and Number 6 as defined in American Society for Testing and Materials D 396 (1959).

(17) "Salvage Operation": Any business, trade, industry, or other activity conducted in whole or in part for the purpose of salvaging or reclaiming metals or chemicals or other products or materials.

(18) "Smoke": Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, ash and other combustible material, that form a visible plume in the air.

(19) "Solid Waste Management System": As defined in Minnesota Pollution Control Agency Solid Waste Regulation SW 1 (20).

(20) "Standard Conditions": A dry gas temperature of 60 degress Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute.

(21) "Trade Waste": Solid, liquid or gaseous material resulting from any business, trade or industry activity, construction activity, or any demolition operation including, but not limited to, plastics, cardboard cartons, grease, oil, chemicals, and cinders.

(22) "Waste Classification": Six classifications of waste as defined by the Incinerator Institute of America and the American Society of Mechanical Engineers.

(23) "Source Gas Volume": The volume of gas emanating from a process or other source.

(b) Recreational Fires Permitted. These regulations shall not apply to wood burning fireplaces, nor to fires used solely for the preparation of food by barbecuing.

(c) Access to Premises. Whenever it shall be necessary for the purposes of these regulations, the Agency or any member, employee, or agent thereof, when authorized by it, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations.

(d) Variance. Where upon written application of the responsible person or persons the Agency finds that by reason of exceptional circumstances strict conformity with any provisions of the emission standards contained herein would cause undue hardship, would be unreasonable, impractical or not feasible under the circumstances,

the Agency may permit a variance from these emission standards upon such conditions and within such time limitations as it may prescribe for prevention, control or abatement of air pollution in harmony with the intent of the State and any applicable Federal laws.

(e) Circumvention. No person shall cause or permit the installation or use of any device of any means which, without resulting in reduction in the total amount of air contaminants emitted, conceals or dilutes an emission of air contaminant which would otherwise violate an air pollution control regulation.

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

Amended June 5, 1970

(2.0)
(3.0)
(9.0)

CHAPTER THREE: APC 3

APC 3 PERMITS, EMISSION SOURCE MONITORING, MEASUREMENT OF AIR CONTAMINANTS, ANTI-DEGRADATION

(a) Installation and Operating Permits for Stationary Sources, Fuel-Burning Equipment, Refuse-Burning Equipment and Control Equipment.

(1) Installation Permit

(aa) No person shall plan or construct any installation or reconstruction, or alteration or any stationary process, fuel-burning equipment, or control equipment therefore without obtaining an installation permit in accordance with Minnesota Laws 1971, Chapter 904.

(bb) Review of plans

A person planning to construct, install, reconstruct or alter any stationary process, fuel-burning, refuse-burning, or control equipment therefore which may be a source of air pollution shall no later than 45 days prior to the initiation of any construction, installation or alteration submit plans and specifications of the process fuel-burning, refuse-burning or control equipment and structures or buildings used in connection therewith.

(cc) Information Required

Plans and specifications shall include the following information:

(i) Expected composition of the effluent stream, both before and after the installation of an air cleaning device, including emission rate, concentration, volume and temperature;

(ii) Expected physical characteristics of particulates;

(iii) Type and rated performance of cleaning device, if any;

(iv) Location and elevation of the emission point and other factors relating to dispersion and diffusion of the contaminant in the outer air, and the relation of the emission point to nearby structures, window openings, and other information

necessary to appraise the possible effects of the effluent.

(v) Any other reasonable and pertinent information that may be required by the Director.

(dd) Issuance of Permit

Plans and specifications shall be approved and an installation permit issued within 45 days of the receipt of said application whenever the Director believes that they are in accordance with the requirements as set forth in these regulations. Said approval of plans and issuance of the installation permit may be conditioned upon such reasonable requirements as the Agency shall direct.

(ee) Denial of Permit

When an installation permit is denied, applicant shall be notified in writing within 45 days after application of the reasons therefore. A denial shall be without prejudice to the applicant's right to a hearing before the Agency or for filing a further application after revisions are made to meet objections specified as reasons for the denial.

(2) Operating Permit

(aa) No person shall operate any stationary process, fuel-burning equipment, refuse-burning equipment, or control equipment therefore without obtaining an operating permit in accordance with the provisions of Minnesota Laws 1971, Chapter 904.

(bb) A person operating an existing installation which is a source of air contaminants and air pollution shall apply for an operating permit. New operating permits are not required for persons operating emission sources where an operating permit has been issued before January 31, 1972, unless said operating is in violation of Agency air quality rules, regulations and standards.

(cc) A person operating a new installation, reconstruction, or alteration for which an installation permit is required shall apply for an operating permit 90 days following the commencement of operation of the new installation, reconstruction or alteration.

(dd) Information required

Plans and specifications shall include the following information:

(i) Expected composition of the effluent stream, both before and after the installation of an air cleaning device, including emission rate, concentration, volume and temperature;

(ii) Expected physical characteristics of particulates;

(iii) Type and rated performance of cleaning device, if any;

(iv) Location and elevation of the emission point and other factors relating to dispersion and diffusion of the contaminant in the outer air, and the relation of the emission point to nearby structures, window openings, and other information necessary to appraise the possible effects of the effluent.

(v) Any other reasonable and pertinent information that may be required by the Director.

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Plans and specifications shall be approved and an operating permit issued within 45 days of the receipt of said application whenever the Director believes that they are in accordance with the requirements as set forth in these regulations. Said approval of plans and issuance of the operating permit may be conditioned upon such reasonable requirements as the Agency shall direct.

(ff) Denial of Permit

When an operating permit is denied, applicant shall be notified in writing within 45 days after application of the reasons therefore. A denial shall be without prejudice to the applicant's right to a hearing before the Agency or for filing a further application after revisions are made to meet objections specified as reasons for the denial.

(3) When plans, specifications, and permits are required by an established air pollution control division or program of any city, county, or other political subdivision of the State of Minnesota, such permit may be issued by such political subdivision provided the installation meets the provisions of these regulations and copies of the plans and specifications are furnished to the Minnesota Pollution Control Agency.

(4) Exemptions

The following installations are exempted from the requirements of subparagraph (1), (2) and (3) of this regulation:

(aa) All fuel-burning installations of less than 1,000,000 BTU per hour input;

(bb) All fuel-burning installations of less than 10,000,000 BTU per hour input burning only natural gas, liquified petroleum gas, No. 1 or No. 2 fuel oil;

(cc) Comfort air conditioning or comfort ventilating systems not designed to remove air contaminants generated by or released from specific units or equipment;

(dd) Incinerators of less than 100 pounds per hour burning capacity.

(5) Shutdown or Breakdown of Control Equipment

In the case of an intended shutdown of any control equipment, the operator shall notify the Director at least 24 hours in advance of the shutdown. In the case of breakdown, the operator shall notify the Director immediately, except that a temporary breakdown of less than one hour duration need not be reported. In the case of either a shutdown or reportable breakdown, the operator shall also, at the time of notification or as soon thereafter as possible, inform the Director of the cause, and the estimated duration of the shutdown or breakdown. The operator shall undertake all reasonable efforts to correct the cause and restore the equipment to full operation. No equipment, installation or facility shall be operated which has an unreasonable breakdown frequency as determined by the Director. In any event, no operation that may cause an immediate public health hazard shall be deemed an exception from this regulation.

(b) Emission Source Monitoring

(1) All persons responsible for the emission of air contaminants may be required to establish an emission source monitoring system, upon order of the Director, when in his judgment other methods of measurement or calculation do not provide adequate information on the level or variation of emissions to assure compliance with the regulations. The monitoring system may include the installation and operation of such monitoring instruments as are available and reasonably necessary to assure the accuracy of the monitoring. All emission source monitoring shall be accomplished by the following listed methodology and testing or other methodology and testing as the Director shall require: e.g., as to visible

emissions, a photo-electric or other type of visible emission detector and recorder; e.g., as to hydrocarbons, sulfur dioxide, carbon monoxide and nitrogen oxides, instruments designed for continuous monitoring and recording; e.g., as to particulate emissions, annually, by ASME -- PTC 27. Results of such tests shall be reported to the Director within 45 days.

(2) The accuracy of all such instruments and the adequacy of the monitoring system shall be demonstrated to the satisfaction of the Director prior to the issuance of an installation permit, and at any other time that the Director may request.

(3) All information obtained as a result of such monitoring shall be furnished to the Director at such times and in such form as he may specify. The Director shall publish all such information indicating emissions in excess of those permitted by law. Any emissions data published by the Director shall be presented in such a manner as to show the relationship between actual and allowable emissions. Within ten days of receipt of a written request from any person, the Director shall provide the available recorded hourly emission or other available monitoring data from any source for a period not exceeding four consecutive days.

(4) In the case of an intended shutdown of any monitoring instruments, the operator shall notify the Director at least 24 hours in advance of the shutdown. In the case of a breakdown, the operator shall notify the Director immediately, except that a temporary breakdown of less than 60 minutes duration need not be reported. In the event of either a shutdown or reportable breakdown, the operator shall also, at the time of notification or as soon thereafter as possible, inform the Director of the cause, and the estimated duration of the shutdown or breakdown. The operator shall undertake all reasonable efforts to correct the cause and restore the monitoring instruments to full operation.

(5) An exemption from the requirements of this paragraph (b) shall be granted (i) as to any source utilizing control equipment or fuel of such design or nature as to assure compliance with emissions regulations beyond reasonable doubt, and (ii) as to any source that does not emit particulates, sulfur oxides or nitrogen oxides in excess of 25 tons per year.

(c) Measurement of Air Contaminants Emissions

(1) Responsible Persons to Have Tests Made

Upon order of the Director, all persons responsible

for emission of air contaminants shall make or have made tests to determine the characteristics and amount of emission of air contaminants from any source. The Director may specify testing methods to be used in accordance with good professional practice and may observe the testing. All tests shall be conducted by reputable, qualified personnel. The Director shall be given two copies of the test methodology and results in writing and signed by the person responsible for the tests.

(2) The Director May Make Tests

Upon order of the Director, the persons responsible for an air contaminant source shall provide necessary holes in stacks or ducts and such safe and proper sampling and testing facilities, exclusive of instruments and sensing devices as may be necessary for proper determination of emission of air contaminants, and the Director or his agent may conduct tests of emissions from such source.

(3) All owners or operators of stationary sources of emissions which emit more than 25 tons per year of particulates sulfur oxides, nitrogen oxides, carbon monoxide, hydrocarbons or any combination thereof shall submit on or before January 30th of each year an emission inventory report covering the previous calendar year.

(d) Anti-degradation

Notwithstanding any other provisions of these rules and regulations:

(1) An installation permit or an operation permit shall not be issued if the planned construction, installation, reconstruction, alteration or operation would result in emissions of air contaminants causing the violation of the ambient air quality standards established in APC 1;

(2) An installation permit shall not be issued to any installation or industry which has a combined air contaminant or pollutant emission in excess of one hundred tons per year unless such installation or industry provides the Agency with an emission analysis calculated upon the data compiled in accordance with instructions provided by the Agency; and that such installations and industries plan, construct, and operate each air contaminant source so as to meet

(aa) such federal new source standards as may be applicable, and

(bb) such new source standards as may have been or may be adopted by the Minnesota Pollution Control Agency for the area where the installation or industry is proposed to be located.

(3) An installation permit shall not be issued to any planned installation or industry referred to in section (2) without the holding of public hearings concerning the location and construction of such installation and industry. The Agency shall request the Metropolitan Council in the case of site location in the Minneapolis-St. Paul Air Quality Control Region, the Arrowhead Regional Development Commission in the case of site location in the Duluth-Superior Air Quality Control Region, the appropriate Regional Commission in the case of site location in its respective jurisdiction, and the State Planning Agency notwithstanding the site location, to submit recommendations as to whether the site location of the planned installation or industry is in accordance with the long-ranged development plans and objectives of the respective agency or commission.

[July 7, 1969; amended June 5, 1970; amended February , 1972]

(51.5)
(51.6)
(51.7) APC 4 EMISSIONS LIMITATIONS FROM FUEL-BURNING EQUIPMENT USED FOR INDIRECT HEATING

(a) General Provisions

(1) This regulation applies to fuel-burning installation utilized for the primary purpose of producing steam, hot water, hot air or other indirect heating of liquids, gases, or solids where the products of combustion do not have direct contact with process materials. Fuel includes coal, coke, lignite, coke breeze, fuel oil, and wood, but does not include refuse. When any products or by-products or a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

(2) Heat content of coal shall be determined according to American Society for Testing and Materials method D-271-64 Laboratory Sampling and Analysis of Coal and Coke or method D-2015-62T Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter, which publications are incorporated herein by reference, or such other testing method as the Director may approve.

(3) As used herein "heat input" shall be the aggregate heat content of all fuels whose combustion products 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 an installation or on a premise shall determine the maximum allowable amount of particulate matter emission.

(4) Particulate matter emission shall be measured according to the American Society of Mechanical Engineers Power Test Code -- PTC -- 27 dated 1957 and entitled "Determining Dust Concentration in a Gas Stream," which publication is incorporated herein by reference, or other approved method conducted in accordance with good professions practice, or such other testing as the Director may approve.

(b) Air Contaminants

(1) Sulfur Oxides Emissions

(aa) No person in the Minneapolis-St. Paul AQCR shall burn in any fuel-burning installation a fuel or blend of fuels

whose sulfur content by weight exceeds the limitations of Schedule A.

Schedule A:

Fossil fuel other than oil

(i) after June 1, 1972, 2.5% sulfur by weight

(ii) after June 1, 1974, 2.0% sulfur by weight

Oil

(i) after June 1, 1974, 2.0% sulfur by weight

(bb) No person within the Minneapolis-St. Paul AQCR shall burn in any installations of greater than 250 million BTU/hour a fuel or blend of fuels of greater sulfur content by weight than given in Scheduel B.

Schedule B:

Fossil fuel other than oil

(i) after June 1, 1972, 2.0% sulfur by weight

(ii) after June 1, 1973, 1.5% sulfur by weight

Oil

(i) after June 1, 1974, 1.5% sulfur by weight

(cc) No fuel-burning installation of greater than 250 million BTU which is located outside the Minneapolis-St. Paul AQCR shall burn a fuel or blend of fuels whose sulfur content is greater than the limitations of Schedule A.

(dd) Any person who supplies fuels containing more than 0.5% sulfur by weight directly to a user for burning, shall keep records as prescribed by the Director of the percent sulfur by weight contained in such fuel by date delivered, quantity, and to whom sold. These records shall be available for review by the Agency.

(ee) Exceptions

The provision of Schedules A and B shall not apply under the following conditions:

(i) A variance has been granted by the Agency.

(ii) A person meets the limitation in Schedule C.

Schedule C:

(i) after June 1, 1973, 2.00 lb. SO_x per million BTU actual heat input

(ii) after June 1, 1974, 1.75 lb. SO_x per million BTU actual heat input

(2) Particulate Emissions

(aa) Provision for New Installations and Installations within the Minneapolis-St. Paul AQCR and the City of Duluth.

(i) Regardless of stack number or height, the maximum allowable emission for any stack, plant or installation shall be 0.4 pound of particulates per million BTU input.

(bb) Provision for Existing Installations and Installations Outside the Minneapolis-St. Paul Air Quality Control Regions and the City of Duluth.

(i) Regardless of stack number or height, the maximum allowable emission for any stack, plant or installation shall be 0.6 pound of particulates per million BTU input.

(cc) Emissions of Particulate matter from the combustion of fuel for indirect heating shall be limited by the provisions of the American Society of Mechanical Engineers Standard No. APS-1 dated June 15, 1966, "Recommended Guide for the Control of Dust Emission-Combustion for Indirect Heat Exchangers." Figure 2 in such standard as amended shall be used to estimate allowable emissions as amended therein from a plant with a single stack. The appropriate correction factor shall be applied to multiple stack plants or installations.

(3) Nitrogen Oxides Emissions

(aa) Limitation of Nitrogen Oxide Emissions shall be Restricted to Air Quality Control Regions having a Priority I status.

(bb) No person shall cause or permit emissions of nitrogen oxides in excess of 0.2 pound per million BTU input per hour for new installations or in excess of 0.3 pound per million BTU input per hour for existing installation from any gas fired boiler having a capacity of 250 million BTU/hour or more.

(cc) No person shall cause or permit emissions of nitrogen oxides in excess of 0.3 pound per million BTU input per hour for new installations or in excess of 0.4 pound per million BTU input per hour for existing installations from any oil fired boiler having a capacity of 250 million BTU/hour or more.

(dd) Nitrogen oxide testing shall be carried out by the method described in the Federal Register, Vol. 36, No. 159, dated August 17, 1971, and entitled "Standards of Performance for New Stationary Sources," 466.6S, Method 7; or other test methodology approved by the Director.

(c) Smoke Indicators

It is recommended plants or installations burning solid fuel or liquid fuels of Grades 5 or 6 (PS No. 300 or PS No. 400) and having more than 1,000,000 BTU input capacity be equipped with smoke indicators, mirrors, or similar approved devices to enable the fireman to observe the breaching or the top of the stack or stacks from the boiler room at all times, unless the top of the stack is readily visible to the fireman from the boiler room without the use of such devices. In plants where a fireman is not in constant attendance in the boiler, and when the boilers fired at one time aggregate more than 1,000 square feet of heating surface the smoke indicators should be capable of sounding an alarm or flashing a signal to attract the attention of the fireman. Any existing plant or installation which emits smoke of a density greater than permitted by appropriate regulation shall install such indicating devices.

CHAPTER FIVE: APC 5

(50.1.1) APC 5 RESTRICTION OF EMISSION OF PARTICULATE MATTER FROM INDUSTRIAL PROCESS

(a) General Provisions

(1) This regulation applies to any operation, process, or activity except the burning of fuel for indirect heating where the products of combustion do not directly contact process materials, except refuse burning and process burning of salvageable material.

(2) "Process weight" shall have the meaning ascribed to it in regulation APC 2.

Process weight rate for continuous or long-run steady-state sources shall be the total process weight for the entire period of continuous operation or a typical portion thereof, divided by the number of hours or such period or portion thereof. Process weight rate for cyclical or batch source shall be the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such period.

Where the nature of any process or operation or the design of any equipment admits more than one interpretation of this section, the interpretation resulting in the minimum allowable emission value shall apply.

(3) Emission tests for determination of compliance with this regulation shall follow the standards in American Society of Mechanical Engineers Power Test Code -- PTC -- 27 dated 1957 and entitled "Determining Dust Concentration in a Gas Stream" or other approved method.

(b) Emission Limitations

(1) Except as provided in Section (b) (2) below, no person shall cause, suffer, allow, or permit the emission of particulate matter in any one hour from any source in excess of the amount shown in Table 1 for the allocated process weight.

(2) The limitations established by Section (b) (1) shall not require the reduction of particulate matter concentration, based on the source gas volume, below the concentration specified in Table 2 for such volume. The burden of showing the source gas volume, including all factors and methods determining such volume, shall be on the person seeking to come within the provisions of

this section.

(3) No person shall cause, suffer, allow, or permit the emission of particulate matter from any source in a concentration in excess of 0.30 grain per standard cubic foot of exhaust gases. Provisions of this subsection shall not apply to existing grey iron jobbing cupolas. For purposes of this regulation, a jobbing cupola is defined as a cupola which has a single melting cycle no more than ten hours in any consecutive 24 hours and no more than 50 hours in any consecutive seven days.

(aa) All existing grey iron jobbing cupolas shall be equipped with gas cleaning devices and so operated as to remove 85 percent by weight of all the particulate matter in the cupola discharge gases, or release not more than 0.4 grain of particulate matter per standard cubic foot of discharge gas, whichever is more stringent.

(bb) All gases, vapors, and gas entrained effluents from such cupolas shall be incinerated at a temperature not less than 1200° Fahrenheit for a period of not less than 0.3 seconds.

(4) Exceptions. A temporary operational breakdown or cleaning of air pollution control equipment for any process are permitted as exceptions to the provisions of Regulation APC 5 provided the owner or operator immediately advises the Director of the circumstances and outlines an acceptable corrective program. In any event, no operation that may cause an immediate public health hazard can be deemed an exception from this regulation.

(5) Any existing emission source which has particulate collection equipment with a collection efficiency of 99 percent by weight or any new emission source which is installed with particulate collection equipment of 99.7 percent efficiency by weight shall be considered as meeting the provisions of this regulation.

(6) Any emission source located outside of the Minneapolis-St. Paul Metropolitan Area which has particulate collection equipment with a collection efficiency of not less than 85 percent by weight, and is located not less than one-fourth mile from any residence or public roadway, and the operation thereof does not create a suspended particulate concentration in the ambient air beyond the property lines of the source of emission which is above the ambient air quality standards, shall be considered as meeting the provisions of this regulation.

TABLE I

(7)

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	15,000	8.00	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.00	19.2
600	0.30	1.83	30,000	15.00	25.2
800	0.40	2.22	40,000	20.00	30.5
1,000	0.50	2.58	50,000	25.00	35.4
1,500	0.75	3.38	60,000	30.00	40.0
2,000	1.00	4.10	70,000	35.00	41.3
2,500	1.25	4.76	80,000	40.00	42.5
3,000	1.50	5.38	90,000	45.00	43.6
3,500	1.75	5.96	100,000	50.00	44.6
4,000	2.00	6.52	120,000	60.00	46.3
5,000	2.50	7.58	140,000	70.00	47.8
6,000	3.00	8.56	160,000	80.00	49.0
7,000	3.50	9.49	200,000	100.00	51.2
8,000	4.00	10.4	1,000,000	500.00	69.0
9,000	4.50	11.2	2,000,000	1,000.00	77.6
10,000	5.00	12.0	6,000,000	3,000.00	92.7
12,000	6.00	13.6			

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 $E-4.10\ P^{0.67}$, and interpolation and extrapolation of the data for process weight rates in escess of 60,000 lb/hr shall be accomplished by use of the equation:

$$E=55.0\ P^{0.11}-40,$$

where E = rate of emission in lb/hr and P = process weight rate in tons/hr.

TABLE 2

(8)

Source Gas Volume, SCFM[a]	Concentration GR/SCF[b]	Source Gas Volume, SCFM[a]	Concentration GR/SCF[b]
7,000 or less	0.100	140,000	0.038
8,000	0.096	160,000	0.036
9,000	0.092	180,000	0.035
10,000	0.089	200,000	0.034
20,000	0.071	300,000	0.030
30,000	0.062	400,000	0.027
40,000	0.057	500,000	0.025
50,000	0.053	600,000	0.024
60,000	0.050	800,000	0.021
80,000	0.045	1,000,000 or more	0.020
100,000	0.042		
120,000	0.040		

[a] Standard cubic feet per minute (See "Definition" 16).
[b] Grains per standard cubic foot.

CHAPTER SIX: APC 6

(50.1) APC 6 PREVENTING PARTICULATE MATTER FROM BECOMING AIR-BORNE

(a) No person shall cause or permit the handling, use, transporting, or storage of any material in a manner which may allow avoidable amounts 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. The Director may require such reasonable measures as may be necessary to prevent particulate matter from becoming air-borne including, but not limited to, paving or frequent clearing of roads, driveways and parking lots; application of dust-free surfaces; application of water; and the planting and maintenance of vegetative ground cover.

CHAPTER SEVEN: APC 7

(51.9) APC 7 INCINERATORS

(a) General Provisions

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

(2) The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such acceptable other rate as is considered good engineering practice.

(3) The amount of particulate matter emitted from any incinerator shall be determined according to the American Society of Mechanical Engineers Power Test Code -- PTC - 27 dated 1957 and entitled "Determining Dust Concentration in a Gas Stream" or any other method which is consistent with good professional practice. The above publication is hereby made a part of this regulation by reference. In calculating the amount of particulate matter in stack gas, the loading shall be adjusted to 12 percent carbon dioxide in the stack gas. The carbon dioxide produced by burning of any liquid or gaseous fuel in the incinerator shall be excluded from the calculation to 12 percent carbon dioxide. Emissions shall be measured under maximum operation capacity or at any other burning rate wherein emission of particulate matter is greater.

(b) Restriction of Emissions of Particulate Matter from Incinerators

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

(aa) Incinerators with a maximum refuse burning capacity of less than 200 pounds per hour, 0.3 grains of particulate matter per standard dry cubic foot of exhaust gas.

(bb) Incinerators with a maximum refuse burning capacity of 200 to 2000 pounds per hour, 0.1 grains of particulate matter per standard dry cubic foot of exhaust gas.

(cc) Incinerators with a maximum refuse burning capacity

(2) All new incinerators and all existing incinerators to be modified to meet the requirements of this regulation and which are to burn type 2, 3, 4, 5, or 6 waste as classified by the Incinerator Institute of America must be equipped with auxiliary fuel burners of such capacity and design as to assure a temperature in the secondary combustion chamber of at least 1200° F. for a sufficient time to prevent objectionable odor emission.

(3) 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 this requirement. The Director may approve any other alteration or modification to an existing incinerator if such be found by him 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 Director may approve any other kind of incinerator if he finds in advance of construction or installation that such other kind of incinerator is as equally effective for purposes of air pollution control as an approved multiple chamber incinerator.

Existing incinerators burning type 2 and type 3 waste which are not multiple chamber incinerators and do not otherwise meet the requirements of Section (b) (1) of this regulation shall be modified or rebuilt in compliance with this section in accordance with the schedule below. Existing incinerators burning type 4,5, or 6 waste require the specific approval of the Director. Incinerators handling any garbage and organic waste must have auxiliary fuel burners that maintain a minimum temperature of 1200° F. for a minimum of .3 seconds retention time, or until odor emissions are eliminated.

Rated Capacity	Latest Date for Compliance
2000 lbs/hr. or above	12 months from effective date of regulation
1000 - 1999 lbs/hr.	18 months from effective date of regulation
500 - 999 lbs/hr.	24 months from effective date of regulation
all others	30 months from effective date of regulation

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

CHAPTER EIGHT: APC 8

(51.13) APC 8 OPEN BURNING RESTRICTIONS

(a) Refuse burning restrictions

(1) No person shall dispose of refuse by open burning, or cause, suffer, allow or permit open burning of refuse. In areas where no refuse collection service is available on the effective date of this regulation, as amended, open burning on residential premises, of refuse originating from dwelling units on premises shall not be in violation of this section until such refuse collection service becomes available, but no later than three years from the effective date of this regulation, or at some earlier time as hereinafter provided.

(2) Except as hereafter provided in this paragraph, where any township, without regard to location, has a total population of less than 2,500 persons according to the most recent official state or federal census, finding of the Municipal Commission or estimate of the Metropolitan Council, persons dwelling within said township may dispose of refuse originating from dwelling units on residential premises within said township by open burning on said residential premises. However, persons dwelling within those portions of such townships having a population density in excess of 100 occupied dwelling units per square mile, as determined by the Director or by the township government with approval of the Director, shall be required to comply with all provisions of this regulation, including but not limited to subsections (a) (1) and (4). A dwelling shall be occupied for the purposes of this regulation if it is occupied as either a seasonal or a permanent dwelling.

Refuse originating from dwelling units shall include, for the purposes of this section, household rubbish, leaves and other natural matter, not including garbage and other putrescible solid wastes, which emanate from a dwelling unit. Refuse from agricultural operations shall not be disposed of by open burning under this regulation, except as provided in subsection (d) (5).

(3) Without regard to location, where any township, having a population in excess of 2,500 persons according to the most recent official state or federal census, finding of the Municipal Commission or estimate of the Metropolitan Council or any city, village, or borough, without respect to the total population of said city, village, or borough, has a population density of less than 100 occupied dwelling units per square mile in a portion of said city, village, borough or township is determined by the municipal government with approval

of the Director, persons dwelling within said portion may dispose of refuse originating from dwelling units on residential premises by open burning on said residential premises upon application by said city, village, borough or township and with the approval of the Director. Said portions must be in excess of 2 square miles of contiguous area. A dwelling shall be occupied for the purposes of this regulation if it is occupied as either a seasonal or a permanent dwelling.

Refuse originating from dwelling units shall include, for the purposes of this section, household rubbish, leaves and other natural matter, not including garbage and other putrescible solid wastes, which emanate from a dwelling unit. Refuse from agricultural operations shall not be disposed of by open burning under this regulation, except as provided in subsection (d) (5).

(b) Prohibitions of Salvage Operations by Open Burning

(1) No person shall conduct, cause or permit the conduct of a salvage operation by open burning.

(2) A salvage operation shall not constitute an installation within the meaning of APC 3.

(c) Restriction on Open Burning of Tree Leaves

The open burning of leaves is prohibited effective two months after refuse collection service or a general solid waste management system is available. Until such time, burning of leaves is permitted only in containers meeting fire safety standards.

(d) Exceptions. Exceptions herefrom may be allowed upon application and approval by the Director where accompanied by the recommendation of the local fire marshal or other responsible local official having jurisdiction thereof. Such burning shall not be permitted, however, if contrary to other applicable laws, ordinances and regulations. Exemption to conduct open burning under the provisions of this regulation does not excuse a person from the consequences, damages, or injuries which may result therefrom. In areas in which open burning is permitted pursuant to this regulation, persons seeking a permit to conduct open burning under paragraph (d), subsections (2), (3) and (5), may obtain such a permit from a regular forest officer or a town fire warden pursuant to Minnesota Statutes, Sections 88.17 and 88.18, or a person designated by the County Board of Commissioners. The Director shall be notified of the name and address of such designated person before he may perform such duties. Such notification shall be effective for one year from the date of receipt by the Agency. Failure to comply with the

provisions of paragraph (d), subsection (5) of this regulation will constitute a violation of these regulations and render the person subject to the legal remedies of the Agency, including but not limited to the termination of the right of said person to conduct open burning pursuant to paragraph (d), subsections (2), (3) and (5). The following are exceptions for which application may be made:

(1) Fires purposely set for the instruction and training of public and industrial fire-fighting personnel.

(2) Fires set for the elimination of a fire hazard which cannot be abated by any other practicable means.

(3) Fires purposely set for forest or game management in accordance with practices recommended by the Minnesota Department of Conservation, the Minnesota Department of Agriculture and United States Forest Service.

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

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

(aa) The prevailing winds at the time of burning must be away from any municipality.

(bb) The location of burning must not be within 1,000 feet of an occupied residence other than those located on the property on which the burning is conducted.

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

(dd) The burning must not be conducted within 1,000 feet of any highway or public road and, in any event, must be controlled so that a traffic hazard is not created.

(ee) The burning must not be conducted within one mile of any military, commercial, county, municipal, or private airport or landing strip.

(ff) An exception to the prohibition and conditions of paragraph (d) subsection (5) of this regulation may be granted by the Agency or its designated agent.

(6) Open fires for ground thawing for underground utility repair and construction are allowed under the following conditions:

(aa) Fires must be started with materials which do not generate appreciable smoke.

(bb) Fuel used must be coke of less than one percent sulfur content when the thawing site is within 500 feet of dwellings or occupied building. Coke of higher sulfur content may be used in remote areas except under conditions where an air pollution alert has been declared under provisions of Regulation APC 15.

(cc) The ambient air quality for the sulfur dioxide and carbon monoxide must not be exceeded downwind of the thawing site.

(dd) Wherever possible, including but not limited to spot repairs, propane gas thawing torches or other devices causing minimal pollution shall be used.

(e) This regulation shall not be construed to allow open burning in those areas in which open burning is prohibited by other laws, regulations or ordinances.

CHAPTER NINE: APC 9

(50.6) APC 9 CONTROL OF ODORS IN AMBIENT AIR

(a) Definitions. The following definitions shall apply in the interpretation and enforcement of this regulation and the following words and terms wherever they occur in this regulation are defined as follows:

(1) Ambient air shall mean that portion of the atmosphere external to buildings to which the general public has access.

(2) Odor concentration unit shall mean the number of standard cubic feet of odor-free air needed to dilute each cubic foot of contaminated air so that at least 50 percent of the odor concentration test panel does not detect any odor in the diluted mixture.

(3) Odor emission rate shall mean the product of the number of standard cubic feet per minute of air or other gases emitted from a suspected odor pollution source and the number of odor concentration units determined for that source.

(4) Odor source shall be defined as to include but not be limited to any stack, chimney, vent, window, opening, lagoon, basin, catch-basin, pond, open tank, storage, pile or any organic or inorganic discharge and/or application which emits odorous gas, gases or particulates.

(b) Odorous Air Pollution Prohibited. No person shall cause, permit or allow emission into the ambient air of odorous air contaminants in excess of the standards and parameters of section (c). Such excessive emissions are air pollution in one or more of the ways enumerated in Minnesota Statutes, Section 116.06, Subdivisions 2 and 3.

(c) Odor Emission Limits. Violation of APC 9 shall be any discharge of air contaminants in excess of the following odor emission limits:

(1) Odor sources emitting from well-defined stacks 50 feet or more above grade elevation and with adequate dispersion characteristics as determined by the Agency shall not emit odors in greater than 150 odor concentration units.

(2) Odor sources of less than 50 feet elevation above grade or otherwise failing to create good dispersion conditions as determined by the Agency shall not emit more than 25 odor concentration units.

(3) No odor source shall have an odor emission rate in excess of 1,000,000 odor concentration unit per minute.

(4) No odor source shall emit air contaminants into the ambient air which cause odor outside the alleged polluter's property line in excess of the following limitations:

(aa) One odor unit in areas zoned residential, recreational, institutional, retail sales, hotel or educational.

(bb) Two odor units in areas zoned light industrial.

(cc) Four odor units in areas zoned other than in subsections (aa) and (bb) above.

(d) Odor Testing. Odor testing shall be conducted as follows:

(1) Odor tests shall be conducted by the Agency or under Agency supervision and advisement.

(2) Odor test panel members shall be selected or approved by the Agency.

(3) Ambient air samples containing the alleged odorous air pollution obtained downwind and outside the property line of the alleged polluter, and samples of the air contaminant from the odor source allegedly causing the odorous air pollution shall be obtained.

(4) Procedures for obtaining such samples and presenting such samples to the test panel for tests shall be accomplished according to American Society for Testing Materials Method D-1391-57, or by other method described by D. M. Benforado, W. J. Rotella and D. L. Horton, "Development of an Odor Panel for Evaluation of Odor Control Equipment", Journal of the Air Pollution Control Association, Volume 19, Number 2, Pages 101-105, February 1969; or by other method approved by the Agency.

(5) All odor test panel members shall have a smell exposure to determine the odor concentration of the alleged air contaminant at the odor source and in the ambient air sample, and shall be questioned as to whether the air contaminant in the ambient air sample it contained in the sample obtained for the odor source of the alleged discharger. All responses shall be recorded under oath and notarized.

(e) Equipment Breakdown. No person shall operate any process, process equipment, fuel-burning equipment or refuse-burning

equipment when such process or equipment is out of repair and causing or permitting odorous air pollution. Emissions violating this regulation as a direct result of upset conditions in, or breakdown of any process, process equipment, fuel-burning equipment, or control equipment or related operating equipment beyond the control of the person owning or operating such equipment, shall not be deemed to be in violation of this regulation, provided that the owner or operator advises the Agency of the circumstanced within 24 hours of the breakdown, and outlines a corrective program within 7 days of the breakdown. The Agency may permit operation on a temporary basis during the period of such an emergency shutdown not to exceed 30 days from the breakdown if such operation will not create an immediate serious public health or safety hazard. No equipment as defined above shall be operated which has an unreasonable breakdown frequency as determined by the Agency.

(f) Agri-business Exception. The odor of growing vegetation shall not be considered odorous air pollution. The odor of domestic (organic) fertilizer, industrial (inorganic) fertilizer, and pesticides shall not be considered odorous air pollution if such substances are used effectively according to their intended purposes and application. The open storage (piling) of such materials shall be accomplished in a nuisance-free manner and in compliance with the regulations of federal, state and local government and their regulatory agencies.

(g) Compliance with the provisions of this regulation shall not operate as a defense to an action at law based upon a public and/ or private nuisance theory.

(50.6) APC 10 CONTROL OF ODORS FROM PROCESSING OF ANIMAL MATTER
(51.21)

(a) General

(1) For purposes of this regulation the word "reduction" is defined as any heated process, including rendering, cooking, drying, dehydrating, digesting, evaporating, and protein concentrating. Animal matter is defined as any product or derivative of animal life.

(2) The provisions of this regulation shall not apply to any device, machine, equipment, or other contrivance used exclusively for the processing of food for human consumption in food service establishments.

A food service establishment shall include: any fixed or mobile restaurant; coffee ship; cafeteria; short-order cafe; luncheonette; grill; tearoom; sandwich ship; soda fountain; tavern; bar; cocktail lounge; night club; roadside stand; industrial feeding establishment; private, public or nonprofit organization or institution routinely serving food; catering kitchen, commissary, or similar place in which food or drink is placed for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

(b) Odor control equipment required on reduction processes

No person shall operate or use any device, machine, equipment or other contrivance for the reduction of animal matter unless all gases, vapors, and gas-entrained effluents from such facility are incinerated at a temperature of not less than 1500° F. for a period of not less than 0.3 second, or processed in such manner as determined by the Director to be equally or more effective for the purpose of air pollution control.

A person incinerating or processing gases, vapors or gas-entrained effluents pursuant to this rule shall provide, properly install and maintain, in good working order and in operation, devices as specified by the Director for indicating temperature, pressure, or other operating conditions.

(c) Other odor control measures required

(1) Effective devices and measures shall be installed and

operated such that no vent, exhaust pipe, blow-off or opening of any kind shall discharge into the outdoor air any odorous matter, vapors, gases, dusts, or any combination thereof which create odors or other nuisances in the neighborhood of the plant.

(2) Odor-producing materials shall be stored and handled in such a manner that odors produced from such materials are confined. Accumulation of odor-producing materials resulting from spillage or other escape is prohibited.

(3) Odor-bearing gases, vapors, fumes or dusts arising from materials in process shall be confined at the point of origin so to prevent liberation of odorous matter. Confined gases, vapors, fumes or dusts shall be treated before discharge to the atmosphere, as required in subsection (c) (1).

(d) Enclosure of building may be required

Whenever dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof escape from a building used for processing of animal matter in such manner and amount as to cause a violation of Regulation APC 9, the Director may instruct that the building or buildings utilized for processing, handling and storage be tightly closed and ventilated so that all air, and gases and air or gas-borne material are treated by incineration or other effective means before discharge into the open air.

CHAPTER ELEVEN: APC 11

(50.1.2) APC 11 RESTRICTION OF EMISSION OF VISIBLE AIR CONTAMINANTS

(a) Smoke restrictions applicable to existing installations including boats and ships except existing incineration. No person shall cause or permit the emission of smoke or any other air contaminant which has a shade or density:

(1) Darker than No. 3 on the Ringelmann Smoke Chart or of such opacity as to obscure an observer's view to a degree equal to or greater than smoke of No. 3 Ringelmann density.

(2) Darker than No. 2 on the Ringelmann Smoke Chart but less than No. 3 on said chart, if such emission continues for longer than 4 minutes in the aggregate in any 60-minute period, or of such opacity as to obscure an observer's view to a degree equal to or greater than smoke of No. 2, but less than No. 3 Ringelmann density during such period.

(3) Darker than No. 1 on the Ringelmann Smoke Chart but less than No. 2 on said chart, if said emission continues for longer than 4 minutes in the aggregate in any 30-minute period, or of such opacity to obscure an observer's view to a degree equal to or greater than smoke of No. 1, but less than No. 2 Ringelmann density during such period.

The density of smoke or other air contaminant shall be measured at the point of its emission, except, when the point of emission cannot be readily observed, measurement shall be made at the nearest observable point on the plume from the point of emission origin.

(b) Smoke restrictions applicable to new installations and all incinerators. No person shall discharge into the atmosphere from any single source of emission whatsoever any air contaminant which has a shade or density:

(1) Darker than that designated as No. 1 on the Ringelmann Smoke Chart; or

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

(c) Exceptions.

(1) A person may discharge into the atmosphere from any single source of emission for a period or periods aggregating not more

than 4 minutes in any 60 minutes air contaminants of a shade or density:

(aa) Not darker than No. 2 on the Ringelmann Smoke Chart; or

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

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

(i) Transfer of molten metals;

(ii) Emissions from transfer ladles;

(iii)Coke ovens when pushing coke from oven;

(iv) Water quenching of coke on discharge from ovens;

(v) Existing grey iron jobbing cupolas as defined in Regulation APC 5; and

(vi) Blast furnaces during slips.

(2) A temporary operational breakdown of any equipment, installation or facility may be permitted by the Agency to be an exception to the provisions of Regulation APC 11 provided the owner or operator immediately advises the Director of the circumstances and outlines an acceptable corrective program. A temporary breakdown of less than 15 minutes duration is an exception to the provisions of Regulation APC 11 and need not be reported. No equipment, installation or facility shall be operated which has an unreasonable breakdown frequency as determined by the Director. In any event, no operation that may cause an immediate public health hazard shall be deemed an exception from this regulation.

(d) Ringelmann Smoke Chart. The Ringelmann Smoke Chart shall mean and include any of the following:

(1) The Ringelmann Smoke Chart with instructions for use (Information Circular 8333, May, 1967, Rev. of IC 7718) as published by the U. S. Bureau of Mines;

(2) The Ringelmann Smoke Chart, photographically reduced to

1/19th in size and known as Power's Microringelmann Chart, copyright 1954 by McGraw-Hill Publishing Company; and

(3) Such other method or apparatus for determining smoke density or opacity as the Agency may approve.

[July 7, 1969; amended September 14, 1971; amended February, 1972]

CHAPTER TWELVE: APC 12

(12.0)
(50.1.2) APC 12 EMISSION OF VISIBLE AIR CONTAMINANTS FROM VEHICLES AND OTHER INTERNAL COMBUSTION ENGINES

(a)(1) No person shall cause or permit the emission of visible air contaminants from any internal combustion engine other than a diesel cycle engine for more than 10 consecutive seconds.

(2) No person shall cause or permit the emission of visible air contaminants from any diesel cycle engine in excess of 20 percent opacity or No. 1 Ringelmann for engines produced prior to January 1, 1973, and in excess of 10 percent opacity or No. 1/2 Ringelmann for engines produced after January 1, 1973, for more than 10 consecutive seconds.

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

(c) No person shall intentionally remove, alter or otherwise render inoperative, exhaust emission control, crankcase ventilation or any other air pollution control device which has been installed as a requirement of federal law or regulation.

(d) No person shall operate a motor vehicle originally equipped with air pollution control devices as required by federal law or regulation unless such devices are in place and in operating condition.

CHAPTER THIRTEEN: APC 13

(51.16) APC 13 REQUIREMENTS FOR CONSTRUCTION OF NEW GASOLINE STORAGE FACILITIES

(a) General

For purposes of this regulation, the term "gasoline" is defined as petroleum distillate having a Reid vapor pressure of four pounds or greater. The term "submerged fill pipe" is defined as any fill pipe the discharge opening of which is entirely submerged when the liquid level is six inches above the bottom of the tank. "Submerged fill pipe" when applied to a tank which is loaded from the side is defined as any fill pipe the discharge opening of which is entirely submerged when the liquid level is 18 inches above the bottom of the tank.

(b) Petroleum Storage Tanks.

After the effective date of this regulation, no person shall build or install or permit the building or installation of any stationary tank, reservoir or other container of more than 65,000 gallons capacity which will or might be used for storage of any petroleum distillate having a vapor pressure of 2.5 pounds per square inch absolute or greater under actual storage conditions, unless such tank, reservoir or other container is to be a pressure tank capable of maintaining working pressure sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere or is designed, and will be built, and equipped with one of the following vapor loss control devices:

(1) A floating roof which may be either pontoon or double deck type that will rest on the surface of the liquid contents and is equipped with a closure seal, or seals, closing any space between the roof edge and the tank wall or an internal floating cover or other device equally effective. The control equipment required by this subsection (b) (1) is not permitted if the gasoline or petroleum distillate to be stored will have a vapor pressure of 12.5 pounds per square inch absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be gas-tight except while gauging or sampling.

(2) A vapor recovery system which includes a vapor-gathering system capable of collecting the hydrocarbon vapors and gases discharged and a vapor disposal system capable of processing such hydrocarbon vapors and gases that will prevent their emission to the atmosphere. All tank gauging and sampling devices shall be gas-light except while gauging or sampling.

(3) Other equipment or means of equal efficiency for purposes of air pollution control.

(c) Submerged Fill Pipes Required

After the effective date of this regulation, no person shall build or install or permit the building or installation of a stationary gasoline storage tank with a capacity of 250 gallons or more unless such tank is equipped with a permanent submerged fill pipe or is a pressure tank as described in subsection (b) (1) of this requlation, or is fitted with a vapor recovery system as described in subsection (b) (1) of this regulation.

CHAPTER FOURTEEN: APC 14

(50.7) APC 14 EMISSION OF CERTAIN SETTLEABLE ACIDS AND ALKALINE SUBSTANCES RESTRICTED

(a) General Provisions

This regulation shall apply to all emissions form any sources or premises.

(b) Method of Measurement

(1) In determining compliance with this regulation, fall-out sampling devices shall consist of circular glass dishes 15 centimeters in diameter which shall be supported on a nearly horizontal surface not larger than the dish. The dish bottom shall be at least three feet above the earth or other surface on which its support is resting and the dish shall be coated with a solution of thymol blue, ammonia water solution and gelatin dried to a yellow color in a vacuum oven at room temperature; prepared dishes shall be stored in a desiccator at 40 percent relative humidity, or in plastic bags.

(2) Fallout sampling devices shall be placed at one or more locations beyond the premises on which a source or sources are located, up-wind and down-wind of such premises. The sampling devices shall be exposed to substances settling out of the ambient air for a period of one hour. The presence of red-colored spots on the gelatin indicates that acidic substances have settled out of the air while the presence of blue-colored spots on the gelatin indicates that alkaline substances have settled out of the air. The number of spots visible on samplers exposed up-wind of premises to be subtracted from the number of spots visible on samplers exposed down-wind of the same premises. The difference in the number of spots, if any shall be construed to be attributable to emissions occurring on the premises under investigation.

(3) In lieu of the test methods specified in (b) (1) and (2), any other method approved by the Director may be used.

(c) Emissions Restricted

No person shall cause or permit the emission from any source or premises of substance having acidic or alkaline properties in such amounts that the down-wind fall out rate of acidic or alkaline substances at any place where an adverse effect could occur, the up-wind fallout rate by five or more spots per hour, measured in the manner prescribed in Section (b) of this regulation.

CHAPTER FIFTEEN: APC 15

(51.18) APC 15 SULFURIC ACID PLANT EMISSIONS

(a) New Installations

(1) No person shall cause or allow the discharge into the atmosphere of sulfur dioxide emissions in excess of 4 pounds per ton of acid produced.

(2) No person shall cause or allow the discharge into the atmosphere of acid mist emissions in excess of 0.15 pound per ton of acid produced, maximum 2 hour average, expressed as H_2SO_4.

(b) Existing Installations

(1) No person shall cause or allow the discharge into the atmosphere of sulfur dioxide emissions in excess of 6.5 pounds per ton of acid produced.

(2) No person shall cause or allow the discharge into the atmosphere of acid mist emissions in excess of 1.70 pounds per ton of acid produced, maximum 2 hour average, expressed as H_2SO_4.

(c) Exceptions

The procedure for reporting breakdowns or shutdowns shall be outlined in APC 3 (a) (5). In any event, no operation that may cause an immediate public health hazard shall be deemed an execption for this regulation.

[July 7, 1969; amended February , 1972]

CHAPTER SIXTEEN: APC 16

(51.10) APC 16 NITRIC ACID MANUFACTURING PLANTS EMISSIONS

(a) New Installations

No person shall cause or allow the discharge into the atmosphere of nitrogen oxides in excess of 310 pounds per ton of acid produced, maximum 2 hour average, expressed as nitrogen dioxide.

(b) Existing Installations

No person shall cause or allow the discharge into the atmosphere of nitrogen oxides in excess of 5.5 pounds per ton of acid produced, maximum 2 hour average, expressed as nitrogen dioxide.

(c) No person shall cause or permit a visible nitrogen oxides emission into the atmosphere.

(d) Exceptions

The procedure for reporting breakdowns or shutdowns shall be as outlined in APC 3 (a) (5). In any event, no operation that may cause an immediate public health hazard shall be deemed an exception from this regulation.

(e) Method of Measurement

Nitrogen oxide testing shall be carried out by the method described in the Federal Register, Vol. 36, No. 159, dated August 17, 1971, and entitled "Standards of Performance for New Stationary Sources," 466.6S, Method 7; or other test methodology approved by the Director.

[February , 1972]

FEDERALLY PROMULGATED

REGULATIONS

(14.0) 52.1224 GENERAL REQUIREMENTS.

(b) Regulation for public availability of emission data.

(1) Any person who cannot obtain emission data from the Agency responsible for making emission data available to the public, as specified in the applicable plan, concerning emissions from any source subject to emission limitations which are part of the approved plan may request that the appropriate Regional Administrator obtain and make public such date. Within 30 days after receipt of any such written request, the Regional Administrator shall require the owner or operator of any such source to submit information within 30 days on the nature and amounts of emissions from such source and any other information as may be deemed necessary by the Regional Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures that are part of the applicable plan.

(2) Commencing after the initial notification by the Regional Administrator pursuant to paragraph (b) (1) of this section, the owner or operator of the source shall maintain records of the nature and amounts of emissions from such source and any other information as may be deemed necessary by the Regional Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures that are part of the plan. The information recorded shall be summarized and reported to the Regional Administrator, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1-July 30, and July 1,-December 31.

(3) Information recorded by the owner or operator and copies of this summarizing report submitted to the Regional Administrator shall be retained by the owner or operator for 2 years after the date on which the pertinent report is submitted.

(4) Emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other control measures that are part of the applicable plan and will be available at the appropriate regional office and at other locations in the state designated by the Regional Administrator.

(10.0) 52.1225 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) 52.1234 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) (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) <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) 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)