# GRIC Code: Title 17, Chapter 9

# Air Quality Management Plan for Gila River Indian Community

# GILA RIVER INDIAN COMMUNITY

SACATON, AZ 85247

**ORDINANCE GR-06-06**

**THE GILA RIVER INDIAN COMMUNITY HEREBY ENACTS THE FOLLOWING ORDINANCE ENACTING THE AIR QUALITY MANAGEMENT PROGRAM PLAN TO BE CODIFIED AT TITLE 17, CHAPTER 9, OF THE GILA RIVER INDIAN COMMUNITY LAW AND ORDER CODE.**

**WHEREAS,** the Gila River Indian Community (the "Community") is the governing body of the Gila River Indian Community (the "Community"); and

**WHEREAS,** the Community Council is empowered through Article XV, §1(a)(9) and (19) of the Constitution and Bylaws of the Community (March 17, 1960) to enact ordinances and laws which promote the health and welfare of the Community and its members; and

**WHEREAS,** the Gila River Indian Community (the "Community") has jurisdiction over more than 375,000 acres and has inherent authority to control the use of natural resources and protect the life, health, safety, property, welfare and environment of the residents; and

**WHEREAS,** the quality of ambient, outdoor air as well as the manner in which it is protected are important to the health and economic well-being of the Community; and

**WHEREAS,** Congress recognized tribal authorities in Sections 110(o) and 310 (d) of the federal Clean Air Act, and the Environmental Protection Agency ("EPA") promulgated regulations at Title 40, Part 49 of the *Code of Federal Regulations* on February 12, 1998 which permit the exercise of tribal authority under the Clean Air Act through development of an Air Quality Management Program Plan; and

**WHEREAS,** the Community regulates these activities as prescribed under *Montana V. United States,* 450 U.S. 544 (1981), which recognizes the authority of the Community to regulate the activities of and exercise civil jurisdiction over non-members; and

**WHEREAS,** development of an Air Quality Management Program Plan provides the strongest opportunity for the Community to manage air quality based on the Community's unique values and needs; and

**WHEREAS,** air pollution emissions and the permitting process impact the type of businesses that are willing to locate within the Community and, therefore an Air Quality Management Program Plan will provide the Community with a greater ability to manage economic development and potential employment opportunities with the Community; and

**WHEREAS,** the Community Council recognizes that the EPA will impose federal, rather than tribal air quality control measures within the boundaries of the Community if the Community does not develop an Air Quality Management Program Plan, and federal measures are not as flexible or sensitive to local values and needs; and

**WHEREAS,** the Air Quality Management Program Plan, Part I once adopted by the Community as ordinances and approved by the Environmental Protection Agency, will enable the Community to regulate air quality within the Gila River Indian Reservation using an optimal combination of federal and tribal authorities; and

**WHEREAS,** the Air Quality Management Program Plan, Part I, enacted by Community Council in August 2002 following public comment, adopted the National Ambient Air Quality Standards as Community standards and described the process for submitting a TIP, including the requirements for a public hearing; and

**WHEREAS,** the Air Quality Management Program Plan contains the necessary elements for an air quality regulatory program including permit procedures and requirements, permit fees, enforcement and appeals, general requirements for industry as well as area sources such as open burning, dust control and earthmoving; and

**WHEREAS,** the DEQ presented the draft ordinances for review and solicited comments from numerous interested parties both inside and outside of the Community; and

**WHEREAS,** a public hearing notice was published in the *Arizona Republic* and the *Gila River Indian News*, and DEQ conducted a formal public hearing on July 20, 2006 and met the requirements and procedures for pre- and post-adoption notices of proposed ordinances as set forth in the Notification Ordinance, GR-03-02, as well as the federal Clean Air Act.

**NOW, THEREFORE BE ENACTED,** that the Community Council enacts the attached Air Quality Management Program Plan, codified as Title 17, Chapter 9 of the Gila River Indian Community Law and Order Code.

**BE IT FINALLY ENACTED,** that the Governor, or in his or her absence, the Lieutenant Governor is hereby authorized to take all steps necessary to carry out the intent of this enactment.

**CERTIFICATION**

Pursuant to authority contained in Article XV, Section **1, (a), (1), (7), (9), (18), (19), (b) (10)** and Section **4** of the amended Constitution and Bylaws of the Gila River Indian Community, ratified by the Tribe January 22, 1960 and approved by the Secretary of the Interior on March 17, 1960, the foregoing Resolution was adopted this **6th** day of **December, 2006** at a Regular Community Council Meeting held in **District 3, Sacaton, AZ** at which a quorum of **12** Members were present by a vote of: **12** FOR; **0** OPPOSE; **0** ABSTAIN; **3** ABSENT; **2** VACANCIES.

GILA RIVER INDIAN COMMUNITY

12-13-06

GOVERNOR

ATTEST:

COMMUNITY COUNCIL SECRETARY

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# SECTION SUMMARIES

## I. Part I: General Provisions

The Gila River Indian Community (GRIC) Air Quality Management Program (AQMP) consists of an air quality plan currently being developed by GRIC Department of Environmental Quality (DEQ) following the U.S. Environmental Protection Agency (EPA) guidelines. The purpose of the plan is for the protection of outdoor air within the boundaries of the Community. The GRIC AQMP will allow Gila River to exercise its sovereignty over air quality within the Community. Without the GRIC AQMP, the EPA would remain the regulating authority.

### A. General Authority.

Part I gives GRIC the authority to implement the GRIC AQMP. The GRIC AQMP will meet the requirements of the Federal Clean Air Act to protect and preserve air quality within the Community. This shall be accomplished by regulating sources of air pollution (primarily industrial) within the Community and will continually monitor the quality of the outdoor air for six key pollutants to be sure that health standards for air are met. Community members will be notified if air quality is unhealthy due to high levels of pollution. Air monitoring information collected by DEQ and copies of Federal Regulations referenced in the ordinance are available to the public.

### B. Emergency Authority.

Part I also authorizes emergency authority to the Director, in coordination with the GRIC Office of Emergency Management, to determine whether air pollution in any area constitutes an emergency risk to human health. In the unlikely event that the Director of DEQ determines that air quality poses a threat to human health, the Governor will be informed and may declare an emergency. Measures will then be taken to protect Community members and control the problem.

### C. Procedures for Preparation, Adoption, and Submittal of the GRIC AQMP.

This ordinance sets forth the procedures for adopting the GRIC AQMP. DEQ will provide notice to the Community of any public hearings on the GRIC AQMP and provide an opportunity for comment prior to submission of the GRIC AQMP to the EPA. In addition, the Natural Resources Committee and Community Council will have input and final authority to approve each of the ordinances in the GRIC AQMP. Copies of each proposed ordinance and revisions will be available for public review in each district.

D. Adoption of National Ambient Air Quality Standards as Community Standards.

This ordinance adopts the National Ambient Air Quality Standards (NAAQS) for six key pollutants: sulfur dioxide, ozone, lead, carbon monoxide, nitrogen oxide, and particulate matter. These standards were set by the Environmental Protection Agency to protect human health and welfare. Concentrations of these pollutants above the national standard levels are considered to be harmful to human health and the environment.

## II. Part II: Permit Requirements

A. Overview.

Most of the Community's AQMP consists of standards or limits on air emissions from industrial facilities. The primary mechanism for ensuring that these standards and limits are met is a permit. The permit ordinance of the GRIC AQMP describes how permits will be issued, what they will contain and how they will be enforced.

A permit is a kind of contract between the Community and the owners or operators of sources of air pollution. The permit contains the conditions under which the Community will "permit" an air pollution source to use a Community resource (its air). The permit requires the industrial source to meet conditions that will prevent it from creating a risk to human health.

The permit ordinance is intended to achieve the following results:

1. The issuance of a single document (the permit) that describes in detail all of the requirements that apply to a source. The permit decreases the likelihood that there will be any misunderstanding between the source (business/facility owner or operator) and the Community as to how the source is expected to operate.

2. By complying with the permit application requirements and permit monitoring, record-keeping and reporting requirements, the source provides the information the Community needs to regulate the source. It also ensures that the source maintains compliance with its permit conditions. In addition, it provides the information and data needed for the GRIC DEQ to inform Community members and other interested entities regarding the status of air pollution sources located on Community lands. As a result, Community members are in a better position to know and understand the requirements applicable to each source and comment upon the appropriateness or stringency of those requirements. It also allows the Community to monitor the compliance status of individual facilities.

3. The permit provides an effective means of enforcing the GRIC AQMP requirements that apply to individual sources.

4. The permit structure described in this ordinance is generally consistent with the EPA federal permit structure, the permit structure adopted by the State of Arizona, and other states, as well as the limited permit program within the Navajo Nation.

5. A permit is by its nature a consensual document: the source voluntarily consents to the conditions in the permit and the jurisdiction of the Community in exchange for permission to operate on Community land. As a result, the permit is enforceable against permitted sources whether they are owned or operated by Community members or nonmembers for either of two reasons, each largely supported by one United States Supreme Court decision[1] (and later Supreme Court rulings interpreting that decision). First, the Supreme Court has recognized that Indian tribes may, as expressions of their inherent sovereign powers, exercise civil jurisdiction over non-Indians in certain narrowly-defined scenarios.[2] Secondly, an Indian tribe may exercise civil jurisdictional authority if Congress delegated such authority to the tribe. The EPA's position is that the Clean Air Act is "an explicit delegation of federal authority to eligible [Indian] tribes."[3] In other words, by adopting this permit program, the Community creates the legal structure courts have said is necessary for tribes to exercise their authority over individuals and entities located on Community land.

B. The Structure of the Permit Requirements.

The Permit ordinance has three characteristics:

First, there is a single air quality permit for all regulated activities. This "unitary" permit structure has been adopted by the State of Arizona. Under the ordinance, all changes at a source can be accommodated by revising the source's existing permit. Without a unitary permit structure, certain changes to a facility or changes in the method of operation that significantly increase emissions would require the source to obtain a separate permit before the change could

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[1] *Montana v. United States*, 450 U.S. 544 (1981). *Montana* has been described by another United States Supreme Court case as "the pathmarking case concerning tribal civil authority over nonmembers." *Strate v. A-1 Contractors*, 520 U.S. 438, 445 (1997).

[2] In *Montana*, the Supreme Court identified two scenarios in which an Indian tribe may assert civil jurisdiction over non-Indians. Under the so-called "*Montana* exceptions", an Indian tribe may exercise civil jurisdiction over non-Indians on its reservation , if either: (1) a non-Indian voluntarily consents to tribal jurisdiction via "commercial dealings, contracts, leases, or other arrangements" *Montana*, 450 U.S. at 565, or (2) when the non-Indian conduct sought to be regulated "threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe." *Montana*, 450 U.S. at 566. This permit program easily falls under the first exception. Later rulings have refined the scope of *Montana*'s second exception to require much more immediate and severe threats to an Indian tribe health or welfare in order to justify tribal jurisdiction under the second *Montana* exception

[3] Indian Tribes: Air Quality Planning and Management; Final Rule, 63 Fed. Reg. 7254, 7257 (Feb. 12, 1998).

occur. In other words, the source must obtain both a permit to construct and a permit to operate. In contrast, with the unitary approach, a facility is issued a single permit by the Community before it is constructed. The single permit regulates its construction and operation, as well as any subsequent changes to the facility.

There is one significant exception to the "one permit regulates all changes" structure in the draft ordinance. An existing source can only make a change that will result in a significant increase in emissions and a new, large air pollution source can only start construction by obtaining a separate "New Source Review" permit from the EPA. Currently EPA has this authority and this ordinance does not propose that GRIC take over this particular program at this time. However, it will be rare that large sources are proposed on Community land. Importantly, the permitting process that large sources are required to follow is extremely complex and resource intensive. With the other authorities the Community proposes to take under the GRIC AQMP, new source review seemed to be one task that is better left to EPA at this time.

The second characteristic of the ordinance is the difference between the standards that apply to sources already operating on Community land and the standards that would apply to new facilities that may wish to locate to the Community in the future. It is much more cost-effective to design air pollution control equipment before a facility is built or when a facility is being substantially modified than to add or retrofit controls to an operating facility. Therefore, for both the federal government and the states, the requirements for new facilities and the requirements for existing facilities that need modifications that significantly increase overall emissions are more stringent than the operating requirements of existing facilities.

Thirdly, sources with larger emissions of pollutants (major sources) are typically subject to more stringent permit requirements than smaller sources. Many of the more stringent requirements have to do with monitoring, record keeping and reporting. The thought here is that when a source is large, it is more important to monitor its pollution and ensure consistent compliance with the requirements. In addition, the added stringency of requirements for "major sources" provides an incentive to industry to control air pollution to avoid major source status in the first place. Many facilities add air pollution controls in order to get below the level of pollutant emissions that trigger major source status and requirements.

C. <u>General Concepts in the Permit Ordinance</u>.

Because the permit ordinance regulates complex industrial activities, the ordinance is detailed. However, there are certain guiding concepts on which the ordinance is based.

1. Emissions from a source cannot cause a violation of an outdoor (ambient) air quality standard.

The Council enacted Phase I of the GRIC AQMP in 2002 as an ordinance. In that ordinance, the Community adopted the National Ambient Air Quality Standards (NAAQS) developed by

EPA. They are the pollution standards that must be met to assure that outdoor (ambient) air does not pose a risk to human health. If the pollutant that a source emits may cause a violation or contribute to a violation of a NAAQS, the source must install air pollution control equipment or institute the work practices necessary to eliminate the threat.

2. Public participation is a key part of issuing permits.

The public participation process in Section 4.6 of the permit ordinance is triggered by one of four actions: (1) the initial issuance of a permit; (2) the renewal of that permit; (3) a significant revision to a non-Title V permit; and (4) a significant revision to a Title V permit that does not trigger major source new source review by EPA. In the case of a significant revision to a Title V source that does trigger major source new source review by EPA, the public participation process will continue to be administered by EPA under its regulations.

The public participation process begins with notice to the public. In the ordinance, notice takes two forms. Notice of the proposed action on a permit must be published in a newspaper. Notice is also sent to people on a mailing list maintained by the Department of Environmental Quality (DEQ). The mailing list has persons who have requested notice as well as persons identified by the Department as having a potential interest in the permit. Potentially interested persons would include policy makers such as the members of the Natural Resources Standing Committee, Council and the district in which the facility is located. The contents of the notice are specified in the ordinance. Among other things, the notice will inform interested individuals of their right to submit written comments on the permit and request a hearing for the purpose of providing oral comments. If a hearing is requested, a separate notice is required for the hearing stating the hearing location, date, time and subject matter. The Department must respond in writing to all oral and written comments when it issues a permit (or if it decides to deny a permit).

3. In a few sections of the ordinance, permit procedures and requirements are included by "referring" to specific federal regulations rather than repeating the federal requirement word-for-word in the ordinance.

Parts of the ordinance are taken word-for-word from EPA rules because they fit at GRIC. Also, after thirty years of implementation of the federal Clean Air Act, there has developed a permitting structure that has proven to be generally effective and enforceable. That structure is built upon certain terms that have federal definitions and a history of interpretation by EPA and the federal courts. This track record reduces unnecessary ambiguity and uncertainty.

However, referring to federal regulations rather than putting the entire, specific regulatory language in an ordinance requires a person trying to comply to have the ordinance as well as the EPA regulation that had been "incorporated by reference." For most companies or individuals in business, this sort of juggling act between the ordinance and federal rules is not unusual since other jurisdictions including states and EPA routinely use incorporation by reference to shorten regulations. However, smaller businesses and the public may find it more difficult. Therefore,

we tried to find a balance of incorporation by reference and inclusion of all federal language in the ordinance. Incorporation by reference is most frequently applied in the Title V permit requirements in Section 3.0. Incorporation by reference of the EPA Title V requirements makes sense since the Clean Air Act requires the permit program be identical to EPA Title V regulations. Since these regulations only apply to larger sources which presumably have more resources, referring to a federal document is less burdensome in that situation.

4. Emission limits and emission standards are generally based on the technology available to control emissions.

The goals of the source specific ordinances are to 1) establish emission limits for new facilities that require the best control technology reasonably available, and 2) ensure that other facilities that are already in operation on Community land are using control technologies that are comparable to what is required of similar operations in other parts of the country – this approach is called "Reasonably Available Control Technology" or "RACT."

For example, when developing emission limits for a source category, such as aluminum processing facilities, the first step is to determine what control technologies or operating practices are being used by aluminum processors in other parts of the county. This survey of the source category usually takes two forms: (1) What technologies are being used and what is their effectiveness; and (2) what emissions limits are various jurisdictions imposing on aluminum processing facilities based on those technologies?

How the proposed emission limits for aluminum processing were reached and how they compare with the limits being imposed in other parts of the country are discussed in "Technical Support Documents" for each source category. The Technical Support Documents (TSD's) will be presented with the specific source ordinances in the near future. The specific source ordinances do not dictate that facilities install a particular technology. Instead, the ordinances establish emission limits or work practice standards that meet air emission limits, but leave it up to the source owner to choose the most cost-effective method of meeting those limits or standards based on their individual circumstance. As an example, the ordinance may establish a limit for a category of existing sources for the emission of volatile organic compounds, the chemicals that cause ozone. A source may choose to meet that limit by using materials, such as paints, in its product that contain very low concentrations or no volatile organic compounds. Another source owner may decide to use a technology that "captures" the volatile organic compounds in a stack and destroys them using a high temperature catalyst technology. Under the source specific ordinances, sources can choose among different options.

5. The permit ordinance assumes that the Community will be classified as attainment or unclassifiable for the ozone NAAQS.

The federal Clean Air Act requirements differ depending on whether an area is or is not attaining specific NAAQS. For example, if Community lands are found to be attaining the one-hour

NAAQS for ozone, a source can emit up to 100 tons per year of volatile organic compounds without being classified as a major source of those pollutants and, therefore, subject to having to obtain a federal Title V permit with all the costs and additional requirements associated with such a permit. If the source were located in South Phoenix, it would be in a nonattainment area for ozone and could only emit 50 tons per year of volatile organic compounds and still remain a minor source. The difference in legal treatment between areas that attain and do not attain a particular NAAQS can affect the kind of gasoline that can be sold in the area, the stringency of requirements that are imposed on the construction of new roads and highways, the kinds of conditions that will apply to construction activities, and a host of other matters.

It has been the Community's position that Community lands either attain the NAAQS, or there is insufficient data on which to base a determination such that the lands should be "unclassifiable" until that data is available. For regulatory purposes, an unclassifiable area is considered as having attained the standard for which it is unclassifiable. The permit structure described in the draft ordinance is for an area that is currently "attaining" the NAAQS.

6. The permit ordinance regulates two broad categories of air pollutants.

A permit issued under the permit ordinance will have limits on the emissions of two categories of pollutants – "criteria" and hazardous air pollutants. Criteria air pollutants are the six air pollutants for which the NAAQS have been adopted under the Clean Air Act. The Community adopted these standards under Phase I of the GRIC AQMP. Criteria pollutants are the air pollutants that the public is most likely to breathe. In addition, EPA has listed approximately two hundred particularly toxic chemicals as hazardous air pollutants under the Clean Air Act. The ordinance regulating hazardous air pollutants is in Part VI of the GRIC AQMP.

In general, the proposed permit structure regulates emissions of both categories of pollutants – criteria pollutants and hazardous air pollutants – based on technology requirements and whether the source is an existing or new source. The requirements fall into the following categories:

**Level of Technology**

| | CRITERIA POLLUTANTS | HAZARDOUS AIR POLLUTANTS |
|---|---|---|
| Existing Minor Source | Reasonably Available Control Technology[1] | Reasonably Available Control Technology[1] |
| New Minor Source or Change that Results in Significant Increase in Emissions at Existing Minor Source | Best Reasonable and Demonstrated Technology or Reasonably Available Control Technology [2] | Best Reasonable and Demonstrated Technology or Reasonably Available Control Technology[2] |
| Existing Major Source | Reasonably Available Control Technology[1] | Reasonably Available Control Technology or Maximum Achievable Control Technology[3] |
| New Major Source or Significant Increase in Emissions from Existing Major Source | Best Available Control Technology (for source in attainment area) or Lowest Achievable Emission Rate (for source in nonattainment area)[4] | Maximum Achievable Control Technology[4] |

[1] Expressed as source category (specific) emission limits or work practice standards.
[2] Applicability of standard depends on size of new source or increase in emissions at an existing source.
[3] If EPA has adopted MACT for the source's category.
[4] Determined by EPA.

In addition to criteria and hazardous air pollutants, the ordinance identifies a special sub-group of hazardous air pollutants which are "ultra-hazardous air pollutants." These are hazardous air pollutants that EPA has designated for additional regulation because of their serious potential health effects. For these ultra-hazardous pollutants, the ordinance establishes a lower threshold (300 lbs/year) for triggering a requirement that the source install Best Reasonable and Demonstrated Technology (BRDT) (discussed below).

D. Section by Section Discussion of the Draft Ordinance.

1. Section 1.0 - Definitions.

The definitions are essentially identical to those used by EPA and by the Navajo Nation in its air quality program. Again, using terms with well-accepted meaning and long-standing use will make the Community's program more understandable, predictable and more likely to be complied with by the regulated community. Also, it will facilitate approval by EPA of the permit ordinance as part of the GRIC AQMP, since it is based on EPA's own rules. The exception to use of EPA definitions is "Best Reasonable and Demonstrated Technology" (BRDT). The draft ordinance requires BRDT for changes in existing minor sources or new minor sources that trigger new source review and are above thresholds listed in the ordinance.

Because EPA does not have regulations for 'minor source' new source review conducted by states or tribes, the Community has the flexibility in the GRIC AQMP to determine which requirements it wants to impose on minor sources that emit hazardous air pollutants. The draft ordinance's definition of BRDT is very similar to the federal definition of "Best Available Control Technology."

2. Section 2.0 - Permit Applicability.

The draft ordinance requires every stationary source that creates air pollution within the boundaries of the Community to obtain either an individual or general air quality operating permit from the GRIC DEQ. However, any facility that has emissions below all of the thresholds listed in subsection 2.1(C)(1) is considered too small to require a permit. The thresholds for the exemption and the categories of exempt activities should be examined carefully to determine if some sources listed should not be exempted from permitting or if some are listed and should be exempt.

3. Section 3.0 - Permit Requirements for Title V Sources.

When the Clean Air Act was amended in 1990, Congress added a program called "Title V" that required major sources of air pollution to obtain an operating permit from EPA. In those same 1990 amendments and in EPA's Tribal Authority Rule (40 CFR Part 49), authority was granted to qualifying tribes to exercise the same Title V authority as states. The permit ordinance contains the EPA rules that states and tribes must comply with to get Title V permit authority.

Importantly, the ordinance regulates how a major source is operated. The ordinance does not cover the requirements for a new major source before it can be built (or an operating major source that proposes a significant emissions increase or operating change of the facility). Those changes will continue to be approved by EPA under the new source review program for large sources. Whatever conditions EPA places on a facility will be automatically incorporated in the Community-issued Title V permit for that facility.

4. Section 4.0 - Permit Requirements for Non-Title V (Smaller) Sources.

The requirements that a tribe or state must meet to get delegated authority from EPA to issue permits for the operation of large sources of air pollution are dictated by the Clean Air Act and the associated regulations that this draft ordinance incorporates by reference. The Clean Air Act does not dictate the requirements that apply to smaller sources (non-Title V); states and tribes have more flexibility in establishing these requirements. However, with a few significant exceptions noted below, the permit structure for non-Title V permits is very much like that for Title V permits.

There are three categories of non-Title V permits:

a. Specific Source (individual) Permits.

b. "Synthetic Minor" Permits. These are permits for sources that would otherwise have to obtain a Title V permit but agree to accept limits on operating hours, raw materials used or operating conditions that will ensure that the source will not have emissions above the major source thresholds that trigger the need for a Title V permit.

c. General Permits. For some categories of sources, the individual facility emissions are small and there are many similar facilities. In this situation, the most effective form of regulation is to require all sources in the category to "register" with the DEQ and comply with general requirements. Sources that are subject to a general permit need not obtain a specific, individual permit unless they continuously violate the ordinance's requirements.

The permit application requirements and minimum permit conditions for non-Title V sources have become standardized for air quality permits over the last thirty years. The draft ordinance generally contains these standard application requirements and permit conditions. However, in the draft ordinance, sources with permits are required to provide an annual "certification" of facility compliance. Annual compliance certification has proven to be an effective tool for Title V permits nationwide. Certification forces company officials to examine company records to verify a facility's compliance status before certifying that the source is in compliance.

The administrative and permit transfer requirements for non-Title V sources are modeled after those adopted by the State of Arizona and Maricopa County. However, in the ordinance, the permit transfer notice is somewhat more detailed. These details will provide additional opportunity for the Community to review proposed business changes, particularly in the case of sub leases (or sub-sub leases at the industrial parks).

5. Section 5.0 - Facility Changes That Require Revisions to Non-Title V Permits.

A regulated facility may undergo changes monthly or, depending on the nature of the facility, even weekly or daily. Few of the changes have "regulatory significance." In other words, these are not changes that require a permittee to get a revised permit, seek the Department's permission to implement the change, inform the Department of the change or even record the change on the facility's records. However, because certain changes do have regulatory significance, it is important that the draft ordinance clearly describe those changes, what action the permittee must take in response to the change and when the action must be taken. In general, changes with regulatory significance fall into the following categories:

| CATEGORY OF ACTION | DESCRIPTION OF NATURE OF CHANGE | WHAT IS REQUIRED OF PERMITTEE |
|---|---|---|
| 1. Permit Revision | See generally Section 5.0 | |
| Significant Revision | Changes listed in Section 5.5 | Change cannot occur without prior approval of revision by Department. Same public participation process as when permit issued. May require BRDT review of applicable threshold exceeded. |
| Minor Revisions | Changes listed in Section 5.4 | Change can occur when application for revision submitted to Department [See Subsection 5.4(D)]. |
| 2. Contemporaneous Notice to Department | Changes listed in Subsection 5.2(C) | Requirements for the notice including its contents are described in Subsection 5.2(D) |
| 3. Contemporaneous Logging of the Change at the Facility | Changes listed in Subsection 5.2(B) | A copy of the log listing and describing the changes must be filed annually with the Department. |

Note that unless a change is specifically described in the ordinance as having regulatory significance, it is presumed not to have significance and can be implemented without any regulatory consequences. Therefore, it is important that the ordinance be carefully reviewed with particular attention to:

- Whether there are other kinds of changes at a facility that should have regulatory significance but have not been listed.
- Whether the changes that are listed are sufficiently clear.
- Are the regulatory consequences (permit revision, notice or logging) appropriate to the change?
- Should there be other regulatory consequences applicable to the changes?
- Are the regulatory consequences sufficiently clear?

6. Section 6.0 - Continuous Source Emission Monitoring.

The continuous source emissions monitoring (CEMs) requirements apply to four types of industrial sources including fossil fuel fired steam generators (power plants), fluid bed catalytic cracking unit catalyst regenerators (coal fired power plants), sulfuric acid plants (copper mines etc.) and nitric acid plants. This section contains standard federal language that will apply only to Title V sources that may propose to locate at GRIC in the future. Although none of these sources currently are located within the Community, discussions have been entertained concerning locating a fossil fuel fired power plant within the Community. Including the CEMs requirement in this ordinance at this time will prevent GRIC from having to revise the GRIC AQMP at a later date to allow for permitting of a proposed power plant in the future.

This section requires that any of the large industrial plants listed in subsection 6.1 install, operate, maintain and keep records on the specific constant emission monitor(s) required for the source type. This section also contains the minimum monitoring requirements, performance specifications and data reporting requirements for CEMs.

7. Section 7.0 - Standards of Performance for New Stationary Sources.

The federal New Source Performance Standards (NSPS) are adopted by reference in this section. Rather than including several hundred pages of the complete federal rules in the ordinance, it is common practice to adopt rules by reference. The rules are in 40 CFR Part 60. This section applies to stationary sources that have industrial processes or equipment covered under the federal New Source Performance Standards.

8. Section 8.0 - National Emission Standards for Hazardous Air Pollutants (NESHAPs).

This section adopts the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) by reference. The federal regulations are in 40 CFR Part 61 and Part 63. There are several NESHAPs that currently apply to sources at GRIC. In the event that GRIC decides to establish specific requirements for hazardous air pollutants that are more stringent than the federal requirements, the more restrictive requirement will apply.

9. Section 9.0 - Stack Height Requirements.

This section has the requirements for the design and construction of exhaust stacks for large industrial facilities. Older power plants and smelters typically have very tall stacks to disperse air pollutants high into the air. This section details how high stacks can be built and requires sources to follow good engineering practices (GEP) when building stacks.

10. Section 10.0 - Confidentiality of Information.

This section explains that all records, reports or information obtained from a source, including reports or information prepared by the GRIC DEQ will be available to the public. However, information which is a trade secret or would be detrimental to an ongoing civil or criminal

enforcement action will not be made public. In addition, this section describes the process that a source must follow to request that specific information be considered a trade secret or confidential.

## III. Part III: Enforcement Ordinances

### A. Overview.

If necessary, the AQMP allows the GRIC DEQ to take enforcement action against businesses that emit air pollution at GRIC. The DEQ may take enforcement actions when businesses violate the GRIC AQMP ordinances or violate their air quality permits. The enforcement ordinance covers both civil enforcement and criminal enforcement and is very similar to federal, state and other tribal laws. Its goals are to:

- eliminate or reduce risks to public health and the environment;
- encourage noncompliant businesses to return to compliance;
- deter other businesses from noncompliance;
- preserve a level playing field for companies that abide by the Community's ordinances.

### B. Civil Enforcement.

The ordinance is intended to give the DEQ a wide range of enforcement options to match enforcement to the nature and extent of the violation. Civil enforcement actions can be:

1. Administrative compliance orders [DEQ orders facility to comply with law];

2. Civil penalties [DEQ fines of up to $5,000 per day of violation; Tribal Courts can fine up to $10,000 per day];

3. Temporary restraining order, preliminary injunction or permanent injunction [Tribal court order to stop a business activity, if necessary to protect health];

4. DEQ denial or taking away of an operating permit.

If necessary, the ordinance has criteria for calculating civil penalties. The criteria ensure that DEQ and the Tribal Courts will assess civil penalties in a fair and consistent manner and in accordance with the federal Clean Air Act. The Clean Air Act authorizes up to $25,000 per day per violation. The GRIC AQMP ordinance allows up to a $10,000 per day penalty. This penalty level was felt to be more appropriate given the size and type of facilities located on Community lands. Also, it is consistent with level of civil penalties being imposed in neighboring

jurisdictions. The civil penalty amounts in the GRIC ordinance are high enough to adequately deter violations of Community ordinances.

C. Criminal Enforcement.

In rare cases, businesses knowingly or deliberately break the law; these violations may lead to criminal, rather than civil, enforcement actions. In 1978, the U.S. Supreme Court said that tribal courts do not have criminal jurisdiction over non-Indians for crimes committed on a reservation. Because of the Supreme Court's decision, the Community lacks the authority to take *criminal* enforcement actions against businesses located at GRIC that are owned by non-Indians, if they knowingly violate air quality ordinances.

The DEQ will work with the GRIC Law Office and refer criminal violations to federal criminal prosecution. GRIC DEQ intends to enter into a Memorandum of Agreement with EPA Region IX that will outline the referral process.

D. Citizen Suit Provisions.

1. No Citizen Suits Against the Community or Community Officials Acting Within the Scope of Their Duties.

The GRIC AQMP Enforcement Ordinance states that citizen suits (lawsuits filed by members of the public) are not authorized against the Community or Community officials acting within the scope of their duties. Under the Tribal Authority Rule, EPA listed citizen suits as a provision of the Clean Air Act for which it would not be appropriate to treat a tribe in the same manner as a state. The DEQ has seriously considered the citizen suit issue because of the Community's commitment to a regulatory approach that is responsive to the concerns of all affected parties. The Community also considers its sovereign immunity as the most important element of its governmental authority and it will not waive that immunity for purposes of subjecting the tribe or its officials to citizen suit. However, the Community has a long-standing, strong tradition of individuals working with elected GRIC officials to review departmental actions.

2. Citizen Suits Against Businesses (Regulated Entities).

The enforcement ordinance prohibits lawsuits filed by members of the public (citizen suits) against the Community, Community officers or officials acting within the scope of their duties. However, a citizen suit may be brought against businesses that are regulated by the GRIC AQMP. The citizen suit provisions are in Section 3.0 of the GRIC AQMP Enforcement Ordinance and are taken from Section 304 of the federal Clean Air Act.

A member of the public who feels he or she is affected by a DEQ action, may bring a civil lawsuit in Tribal Court against a business that (1) has violated or is alleged to have violated an emission standard, or (2) proposes to construct or constructs a new or modified facility that emits a major amount of air pollution without a permit.

## IV. Part IV: Administrative Appeals Procedures and Judicial Review

Part IV of the GRIC AQMP lays out an appeals process in situations where industry or members of the public can ask for a review of a decision made by the GRIC DEQ. The appeals process has two sections: (1) the administrative appeals procedures, and (2) review by tribal court of final DEQ actions.

The first section outlines the procedures for an appeal through an administrative hearing. At the hearing, industry or members of the public who object to a DEQ decision may present evidence to an Administrative Law Judge appointed by the Community's Governor. Based on the evidence and laws, the Administrative Law Judge will issue a recommended decision to the Director of the DEQ. The Director may accept the decision, reject it or modify it. The Director's decision becomes a Final Administrative Decision. This decision can then be appealed to the GRIC Tribal Court. Only members of the public that have commented on a decision during a public comment period can make an appeal.

The second section states that the Tribal Court may only reverse the DEQ Director's Final Administrative Decision if it is clearly erroneous or not supported by facts. The Tribal Court's decision may be appealed to the Gila River Appellate Court for final review.

This type of appeals process is used by the federal government, states and Indian Tribes. The same appeals process is in the GRIC Chemical Emergency Planning Ordinance (GR-01-02) and the Medical Waste Management Ordinance (GR-04-02).

State, tribal and federal laws follow this appeals model for several reasons:

- Appeals provide a fair opportunity for businesses and members of the public to seek review of DEQ decisions.
- Administrative appeals lack the formality, cost and delay of full-blown proceedings in Court.
- Administrative Law Judges are skilled at sorting through facts and testimony but do not have the same level of technical, environmental expertise as departmental staff.
- Implementing laws (ordinances) is an executive branch responsibility involving policy

decisions. Departments are key elements of the executive branch of government and the implementation of policy.

## V. Part V: Area Source Emission Limits

### A. Overview.

The Community's Tribal Implementation Plan contains ordinances in Part V that have requirements for area sources of air pollution that are not from a smokestack. These are often called "area sources." These ordinances focus on cutting down on the amount of dust in the air caused by human activity. These ordinances include Open Burning (Section 1.0) and General Requirements for Fugitive Dust-Producing Activities (Section 2.0). "Fugitive," in this case, means dust that does not come from a smokestack.

In general, these ordinances reduce dust from earthmoving operations and land clearing larger than 1 acre in size as well as large and small scale burns within the Community. The requirements of Section 2.0 do not apply to general agricultural operations, but they will apply to the initial clearing of land for agricultural purposes and for development.

The "Area Source" ordinances of the GRIC AQMP are the ones that are most likely to affect Community member's activities (for example, members would need a permit to burn landscape waste).

The "Open Burning" ordinance is consistent with the GRIC Solid Waste ordinance that was passed by the Community Council in 1995. Both ordinances do not allow burning of trash but do allow burning of landscape waste, ditch banks, fence rows, etc. The GRIC DEQ, in coordination with the GRIC Fire Department, has been issuing simple burn permits for burning of landscape waste since 1995. Some changes are being proposed in the ordinance for larger scale burns such as clearing of land for agricultural fields, large housing developments and construction sites. The proposed changes include more expanded notification to residents in the area, a requirement for fire suppression equipment and special notification of the Fire Department. The GRIC DEQ developed a questionnaire to gather information from Community members concerning open burning. The Air Program is using the information from the questionnaires as a guide for developing open burning requirements.

### B. Specific Provisions.

The two area source ordinances are geared toward reducing dust and limiting the health affects of open burning (smoke) on GRIC residents. To achieve this goal, Section 1.0 (Open Burning) requires a permit for both small burns (households) and non-residential burns (land clearing, commercial development, or other large scale burns). The permits contain requirements designed to limit Community member's exposure to smoke and odors from open burning.

Section 1.0 (Open Burning) contains requirements that should be followed to reduce the exposure of Community members to smoke and odors from burning. These requirements include burning smaller piles, notifying any neighbors within ¼ mile and burning during prescribed hours. Additional requirements apply to non-residential burns and large scale burns. The ordinance also contains a list of fires that do not require a permit including fires for cooking, cultural, religious or ceremonial fires, fires for heating, recreation and branding of animals. This ordinance also lists materials that are prohibited. These items include garbage, asphalt shingles, tar paper, plastic and rubber, oils, pesticide containers, tires, debris from demolished homes and materials containing asbestos.

Section 2.0 (General Requirements for Fugitive Dust-Producing Activities) is designed to reduce the amount of dust produced from earthmoving operations, land clearing, demolition activities, unpaved parking lots at industrial plants, and other activities that generate dust. Agricultural activities are not subject to this ordinance. This ordinance requires that anyone conducting earthmoving operations (leveling/moving dirt for an industrial facility or large housing development) or land clearing over an area greater than 1 acre must first get an earth moving permit through the Department. As a requirement of the earthmoving permit, a dust control plan must be developed describing how dust will be controlled. In addition, any industrial facility with an unpaved parking lot with traffic exceeding 20 vehicle trips per day must acquire a permit. Sources or activities that cause dust are required to limit the amount of dust by watering, applying certain chemicals, using covers or by installing control equipment on dusty operations.

The Dust Control Plan must be submitted to the Department as part of the Earthmoving Permit Application or as part of an Individual Industrial Sources Permit Application. The Dust Control Plan Application contains a list of dust control options that can be chosen by the applicant. In addition, the ordinance contains work practices for hauling and controlling dust from stockpiles.

Section 2.0 also sets record keeping requirements to ensure that dust control measures are being properly used and to document how often measures are implemented. These records document how often a water truck is filled, how often water is applied to a site or how often other control measures are applied.

## VI. Part VI: Generally Applicable Individual Source Requirements For Existing and New Sources

A. Overview.

The Community's AQMP contains ordinances in Part VI that set requirements for Visible Emissions (Section 1.0), VOC (volatile organic compound) Usage, Storage and Handling (Section 2.0) and Degreasing and Solvent Metal Cleaning (Section 3.0).

In general, these ordinances apply to all sources within the Community that store, handle or use gasoline, solvents or other VOC-containing materials or that conduct degreasing or metal cleaning using solvents. In addition, any facility or operation that may emit air pollutants that can be seen by the human eye is subject to the requirements of section 1.0.

B. Specific Provisions.

Section 1.0 (Visible Emissions) sets an opacity limit (20%) on sources that emit air pollutants through a stack or that have fugitive emissions from leaks in piping or duct work. GRIC air quality personnel receive certifications to read smoke in accordance with EPA Method 9 which allows enforcement of the 20% opacity limit.

Section 2.0 (VOC Usage, Storage and Handling) sets requirements for the usage, storage and handling of materials that contain VOCs. These materials include gasoline, solvents, paints and adhesives. This ordinance establishes daily limits on emissions from different types of VOCs used in specific industrial processes or process lines. In addition, this ordinance sets levels of control and/or reductions for air pollution control equipment used to reduce VOC emissions from specific processes or process lines.

Section 3.0 (Degreasing and Solvent Metal Cleaning) sets work practices for facilities that use solvents to clean metal parts. This includes auto/equipment repair shops including public works and BIA, manufacturers of aerospace parts, and manufacturers of aluminum products. The work practices are designed to reduce VOC emissions from the usage of solvents for metal cleaning. Most of the work practice requirements are simple and include keeping the lid closed on solvent trays, storing solvent soaked rags in closed containers, fixing leaks and labeling requirements. Most businesses follow these practices already. Certain types of degreasers (open top vapor degreasers and conveyorized degreasers) require more complicated work practices due to the heating and spraying of solvents.

Sections 2.0 and 3.0 establish record keeping requirements to ensure that solvents are being disposed of properly. The records also keep track of air pollution emissions from the use of solvents and other VOC-containing materials. Records must also be kept to ensure that daily emission limits for process lines are not exceeded. Several industrial facilities may be required, through their individual permits, to have personnel certified to read smoke in accordance with Section 1.0 and EPA Method 9.

## VII. Part VII: Source/Category Specific Emission Limits for Existing and New Sources

A. Overview.

The Community's AQMP contains ordinances in Part VII that establish operating requirements and emission limits for air pollutants. The ordinances are broken down into specific categories

of air pollution sources that include: Secondary Aluminum Production (Section 1.0) (melting scrap aluminum), Aerospace Manufacturing and Rework Operations (Section 2.0) (applying coatings to rebuilt aerospace parts), Nonmetallic Mineral Mining and Processing (Section 3.0) (rock crushing and aggregate mining, concrete batch plants and asphalt batch plants).

B. Specific Provisions.

Section 1.0 sets requirements for facilities that produce/process secondary aluminum. More specifically, facilities that receive scrap aluminum and melt the aluminum for the purpose of producing aluminum parts are subject to this ordinance. This ordinance sets limits on visible emissions from the melt furnaces (20% opacity) (opacity is the amount of visibility blocked by particles exiting a source), requires a 15% reduction of VOCs (solvents) over 5 years from the large solvent cleaning operations and sets limits on certain hazardous air pollutants (dioxin/furans and hydrochloric acid) from melting operations. This ordinance also establishes limits on what types of aluminum can be charged to the furnaces (no painted aluminum, oil soaked aluminum or aluminum cans). In addition, the ordinance requires that each furnace be labeled (type of furnace, operational standards/limits, types of charge), that performance testing be conducted on the furnaces to ensure emissions limits are not exceeded and an Operation and Maintenance Plan (O&M Plan) be submitted to the GRIC DEQ for approval to ensure air pollution controls and operational requirements are maintained. Many of the requirements contained in Section 1.0 are the same as the federal government requirements.

Section 2.0 (Aerospace Manufacturing and Rework Operations) sets work practices, operating requirements and VOC limits on coatings for aerospace manufacturing and rework facilities. This ordinance is directed at reducing VOC emissions from the numerous coatings used in the aerospace manufacturing and rework industry. The ordinance lists the maximum VOC content that topcoats, primers, maskants and other coatings can contain. In addition, the ordinance contains requirements on spray gun cleaning, application techniques and housekeeping requirements.

Sections 3.0 (Nonmetallic Mineral Mining and Processing) sets emission limits, operating requirements and performance testing requirements for nonmetallic mineral mining operations, concrete batch plants, vermiculite and perlite expansion furnaces and hot mix asphalt plants. The ordinance also prohibits the use of “off specification fuel oil” in hot mix asphalt plants and the sale or manufacture of cutback asphalt. The ordinance contains specific (particulate matter/dust) emission limits for different operations at nonmetallic mineral mining operations including material handling systems (7% opacity), transfer points (7% opacity) and crushing operations (15% opacity). In addition, emission limits for fugitive sources of dust (emission not from a stack) have been established for operations such as truck dumping, vehicle traffic and operation of front loaders (20% opacity). The ordinance requires that hot mix asphalt plants, vermiculite and perlite expansion furnaces and other pollution control units be tested to meet the emission limits contained in the ordinance. Each facility using an Emission Control System (ECS) to

control air pollution emissions from one of the above operations is required under the ordinance to develop and submit to the GRIC DEQ, an O&M Plan describing how the control system will be operated including operating parameters and maintenance schedule.

The above three ordinances contain record keeping requirements that apply to each specific operation. Each ordinance requires records to be kept documenting the amount of basic raw materials used, the quantity of fuel burned, hours of operation, VOC contents of coatings etc. Records must also be kept to ensure that air pollution control equipment is operated as designed.

# Part I. General Provisions


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**4.0 Adoption of National Ambient Air Quality Standards as Community Standards**

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## 1.0 DEFINITIONS

**1.1** **"Act"** means the Clean Air Act (42 U.S.C. 7401 *et seq.*).

**1.2** **"Administrator"** means the Administrator of the United States Environmental Protection Agency (EPA) or an authorized representative.

**1.3** **"Ambient air"** means that portion of the atmosphere external to buildings, to which the general public has access.

**1.4** **"Attainment area"** means an area so designated by the Administrator acting pursuant to Section 107 of the Act that meets the national primary or secondary ambient air quality standard for the pollutant.

**1.5** **"Compliance schedule"** means the date or dates by which a source or category of sources is required to comply with specific emission limitations contained in an implementation plan and with any increments of progress toward such compliance.

**1.6** **"Community"** means the Gila River Indian Community, its departments and governmental service agencies.

**1.7** **"Community Council"** means the Gila River Indian Community Council, the legislative branch of the government of the Gila River Indian Community.

**1.8** **"Department"** means the Department of Environmental Quality of the Gila River Indian Community ("GRIC" or the "Community").

**1.9** **"Director"** means the Director of the Department of Environmental Quality of the Gila River Indian Community.

**1.10** **"Equivalent method"** means a method of sampling and analyzing the ambient air for an air pollutant that has been designated as an equivalent method in accordance with 40 C.F.R. Part 53; it does not include a method for which an equivalent method designation has been canceled in accordance with 40 C.F.R. § 53.11 or 40 C.F.R. § 53.16.

**1.11** **"Governor"** means the Governor of the Gila River Indian Community as provided in Section 2 of the Bylaws of the Gila River Indian Community.

**1.12** **"Increments of Progress"** means steps toward compliance which will be taken by a specific source, including:

- **A.** Date of submittal of the source's final control plan to the appropriate air pollution control agency;
- **B.** Date by which contracts for emission control systems or process modifications will be awarded; or date by which orders will be issued for the purchase of component parts to accomplish emission control or process modification;
- **C.** Date of initiation of on-site construction or installation of emission control equipment or process change;
- **D.** Date by which on-site construction or installation of emission control equipment or process modification is to be completed; and

**E.** Date by which final compliance is to be achieved.

**1.13** **"Nonattainment area"** means an area so designated by the Administrator acting pursuant to Section 107 of the Act that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant.

**1.14** **"Particulate matter"** means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

**1.15** **"Program," "Air Quality Management Program" or "AQMP"** means an implementation plan approved or promulgated under Sections 110 and 301(d) of the Act in accordance with the requirements of 40 C.F.R. Part 49.

**1.16** **"$PM_{2.5}$"** means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on Appendix L of 40 C.F.R. Part 50 and designated in accordance with 40 C.F.R. Part 53 or by an equivalent method designated in accordance with 40 C.F.R. Part 53.

**1.17** **"$PM_{10}$"** means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J to 40 C.F.R. Part 50 and designated in accordance with 40 C.F.R. Part 53 or by an equivalent method designated in accordance with 40 C.F.R. Part 53.

**1.18** **"Primary ambient air quality standards"** means the ambient air quality standards which define levels of air quality necessary, with an adequate margin of safety, to protect the public health.

**1.19** **"Reference method"** means a method of sampling and analyzing the ambient air for an air pollutant that has been specified as a reference method in an appendix to this part, or a method that has been designated as a reference method in accordance with 40 C.F.R. Part 53; it does not include a method for which a reference method designation has been canceled in accordance with 40 C.F.R. § 53.11 or § 53.16.

**1.20** **"Secondary ambient air quality standards"** means the ambient air quality standards which define levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.

**1.21** **"Tribal Authority Rule" or "TAR"** means the EPA regulations found at 40 C.F.R. §§ 49.1 through 49.11.

**1.22** **"Unclassifiable area"** means an area which the Administrator, because of a lack of adequate data, is unable to classify as an attainment or nonattainment area for a specific pollutant, and which, for purposes of this ordinance, is treated as an attainment area.

## 2.0 GENERAL AUTHORITY

### 2.1 Duties of the Director.

The Director shall:

**A.** Develop and recommend to the Community Council for consideration, adoption and submission to the Administrator a Tribal Implementation Plan that meets the requirements of Sections 110 and 301(d) of the Act as interpreted by the Tribal Authority Rule.

**B.** Consult with and make recommendations to the Governor and Community Council on matters concerning implementation of this ordinance.

**C.** Encourage industrial, commercial, residential and general development of the Community that protects and preserves air quality.

**D.** Consistent with Community procedures, contract for the services of outside advisors, consultants and other entities including laboratories, as reasonably necessary to enable the Department to adequately perform its duties.

**E.** Accept grants, matching monies or direct payments from public agencies including but not limited to federal agencies, private agencies or private persons, which shall be managed in accordance with the Community's general accounting practices, but earmarked for Department activities, services and publications and to conduct programs which are consistent with the general purpose of this ordinance.

**F.** Provide for the examination of any source of air pollution within the Community at any reasonable time without notice to determine compliance.

**G.** Make a continuing determination of the quality of the Community's ambient air and determine whether that quality attains the standards prescribed by Section 4.0 of this ordinance, including providing for establishment and operation of appropriate devices, methods, systems, and procedures necessary to:

1. Monitor, compile, and analyze data on ambient air quality, and
2. Upon request, make such data available to the Administrator.

**H.** Make a continuing determination of air pollutant emissions from any source within the Community to ensure that those emissions do not:

1. Cause or contribute to violations of the standards prescribed by Section 4.0 of this ordinance within the Community;
2. Contribute significantly to nonattainment in, or interfere with maintenance by any state or tribe with respect to any national ambient air quality standards adopted pursuant to Section 109 of the Act;

3. Interfere with measures to be included in the applicable implementation plan of any other tribe or state under Title I Part C of the Act to prevent significant deterioration of air quality or to protect visibility.

**I.** Notify Community members and other members of the public on a regular basis of instances or areas in which any standards in Section 4.0 of this ordinance were exceeded during any portion of the preceding calendar year, including the health hazards associated with such an exceedance, and measures which can be taken to prevent the standard from being exceeded, and ways in which Community members and other members of the public can participate in regulatory and other efforts to improve air quality.

**J.** Retain all detailed data and calculations used in the preparation of the AQMP or each AQMP revision, and make them available for public inspection and submit them to the Administrator as requested.

**K.** Provide for the availability of emission data to the public and EPA reported by source owners or operators or otherwise obtained by the Department. Such emission data must be correlated with applicable emission limitations or other measures. "Correlated" means presented in such a manner as to show the relationship between measured or estimated amounts of emissions and the amounts of such emissions allowable under the applicable emission limitations or other measures.

**L.** Require sources to obtain permits or other authorizations to operate or conduct activities as the Director determines are necessary to achieve the objectives of this ordinance. Such permits or authorization may contain such conditions or restrictions on operations or activities as the Director determines are reasonably necessary to comply with the Act and achieve the objectives of this ordinance.

**M.** Submit any necessary revisions to the AQMP in accordance with section 110 of the Act and follow standard Community approval procedures including submission to the appropriate Community Committees. All revisions shall be subject to final approval by Community Council.

**N.** Submit to the Administrator, by no later than July 1, the information for the previous calendar year specified in 40 C.F.R. §§ 51.323 and 51.326.

**2.2** **<u>Air Pollution Emergency Authority</u>**.

**A.** If the Director determines, based on scientific data, in coordination with the GRIC Office of Emergency Management (OEM) and consistent with OEM protocol, that air pollution in any area constitutes or may constitute an emergency risk to the health of those in the area or those standards contained in Section 4.0 of this ordinance are likely to be exceeded, that determination shall be communicated to the Governor. The Governor may restrain or enjoin immediately and effectively any person by order or by suit in court from engaging in any emission-generating activity that is presenting an imminent and substantial endangerment to the public health or welfare or the environment. The Governor may, by declaration, to the extent of the Governor's authority, declare that an emergency exists and may prohibit, restrict or condition any of the following:

1. Motor vehicle traffic.
2. The operation of retail, commercial, manufacturing, governmental, industrial, or similar activity.
3. Operation of incinerators and other facilities that emit the air pollutant of concern.
4. The burning or other consumption of fuels.
5. The burning of any materials whatsoever.
6. Any and all other activity which contributes or may contribute to the emergency.

**B.** If the Governor declares that an emergency exists pursuant to paragraph A of this section, the Governor may prohibit, restrict or condition the employment schedules for employees of the Community, and on a voluntary basis only, may encourage private employers to develop similar work rules to restrict vehicle emissions during air quality emergencies. Any unscheduled leave that an employee of the Community is required to take because of the prohibition, restriction or condition will be leave with pay.

**C.** Orders of the Governor issued pursuant to this section are enforceable by the Department of Environmental Quality and Community Police. Community Police authorized to enforce the orders, may take reasonable steps required to assure compliance, including but not limited to the following:

1. Enter upon any property or establishment believed to be violating the order and, if a request does not produce compliance, cause compliance with such order.
2. Stopping, detouring, rerouting, and prohibiting vehicle traffic.

3. Disconnecting incinerator or other types of facilities that emit the air pollutants of concern.

**2.3 Incorporated Materials.**

All parts of the Code of Federal Regulations ("C.F.R.") referenced in this Ordinance and incorporated by reference are on file in the office of the Director. Copies of the regulations may be obtained from the Director for the cost of copying. The regulations are published in 40 C.F.R., and are adopted as of [date rule proposed], and no future additions or amendments, except as otherwise specifically provided. The regulations are available from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328; http://www.access.gpo.gov/nara/cfr/index.html.

**2.4 Conflict of Interest.**

**A.** Neither the Director nor any other individual having approval authority over permits or enforcement orders issued pursuant to this ordinance may have a substantial interest in persons required to obtain a permit under this ordinance. Substantial interest means any pecuniary or proprietary interest, either direct or indirect, other than a remote interest. Remote interest means:

1. That of a nonsalaried officer of a nonprofit corporation.
2. That of a member of a nonprofit cooperative marketing association.
3. The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, from the corporation does not exceed five percent of the total annual income of such officer or employee and any other payments made to the individual by the corporation do not exceed five percent of that individual's total annual income.
4. That of an officer or employee of the Community in being reimbursed for their actual and necessary expenses incurred in the performance of official duty.
5. That of a board member when the relative involved is not a dependent or a spouse.
6. That of an officer or employee of the Community or that of a relative of an officer or employee, unless the contract or decision involved would confer a direct economic benefit or detriment upon the officer, employee or relative.

7. That of a member of a trade, business, occupation profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of that trade, business, occupation, profession or class of persons.

## 3.0. PROCEDURES FOR PREPARATION, ADOPTION AND SUBMITTAL OF THE AIR QUALITY MANAGEMENT PROGRAM

### 3.1 Purpose.

**A.** The purpose of this ordinance is to set forth the procedural requirements for preparation, adoption, submission and revision of the Community's AQMP in accordance with Sections 110 and 301(d) of the Act and 40 C.F.R. Parts 49 and 51.

### 3.2 Procedures for Public Review.

**A.** The Department shall provide public notice and an opportunity to comment on the initial submission of the AQMP and all subsequent revisions to the AQMP as well as individual compliance schedules adopted pursuant to 40 C.F.R. Part 51, Subpart N.

**B.** Public Notice.

1. Any hearing required by paragraph D of this section will be held only after reasonable notice, which will be considered to include, at least thirty (30) days prior to the date of such hearing(s).
2. Notice must be given to:
   (a) The public by prominent advertisement in the Gila River Indian News.
   (b) The Administrator (through the appropriate Regional Office).
   (c) Each district of the Community, any affected tribe, the State of Arizona, and Maricopa and Pinal Counties.
3. The notice must include the date(s), time(s), and place(s) of such hearing(s).
4. In addition to the public notice requirements provided herein, the Department may require that notice be given in an alternate publication or forum.

**C.** Availability of Documents.

1. Copies of each proposed AQMP or revision must be made available for public inspection in at least one location in each district to which it will apply.

2. Copies of each compliance schedule must be made available for public inspection in at least one location in the district in which the affected source is located.

**D.** Public hearings.

1. Except as otherwise provided in paragraph (3) of this subsection, the Community must conduct one or more public hearings on a AQMP or a AQMP revision prior to adoption and submission to EPA.
2. Separate hearings may be held for plans to implement primary and secondary standards.
3. No hearing will be required for any change to an increment of progress to an approved individual compliance schedule unless that change is likely to cause the source to be unable to comply with the final compliance date in the schedule.

**E**. Recording-keeping and certification of public hearing.

1. The Department shall prepare and retain, for inspection by the Administrator upon request, a record of each hearing. The record must contain, at a minimum, a list of witnesses together with the content of each presentation.
2. The Department shall submit with the plan, revision, or schedule a certification that the hearing required by paragraph D of this section was held in accordance with the notice required by paragraph B of this section.

**3.3 <u>Submission of Plans, Preliminary Review of Plans</u>.**

**A.** The Director acting on behalf of the Council shall make an official AQMP submission to EPA by delivering five (5) copies of the plan to EPA Regional Office IX, with a letter giving notice of such action. The following items must be included in the official plan submission to EPA:

1. AQMP administrative materials:
   (a) A formal letter of submittal from the Governor acting on behalf of the Council requesting EPA approval of the plan or revision thereof.
   (b) Evidence that the Community has adopted the AQMP in accordance with this ordinance or issued the permit, order, consent agreement (hereinafter "document") in final form. That evidence must include the date of adoption or final issuance as well as the effective date of the plan, if different from the adoption/issuance date.

(c) Evidence that the Community has the necessary legal authority to adopt and implement the AQMP.

(d) A copy of the actual ordinance, or document submitted for approval and incorporation by reference into the AQMP, including indication of the changes made to the existing approved AQMP, where applicable. The submittal may be a copy of the official ordinance/document signed, stamped, dated by the appropriate Community official indicating that it is fully enforceable by the Community. The effective date of the ordinance/document must, whenever possible, be indicated in the document itself.

(e) Evidence that the Community followed all of the procedural requirements of this ordinance and the Tribal Constitution in conducting and completing the adoption/issuance of the AQMP.

(f) Evidence that public notice was given of the proposed change consistent with EPA procedures, including the date of publication of that notice.

(g) Certification that public hearing(s) were held in accordance with information provided in the public notice and this ordinance, if applicable.

(h) Compilation of public comments and the Community's response.

2. Technical Support.

(a) Identification of all regulated pollutants affected by the AQMP.

(b) Identification of the locations of affected sources.

(c) Quantification of the changes in AQMP allowable emissions from the affected sources; estimates of changes in current actual emissions from affected sources or, where appropriate, quantification of changes in actual emissions from affected sources through calculations of the differences between certain baseline levels and allowable emissions anticipated as a result of the revision.

(d) Evidence, where necessary, that emission limitations are based on continuous emission reduction technology.

(e) Evidence that the plan contains enforceable emission limitations, work practice standards and record-keeping/reporting requirements, where necessary, to ensure emission levels are complied with.

(f) Compliance/enforcement strategies, including how compliance will be determined in practice, as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Title.

**B.** The Community may submit those elements of the AQMP awaiting formal adoption to EPA for its comment prior to adoption under the "parallel processing" procedures of 40 C.F.R. Part 51, § 51.103(b), Appendix V, Section 2.3.1. Under these circumstances, the plan submitted will not be able to meet all of the requirements of paragraph A(1) of this section (all requirements of paragraph A(2) of this section will apply). As a result, the following exceptions apply to plans submitted explicitly for parallel processing:

1. The letter required by paragraph A(1)(a) of this section shall request that EPA propose approval of the proposed plan by parallel processing.
2. In lieu of paragraph A(1)(b) of this section the Community shall submit a schedule for final adoption or issuance of the plan.
3. In lieu of paragraph A(1)(d) of this section the plan must include a copy of the proposed/draft regulation or document, including indication of the proposed changes to be made to the existing approved plan, where applicable.
4. The requirements of paragraph A(1)(e)(h) of this section do not apply to plans submitted for parallel processing.

**C.** Parallel Processing applies only to EPA's determination of proposed action and all requirements of paragraph A(2) of this section must be met prior to publication of EPA's final determination of plan approvability.

## 4.0 ADOPTION OF NATIONAL AMBIENT AIR QUALITY STANDARDS AS COMMUNITY STANDARDS

### 4.1 National Primary Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide).

**A.** The level of the annual primary standard is 0.030 parts per million (ppm), not to be exceeded in a calendar year. The annual arithmetic mean shall be rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm shall be rounded up).

**B.** The level of the 24-hour standard is 0.14 parts per million (ppm), not to be exceeded more than once per calendar year. The 24-hour averages shall be determined from successive nonoverlapping 24-hour blocks starting at midnight each calendar day and shall be rounded to two decimal places (fractional parts equal to or greater than 0.005 ppm shall be rounded up).

**C.** Sulfur oxides are measured in the ambient air as sulfur dioxide by the reference method described in Appendix A to 40 C.F.R. Part 50 or by an equivalent method designated in accordance with 40 C.F.R. Part 53.

**D.** To demonstrate attainment, the annual arithmetic mean and the second-highest 24-hour averages shall be based upon hourly data that are at least seventy-five (75) percent complete in each calendar quarter. A 24-hour block average is considered valid if at least seventy-five (75) percent of the hourly averages for the 24-hour period are available. In the event that only 18, 19, 20, 21, 22, or 23 hourly averages are available, the 24-hour block average may be computed as the sum of the available hourly averages using 18, 19, etc. as the divisor. If fewer than eighteen (18) hourly averages are available, but the 24-hour average would exceed the level of the standard when zeros are substituted for the missing values, subject to the rounding rule of paragraph B of this section, then this shall be considered a valid 24-hour average. In this case, the 24-hour block average shall be computed as the sum of the available hourly averages divided by 24.

### 4.2 National Secondary Ambient Air Quality Standard for Sulfur Oxides (Sulfur Dioxide).

**A.** The level of the 3-hour secondary standard is 0.5 parts per million (ppm), not to be exceeded more than once per calendar year. The 3-hour averages shall be determined from successive nonoverlapping 3-hour blocks starting at midnight each calendar day and shall be rounded to 1 decimal

place (fractional parts equal to or greater than 0.05 ppm shall be rounded up).

**B.** Sulfur oxides shall be measured in the ambient air as sulfur dioxide by the reference method described in Appendix A of 40 C.F.R. Part 50 or by an equivalent method designated in accordance with 40 C.F.R. Part 53.

**C.** To demonstrate attainment, the second-highest 3-hour average shall be based upon hourly data that are at least seventy-five (75) percent complete in each calendar quarter. A 3-hour block average shall be considered valid only if all three hourly averages for the 3-hour period are available. If only one or two hourly averages are available, but the 3-hour average would exceed the level of the standard when zeros are substituted for the missing values, subject to the rounding rule of paragraph A of this section, then this shall be considered a valid 3-hour average. In all cases, the 3-hour block average shall be computed as the sum of the hourly averages divided by three (3).

**4.3** **<u>National Primary and Secondary Ambient Air Quality Standards for Particulate Matter</u>**.

**A.** The primary and secondary ambient air quality standards for $PM_{10}$ are:

1. The level of the primary and secondary 24-hour ambient air quality standards for $PM_{10}$ is 150 micrograms per cubic meter ($\mu g/m^3$), 24-hour average concentration. The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$, as determined in accordance with Appendix K to 40 C.F.R. Part 50, is equal to or less than one.
2. The level of the national primary and secondary annual standards for $PM_{10}$ is fifty (50) micrograms per cubic meter ($\mu g/m^3$), annual arithmetic mean. The standards are attained when the expected annual arithmetic mean concentration, as determined in accordance with Appendix K of 40 C.F.R. Part 50, is less than or equal to 50 $\mu g/m^3$.
3. For the purpose of determining attainment of the primary and secondary standards, particulate matter shall be measured in the ambient air as $PM_{10}$ (particles with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers) by:
   (a) A reference method based on Appendix J to 40 C.F.R. Part 50 and designated in accordance with 40 C.F.R. Part 53; or
   (b) An equivalent method designated in accordance with 40 C.F.R. Part 53.

**B**. The Primary and secondary ambient air quality standards for $PM_{2.5}$ are:

1. Fifteen (15) micrograms per cubic meter ($\mu g/m^3$) annual arithmetic mean concentration, and sixty-five (65) $\mu g/m^3$ 24-hour average concentration measured in the ambient air as $PM_{2.5}$ particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers by either:
   (a) A reference method based on Appendix L of 40 C.F.R. Part 50 and designated in accordance with 40 C.F.R. Part 53; or
   (b) An equivalent method designated in accordance with 40 C.F.R. Part 53.
2. The annual primary and secondary $PM_{2.5}$ standards are met when the annual arithmetic mean concentration, as determined in accordance with Appendix N of 40 C.F.R. Part 50 is less than or equal to fifteen (15) $\mu g/m^3$.
3. The 24-hour primary and secondary $PM_{2.5}$ standards are met when the 98$^{th}$ percentile 24-hour concentration, as determined in accordance with appendix N of this part, is less than or equal to sixty-five (65) $\mu g/m^3$.

**4.4 <u>National Primary Ambient Air Quality Standards for Carbon Monoxide</u>.**

**A.** The primary ambient air quality standards for carbon monoxide are:
1. Nine (9) parts per million (ten (10) milligrams per cubic meter) for an 8-hour average concentration not to be exceeded more than once per year; and
2. Thirty-five (35) parts per million (forty (40) milligrams per cubic meter) for a 1-hour average concentration not to be exceeded more than once per year.

**B.** The levels of carbon monoxide in the ambient air shall be measured by:
1. A reference method based on Appendix C of 40 C.F.R. Part 50 and designated in accordance with 40 C.F.R. Part 53, or
2. An equivalent method designated in accordance with 40 C.F.R. Part 53.

**C.** An 8-hour average shall be considered valid if at least seventy-five (75) percent of the hourly average for the 8-hour period are available. In the event that only six (6) (or seven (7)) hourly averages are available, the 8-hour average shall be computed on the basis of the hours available using six (6) (or seven (7)) as the divisor.

**D.** When summarizing data for comparison with the standards, averages shall be stated to one decimal place. Comparison of the data with the levels of the standards in parts per million shall be made in terms of integers with fractional parts of 0.5 or greater rounding up.

**4.5 <u>National 8-hour Primary and Secondary Ambient Air Quality Standards for Ozone</u>.**

**A.** 8-hour primary and secondary ambient air quality standards for ozone.

1. The level of the 8-hour primary and secondary ambient air quality standard for ozone measured by a reference method based on Appendix D to 40 C.F.R. Part 50 and designated in accordance with 40 C.F.R. Part 53, is 0.08 parts per million, daily maximum 8-hour average.
2. The 8-hour primary and secondary ozone ambient air quality standards are met at an ambient air quality monitoring site when the average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 parts per million, as determined in accordance with Appendix I to 40 C.F.R. Part 50.

**4.6 <u>National Primary and Secondary Ambient Air Quality Standards for Nitrogen Dioxide</u>.**

**A.** The level of the primary ambient air quality standard for nitrogen dioxide is 0.053 parts per million (100 micrograms per cubic meter), annual arithmetic mean concentration.

**B.** The level of secondary ambient air quality standard for nitrogen dioxide is 0.053 parts per million (100 micrograms per cubic meter), annual arithmetic mean concentration.

**C.** The levels of the standards shall be measured by:

1. A reference method based on Appendix F of 40 C.F.R. Part 50 and designated in accordance with 40 C.F.R. Part 53, or
2. An equivalent method designated in accordance with 40 C.F.R. Part 53.

**D.** The standards are attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm must be rounded up). To demonstrate attainment, an annual mean must be based upon hourly data that are at least seventy-five (75) percent complete or upon data derived from manual methods that are at least seventy-five (75) percent complete for the scheduled sampling days in each calendar quarter.

**4.7** **National Primary and Secondary Ambient Air Quality Standard for Lead.**
The primary and secondary ambient air quality standards for lead and its compounds, measured as elemental lead by a reference method based on Appendix G to 40 C.F.R. Part 50, or by an equivalent method, are 1.5 micrograms per cubic meter, maximum arithmetic mean averaged over a calendar quarter.

**4.8** **Reference Conditions.**
All measurements of air quality that are expressed as mass per unit volume (e.g., micrograms per cubic meter) other than for the particulate matter ($PM_{10}$ and $PM_{2.5}$) standards contained in 40 C.F.R. § 50.7 shall be corrected to a reference temperature of 25 degrees Celsius and a reference pressure of 760 millimeters of mercury (1,013.2 millibars). Measurements of $PM_{10}$ and for purposes of comparison to the standards contained in 40 C.F.R. § 50.7 shall be reported based on actual ambient air volume measured at the actual ambient temperature and pressure at the monitoring site during the measurement period.

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## 1.0 DEFINITIONS

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

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

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

B. If there is inadequate information to determine actual historical emissions, the Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

C. For any emissions unit at a Title V source, other than an electric utility steam generating unit in paragraph E of this section, that has not begun normal operations on the particular date, actual emissions shall equal the unit's potential to emit on that date.

D. For any emissions unit at a non-Title V source that has not begun normal operations on the particular date, actual emissions shall be based on applicable control equipment requirements and projected conditions of operation.

E. For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit), actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, if the source owner or operator maintains and submits to the Director, on an annual basis for a period of five (5) years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an

emission increase. A longer period, not to exceed ten (10) years, may be required by the Director if the Director determines the longer period to be more representative of normal source post-change operations.

**"Administrator"** means the Administrator of the United States Environmental Protection Agency ("EPA").

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

**"Affected States"** are all States:

A. Whose air quality may be affected and that are contiguous to the Gila River Indian Community in which a Part 70 permit, permit modification or permit renewal is being proposed; or

B. That are within fifty (50) miles of the permitted source.

**"Affected Tribes"** are all federally recognized Indian Tribes:

A. Whose air quality may be affected and that are contiguous to the Gila River Indian Community in which a Part 70 permit, permit modification or permit renewal is being proposed; or

B. That are within fifty (50) miles of the permitted source.

**"Air contaminant"** means dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid, or particulate matter, or any combination thereof.

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

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

A. The applicable New Source Performance Standards or National Emission Standards for Hazardous Air Pollutants;

B. The applicable existing source performance standard;

C. The emissions rate specified in any federally promulgated rule or federally enforceable permit conditions applicable to the Gila River Indian Community lands; and

D. An emission limit in a permit issued pursuant to this Part II.

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

A. Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 C.F.R. Part 52;

B. Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including Parts C or D, of the Act;

C. Any standard or other requirement under Section 111 of the Act, including Section 111(d);

D. Any standard or other requirement under Section 112 of the Act, including any requirement concerning accident prevention under Section 112 (r)(7) of the Act;

E. Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

F. Any requirements established pursuant to Section 504(b) or Section 114(a)(3) of the Act;

G. Any standard or other requirement governing solid waste incineration, under Section 129 of the Act;

H. Any standard or other requirement for consumer and commercial products, under Section 183(e) of the Act;

I. Any standard or other requirement for tank vessels under Section 183(f) of the Act;

J. Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under Section 328 of the Act;

K. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and

L. Any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the Act.

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

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

**"Best Reasonable and Demonstrated Technology"** or "**BRDT"** means an emission limitation or design equipment, work practice or operational standard including a visible emissions standard, based on the maximum degree of reduction of each criteria pollutant or hazardous air pollutant determined on a case-by-case basis or for sources of the same class or category, by a rule adopted by the Director which the Director determines has been achieved on a consistent basis by non-Title V sources with similar operating characteristics taking into account energy, environmental, and economic impact and other costs as well as the feasibility of achieving the emission limitation for a particular source and the existing air quality in the area to be impacted by the source. For regulated emissions of an ultrahazardous air pollutant, the emission limitation shall be based on any Maximum Achievable Emission Rate promulgated by EPA for that source or any similar category of sources. In no event will BRDT be less stringent than the most stringent source-category specific emission limitation in Part VII, New Source Performance Standard in Section 7.0 of this Part applicable to the source, or the Maximum

Achievable Emission Rate in Section 8.0 of this Part.

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

**"Categorical source"** means the following classes of sources:

A. Coal cleaning plants with thermal dryers;

B. Kraft pulp mills;

C. Portland cement plants;

D. Primary zinc smelters;

E. Iron and steel mills;

F. Primary aluminum ore reduction plants;

G. Primary copper smelters;

H. Municipal incinerators capable of charging more than fifty (50) tons of refuse per day;

I. Hydrofluoric, sulfuric, or nitric acid plants;

J. Petroleum refineries;

K. Lime plants;

L. Phosphate rock processing plants;

M. Coke oven batteries;

N. Sulfur recovery plants;

O. Carbon black plants using the furnace process;

P. Primary lead smelters;

Q. Fuel conversion plants;

R. Sintering plants;

S. Secondary metal production plants;

T. Chemical process plants;

U. Fossil-fuel boilers (or combinations thereof) totaling more than 250 million BTU per hour heat input;

V. Petroleum storage and transfer units with a total storage capacity more than 300,000 barrels;

W. Taconite preprocessing plants;

X. Glass fiber processing plants;

Y. Charcoal production plants;

Z. Fossil-fuel-fired steam electric plants and combined cycle gas turbines of more than 250 million BTU per hour heat input;

AA. Any other stationary source category regulated under Section 111 or Section 112 of the Act or for which the Administrator has made an affirmative determination by rule pursuant to Section 301(j) of the Act.

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

A. Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

B. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

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

**"Criteria pollutant"** means nitrogen oxides, volatile organic compounds, particulate matter, PM10, sulfur dioxide, carbon monoxide, or lead.

**"Department"** means the Gila River Indian Community Department of Environmental Quality ("DEQ").

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

**"Director"** means the Director of the Gila River Indian Community Department of Environmental Quality.

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

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

**"Emission"** means a release into the atmosphere of any regulated pollutant or air contaminant.

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

**"Emissions allowable under the permit"** means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an

emissions limit (including a work practice standard) or federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

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

**"Existing source"** means any source which commenced operation prior to [date rule promulgated].

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

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

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

**"Fixed capital cost"** means the capital needed to provide all the depreciable components.

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

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

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

A. Landscaping, building maintenance, or janitorial activities.

B. Gasoline storage tanks with capacity of 10,000 gallons or less.

C. Diesel and fuel oil storage tanks with capacity of 40,000 gallons or less.

D. Batch mixers with rated capacity of five (5) cubic feet or less.

E. Wet sand and gravel production facilities that obtain material from subterranean and subaqueous beds whose production rate is two hundred (200) tons/hour or less, and whose permanent in-plant roads are paved and cleaned to control dust. This does not include activities in emissions units which are used to crush or grind any non-metallic minerals.

F. Hand-held or manually operated equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, precision parts, leather, metals, plastics, fiberboard, masonry, carbon, glass, or wood.

G. Powder coating operations.

H. Internal combustion (IC) engine-driven compressors, IC engine-driven electrical generator sets, and IC engine-driven water pumps used only for emergency replacement or standby service if an annual limit on hours of operation of the engine is prescribed by the source's permit.

I. Lab equipment used exclusively for chemical and physical analyses.

J. Any other activity for which there are no specific applicable requirements which does not emit more than 0.3 tons per year of any hazardous air pollutant or more than one ton per year of any criteria pollutant.

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

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

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

A. A major source under Section 112 of the Act. For pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, including fugitive emissions, ten (10) tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Act, twenty-five (25) tpy or more of any

combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources. For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

B. A major stationary source, as defined in Section 302 of the Act, that directly emits or has the potential to emit, one hundred (100) tpy or more of any regulated air pollutant (including any major source of fugitive emissions of any such pollutant as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purpose of Section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

1. Coal cleaning plants (with thermal dryers);
2. Kraft pulp mills;
3. Portland cement plants;
4. Primary zinc smelters;
5. Iron and steel mills;
6. Primary aluminum ore reduction plants;
7. Primary copper smelters;
8. Municipal incinerators capable of charging more than fifty (50) tons of refuse per day;
9. Hydrofluoric, sulfuric, or nitric acid plants;
10. Petroleum refineries;
11. Lime plants;
12. Phosphate rock processing plants;
13. Coke oven batteries;
14. Sulfur recovery plants;
15. Carbon black plants (furnace process);
16. Primary lead smelters;
17. Fuel conversion plants;
18. Sintering plants;
19. Secondary metal production plants;
20. Chemical process plants;

21. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units (BTU) per hour heat input;
22. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
23. Taconite ore processing plants;
24. Glass fiber processing plant;
25. Charcoal production plants;
26. Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
27. Any other stationary source category, which is being regulated under Section 111 or 112 of the Act and for which EPA has made an affirmative determination by rule under Section 302(j) of the Act.

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

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

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

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

B. Any stationary source located in an attainment or unclassifiable area that emits or has the potential to emit, one hundred (100) tons per year or more

of any criteria air pollutant if the source is classified as a Categorical Source, or two hundred fifty (250) tons per year or more of any pollutant subject to regulation under the Act if the source is not classified as a Categorical Source.

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

D. A major source that is major for VOC shall be considered major for ozone; or

E. A major source that is major for oxides of nitrogen shall be considered major for ozone in nonattainment areas classified as marginal, moderate, serious, or severe.

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

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

A. For new stationary sources, the maximum degree of reduction in emissions must be no less stringent than the control of emissions that is achieved in practice by the best controlled similar stationary source, as determined by the Administrator.

B. For existing stationary sources, the maximum degree of reduction in emissions must be no less stringent than the requirements set forth in 42 U.S.C. § 7412(d)(3).

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

**"Minor modification"** means any modification that is not a major modification under these definitions.

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

A. Routine maintenance, repair or replacement with identical or equivalent equipment.

B. Increased production rate or increased hours of operation where there is not increased fixed capital cost, unless such production and hours are limited by permit conditions.

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

**"Net emissions increase"** means:

A. The amount by which the sum of the following exceeds zero:

1. Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

2. Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

B. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

1. The date five (5) years before construction on the particular change commences; and

2. The date that the increase from the particular change occurs.

C. An increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit, which is in effect when the increase in actual emissions from the particular change occurs. In addition, in nonattainment areas, a decrease in actual emissions shall be considered in determining a net emissions increase due to modifications

only if the Community has not relied on it in demonstrating attainment or reasonable further progress.

D. An increase or decrease in actual emissions of sulfur dioxide, nitrogen oxides, or PM-10, which occurs before September 1, 2001 is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

E. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

F. A decrease in actual emissions is creditable only to the extent that:

1. The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

2. It is practically enforceable at and after the time that actual construction on the particular change begins;

3. It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

4. The emissions unit was actually operated and emitted the specific pollutant.

G. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires a shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred and eighty (180) days.

**"New source"** means any stationary source which commences construction after [date rule promulgated].

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

**"Owner or operator"** means any person who owns, leases, operates, controls, or

supervises a facility, building, structure, or installation which directly or indirectly results or may result in emissions of any air pollutant which is subject to regulation under this Ordinance.

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

**"Part 70 program"** means a program approved by the Administrator under 40 C.F.R. Part 70.

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

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

**"Permit revision"** means any permit modification or administrative permit amendment.

**"Permit authority"** means either of the following:

A. The Administrator, in the case of EPA-implemented programs; or

B. The tribal air pollution control agency authorized by the Administrator to carry out a permit program under 40 C.F.R. Part 70.

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

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

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

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

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

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

**"Regulated air pollutant"** means any of the following:

A. Any criteria air pollutant.

B. Any air contaminant that is subject to a new source performance standard.

C. Any hazardous or ultrahazardous air pollutant.

D. Any Class I or II substance listed in Section 602 of the Act.

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

A. Consider all relevant information, including historical operational data, the company's representations, filings with Gila River Indian Community, state or federal regulatory authorities, and compliance plans under Title IV of the Act; and

B. Exclude, in calculating any increase in emissions that results from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit's emissions following the change that could have been accommodated during the representative baseline period and is attributable to an increase in projected capacity utilization at the unit unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.

**"Responsible official"** means one of the following:

A. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million;

B. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

C. For a Community or Federal agency: Either a principal executive officer or ranking elected official. For the purposes of this Part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

D. For affected sources:

1. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

2. The designated representative for any other purposes under Part 70.

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

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

recordkeeping, reporting, or compliance certification requirements.

**"Significant"** means

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

| POLLUTANT | EMISSION RATE |
|---|---|
| Carbon monoxide | 100 tons per year (tpy) |
| Nitrogen oxides | 40 tpy |
| Sulfur dioxide | 40 tpy |
| Particulate matter | 25 tpy |
| PM10 | 15 tpy |
| VOC | 40 tpy |
| Lead | 0.6 tpy |
| Fluorides | 3 tpy |
| Sulfuric acid mist | 7 tpy |
| Hydrogen sulfide ($H_2S$) | 10 tpy |
| Total reduced sulfur (including $H_2S$) | 10 tpy |
| Reduced sulfur compounds (including $H_2S$) | 10 tpy |
| Hazardous air pollutant | 3 tpy |
| Any combination of hazardous air pollutants | 5 tpy |
| Ultrahazardous air pollutants | 300 lbs/year |
| Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans) | $3.5 \times 10^{-6}$ tpy |
| Municipal waste combustor metals (measured as particulate matter) | 15 tpy |
| Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride) | 40 tpy |
| Municipal solid waste landfill emissions (measured as nonmethane organic compounds) | 50 tpy |

B. For a regulated air pollutant that is not listed in paragraph A of this section, is not a Class I or II substance listed in Section 602 of the Act, and is not a hazardous air pollutant, any emission rate.

C. Notwithstanding the emission amount listed in paragraph A of this section, any emission rate or any net emission increase associated with a major source or major modification, which would be constructed within ten (10) kilometers of a Class I area and have an impact on the ambient air quality of such area equal to or greater than one (1) $g/m^3$ (24-average).

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

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

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

**"Synthetic minor"** means a source which voluntarily proposes in its application and accepts in its permit, emissions limitations, controls, or other requirements which are permanent, quantifiable, and enforceable, which, if the source complies with the requirements of paragraph 4.2(B) of this section, will enable such source to avoid classification as a source that requires a Title V permit.

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

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

A. A person has taken reasonable measures to protect from disclosure and the person intends to continue to take such measures.

B. The information is not, and has not been, reasonably obtainable without the person's consent by other persons, other than governmental bodies, by use of legitimate means, other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding.

C. No ordinance or statute specifically requires disclosure of the information to the public.

D. The person has satisfactorily shown that disclosure of the information is likely to cause substantial harm to the person's competitive position.

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

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

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

A. This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC 245ca); 1,1,2,3,3-pentafluoropropane (HFC 245ea); 1,1,1,2,3-pentafluoropropane (HFC 245eb); 1,1,1,3,3-pentafluoropropane (HFC 245fa) 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1 chloro-1-fluoroethane (HCFC-151a); 1,2- dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4- methoxy-butane

($C_4F_9OCH_3$ or HFE-7100); 2-(difluoromethoxymethyl)- 1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$ or HFE-7200); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$); methyl acetate, 1,1,1,2,2,3,3,-heptafluoro-3-methoxy-propane (n-$C_3F_7OCH_3$, HFE-7000), 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2 (trifluoromethyl) hexane (HFE-7500), 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea), and methyl formate (HCOOCH3), and perfluorocarbon compounds which fall into these classes:

1. Cyclic, branched, or linear, completely fluorinated alkanes;

2. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

3. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

4. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

B. For purposes of determining compliance with emissions limits, VOC will be measured by the test methods in 40 CFR Part 60, Appendix A, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibility-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the enforcement authority.

C. As a precondition to excluding these compounds as VOC or at any time thereafter, the enforcement authority may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the enforcement authority, the amount of negligibly-reactive compounds in the source's emissions.

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

## 2.0 APPLICABILITY OF PERMIT REQUIREMENTS

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

A. Title V Permit. A Title V permit or, in the case of an existing permitted source, a significant permit revision shall be required for a person to commence construction or to operate any major source as defined in Section 1.0 of this Part; any solid waste incineration unit required to obtain a permit pursuant to Section 129(e) of the Act, any affected source as defined in Section 1.0 of this Part, or any source in a source category designated by the Administrator pursuant to 40 C.F.R. § 70.3, as requiring a Title V permit.

B. Non-Title V Permit. Unless a Title V permit is required or a person proposes to commence construction of a major modification to a major source, a non-Title V permit shall be required for a person to commence construction of, to operate, or to modify any of the following:

1. Any source other than a major source, including an area source, subject to a standard, limitation, or other requirement under Section 111 of the Act;

2. Any source other than a major source of HAPs, including an area source, subject to a standard or other requirement pursuant to Section 112 of the Act; or

3. Any source that emits or has the potential to emit, without control, regulated air pollutants unless that source is otherwise exempt under the provisions of subsection 2.1(C) of this Part.

C. *De Minimis* Exemption: *De minimis* facilities are exempt from the permitting requirements of Sections 3.0 through 5.0 of this Part.

1. For purposes of Sections 3.0 through 5.0 of this Part, a *de minimis* facility means a facility that meets all of the following:

   a. Has actual emissions of one ton per year or less of any single regulated air pollutant except a hazardous air pollutant;

   b. Has actual emissions of one thousand (1000) pounds per year or less of any single hazardous air pollutant or one ton of any combination of hazardous air pollutants;

   c. Has actual emissions of three hundred (300) pounds per year or less of any single ultrahazardous air pollutant or any combination of ultrahazardous air pollutants;

   d. Is not a "major source" as defined by subsection 1.0 of this Part;

   e. Is not a "major stationary source" as defined by Section 502 of the Act; and

   f. Is not operated in conjunction with another facility or source that is subject to air quality permitting.

2. The following sources shall be deemed *de minimis* facilities:

   a. A source that would be required to obtain a permit solely because it is subject to 40 C.F.R. § 61.145;

   b. Agricultural equipment used in normal farm operations except equipment classified as a source subject to Section 502 of the Act or 40 C.F.R. Parts 60 or 61;

   c. Air-conditioning equipment and general combustion equipment, except the following sources to the extent which the described limits are not exceeded:

      (1) Any source with an aggregated input capacity of less than 2 million BTU per hour calculated by adding only those pieces of equipment over 300,000 BTU per hour with respect to fuel burning

equipment fired with natural gas or liquefied petroleum gas;

(2) Any oil fueled heat equipment with a maximum rated input capacity or an aggregated input capacity of less than 500,000 BTU (527,200 kilojoules) per hour.

d. Motor vehicles. As used in this paragraph, a motor vehicle is any self-propelled vehicle designed for transporting persons or property on public highways;

e. Residential and commercial housekeeping vacuum systems;

f. Agricultural land use;

g. Liquid Storage Tanks:

(1) Stationary storage tanks with a capacity of 250 gallons (946 liters) or less used for storing organic liquids;

(2) Stationary storage tanks used for storing organic liquids with a true vapor pressure of 1.5 psia (77.5 mm Hg) or less;

(3) Pressure tanks and pressurized vessels used exclusively for the storage of liquefied gases.

h. Equipment or contrivances used exclusively for the processing of food for human consumption;

i. Disturbing topsoil of less than twenty-five (25) acres, except as otherwise provided for in Part V, Area Source Emission Limits;

j. Portable internal combustion engines that, individually, have a rating:

(1) Less than 500 horsepower output; or

(2) Equal to or greater than 500 horsepower output, but operating less than two hundred (200) hours per calendar year.

k. Stationary internal combustion engines that, individually, have a rating:

(1) Less than 250 horsepower output; or

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

l. Miscellaneous:

(1) Diesel contaminated soil remediation projects, where no heat is applied;

(2) Self-contained, enclosed blast and shot peen equipment where the total internal volume of the blast section is fifty (50) cubic feet or less and where any venting is done via pollution control equipment;

(3) Those laboratory acids which have both a pH above 1.5 and an aggregate daily emission to ambient air of vapor/mist from all such acids not exceeding three pounds on any single day;

(4) Brazing or welding equipment;

(5) Hand soldering equipment;

(6) A source whose aggregate of all wood working equipment totals fifty (50) horsepower or less;

(7) Equipment used for buffing, carving, cutting, drilling, surface grinding, machining, planing, routing, sanding, sawing, shredding, or turning of ceramic artwork, precision parts, leather, metals,

plastics, rubber, fiberboard, masonry, carbon, graphite or glass;

(8) Normal landscaping, building maintenance or janitorial activities;

(9) A source whose aggregate of all miscellaneous equipment, processes or production lines not otherwise identified in this section has total uncontrolled emissions of less than three pounds (1.4 kg) VOC or PM-10 during any day and less than 5.5 pounds (2.5 kg) of any other regulated air pollutant during any day.

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

**2.2 <u>Schedule for Permit Application Submission</u>.**

A. Existing sources requiring a Title V permit shall submit an application for a permit within one hundred eighty (180) days of receipt of written notice from the Director that a permit is required.

B. Existing sources requiring a non-Title V permit shall submit an application for a permit within one hundred twenty (120) days of receipt of written notice from the Director that a permit is required.

C. A new Title V source or any major modification to a major source that is also a Title V source shall file a complete application to obtain the Title V permit or permit revision within twelve (12) months after commencing operation. Any preconstruction conditions imposed by EPA pursuant to Part C or Part D of Subchapter I of the Act shall be incorporated in the permit as an administrative permit revision. Where an existing Title V permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation.

D. A new non-Title V source subject to the BRDT requirements shall submit an application for a permit at least one hundred eighty (180) days prior to the date the source owner or operator proposes to commence construction

of the source. A new non-Title V source not subject to the BRDT requirements shall submit an application for a permit at least one hundred twenty (120) days prior to the date the source owner or operator proposes to commence construction of the source.

## 3.0 TITLE V PERMIT REQUIREMENTS

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

A. Timely applications:

1. A timely application for a source applying for a Title V permit for the first time is one that is submitted in accordance with the schedule set forth in subsection 2.2.

2. For purposes of permit renewal, a timely application is one that is submitted at least six (6) months prior to the date of permit expiration, or such other longer time as may be approved by the Director that ensures that the term of the permit will not expire prior to a permit decision. In no event shall this time be greater than eighteen (18) months.

B. Complete Application. A complete application is one that satisfies all of the following:

1. To be deemed complete, an application must provide all information required pursuant to subsection 3.3, except that applications for permit revision need supply such information only if it is related to the proposed change. Information required under subsection 3.3 must be sufficient to evaluate the subject source and its application and to determine all applicable requirements. A responsible official shall certify the submitted information is consistent with subsection 3.4 of this Part.

2. The permitting authority shall promptly provide notice to the applicant of whether the application is complete. Unless the permitting authority requests additional information or otherwise notifies the applicant of incompleteness within sixty (60) days of receipt of an application, the application shall be deemed complete. If, while processing an application that has been determined or deemed to be complete, the permitting authority determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response. For modifications

processed through minor permit modification procedures set forth in 40 C.F.R. § 70.7(e)(2) and (3), a completeness determination is not required.

3. The source's ability to operate without a permit shall be in effect from the date the application is determined or deemed to be complete until the final permit is issued provided that the applicant submits any requested additional information by the deadline specified by the permitting authority.

C. Confidential Information. In the case where a source has submitted information to the Director under a claim of confidentiality pursuant to Section 10.0 of this Part, the permitting authority may also require the source to submit a copy of such information directly to the Administrator.

**3.2** **Duty to Supplement or Correct Applications.** Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

**3.3** **Standard Application Form and Required Information.**

A. The DEQ shall provide a standard permit application form. Information as described below for each emissions unit at a Title V source shall be included in the application. An application may not omit information needed to determine the applicability of, or to impose any applicable requirement, or to evaluate the fee amount required.

B. The application shall also list activities which are insignificant. The application need not provide emissions data regarding insignificant activities. If the Director determines that an activity listed as insignificant does not meet the requirements of the definition of insignificant activities in Section 1.0 of this Part, the Director shall notify the applicant in writing and specify additional information required.

C. The standard application form shall include the elements specified below:

1. Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

2. A description of the source's processes and products (by Standard Industrial Classification Code) including any associated with an alternate scenario identified by the source.

3. The following emission-related information:

    a. All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted.

    b. Identification and description of all points of emissions described in paragraph (C)(3)(a) of this subsection in sufficient detail to establish the basis for fees and applicability of requirements of the Act.

    c. Emissions rate in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method.

    d. Identification and description of air pollution control equipment and compliance monitoring devices or activities.

    e. The following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules.

    f. Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the Part 70 source.

    g. Other information required by any applicable requirement (including information related to stack height limitations developed pursuant to Section 123 of the Act).

    h. Calculations on which the information in paragraphs (C)(3)(a)-(g) of this subsection are based.

4. The following air pollution control requirements:

   a. Citation and description of all applicable requirements.

   b. Description of or reference to any applicable test method for determining compliance with each applicable requirement.

5. Other specific information that may be necessary to implement and enforce other applicable requirements of the Act or of this Part or to determine the applicability of such requirements.

6. An explanation of any proposed exemptions from otherwise applicable requirements.

7. Additional information as determined to be necessary by DEQ to define alternative operating scenarios identified by the source pursuant to 40 C.F.R. § 70.6(a)(9) or to define permit terms and conditions implementing 40 C.F.R. § 70.4 (b)(12) or § 70.6(a)(10).

8. A compliance plan for all Title V sources that contains the following:

   a. A description of the compliance status of the source with respect to all applicable requirements;

   b. A description as follows:

      (1) Identification of all applicable requirements with which the source is in compliance;

      (2) Identification of all applicable requirements that will become effective during the permit term; and

      (3) Identification of all requirements for which the source is not in compliance at the time of permit issuance.

   c. A complete schedule as follows:

(1) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;

(2) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement; and

(3) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

d. A schedule for submission of certified progress reports no less frequently than every six (6) months for sources required to have a schedule of compliance to remedy a violation; and

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

method(s) the source will use to achieve compliance with the acid rain emissions limitations.

9. Requirements for the compliance certification, including the following:

   a. A certification of compliance with all applicable requirements by a responsible official consistent with subsection 3.4 of this Part and Section 114(a)(3) of the Act;

   b. A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

   c. A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority; and

   d. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

10. The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act.

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

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

**3.6** **Permit Shield.** The permit shield shall be that described in 40 C.F.R. § 70.6(f).

**3.7** **Permit Issuance, Renewal, Reopening and Revision.** The procedures governing permit issuance, renewal, reopening and revision shall be those prescribed by 40 C.F.R. § 70.7 except that all references to "state" shall also include "tribes" or the "Community" as appropriate.

**3.8** **Permit Review.** The procedures for permit review by EPA and affected states in 40 C.F.R. § 70.8, adopted as of July 1, 2006, and no future additions or amendments, shall be incorporated by reference except the affected states shall also include affected tribes.

**3.9** **Preconstruction Review Requirements.** Any new Title V source that is a major source or any major modification to a major source that is also a Title V source shall comply with the preconstruction review requirements of Section 110(a)(2)(D)(i) of the Act by obtaining the appropriate permit and authorizations prior to commencing construction of the new major source or major modification from the Administrator under the provisions of 40 C.F.R. §§ 52.10 or 52.21. An affected facility at a Title V major source that is constructed, reconstructed or modified shall comply with requirements in subsection 7.1(B). A new major source of hazardous air pollutants or a reconstructed or modified source of hazardous air pollutants subject to Section 8.1 and Section 8.2 shall comply with the preconstruction requirements in those sections.

## 4.0 NON-TITLE V PERMIT REQUIREMENTS.

**4.1 <u>Non-Title V Permit Categories</u>.** The owner or operator of each source of air contaminants to which this Part applies shall be subject to one of the following provisions in order to meet the permitting requirements for non-Title V sources.

A. Individual Permit. Except as provided in paragraph C, non-Title V facilities requiring permits under this Section shall obtain individual permits.

B. Synthetic Minor Individual Permit. The owner or operator of a source that is subject to the Title V permitting requirements in Section 3.0 based solely on its potential to emit may apply for an individual non-Title V permit that would limit the source's potential to emit to a level below the Title V permit applicability threshold.

C. General Permit. A general permit shall be required for a person to commence construction of, to operate, or to modify a source that is a member of a facility class for which a general permit has been developed by the Department.

**4.2 <u>Non-Title V Permit Standards</u>.**

A. Sources that obtain an individual permit shall be subject to the following standards:

1. Any new non-Title V source not identified in paragraph A.2 of this Section 4.2 shall comply with source category specific emission limits and the other requirements applicable to an existing non-Title V source in paragraph (3) of this section.

2. Any new non-Title V source that has the potential to emit equal to or greater than any of the following amounts shall be subject to a case-by-case BRDT determination for the pollutant that exceeds the threshold amount prior to commencing the construction of a source requiring a non-Title V permit:

a. Seventy-five (75) tons per year but less than one hundred (100) tons per year for any single criteria pollutant;

b. Three (3) tons per year of any single HAP;

c. Five (5) tons per year of any combination of HAPs; or

d. Three hundred (300) pounds per year of any single or any combination of ultrahazardous air pollutants.

3. For existing non-Title V sources:

a. Emission limitations and standards including those operational requirements and limitations that assure compliance with all applicable requirements in effect at the time of permit issuance.

b. Monitoring and related recordkeeping and reporting requirements.

c. A modification that results in a change in emissions that is described in subsection 5.1(A)(6), (7) or (8) of this Part shall constitute a major modification subject to the requirements of subsection 4.2(B).

d. The other permit requirements prescribed by subsection 4.4.

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

1. Prior to beginning actual construction of a major modification to an existing non-Title V source, the owner or operator of the source shall demonstrate the following to the Director:

a. The source will comply with the BRDT requirements for the pollutant that caused the modification to constitute a major modification.

b. The source will otherwise comply with the significant permit revision requirements of subsection 5.5.

C. Voluntary Emission Limitations for Synthetic Minor Permits.

1. The owner or operator of a source may voluntarily propose in its permit application to accept emissions limitations, controls, or

other requirements that are enforceable as a practical matter in order to avoid classification as a source that requires a Title V permit, or to avoid one or more other applicable requirements. Such emissions limitations, controls, or other requirements shall be at least as stringent as the emissions limitations, controls, or other requirements that would otherwise be applicable to that source.

2. For the purpose of this ordinance, "enforceable as a practical matter" means that specific means to assess compliance with an emissions limitation, control, or other requirement are provided for in the permit in a manner that allows compliance with the limit, standard or trade provision to be readily determined by an inspection of the source records or reports. In addition, for the purposes of this Part, "enforceable as a practical matter" shall include the following criteria:

   a. The emissions limitations are quantifiable;

   b. The permit includes a legally enforceable obligation to comply;

   c. The permit imposes an objective and quantifiable operational or production limit or requires the use of in-place air pollution control equipment;

   d. The permit limits have short-term averaging times consistent with the averaging times of the applicable requirement;

   e. The permit conditions are enforceable and are independent of any other applicable limitations; and

   f. The permit conditions contain monitoring, recordkeeping, and reporting requirements sufficient to document compliance with emissions limitations established pursuant to this subsection 4.2.

**4.3 <u>Non-Title V Permit Application</u>.**

A. An application for a non-Title V permit shall be prepared on forms prescribed by the Department.

B. Applications shall be signed by a responsible official or by a person otherwise legally authorized to act on behalf of the applicant.

C. The applicant shall furnish all information and data required by the Department to evaluate the permit application, including but not limited to site information, process description, the nature and amount of emissions, and when required, the information and data required for a BRDT determination. Additional information that the Department may require in order to determine compliance with these parts shall be furnished upon request. Such information may include but is not limited to plans, drawings, specifications, evidence or documentation. The Director may require the source to model its impact on ambient air quality in accordance with 40 C.F.R. Part 51, Appendix W.

D. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to proposal of a draft permit.

E. Any permit application form or report submitted pursuant to this Part shall contain certification by a responsible official of the truth, accuracy, and completeness of the submissions.

F. The applicant shall include a compliance plan containing a description of the compliance status of the source with respect to all applicable requirements. If the compliance plan declares that a source is not in compliance with an applicable requirement, a narrative of how the source will achieve compliance and a schedule of compliance including an enforceable sequence of actions with milestones shall be submitted.

G. An application will not be deemed to be complete until all information and data required to evaluate the application have been submitted to the Department. Within sixty (60) days after the receipt of an application or any supplemental information requested by the Department, the Department shall notify the applicant if and in what respect the application is incomplete. If the Department fails to notify an applicant that the application is incomplete within sixty (60) days of receipt of the

application or any supplemental information requested, whichever is later, the application shall be deemed complete.

H. Within twelve (12) months of receipt of a complete application for a permit, the Director shall propose a permit decision including the language of the draft permit. The Director shall provide notice of the proposed decision as provided in subsection 4.6.

**4.4 <u>Non-Title V Permit Content</u>.**

A. Each permit issued under subsection 4.3 of this Part shall include, but not be limited to, the following elements:

1. The date of issuance and a permit term not to exceed five (5) years.

2. Enforceable emissions limitations or source requirements for any source or emissions unit that assure:

a. The ambient air quality standards set forth in Part I, Section 4.0 shall be maintained;

b. The public health will be protected;

c. Compliance with the applicable requirements of this Part including the BRDT requirements, New Source Performance Standards in Section 7.0 of this Part and National Emissions Standards for Hazardous Air Pollutants in Section 8.0 of this Part; and

d. Compliance with all requirements of the Act will be maintained.

3. Monitoring, testing, reporting, and recordkeeping requirements that assure reasonable information is provided to evaluate compliance consistent with terms and conditions of the permit, the requirements of these parts, any applicable requirements and the Act.

4. A requirement that any revision of an emission limitation, monitoring, testing, reporting, and recordkeeping requirements

shall be made consistent with the permit revision requirements applicable to non-Title V sources under Section 5.0 of this Part.

5. A requirement that, upon presentation of credentials and other documents as may be required by law, the owner or operator shall allow the Director or his or her designee or the U.S. EPA to perform the following at a reasonable time of day and in accordance with reasonable safety standards:

   a. Enter the premises where a permitted source is located or emissions-related activity is conducted, or where records required by a permit term, or condition are kept;

   b. Have access to and copies made of any records that are required to be maintained by this Part or by the conditions of a permit or permit revision; and

   c. Inspect any operations, processes, emissions units (including monitoring and air pollution control equipment), or practices regulated or required under a permit or permit revision.

   d. Sample or monitor substances, parameters or emissions for the purpose of determining compliance with the permit and applicable requirements.

6. A requirement that a responsible official submit to the department no later than March 15, annual written certification that the source is in operation and was in compliance with the permit during the previous calendar year.

7. A requirement that a responsible official shall complete and submit to the Department an annual emissions inventory on a form prescribed by the Director. The emissions inventory is due on March 31 and shall cover emissions from the previous calendar year. The emissions inventory shall be determined using the actual emissions and shall be based on the measured data or emissions factors specified on the emissions inventory form.

8. A severability clause to insure the continued validity of the permit in the event of a successful challenge to any portion of the permit.

9. Provisions stating that:

   a. The permittee shall comply with all conditions of the permit including all applicable requirements under this Part, and that any permit noncompliance is grounds for enforcement action under Part III (Enforcement Ordinances); for permit termination or revision; or for denial of a permit renewal application.

   b. In an enforcement action, it shall not be a defense for a permittee that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with conditions of the permit.

   c. The permit does not convey any property right or any exclusive privilege to the permittee.

10. For a new non-Title V source or a major modification to an existing non-Title V source, a requirement that, within sixty (60) days after a source has achieved the capability to operate at its maximum production rate on a sustained basis but no later than one hundred eighty (180) days after initial startup or the date of permit issuance for an existing source, the owner or operator shall conduct performance tests or such other method of confirming compliance with applicable requirements as shall be specified by the Director and submit to the Director the written results of such tests. Performance tests or other compliance confirmation methodology shall be conducted under such conditions as the Director shall specify based upon representative performance of the source. A performance test shall consist of three separate runs using the applicable test method. The owners or operators of the source shall provide the Department notice at least two (2) weeks prior to performance testing and shall provide:

    a. Sampling ports adequate for the test methods applicable to the source;

    b. Safe sampling platforms and safe access to such platforms;

    c. Utilities for sampling and testing equipment.

B. The Director may waive any requirement or condition prescribed by this Ordinance. Such waiver shall be in writing, shall state the basis for the waiver and shall be subject to public notice and comment as a provision of the proposed permit issuance decision pursuant to subsection 4.3(G).

**4.5 <u>Administrative Requirements for Non-Title V Permits</u>.**

A. Fees Required: Persons subject to the permitting requirements of this Part shall pay the applicable fees required, as set forth in Section 11.0 of this Part.

B. Permit Term: A non-Title V permit shall remain in effect for no more than five (5) years.

C. Administrative Permit Amendments: An administrative permit amendment is required for any of the following changes:

1. To correct typographical errors;

2. To identify a change in the name, address, or phone number of any person identified in the permit, or provide a similar minor administrative change at the source;

3. To require more frequent monitoring or reporting by the permittee; and

4. To allow for a change in ownership or operational control of a source with a non-Title V permit, provided that a written agreement containing a specific date for the transfer of permit responsibility and liability between the current and new permittee has been submitted to the Director and the requirements of subsection 4.7 of this Part are met. The written agreement shall contain the information required and be subject to the review process contained in subsection 4.7 of this Part.

**4.6 <u>Public Participation</u>.**

A. The Director shall provide the public notice and an opportunity for public comment as provided by this subsection before issuing or renewing a non-Title V permit or issuing a significant permit revision to a non-Title V permit.

B. The Director shall publish notice of the permit issuance once each week for two (2) consecutive weeks in a newspaper of general circulation in the areas where the source is or will be located. The Director shall mail a copy of the notice to persons on a mailing list developed by the Director and consisting of those persons who have requested in writing to be placed on such a mailing list or whom the Director, in his or her sole discretion, believes are appropriate recipients of such notice.

C. The notice required by paragraph B of this section shall include the following:

1. Identification of the affected facility;

2. Name and address of the permittee or applicant;

3. Name and address of the permitting authority processing the permit action;

4. The activity or activities involved in the permit action;

5. The emissions change involved in any significant permit revision;

6. The air contaminants to be emitted;

7. If applicable, that a notice of confidentiality has been filed under Section 10.0 of this Part;

8. A statement that any person may submit written comments or a written request for a public hearing, or both, on the proposed permit action, along with the deadline for such requests or comments;

9. The name, address and telephone number of a person from the Department from whom additional information may be obtained; and

10. Locations where copies of the permit or permit revision application, the proposed permit, and all other materials available to the Director that are relevant to the permit decision may be reviewed, including the Department office, and the times at which they shall be available.

D. The Director shall hold a public hearing only upon written request. If a public hearing is requested, the Director shall schedule and publish notice, of the date, time and location of such hearing in accordance with paragraph B above. The Director shall give notice of any public hearing at least thirty (30) days in advance of the hearing.

E. The Director shall provide at least thirty (30) days from the date of its first public notice for public comment. The Director shall keep a record of the commenters and the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final decision is made, the record and copies of the Director's responses shall be made available to the applicant and all commenters.

**4.7 <u>Non-Title V Permit Transfers</u>.**

A. A non-Title V permit may be transferred to another person if the person who holds the permit gives notice to the DEQ in writing at least sixty (60) days before the proposed transfer. The permit transfer notice shall contain the following:

1. The permit number and expiration date.

2. The name, address and telephone number of the current permit holder.

3. The name, address and telephone number of the person to receive the permit.

4. The name and title of the individual within the organization who is accepting responsibility for the permit along with a signed statement by that person indicating such acceptance.

5. A description of the equipment to be transferred.

6. A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee.

7. Provisions for the payment of any fees pursuant to Section 11.0 of this Part that will be due and payable before the effective date of transfer.

8. Sufficient information about the proposed permit holders technical and financial capabilities of operating the source to allow the DEQ to make the decision to either grant or deny the permit transfer during the 60-day review period, including:

   a. The qualifications of each person principally responsible for the operation of the source.

   b. A statement by the chief financial officer of the new permittee that it is financially capable of operating the source in compliance with the law, and the information that provides the basis for that statement.

   c. A brief description of any action taken against the proposed permit holder for the enforcement of any federal or state law, rule or regulation, or any county, city or local government ordinance relating to the protection of the environment for five (5) years preceding the date of application.

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

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

**4.8 <u>Posting of Permit</u>.**

A. Any person who has been granted a permit shall post such permit or certificate of permit issuance at a location where it will be clearly visible.

B. A copy of the complete permit shall be kept on the site and available for inspection by a representative of the Department or any person.

## 5.0 PERMIT REVISIONS AT A NON-TITLE V SOURCE

5.1 Changes Requiring a Permit Revision

A. The following changes at a source with a non-Title V permit shall require a permit revision:

1. A change that triggers a new applicable requirement or would violate an existing applicable requirement;

2. Establishing of, or change in, a voluntarily accepted emission limitation;

3. A change that will require a case-by-case determination of an emission limitation or other standard, such as BRDT, or a source-specific determination of ambient impacts, or a visibility or increment analysis;

4. A change that results in emissions that are subject to monitoring, recordkeeping or reporting under the permit if the emissions cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;

5. A change that will authorize the burning of used oil, used oil fuel, hazardous waste, or hazardous waste fuel, or any other fuel not currently authorized by the permit;

6. A change that results in an increase of the source's potential to emit equal to or greater than twenty-five (25) tons per year of any single criteria air pollutant but which does not make the source a major source of that pollutant;

7. A change that results in either the potential emissions of any new HAP of three (3) tons per year or in an increase of the source's potential to emit equal to or greater than three (3) tons per year of any individual HAP or five (5) tons per year of any combination of HAPs already emitted by the source;

8. Changes that result in the potential emissions of any new ultrahazardous air pollutant equal to or greater than three hundred

(300) pounds per year or result in an increase in the source's potential to emit equal to or greater than three hundred (300) pounds per year of any ultrahazardous air pollutant or combination of ultrahazardous air pollutants;

9. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better pollutant removal efficiency;

10. Increasing operating hours or rates of production above the permitted level; and

11. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results:

    a. From removing equipment that results in a permanent decrease in actual emissions if the source keeps on-site records of the change in a log that is in a form acceptable to the Department and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or

    b. From a change in an applicable requirement.

B. A source with a non-Title V permit may make any physical change or change in the method of operation without revising the source's permit unless the change is specifically prohibited in the source's permit or is a change specifically described in this subsection as requiring a permit revision. A change that does not require a permit revision may still be subject to the other requirements in subsection 5.2.

**5.2 <u>Changes that Do Not Require a Permit Revision at a Non-Title V Source</u>.**

A. Except for a physical change or change in the method of operation at a non-Title V source requiring a permit revision under Section 5.0, or a change subject to logging or notice requirements under this subsection, a change at a non-Title V source shall not be subject to revision, notice or logging requirements under this Part.

B. Except as otherwise provided in the conditions applicable to a voluntary accepted emission limit created under subsection 4.2(C), the following

changes may be made if the source keeps on site records of the change in accordance with requirements to be prescribed by the Department:

1. Implementing an alternative operating scenario, including raw materials changes;

2. Changing process equipment, operating procedures, or making any other physical change if the permit requires the change to be logged;

3. Engaging in any new insignificant activity;

4. Replacing an item of air pollution control equipment listed in the permit with an identical (same model, different serial number) item. The Director may require verification of efficiency of the new equipment by performance tests; and

5. A change that results in a decrease in actual emissions if the source wants to claim credit for the decrease in determining whether the source has a net emissions increase for any purpose. The logged information shall include a description of the change that will produce the decrease in actual emissions. A decrease that has not been logged is creditable only if the decrease is quantifiable, enforceable, and otherwise qualifies as a creditable decrease.

C. Except as provided in the conditions applicable to a voluntarily accepted emission limitation created under subsection 4.2(C), the following changes may be made if the source provides written notice to the Department in advance of the change as provided below:

1. Replacing an item of air pollution control equipment listed in the permit with one that is not identical but that is substantially similar and has the same or better pollutant removal efficiency: seven (7) days. The Director may require verification of efficiency of the new equipment by performance tests;

2. A physical change or change in the method of operation that increases actual emissions more than ten (10) tons per year or ten (10) percent of the major source threshold for any criteria pollutant, whichever is less, but does not require a permit revision: seven (7) days;

3. Replacing an item of air pollution control equipment listed in the permit with one that is not substantially similar but that has the same or better efficiency: thirty (30) days. The Director may require verification of efficiency of the new equipment by performance tests;

4. A change that would trigger an applicable requirement that already exists in the permit: thirty (30) days unless a different notice period is otherwise required by the applicable requirement.

D. For each change under paragraph C of this section, the written notice shall be by certified mail or hand delivery and shall be received by the Director within the minimum amount of time in advance of the change. Notifications of changes associated with emergency conditions, such as malfunctions necessitating the replacement of equipment, may be provided with less than required notice, but must be provided as far in advance of the change, or if advance notification is not practicable, as soon after the change as possible. The written notification shall include:

1. When the proposed change will occur;

2. A description of the change;

3. Any change in emissions of regulated air pollutants; and

4. Any permit term or condition that is no longer applicable as a result of the change.

E. A source may implement any change in paragraph C without the required notice by applying for a minor permit revision and complying with application requirements for a minor permit revision.

F. Notwithstanding any other provision of this subsection, the Director may require a permit to be revised for any change that, when considered together with any other changes submitted by the same source under this subsection over the term of the permit, constitute a change requiring a permit revision under Section 5.0.

G. If a source change is described under both paragraphs B and C of this section, the source shall comply with paragraph C. If a source change is

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

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

**5.3 <u>Annual Summary Permit Amendments for Non-Title V Sources</u>.**

A. The Director may amend any non-Title V permit annually without reopening the permit in order to incorporate changes reflected in logs or notices filed under subsection 5.2. The amendments shall be effective to the anniversary date of the permit. The Director shall make available to the public for any source:

1. A complete record of logs and notices sent to the Department under subsection 5.2; and

2. Any amendments or revisions to the source's permit.

**5.4 <u>Requirements for a Minor Permit Revision for Changes at a Non-Title V Source</u>.**

A. Minor permit revision procedures shall be used for the following changes at a non-Title V source:

1. A change that triggers a new applicable requirement if all of the following apply:

a. The net emissions increase is less than the smaller of twenty-five (25) tons per year or the significant level defined in Section 1.0 of this Part;

b. A case-by-case determination of an emission limitation or other standard is not required; and

c. The change does not require the source to obtain a Title V permit.

2. Increasing operating hours or rates of production above the permitted level unless the increase otherwise creates a condition that requires a significant permit revision;

3. A change in fuel from fuel oil or coal, to natural gas or propane, if not authorized in the permit;

4. A change that results in emissions subject to monitoring, recordkeeping, or reporting and that cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit if the revision requires monitoring, recordkeeping and/or reporting that provides the required quantification; or

5. Replacement of an item of air pollution control equipment listed in the permit with one that has the same or better efficiency. The Director may require performance testing to verify the efficiency of the new control equipment.

B. An application for minor permit revision shall be on an application form prescribed by the Department and shall include the following:

1. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs; and

2. Certification by a responsible official, consistent with standard permit application requirements, that the proposed revision meets the criteria for use of minor permit revision procedures.

C. Within sixty (60) days of the Director's receipt of a complete application for a minor revision of a non-Title V permit under this Part, the Director shall do one or more of the following:

1. Issue the permit revision as proposed;

2. Deny the permit revision;

3. Determine that the permit revision does not meet the minor permit revision criteria and should be reviewed under the significant revision procedures; or

4. Revise minor permit revision as proposed.

D. The source may make the change proposed in its minor permit revision application immediately after it files the complete application. After the source makes the change allowed by the preceding sentence, and until the Director takes any of the actions specified in paragraph C of this section, the source shall comply with both the applicable requirements governing the change and the proposed revised permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to revise may be enforced against it**.**

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

**5.5 <u>Significant Permit Revision Requirements for Non-Title V Sources</u>.**

A. A non-Title V source shall make the following changes only after its permit is significantly revised in accordance with the requirements of paragraphs B through D of this section:

1. Establishing or revising a voluntarily accepted emission limitation or standard in accordance with subsection 4.2(C);

2. Making any change in fuel not authorized by the permit and that is not fuel oil or coal, to natural gas or propane;

3. A change to or addition of an emissions unit that will result in a net emission increase of a regulated pollutant greater than either twenty-five (25) tons per year or the significant level defined in Section 1.0 of this Part, whichever is less;

4. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results from:

a. Removing equipment that results in a permanent decrease in actual emissions. If the source keeps on-site records of the change in a log that satisfies the requirements in subsection 5.2 and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or

b. A change in an applicable requirement.

5. A change that will cause the source to violate an existing applicable requirement;

6. A change that will require any of the following:

a. A case-by-case determination of an emissions limitation or other standard, including a determination of BRDT;

b. A source-specific determination of ambient impacts; or

c. A case-by-case determination of monitoring, recordkeeping, and reporting requirements.

7. A change that requires the source to obtain a Title V permit.

B. A request for a significant permit revision shall be submitted on an application form prescribed by the Department.

C. A significant permit revision shall be subject to the public participation requirements of subsection 4.6 of this Part.

D. The Director shall act upon an application for a significant permit revision within nine (9) months of receipt of a complete permit application.

**5.6 <u>Portable Sources</u>.**

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

A. A description of the equipment to be moved if it is not the entire source;

B. A description of both the present location and the new location;

C. The date on which the source is to be moved; and

D. The date on which the source will commence operation at the new location.

**5.7 <u>Permit Reopenings: Revocation and Reissuance; Termination</u>.**

A. Reopening for Cause.

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

a. Additional applicable requirements under the Act become applicable to a major source with a remaining permit term of three (3) or more years. Such a reopening shall be completed not later than eighteen (18) months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended. Any permit revision required pursuant to this subsection shall comply with provisions for permit renewal.

b. Additional requirements, including excess emissions requirements, become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

c. The Director or the Administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions

standards or limitations or other terms or conditions of the permit.

d. The Director or the Administrator determines that the permit needs to be revised or revoked to assure compliance with the applicable requirements.

2. Proceedings to reopen and issue a permit, including appeal of any final action relating to a permit reopening, shall follow the same procedures as apply to initial permit issuance and shall, except for reopenings under paragraph (1)(a) of this section, affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

3. Reopenings under paragraph (A)(1) of this section shall not be initiated before a notice of such intent is provided to the source by the Director at least thirty (30) days in advance of the date that the permit is to be reopened, except that the Director may provide a shorter time period in the case of an emergency.

B. Within ten (10) days of receipt of notice from the Administrator that cause exists to reopen a Title V permit, the Director shall notify the source. The source shall have thirty (30) days to respond to the Director. Within ninety (90) days of receipt of notice from the Administrator that cause exists to reopen a permit, or within any extension to the ninety (90) days granted by EPA, the Director shall forward to the Administrator and the source a proposed determination of termination, revision, or revocation and reissuance of the permit. Within ninety (90) days of receipt of an EPA objection to the Director's proposal, the Director shall resolve the objection and act on the permit.

C. The Director may issue a notice of termination of a permit issued pursuant to this Part when either:

1. The Director has reasonable cause to believe that the permit was obtained by fraud or misrepresentation;

2. The person applying for the permit failed to disclose a material act required by the permit application form or the regulation applicable to the permit, of which the applicant had or should have had knowledge at the time the application was submitted; or

3. The terms and conditions of the permit have been or are being violated.

D. If the Director issues a notice of termination under this Section, the notice shall be served on the permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the revocation and a statement that the permittee may seek an administrative review of the revocation under Part IV.

**5.8 <u>Affirmative Defense for Excess Emissions Due to Malfunctions, Startup, and Shutdown</u>.**

A. Applicability.

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

1. Promulgated pursuant to Sections 111 or 112 of the Act;

2. Promulgated pursuant to Titles IV or VI of the Act;

3. Included in a permit to meet the requirements of this Part.

B. Affirmative Defense for Malfunctions.

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

1. The excess emissions resulted from a sudden and unavoidable breakdown of process equipment or air pollution control equipment beyond the reasonable control of the operator;

2. The air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

3. If repairs were required, the repairs were made in an expeditious fashion when the applicable emission limitations were being exceeded. Off-shift labor and overtime were utilized where practicable to ensure that the repairs were made as expeditiously as possible. If off-shift labor and overtime were not utilized, the owner or operator satisfactorily demonstrated that the measures were impracticable;

4. The amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions;

5. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;

6. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

7. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards that could be attributed to the emitting source;

8. The excess emissions did not stem from any activity or event that could have been foreseen and avoided, and could not have been avoided by better operations and maintenance practices;

9. All emissions monitoring systems were kept in operation, if practicable; and

10. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

C. Affirmative Defense for Startup and Shutdown.

1. Except as provided in paragraph (C)(2) of this section, and unless otherwise provided for in the applicable requirement or a permit issued pursuant to this Part, emissions in excess of an applicable

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

a. The excess emissions could not have been prevented through careful and prudent planning and design;

b. If the excess emissions were the result of a bypass of control equipment, the bypass was unavoidable to prevent loss of life, personal injury, or severe damage to air pollution control equipment, production equipment, or other property;

c. The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

d. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;

e. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;

f. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards that could be attributed to the emitting source;

g. All emissions monitoring systems were kept in operation if at all practicable; and

h. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

2. If excess emissions occur due to a malfunction during routine startup and shutdown, then those instances shall be treated as other malfunctions subject to paragraph B of this section.

D. Affirmative Defense for Malfunction During Scheduled Maintenance.

If excess emissions occur due to a malfunction during scheduled maintenance, then those instances will be treated as other malfunctions subject to paragraph B of this section.

E. Demonstration of Reasonable and Practicable Measures.

For an affirmative defense under paragraphs B or C of this section, the owner or operator of the source shall demonstrate, through submission of the data and information required by this subsection and subsection 5.9, that all reasonable and practicable measures within the owner or operator's control were implemented to prevent the occurrence of the excess emissions.

**5.9 <u>Reporting Requirements</u>.**

A. The owner or operator of any source shall report to the Director any emissions in excess of the limits established by this Part or the applicable permit. The report shall be in two parts as specified below:

1. Notification by telephone or facsimile within twenty-four (24) hours of the time the owner or operator first learned of the occurrence of excess emissions that includes all available information from paragraph B of this section.

2. Detailed written notification by submission of an excess emissions report within seventy-two (72) hours of the notification under paragraph (1) of this subsection.

B. The excess emissions report shall contain the following information:

1. The identity of each stack or other emission point where the excess emissions occurred;

2. The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and

calculations used in determining the magnitude of the excess emissions;

3. The time and duration or expected duration of the excess emissions;

4. The identity of the equipment from which the excess emissions emanated;

5. The nature and cause of the emissions;

6. The steps taken, if the excess emissions were the result of a malfunction, to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunctions;

7. The steps that were or are being taken to limit the excess emissions; and

8. If the source's permit contains procedures governing source operation during periods of startup or malfunction and the excess emissions resulted from startup or malfunction, a list of the steps taken to comply with the permit procedures.

C. In the case of continuous or recurring excess emissions, the notification requirements of this Section shall be satisfied if the source provides the required notification after excess emissions are first detected and includes in the notification an estimate of the time the excess emissions will continue. Excess emissions occurring after the estimated time period or changes in the emissions as originally reported shall require additional notification pursuant to paragraphs A and B of this section.

## 6.0 CONTINUOUS SOURCE EMISSIONS MONITORING

### 6.1 Applicability.

A. Fossil-fuel fired steam generators, as specified in subsection 6.3(A) shall be monitored for opacity, nitrogen oxides emissions, sulfur dioxide emissions, and oxygen or carbon dioxide.

B. Fluid bed catalytic cracking unit catalyst regenerators, as specified in subsection 6.3(D), shall be monitored for opacity.

C. Sulfuric acid plants, as specified in subsection 6.3(C), shall be monitored for sulfur dioxide emissions.

D. Nitric acid plants, as specified in subsection 6.3(B), shall be monitored for nitrogen oxides emissions.

### 6.2 Standards.

A. Every source subject to an existing source performance standard as specified in this section shall install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring the pollutants and other gases specified in this section for the applicable source category.

B. Emission monitoring shall not be required when the source of emissions is not operating.

C. Variations.

1. Unless otherwise prohibited by the Act, the Director may approve, on a case-by-case basis, alternative monitoring requirements different from the provisions of this Section if the installation of a continuous emission monitoring system cannot be implemented by a source due to physical plant limitations or extreme economic reasons. Alternative monitoring procedures shall be specified by the Director on a case-by-case basis and shall include, as a minimum, annual manual stack tests for the pollutants identified for each type of source in this Section. Extreme economic reasons shall mean that the requirements of this Section would cause the source to be unable to continue in business.

2. Alternative monitoring requirements may be prescribed when installation of a continuous emission monitoring system or monitoring device would not provide accurate determinations of emissions.

3. Alternative monitoring requirements may be prescribed when the affected facility is infrequently operated.

4. Monitoring system malfunction: A temporary exemption from the monitoring and reporting requirements of this Section may be provided during any period of monitoring system malfunction, provided that the source owner or operator demonstrates that the malfunction was unavoidable and the malfunction meets the requirements of subsections 5.8 and 5.9 of this Part.

D. Installation and performance testing required under this Section shall be completed and monitoring and recording shall commence within eighteen (18) months of the effective date of this section.

**6.3 <u>Minimum Monitoring Requirements</u>.**

A. Fossil-fuel fired steam generators: Each fossil-fuel fired steam generator, except as provided in the following subsections shall conform with the following monitoring requirements when such facility is subject to an emission standard or limitation for the pollutant in question.

1. A continuous emission monitoring system for the measurement of opacity which meets the performance specifications of this Section shall be installed, calibrated, maintained, and operated in accordance with the procedures of this Section by the owner or operator of any such steam generator of greater than 250 million BTU per hour heat input except where:

a. Gaseous fuel is the only fuel burned; or

b. Oil or a mixture of gas and oil are the only fuels burned and the source is able to comply with the applicable particulate matter and opacity regulations, documented by passing a performance test conducted while fired on oil, without utilization of particulate matter collection equipment.

2. A continuous emission monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this Section shall be installed, calibrated, using sulfur dioxide calibration gas mixtures or other gas mixtures approved by the Director, maintained and operated on any fossil-fuel fired steam generator of greater than 250 million BTU per hour heat input which has installed sulfur dioxide pollutant control equipment.

3. A continuous emission monitoring system for the measurement of nitrogen oxides which meets the performance specifications of this Section shall be installed, calibrated using nitric oxide calibration gas mixtures or other gas mixtures approved by the Director, maintained and operated on fossil-fuel fired steam generators of greater than 1000 million BTU per hour heat input when the facility is located in an air quality control region where the Director has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient air quality standard, unless the source owner or operator demonstrates during source compliance tests as required by the Department that such a source emits nitrogen oxides at levels thirty (30) percent or more below the emission standard within this Part.

4. A continuous emission monitoring system for the measurement of the percent oxygen or carbon dioxide which meets the performance specifications of this Section shall be installed, calibrated, operated and maintained on fossil-fuel fired steam generators where measurements of oxygen or carbon dioxide in the flue gas are required to convert either sulfur dioxide or nitrogen oxides continuous emission monitoring data, or both, to units of the emission standard within this Part.

B. Nitric acid plants: Each nitric acid plant of greater than three hundred (300) tons per day production capacity, the production capacity being expressed as one hundred (100) percent acid located in an air quality control region where the Director has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient air quality standard, shall install, calibrate using nitrogen dioxide calibration gas mixtures, maintain, and operate a continuous emission monitoring system for the measurement of nitrogen oxides which meets the

performance specifications of this Section for each nitric acid producing facility, within such plant.

C. Sulfuric acid plants: Each sulfuric acid plant of greater than three hundred (300) tons per day production capacity, the production being expressed as one hundred (100) percent acid, shall install, calibrate using sulfur dioxide calibration gas mixtures or other gas mixtures approved by the Director, maintain and operate a continuous emission monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this Section for each sulfuric acid producing facility within such plant.

D. Fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries. Each catalyst regenerator for fluid bed catalytic cracking units of greater than 20,000 barrels per day fresh-feed capacity shall install, calibrate, maintain and operate a continuous emission monitoring system for the measurement of opacity which meets the performance specifications of this Section for each regenerator within such refinery.

**6.4 <u>Minimum Specifications For Monitoring Equipment</u>.**

A. Owners or operators of monitoring equipment installed to comply with this Section shall demonstrate compliance with the following performance specifications.

1. The performance specifications set forth in Appendix B of 40 C.F.R. Part 60, adopted as of July 1, 2006, and no future additions or amendments, are incorporated herein by reference and shall be used by the Director to determine acceptability of monitoring equipment installed pursuant to this Section. However, where reference is made to the Administrator in Appendix B of 40 C.F.R. Part 60, the Director may allow the use of either the state-approved reference method or the federally approved reference method as published in 40 C.F.R. Part 60. The performance specifications to be used with each type of monitoring system are:

a. Continuous emission monitoring systems for measuring opacity shall comply with performance specification 1.

b. Continuous emission monitoring systems for measuring nitrogen oxides shall comply with performance specification 2.

c. Continuous emission monitoring systems for measuring sulfur dioxide shall comply with performance specification 2.

d. Continuous emission monitoring systems for measuring oxygen shall comply with performance specification 3.

e. Continuous emission monitoring systems for measuring carbon dioxide shall comply with performance specification 3.

B. Calibration gases: Span and zero gases shall be traceable to National Bureau of Standards reference gases whenever these reference gases are available. Every six (6) months from date of manufacture, span and zero gases shall be reanalyzed by conducting triplicate analyses using the reference methods in Appendix A of 40 C.F.R. Part 60 (Chapter 1) as amended: For sulfur dioxide, use Reference Method 6; for nitrogen oxides, use Reference Method 7; and for carbon dioxide or oxygen, use Reference Method 3. The gases may be analyzed at less frequent intervals if longer shelf lives are guaranteed by the manufacturer.

C. Cycling time: Time includes the total time required to sample, analyze, and record an emission measurement.

1. Continuous emission monitoring systems for measuring opacity shall complete a minimum of one (1) cycle of sampling and analyzing for each successive 6-minute period.

2. Continuous emission monitoring systems for measuring oxides of nitrogen, carbon dioxide, oxygen, or sulfur dioxide shall complete a minimum of one (1) cycle of operation (sampling, analyzing, and date recording) for each successive 15-minute period.

D. Monitor location: All continuous emission monitoring systems or monitoring devices shall be installed such that representative measurements of emissions of process parameters (i.e. oxygen, or carbon dioxide) from the affected facility are obtained. Additional guidance for

location of continuous emission monitoring systems to obtain representative samples are contained in the applicable performance specifications of Appendix B of 40 C.F.R. Part 60.

E. Combined effluents: When the effluents from two (2) or more affected facilities of similar design and operating characteristics are combined before being released to the atmosphere through more than one (1) point, separate monitors shall be installed.

F. Zero and drift: Owners or operators of all continuous emission monitoring systems installed in accordance with the requirements of this Section shall record the zero and span drift in accordance with the method prescribed by the manufacturer's recommended zero and span check at least once daily, using calibration gases specified in paragraph B as applicable, unless the manufacturer has recommended adjustments at shorter intervals, in which case such recommendations shall be followed; shall adjust the zero and span in accordance with the applicable performance specifications in Appendix B of 40 C.F.R. Part 60 (Chapter 1).

G. Span: Instrument span should be approximately two hundred (200) percent of the expected instrument data display output corresponding to the emission standards for the source.

**6.5 <u>Minimum Data Requirement</u>.**

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

A. The owners or operators of facilities required to install continuous emission monitoring systems shall submit to the Director a written report of excess emissions for each calendar quarter and the nature and cause of the excess emissions, if known. The averaging period used for data reporting shall correspond to the averaging period specified in the emission standard for the pollutant source category in question. The required report shall include, as a minimum, the data stipulated in this subsection.

B. For opacity measurement, the summary shall consist of the magnitude in actual percent opacity of all 6-minute opacity averages greater than any

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

C. For gaseous measurements, the summary shall consist of emission averages in the units of the applicable standard for each averaging period during which the applicable standard was exceeded.

D. The date and time identifying each period during which the continuous emission monitoring system was inoperative, except for zero and span checks, and the nature of system repair or adjustment shall be reported. The Director may require proof of continuous emission monitoring system performance whenever system repairs or adjustments have been made.

E. When no excess emissions have occurred and the continuous emission monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be included in the report.

F. Owners or operators of affected facilities shall maintain a file of all information reported in the quarterly summaries, and all other data collected either by the continuous emission monitoring system or as necessary to convert monitoring data to the units of the applicable standard for a minimum of two (2) years from the date of collection of such data or submission of such summaries.

**6.6 <u>Data Reduction</u>.**

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

A. For fossil-fuel fired steam generators, the following procedures shall be used to convert gaseous emission monitoring data in parts per million to g/million cal (lb/million BTU) where necessary.

1. When the owner or operator of a fossil-fuel fired steam generator elects under subsection 6.3 (A)(4) to measure oxygen in the flue

gases, the measurement of the pollutant concentration and oxygen concentration shall each be on a consistent basis (wet or dry).

a. When measurements are on a wet basis, except where wet scrubbers are employed or where moisture is otherwise added to stack gases, the following conversion procedure shall be used.

$$E(Q) = C(ws)F(w)\left[\frac{20.9}{20.9(1 - B(wa)) - \%O(2ws)}\right]$$

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

$$E(Q) = C(ws)F\left[\frac{20.9}{20.9(1 - B(wa))\%O(2ws)}\right]$$

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

$$\left[\frac{20.9}{29.9(1 - B(wa)) - \%O(2ws)}\right]$$

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

$$E(Q) = CF\left[\frac{20.9}{20.9 - \%O(2ws)}\right]$$

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

$$E(Q) = CF(c)\left[\frac{100}{\%CO(2)}\right]$$

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

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

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

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

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

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

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

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

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

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

1. Establish a conversion factor three (3) times daily according to the procedures of 40 C.F.R. § 60.84(b) (Chapter 1);

2. Multiply the conversion factor by the average sulfur dioxide concentration in the flue gases to obtain average sulfur dioxide emissions in Kg/metric ton (lb/short ton); and

3. Report the average sulfur dioxide emission for each averaging period in excess of the applicable emission standard in the quarterly summary.

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

1. Establish a conversion factor according to the procedures of 40 C.F.R. § 60.73 (b) (Chapter 1);

2. Multiply the conversion factor by the average nitrogen oxides concentration in the flue gases to obtain the nitrogen oxides emissions in the units of the applicable standard; and

3. Report the average nitrogen oxides emissions for each averaging period in excess of applicable emission standard in the quarterly summary.

D. The Director may allow data reporting or reduction in procedures varying from those set forth in this section if the owner or operator of a source shows to the satisfaction of the Director that his procedures are at least as accurate as those in this section. Such procedures may include, but are not limited to, the following:

1. Alternative procedures for computing emission averages that do not require integration of data.

2. Alternative methods of converting pollutant concentration measurements to the units of the emission standards.

## 7.0 STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

### 7.1 Standards of Performance for New Stationary Sources.

A. The provisions of this subsection apply to the owner or operator of any stationary source which contains an affected facility on which construction, reconstruction, or a modification is commenced after the date of publication of any standard applicable to such facility in 40 C.F.R. Part 60. Any such stationary source shall comply with the applicable standard set forth in paragraph B as well as any other applicable Parts of the Gila River Indian Community Air Quality Ordinances.

B. Except as provided in subsection 7.2, the following subparts of 40 C.F.R. Part 60, New Source Performance Standards ("NSPS"), and all accompanying appendices, adopted as of July 1, 2006, and no future additions or amendments, are incorporated by reference. These standards are on file with the Department and shall be applied by the Department. In the event that the Gila River Indian Community ordinances contain a requirement that is more stringent than an NSPS requirement, the more stringent requirement shall apply.

1. Subpart A - General Provisions.

2. Subpart D - Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971.

3. Subpart Da - Electric Utility Steam Generating Units For Which Construction is Commenced After September 18, 1978.

4. Subpart Db - Industrial-Commercial-Institutional Steam Generating Units.

5. Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units.

6. Subpart E - Incinerators.

7. Subpart Ea - Municipal Waste Combustors for which Construction is Commenced after December 20, 1989 and on or before September 20, 1994.

8. Subpart Eb - Municipal Waste Combustors for Which Construction is Commenced after September 20, 1994 or for which Modification or Reconstruction is Commenced After June 19, 1996.

9. Subpart Ec - Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for which Construction is Commenced After June 20, 1996

10. Subpart F - Portland Cement Plants.

11. Subpart G - Nitric Acid Plants.

12. Subpart H - Sulfuric Acid Plants.

13. Subpart I - Hot Mix Asphalt Facilities.

14. Subpart J - Petroleum Refineries.

15. Subpart K - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.

16. Subpart Ka - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.

17. Subpart Kb - Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984.

18. Subpart L - Secondary Lead Smelters.

19. Subpart M - Secondary Brass and Bronze Production Plants.

20. Subpart N - Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.

21. Subpart Na - Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.

22. Subpart O - Sewage Treatment Plants.

23. Subpart P - Primary Copper Smelters.

24. Subpart Q - Primary Zinc Smelters.

25. Subpart R - Primary Lead Smelters.

26. Subpart S - Primary Aluminum Reduction Plants.

27. Subpart T - Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

28. Subpart U - Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

29. Subpart V - Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

30. Subpart W - Phosphate Fertilizer Industry: Triple Superphosphate Plants.

31. Subpart X - Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.

32. Subpart Y - Coal Preparation Plants.

33. Subpart Z - Ferroalloy Production Facilities.

34. Subpart AA - Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983.

35. Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.

36. Subpart BB - Kraft Pulp Mills.

37. Subpart CC - Glass Manufacturing Plants.

38. Subpart DD - Grain Elevators.

39. Subpart EE - Surface Coating of Metal Furniture.

40. Subpart GG - Stationary Gas Turbines.

41. Subpart HH - Lime Manufacturing Plants.

42. Subpart KK - Lead-Acid Battery Manufacturing Plants.

43. Subpart LL - Metallic Mineral Processing Plants.

44. Subpart MM - Automobile and Light Duty Truck Surface Coating Operations.

45. Subpart NN - Phosphate Rock Plants.

46. Subpart PP - Ammonium Sulfate Manufacture.

47. Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing.

48. Subpart RR - Pressure Sensitive Tape and Label Surface Coating Operations.

49. Subpart SS - Industrial Surface Coating: Large Appliances.

50. Subpart TT - Metal Coil Surface Coating.

51. Subpart UU - Asphalt Processing and Asphalt Roofing Manufacture.

52. Subpart VV - Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.

53. Subpart WW - Beverage Can Surface Coating Industry.

54. Subpart XX - Bulk Gasoline Terminals.

55. Subpart AAA - New Residential Wood Heaters.

56. Subpart BBB - Rubber Tire Manufacturing Industry.

57. Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.

58. Subpart FFF - Flexible Vinyl and Urethane Coating and Printing.

59. Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries.

60. Subpart HHH - Synthetic Fiber Production Facilities.

61. Subpart III - Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.

62. Subpart JJJ - Petroleum Dry Cleaners.

63. Subpart KKK - Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.

64. Subpart LLL - Onshore Natural Gas Processing; $SO_2$ Emissions.

65. Subpart NNN - Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.

66. Subpart OOO - Nonmetallic Mineral Processing Plants.

67. Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants.

68. Subpart QQQ - VOC Emissions From Petroleum Refinery Wastewater Systems.

69. Subpart RRR - Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.

70. Subpart SSS - Magnetic Tape Coating Facilities.

71. Subpart TTT - Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.

72. Subpart UUU - Calciners and Dryers in Mineral Industries.

73. Subpart VVV - Polymeric Coating of Supporting Substrates Facilities.

74. Subpart WWW - Municipal Solid Waste Landfills. Incorporation includes amendments adopted as of August 17, 1998.

75. Subpart AAAA - Standards of Performance for Small Municipal Waste Combustion Units for which Construction is Commenced After August 30, 1999 or for which Modification or Reconstruction is Commenced After June 6, 2001

76. Subpart BBBB - Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999

77. Subpart CCCC - Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for which Construction is Commenced After November 30, 1999 or for which Modification or Reconstruction is Commenced On or After June 1, 2001

78. Subpart DDDD - Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction On or Before November 30, 1999

79. Subpart HHHH - Emission Guidelines and Compliance Times for Coal-Fired Electric Steam Generating Units

**7.2 General Provisions**.

A. For any federal standards under 40 C.F.R. Part 60 that have been delegated to the GRIC DEQ, the term "Administrator" means the Director of the Gila River Indian Community Department of Environmental Quality, except that the Director shall not be authorized to make decisions regarding provisions that are not delegated by EPA, such as the authority to approve alternate or equivalent test methods or alternative standards or work practices. If alternate or equivalent test methods or alternative standards or work practices are requested, they shall be authorized by the Regional Administrator of the U.S. Environmental Protection Agency, Region IX.

B. From the general standards identified in subsection 7.1, delete the following:

1. 40 C.F.R. §60.4. All requests, reports, applications, submittals, and other communications to the Director pursuant to this Part shall be submitted to the Gila River Indian Community Department of Environmental Quality, 35 Pima Street, Sacaton Arizona 85247.

2. 40 C.F.R. §§ 60.5 and 60.6.

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

## 8.0 FEDERAL HAZARDOUS AIR POLLUTANTS

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

A. No person may begin actual construction or reconstruction of a major source of a Hazardous Air Pollutant (HAP) unless:

1. The major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to Section 112(d), Section 112(h) or Section 112(j) in 40 C.F.R. Part 63, and the owner and operator has fully complied with all procedures and requirements for preconstruction review established by that standard, including any applicable requirements set forth in Subpart A of 40 C.F.R. Part 63; or

2. The Director has made a final and effective case-by-case determination pursuant to the provisions of 40 C.F.R. § 63.43 such that emissions from the constructed or reconstructed major source will be controlled to a level no less stringent than the maximum achievable control technology emission limitation for new sources.

B. Except as provided in subsection 8.2, the following subparts of 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAPs), and all accompanying appendices, adopted as of July 1, 2006, and no future additions or amendments, are incorporated by reference. These standards are on file with the GRIC Department of Environmental Quality and shall be applied by the Department. In the event that the Gila River Indian Community Air Quality Ordinance contains a requirement that is more stringent than a NESHAPS requirement, the more stringent requirement shall apply.

1. Subpart A - General Provisions.

2. Subpart B – Underground Uranium Mines

3. Subpart C - Beryllium.

4. Subpart D - Beryllium Rocket Motor Firing.

5. Subpart E - Mercury.

6. Subpart F - Vinyl Chloride.

7. Subpart H - Radionuclides other than Radon from Department of Energy Facilities

8. Subpart I - Federal Facilities other than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H

9. Subpart J - Equipment Leaks (Fugitive Emission Sources ) of Benzene.

10. Subpart K - Elemental Phosphorus Plants

11. Subpart L - Benzene Emissions from Coke By-Product Recovery Plants.

12. Subpart M - Asbestos.

13. Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants.

14. Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters.

15. Subpart P - Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production.

16. Subpart Q - Radon Emissions from Department of Energy Facilities

17. Subpart R - Radon Emissions from Phosphogypsum Stacks

18. Subpart T - Radon Emissions from the Disposal of Uranium Mill Tailings

19. Subpart V - Equipment Leaks (Fugitive Emission Sources).

20. Subpart W - Radon Emissions from Operating Mill Tailings

21. Subpart Y - Benzene Emissions from Benzene Storage Vessels.

22. Subpart BB - Benzene Emissions from Benzene Transfer Operations.

23. Subpart FF - Benzene Waste Operations.

C. Except as provided in subsection 8.2, the following subparts of 40 C.F.R., Part 63, NESHAPs for Source Categories, and all accompanying appendices, adopted as of July 1, 2006, and no future additions or amendments, are incorporated by reference. These standards are on file with the GRIC Department of Environmental Quality and shall be applied by the Department. In the event that a Gila River Indian Community Air Quality Ordinance contains a requirement that is more stringent than a NESHAPS requirement, the more stringent requirement shall apply.

1. Subpart A - General Provisions.

2. Subpart B - Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j).

3. Subpart D - Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants.

4. Subpart F - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.

5. Subpart G - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

6. Subpart H - National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.

7. Subpart I - National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulations for Equipment Leaks.

8. Subpart J - National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production

9. Subpart L - National Emission Standards for Coke Oven Batteries.

10. Subpart M - National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

11. Subpart N - National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

12. Subpart O - Ethylene Oxide Emissions Standards for Sterilization Facilities.

13. Subpart Q - National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.

14. Subpart R - National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).

15. Subpart S - National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.

16. Subpart T - National Emission Standards for Halogenated Solvent Cleaning.

17. Subpart U - National Emission Standards for Hazardous Air Pollutant Emissions : Group I Polymers and Resins.

18. Subpart W - National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.

19. Subpart X - National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting.

20. Subpart Y - National Emission Standards for Marine Tank Vessel Loading Operations

21. Subpart AA - National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants

22. Subpart BB - National Emission Standards for Hazardous Air Pollutants from Phosphate Fertilizers Production Plants

23. Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.

24. Subpart DD - National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

25. Subpart EE - National Emission Standards for Magnetic Tape Manufacturing Operations.

26. Subpart GG - National Emission Standards for Aerospace Manufacturing and Rework Facilities.

27. Subpart HH - National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities

28. Subpart II - National Emission Standards for Shipbuilding and Ship Repair (Surface Coating)

29. Subpart JJ - National Emission Standards for Wood Furniture Manufacturing Operations.

30. Subpart KK - National Emission Standards for Printing and Publishing Industry.

31. Subpart LL - National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.

32. Subpart MM - National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Source at Kraft, Soda, Sulfite and Stand-alone Semichemical Pulp Mills

33. Subpart OO - National Emission Standards for Tanks – Level 1.

34. Subpart PP - National Emission Standards for Containers.

35. Subpart QQ - National Emission Standards for Surface Impoundments.

36. Subpart RR - National Emission Standards for Individual Drain Systems.

37. Subpart SS - National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process

38. Subpart TT - National Emission Standards for Equipment Leaks--Control Level 1

39. Subpart UU - National Emission Standards for Equipment Leaks --Control Level 2 Standards

40. Subpart VV - National Emission Standards for Oil-Water Separators and Organic-Water Separators.

41. Subpart WW - National Emission Standards for Storage Vessels (Tanks)—Control Level 2

42. Subpart XX - National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations

43. Subpart YY - National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards

44. Subpart CCC - National Emission Standards for Hazardous Air Pollutants for Steel Pickling--HCL Process Facilities and Hydrochloric Acid Regeneration Plants

45. Subpart DDD - National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production

46. Subpart EEE - National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.

47. Subpart GGG - National Emission Standards for Pharmaceuticals Production

48. Subpart HHH - National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities

49. Subpart III - National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production

50. Subpart JJJ - National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.

51. Subpart LLL - National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry

52. Subpart MMM - National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production

53. Subpart NNN - National Emission Standards for Hazardous Air Pollutants for Wool Fiber Glass Manufacturing

54. Subpart OOO - National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins

55. Subpart PPP - National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production

56. Subpart QQQ - National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting

57. Subpart RRR - National Emissions Standards for Hazardous Air Pollutants for Secondary Aluminum Production.

58. Subpart TTT-- National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting

59. Subpart UUU - National Emission Standards for Hazardous Air Pollutants for Petroluem Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units

60. Subpart VVV - National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works

61. Subpart XXX - National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese

62. Subpart AAAA - National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills

63. Subpart CCCC - National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast

64. Subpart DDDD - National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products

65. Subpart EEEE - National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)

66. Subpart FFFF - National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing

67. Subpart GGGG - National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production

68. Subpart HHHH - National Emission Standards for Hazardous Air Pollutants for Wet-formed Fiberglass Mat Production

69. Subpart IIII - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-duty Trucks

70. Subpart JJJJ - National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating

71. Subpart KKKK - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans

72. Subpart MMMM - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products

73. Subpart NNNN - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances

74. Subpart OOOO - National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles

75. Subpart PPPP - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products

76. Subpart QQQQ - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products

77. Subpart RRRR - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture

78. Subpart SSSS - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil

79. Subpart TTTT - National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations

80. Subpart UUUU - National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing

81. Subpart VVVV - National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing

82. Subpart WWWW - National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production

83. Subpart XXXX - National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing

84. Subpart YYYY - National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines

85. Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines

86. Subpart AAAAA - National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants

87. Subpart BBBBB - National Emission Standards for Hazardous Air Pollutants for semiconductor Manufacturing

88. Subpart CCCCC - National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks

89. Subpart DDDDD - National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters

90. Subpart EEEEE - National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries

91. Subpart FFFFF - National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities

92. Subpart GGGGG - National Emission Standards for Hazardous Air Pollutants: Site Remediation

93. Subpart HHHHH - National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing

94. Subpart IIIII - National Emission Standards for Hazardous Air Pollutants: Mercury Emissions from Mercury Cell Chlor-Alkali Plants

95. Subpart JJJJJ - National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing

96. Subpart KKKKK - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing

97. Subpart LLLLL - National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing

98. Subpart MMMMM - National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations

99. Subpart NNNNN - National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production

100. Subpart PPPPP - National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands

101. Subpart QQQQQ - National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities

102. Subpart RRRRR - National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing

103. Subpart SSSSS - National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing

104. Subpart TTTTT - National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining

**8.2 General Provisions**.

A. For any federal standards under 40 C.F.R. Parts 61 or 63 that have been delegated to the GRIC DEQ, the term "Administrator" means the Director of the Gila River Indian Community Department of Environmental Quality, except that the Director shall not be authorized to make decisions regarding provisions that are not delegated by EPA, such as the authority to approve alternate or equivalent test methods or alternative standards or work practices, except as specifically provided in Part 63, Subpart B. If alternate or equivalent test methods or alternative standards or work practices are requested, they shall be authorized by the Regional Administrator of the U.S. Environmental Protection Agency, Region IX.

B. From the general standards identified in subsection 8.2.A, delete 40 C.F.R. § 61.04. All requests, reports, applications, submittals, and other communications to the Director pursuant to this section shall be submitted to the Gila River Indian Community Department of Environmental Quality, 35 Pima Street, Sacaton, Arizona 85247. A copy of any notifications and reports required by federal standards in 40 C.F.R. Parts 61 or 63 that have not been delegated to GRIC DEQ must be sent to EPA.

C. The Director shall not be delegated authority to deal with equivalency determinations that are nontransferable through Section 112(e)(3) of the Act.

## 9.0 STACK HEIGHT LIMITATION

A. The limitations set forth herein shall not apply to stacks or dispersion techniques used by the owner or operator prior to December 31, 1970, for which the owner or operator had:

1. Begun, or caused to begin, a continuous program of physical on site construction of the stack;

2. Entered into building agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time; or

3. Coal-fired steam electric generating units, subject to the provisions of Section 118 of the Act which commenced operation before July 1, 1975, with stacks constructed under a construction contract awarded before February 8, 1974.

B. Good engineering practice (GEP) Stack height is calculated as the greater of the following four (4) numbers in subsections (1) through (4):

1. 213.25 feet (65 meters);

2. For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required under 40 C.F.R. Parts 51 and 52, Hg = 2.5H;

3. For all other stacks, Hg = H + 1.5L, where Hg = good engineering practice stack height, measured from the ground-level elevation at the base of the stack;

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

   L = lesser dimension (height or projected width) of nearby structure; provided that the EPA or the Director may require the use of a field study or fluid model to verify GEP stack height for the source; or

4. The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain obstacles;

5. For a specific structure or terrain feature, "nearby" shall be:

   a. For purposes of applying the formulae in paragraphs (B)(2) and (3) of this section, that distance up to five (5) times the lesser of the height or the width dimension of a structure but not greater than 0.8 km (1/2 mile);

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

6. "Excessive concentrations" means, for the purpose of determining good engineering practice stack height under paragraph (B)(4) of this section:

   a. For sources seeking credit for stack height exceeding that established under paragraphs (B)(2) and (3) of this section, a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least forty (40) percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the requirements for permits or permit revisions under this Part

II, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty (40) percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects. The allowable emission rate to be used in making demonstrations under paragraph (B)(4) of this section shall be prescribed by the new source performance standard which is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator;

b. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under paragraphs (B)(2) and (3) of this section, either:

(1) A maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects as provided in paragraph (B)(6)(a) of this section, except that emission rate specified by any applicable Air Quality Management Program requirement shall be used; or

(2) The actual presence of a local nuisance caused by the existing stack, as determined by the Director.

c. For sources seeking credit after January 12, 1979, for a stack height determined under paragraphs (B)(2) and (3) of this section, where the Director requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not

adequately represented by the equations in paragraphs (B)(2) and (3) of this section, a maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects that is at least forty (40) percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

C. The degree of emission limitation required of any source after the respective date given in paragraph A of this section for control of any pollutant shall not be affected by so much of any sources stack height that exceeds good engineering practice or by any other dispersion technique.

D. The good engineering practice (GEP) stack height for any source seeking credit because of plume impaction which results in concentrations in violation of national ambient air quality standards can be adjusted by determining the stack height necessary to predict the same maximum air pollutant concentration on any elevated terrain feature as the maximum concentration associated with the emission limit which results from modeling the source using the GEP stack height as determined herein and assuming the elevated terrain features to be equal in elevation to the GEP stack height. If this adjusted GEP stack height is greater than the source proposes to use, the source's emission limitation and air quality impact shall be determined using the proposed stack height and the actual terrain heights.

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

## 10.0 CONFIDENTIALITY OF INFORMATION

### 10.1 Confidentiality of Records.

A. Public Information. Any records, reports or information obtained from any person under this chapter, including reports or information obtained or prepared by the Gila River Indian Community Department of Environmental Quality, shall be available to the public, except that the information or any part of the information shall be considered confidential upon the showing of either of the following:

1. A showing, satisfactory to the Director of the Department of Environmental Quality, by any person that the information or a part of the information if made public would divulge the trade secrets of the person.

2. A determination by the GRIC attorney that the disclosure of the information or a particular part of the information would be detrimental to an ongoing criminal investigation or to an ongoing or contemplated civil enforcement action under this Ordinance in Tribal Court.

B. Notice of Confidentiality.

1. A notice of confidentiality submitted pursuant to paragraph (A)(1) of this section shall:

a. Precisely identify the information in the documents submitted which is considered confidential.

b. Contain sufficient supporting information to allow the Director to evaluate whether such information satisfies the requirements related to trade secrets or, if applicable, how the information, if disclosed, is likely to cause substantial harm to the person's competitive position.

2. Within thirty (30) days of receipt of a notice of confidentiality that complies with paragraph A of this section, the Director shall make a determination as to whether the information satisfies the requirements for trade secret or competitive position pursuant to paragraph (A)(1) and so notify the applicant in writing. If the

Director agrees with the applicant that the information covered by the notice of confidentiality satisfies the requirements in paragraph (A) (1), the Director shall include a notice in the file for the permit or permit application that certain information has been considered confidential. The Director's determination of confidentiality shall be final and not appealable.

C. Additional Information Available to the Public.

1. Notwithstanding paragraphs (A)(1) and (2) of this section, the following information shall be available to the public:

   a. The name and address of any permit applicant or permittee.

   b. The chemical constituents, concentrations and amounts of any emission of any air contaminant.

   c. The existence or level of concentration of an air pollutant in the environment.

2. Notwithstanding paragraph A of this section, the Director may disclose, with an accompanying confidentiality notice, any records, reports or information obtained by the Director or the Department of Environmental Quality to:

   a. Other Community employees concerned with administering this section or if the records, reports or information is relevant to any administrative or judicial proceeding under this Part.

   b. Employees of the United States Environmental Protection Agency if the information is necessary or required to administer and implement or comply with federal statutes or regulations.

## 11.0 PERMIT FEES

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

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

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

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

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

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

**11.3** **Permit Fee Standards.**

A. Title V Permits.

1. Applicability. The permit fees imposed by this section shall apply to the following sources:

a. Any source whose emission inventory for the preceding calendar year shows that the source is in fact a "major source," as defined in Part II, Section 1.0; and

b. Any source deemed subject to a requirement to obtain a permit under Title V of the Act.

2. The owner or operator of a source required to have a Title V permit shall pay a permit fee at a rate prescribed in subsection 11.3 of this Part or at a rate sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the GRIC air quality permit program in accordance with Section 502(b)(3) of the Act.

3. Fees for Billable Permit Actions. The owner or operator of a Title V source shall pay $66.00 per hour, adjusted annually in accordance with subsection 11.8, for all permit processing time required for a billable permit action. The fee shall be paid as follows:

   a. A complete application shall be submitted with the application fee listed in Table 1.1 below.

Table 1.1

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

   b. At any time after submittal of the application, the Director may request additional application fees based on the cost to date of reviewing and acting on the application, minus all fees previously submitted for the application.

   c. When permit processing is completed for a facility, the Director shall send an itemized invoice. The invoice shall indicate the total actual cost of reviewing and acting upon the application, all fees previously submitted, and the balance due.

   d. The maximum fee for processing permit applications listed in subsection 11.3(A)(1) is $40,000. For a minor permit

revision, the maximum permit processing fee shall be $10,000.

e. The Director shall not issue a permit or permit revision until the balance due on the itemized invoice is paid in full.

4. Annual Administrative Fees. The owner or operator of a Title V source shall pay an annual administrative fee plus an emissions-based fee or a fee at a rate sufficient to cover all reasonable (direct and indirect) cost required to develop and administer this permit program in accordance with Section 502(b)(3) of the Act. The following fees shall be paid unless specified otherwise by the Director:

a. The applicable annual administrative fee from Table 1.2 below, as adjusted annually under subsection 11.8. The fee is due on the first anniversary date of the initial permit covering construction and startup of operations and annually thereafter on that date.

Table 1.2

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

b. An emissions-based fee of $11.75 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year as calculated in accordance with subsection 11.4. The fee is adjusted annually in accordance with subsection 11.8.

B. Non-Title V Permit Fees.

1. Applicability. The owner or operator of a source required to have a non-Title V permit under Part II, Section 4.0 shall pay fees according to the following provisions.

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

   a. An application shall be submitted with the applicable fee from Table 1.3 below.

Table 1.3

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

   b. At any time after the submittal of an application for a facility listed in Table A or Table B, the Director may request an additional application fee based on the cost to date of reviewing and acting on the application, minus all fees previously submitted for the application.

   c. When permit processing is completed for a facility listed in Table A or Table B and final costs are greater than the fee submitted with the application under subsection 11.3(B)(1) above, the Director shall send an itemized invoice. The invoice shall indicate the total cost of reviewing and acting upon the application, all fees previously submitted, and the balance due.

   d. The maximum fee for processing permit applications listed in subsection 11.3(B) is $25,000. For a minor permit revision, the maximum permit processing fee shall not exceed $10,000.

e. The Director shall not issue a permit or permit revision until the balance due on the itemized invoice is paid in full.

3. Annual Administrative Fee.

a. The owner or operator of an existing non-Title V source shall pay the applicable annual administrative fee from Table 1.4 below, as adjusted annually under Section 11.8. The annual administrative fee covers the cost of renewing a non-Title V permit. The fee is due on the first anniversary date of the initial permit covering construction and startup of operations and annually thereafter on that date.

Table 1.4

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

**11.4 <u>Calculation and Payment Of Emission Fees</u>.**

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

A. Emissions quantities reported pursuant to Section 3.0 and 4.0 of Part II, GRIC Permit Requirements, or pursuant to a Department approved emissions inventory, shall be used for purposes of calculating the permit fees.

B. Actual emissions shall be determined for each source on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored, or combusted.

C. The first annual permit fee for new Title V sources that have not been required to report emission quantities shall be based on the Department approved emissions estimate listed in the permit application.

D. The following emissions of regulated pollutants shall be excluded from a source's actual emissions for purposes of setting fees:

1. Emissions of a regulated pollutant from the source in excess of 4,000 tons per year.

2. Emissions of any regulated pollutant that is already included in the fee calculation for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as $PM_{10}$.

3. Carbon monoxide.

4. Any pollutant that is a regulated pollutant solely because it is a Class I or II substance subject to a standard promulgated under Title VI of the Act.

5. Any pollutant that is a regulated air pollutant solely because it is subject to a standard under Section 112(r) of the Act.

6. Emissions from insignificant activities excluded from the permit for the source.

**11.5 <u>Permit Fee Accounts</u>.**

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

**11.6 <u>Accelerated Application Processing Fee</u>.**

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

A. When an applicant has requested accelerated permit processing, the Director may request an additional surcharge fee based on the estimated cost of accelerating the processing of the application, or, to the extent

practicable, may seek to process the permit or permit revision in accordance with the following schedule:

1. For applications for initial Title V and non-Title V permits or significant permit revisions, final action on the permit or permit revision shall be taken within one hundred twenty (120) days after receiving notice that the application is complete.

2. For minor permit revisions, final action on the permit shall be taken within sixty (60) days after receiving an application.

B. Before issuing a permit or approving a permit revision pursuant to this section, the applicant shall pay to the Department all permit processing and other fees due, and in addition, the difference between the actual cost of accelerating the permit application and the fifty (50) percent surcharge submitted. Nothing in this section shall affect the public participation requirements contained in subsection 4.6, GRIC Permit Requirements.

C. None of the surcharges for accelerated permit processing shall be applied toward the applicable maximum permit fee.

**11.7 <u>Earthmoving Permit Fee</u>.**

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

| Total Surface Area Disturbed | Fee |
|---|---|
| 1 acre to 10 acres | $75.00 |
| 10 acres or greater | $36.00 per acre plus $110.00 |

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

**11.8 <u>Annual Fee Adjustment</u>.**

A. The Director shall annually review the Department's cost accounting and make changes as required to assure continued compliance with Title V fee requirements.

B. In the event that prior to January 1 of any year the Director does not revise the fees or hourly rates set or referenced by this ordinance on the basis of the preceding cost accounting, then those fees and rates shall be

automatically adjusted as of that January to reflect the increase, if any, by which the Consumer Price Index for the most recent year exceeds the Consumer Price Index for the previous year. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers, published by the U.S. Department of Labor, as of the close of the twelve (12) month period ending on August 31 of each year.

**11.9 Late Fees.**

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

A. Title V and Non-Title V Permit Fees. An applicant for a required permit for a source that has been constructed without such permit and who has received a Notice of Violation shall pay a late fee of $70.00.

B. Earth Moving Permit Fees. Any person who is conducting earthmoving activity without an Earth Moving Permit and has received a Notice of Violation for operating the earth moving equipment without an Earth Moving Permit shall pay a late fee of $70.00.

C. Delinquency Fee. An applicant or permittee who fails to pay any required fee(s) by thirty (30) days after invoice due date shall pay a delinquency fee of $35.00 or a delinquency fee of $70.00 if delinquent over sixty (60) days from the invoice due date. Applicants and permittees will be notified by mail of any permit delinquency fees that are due and payable.

## Appendix A

| Table A |
|---|
| Aircraft Manufacturing |
| Chemical Manufacturing, Dry |
| Chemical Manufacturing, Liquid |
| Circuit Board Manufacturing ≥ 5 Tons per Year VOC |
| Coating Line, Can/Coil/Fabric/Film/Glass/Paper |
| Ethylene Oxide Sterilization |
| Gypsum, Calcining |
| Hot Mix Asphalt Plant |
| Incinerator, Medical Waste |
| Incinerator, Hazardous Material |
| Insulation Manufacturing |
| Jet Engine Manufacturing |
| Non-Major Title V Source |
| Pesticide/Herbicide Production |
| Petroleum Loading Racks and Storage Tanks at Bulk Terminals |
| Pharmaceutical Manufacturing |
| Polymeric Foam Products |
| Printing Facilities ≥ 25 Tons per Year Potential Uncontrolled VOC Emissions or Facility with Controls |
| Rendering |
| Rubber Products Manufacturing |
| Semiconductor Manufacturing |
| Solid Waste Landfill |
| Source Subject to BACT Determination |
| Source Subject to a MACT, NESHAPS or NSPS standard under Section 111 or 112 of the Act |
| Source with 3 or more processes from Table B |
| Tennis Ball Manufacturing |
| Vegetable Oil Extraction |
| **Table B** |
| Aerospace products Manufacturing & Rework not subject to MACT |
| Aggregate Production/Crushing, All |
| Aggregate Screening |
| Animal Feed Processing |

| |
|---|
| Auto Body Shredding |
| Bakery with oven of 25 tons per year of Potential Uncontrolled VOC emissions or facility with controls |
| Chemical /Fertilizer Storage, mixing, Packaging and Handling |
| Concrete Batching |
| Concrete product Manufacturing |
| Cotton Gin |
| Cotton Seed Processing |
| Crematory |
| Cultured marble |
| Fiberglass Product Manufacturing |
| Flour Milling |
| Foundry |
| Furnace, Metals |
| Furnace, Burn-off |
| Furnace, Electric-Arc |
| Furnace, Other |
| Gas Turbine, Non-Utility |
| Grain Cleaning/Processing |
| Grain Storage |
| Incinerator, Non-hazardous Material |
| Internal Combustion Engine, Cogeneration |
| Pipeline Transmission Facility |
| Plating Tanks, Electrolytic or Electrowinning |
| Soil Treatment/Remediation |
| Soil Solvent Extraction System with Package Thermal/Catalytic oxidizer/Carbon Adsorption |
| Solvent Degreasing/Cleaning System, Solvent Use >3 gallons per day |
| Solvent Reclaiming |
| Source with 3 or more processes from Table C |
| Stage I Vapor Recovery, Bulk Plants with Loading Racks |
| Stripping Operation, Equipment or Furniture Refurbishment |
| Stripping Operation, Liquid Chemical Groundwater/Wastewater Remediation |
| Wood Coating operation subject to RACT including |

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

## Part III. Enforcement Ordinances


**1.0 Civil Enforcement**
- **1.1 Administrative Compliance Orders**
- **1.2 Civil Penalties**
- **1.3 Injunctive Relief**
- **1.4 Denial or Revocation of Operating Permit**

**2.0 Criminal Enforcement**
- **2.1 Criminal Enforcement Referral Procedure**

**3.0 Citizen Suits**
- **3.1 Authority to Bring Civil Action**
- **3.2 Notice; Stay of Action**
- **3.3 Jurisdiction**
- **3.4 Award of Costs**
- **3.5 Non-restriction of Other Rights**
- **3.6 Emissions Standard or Limitation under the Ordinance Defined**

## 1.0 CIVIL ENFORCEMENT

### 1.1 Administrative Compliance Orders.

**A.** If the Director has reasonable cause to believe that any person has violated or is in violation of any provision of an Air Quality Ordinance, or any requirement of a permit issued pursuant to Part II, the Director may issue an order requiring compliance as expeditiously as practicable, but in no event later than one (1) year after the date the order was issued. The order shall be transmitted to the alleged violator by certified mail, return receipt requested, or by personal service.

**B.** A compliance order issued pursuant to this subsection shall state with reasonable specificity the nature of the violation, the requirement, provision, or section violated, a reasonable time for compliance, if applicable, and shall state that the alleged violator is entitled to a hearing if a hearing is requested in writing within thirty (30) days after the date of issuance of the order.

**C.** A compliance order becomes final and enforceable in the Community Court unless, within thirty (30) days after receipt of the compliance order, the alleged violator requests a hearing before an administrative law judge ("ALJ") in accordance with Part IV (Administrative Appeals). If a hearing is requested, the compliance order does not become final until the ALJ has issued a recommended decision on the appeal to the Director and the Director has issued a final decision on the appeal.

**D.** After the compliance order becomes final, the GRIC General Counsel ("General Counsel"), at the request of the Director, may file an action in Community Court to enforce an administrative compliance order issued pursuant to this subsection. Any person to whom a compliance order is issued who fails to take corrective action within the time specified in said order shall be liable for a civil penalty to be assessed by the Director in accordance with subsection 1.2 of this Section.

**E.** The Director's final decision is appealable to the Community Court, but the decision is not stayed during the appeal.

### 1.2 Civil Penalties.

**A.** Administrative Civil Penalties. Any person who is found to be in violation of an Ordinance, a compliance order issued pursuant to

subsection 1.1 of this Section, or any provision of a permit issued pursuant to Part II, shall be subject to an order imposing an administrative civil penalty of up to $5,000 per day for each violation.

**B.** Civil Judicial Penalties. Any person who is found to be in violation of an Ordinance, a compliance order issued pursuant to subsection 1.1 of this Section, or any provision of a permit issued pursuant to Part II, shall be subject to a civil judicial penalty of up to $10,000 per day for each violation.

**C.** Determining the Number of Days of Violation. Each day of a failure to perform any act or duty for which a civil penalty may be assessed pursuant to this Section constitutes a separate offense. Where the Director has notified the source of the violation, and the plaintiff makes a prima facie showing that the conduct or events giving rise to the violation are likely to have continued or recurred past the date of notice, the days of violation shall be presumed to include the date of such notice and each and every day thereafter until the violator establishes that continuous compliance has been achieved.

**D.** Recovery of Penalties. At the request of the Director, the General Counsel may file an action in Community Court to recover penalties provided for in this Section.

**E.** Penalty Assessment Criteria. In determining the amount of a civil penalty under this Section, the Director or the Community Court, as appropriate, shall consider the following factors:

**1.** The size of the business;

**2.** The economic impact of the penalty on the business;

**3.** The violator's full compliance history and good faith efforts to comply;

**4.** The duration of the violation as established by any other credible evidence (including evidence other than the applicable test method);

**5.** Payment by the violator of penalties previously assessed for the same violation;

**6.** The economic benefit of noncompliance; and

**7.** The seriousness of the violation.

**1.3** **Injunctive Relief.** At the request of the Director, the General Counsel may file an action for a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief provided by law if the Director has reasonable cause to believe that any of the following is occurring:

**A.** A person has violated or is in violation of any provision of an Ordinance, an order requiring compliance with an Ordinance, or any provision of a permit.

**B.** A person has violated or is in violation of an effective compliance order.

**C.** A person is creating an imminent and substantial endangerment to the public health or the environment.

**1.4** **Denial or Revocation of Operating Permit.**

**A.** Permit Denial. The Director may deny a request for a permit if the permit application demonstrates that the applicant is incapable of meeting the requirements of an Ordinance.

**B.** Revocation. Permits issued by the Department of Environmental Quality under the provisions of an Ordinance may be revoked by the Department of Environmental Quality for noncompliance with material conditions in the permit or when continued operation would violate an Ordinance or create a consistent pattern of imminent and substantial endangerment to public health or the environment.

**C.** Appeal. An order by the Director revoking a permit is appealable to an Administrative Law Judge ("ALJ") and the final order of revocation from the Director is appealable to Community Court in accordance with Part IV (Administrative Appeals).

## 2.0 CRIMINAL ENFORCEMENT

### 2.1 <u>Criminal Enforcement Referral Procedure</u>.

**A.** The General Counsel shall consult with and, as appropriate, refer for federal prosecution any person who is alleged to have willfully or knowingly violated an Ordinance or a permit issued under Part II.

**B.** If an Ordinance is knowingly violated, information concerning the violation may be forwarded to the EPA Region IX under a Memorandum of Agreement or other appropriate arrangement to be developed between GRIC and EPA, for possible criminal prosecution under Section 113(c) of the Clean Air Act.

## 3.0 CITIZEN SUITS

### 3.1 Authority to Bring Civil Action.

**A**. Except as provided in paragraph B of this subsection, any person, as defined in Section 1.0 of Part II, may commence a civil action on his own behalf against:

**1.** Any person who is alleged to have violated (if there is evidence that the alleged violation has been repeated) or to be in violation of:

(a) an emission standard or limitation under an Ordinance, or
(b) an order issued by the Director with respect to such emission standard or limitation.

**2.** Any person who proposes to construct or constructs any new or modified major emitting facility without a permit required under Part II or who is alleged to have violated (if there is evidence that the alleged violation has been repeated) or to be in violation of any condition of such permit.

**B.** No civil action may be commenced under this Section against the Community, DEQ, or Community officers, officials or employees acting within the scope of their duties. Tribal sovereign immunity bars civil suits against the Community or Community officers or officials acting within the scope of their duties.

**C.** The DEQ may intervene as a matter of right in any action filed under this Section.

### 3.2 Notice; Stay of Action.

**A.** Sixty (60) days prior to commencing an action under subsection 3.1, the plaintiff shall give notice of the violation to the following persons:
**1.** the Director of DEQ;
**2.** the Community (notice should be provided to the Governor); and
**3.** the alleged violator of the standard, limitation or order.

**B.** During the 60-day period prior to filing a citizen suit, the right to file a suit shall be stayed if the alleged violator and DEQ reach an enforcement settlement agreement that resolves the violations that are the subject of the

citizen suit and files such agreement with the Community Court. The violations that are the subject of the citizen suit may be resolved by payment of civil penalties, a compliance schedule, injunctive relief, or any combination thereof to which the parties agree.

**C.** The parties serving notice of the citizen suit shall have an opportunity to comment on the enforcement agreement, either through an open hearing or by filing written comments with the Community Court. After the comment period, the Community Court shall act to approve, modify or reject the enforcement settlement agreement. The stay of the citizen suit shall remain in effect until the Community Court issues a decision. If the Community Court rejects the enforcement settlement agreement, the stay is automatically lifted and the citizen suit may be filed in Community Court. If the Community Court approves the enforcement settlement agreement or approves it with modifications, the stay becomes permanent.

**3.3** **Jurisdiction.** Where a citizen suit is allowed to go forward, the Community Court shall have jurisdiction to enforce such an emission standard or limitation, or such an order and to apply any appropriate civil penalties.

**3.4** **Award of Costs.** The Community Court, in issuing any final order in any action brought pursuant to subsection 3.1 may award costs of litigation (including any reasonable attorneys' and expert witness fees) to any party, whenever the Court determines such award is appropriate

**3.5** **Non-Restriction of Other Rights.** Nothing in this Section shall restrict any right which any person may have under the laws and ordinances of the Community to seek enforcement of any emission standard or limitation or to seek any other relief, excluding relief against the Community, DEQ, or Community officers, officials or employees acting within the scope of their authority.

**3.6** **Emissions Standard or Limitation Under the Ordinance Defined.** For purposes of this Section, the term "emission standard or limitation under an Ordinance" means:

**A.** A schedule or timetable of compliance, emission limitation, standard of performance or emission standard;

**B.** A control or prohibition respecting a motor vehicle fuel or fuel additive;

**C.** Any condition or requirement of a permit under Part II or any condition or requirement under an Ordinance; or

**D.** Any other standard, limitation, or schedule established under an Ordinance.

## Part IV. Administrative Appeals

**1.0 General Provisions**
- **1.1 Applicability**

**2.0 Definitions**

**3.0 Administrative Appeals Procedures**
- **3.1 Notice of Appealable Agency Action: Hearing**
- **3.2 Service**
- **3.3 Request for a Hearing**
- **3.4 Assignment of Administrative Law Judge: Setting the Hearing**
- **3.5 Schedule of Hearing**
- **3.6 Pre-hearing Conference**
- **3.7 Hearing**

**4.0 Final Administrative Decision: Review**
- **4.1 Recommended Decision**
- **4.2 Final Decision**

**5.0 Judicial Review of Final Administrative Decisions**
- **5.1 Scope**
- **5.2 Commencement of Action**
- **5.3 Jurisdiction**
- **5.4 Service of Process**
- **5.5 Appearance of Defendants**
- **5.6 Pleadings and Record on Review**
- **5.7 Scope of Review**
- **5.8 Authority of the Gila River Indian Community Court**
- **5.9 Appellate Review**
- **5.10 Rule of Civil Procedure**

## 1.0 GENERAL PROVISIONS

**1.1** **Applicability.** This section applies to all appealable agency actions. An appealable agency action is:

**A.** The issuance or denial of an air quality permit;

**B.** A significant revision to an air quality permit;

**C.** Failure to act on an air quality permit in a timely manner or as prescribed by the applicable permit ordinance;

**D.** Revocation of an air quality permit;

**E.** The issuance of a compliance order; or

**F.** The imposition, by order, of an administrative civil penalty.

## 2.0 DEFINITIONS

**"Administrative Law Judge"** means an individual with experience and expertise in the law, appointed by the Governor, who sits as an administrative law judge and conducts administrative hearings for appealable agency actions.

**"Administrative Law Judge Decision"** means the findings of fact, conclusions of law, and recommended decision issued by an administrative law judge.

**"Department"** means the Gila River Department of Environmental Quality.

**"Appealable Department Action"** means an action that is subject to administrative appeal pursuant to this tribal ordinance.

**"Director"** means the Director of the Gila River Department of Environmental Quality.

**"Final Administrative Decision"** means a decision by the Gila River Department of Environmental Quality that is subject to review by the Gila River Community Court pursuant to Section 5.0.

**"Governor"** means the individual elected to serve as the Chief Executive Officer of the Gila River Indian Community.

## 3.0 ADMINISTRATIVE APPEALS PROCEDURES

### 3.1 Notice of Appealable Agency Action: Hearing.

**A.** At the time an action is taken that is appealable under subsection 1.1, the Gila River Department of Environmental Quality shall serve notice of the action pursuant to subsection 3.2. The notice shall identify the ordinance or rule that is alleged to have been violated or on which the action is based and shall include a description of the party's right to request a hearing on the matter.

**B.** A party may obtain a hearing on an appealable agency action by filing a notice of appeal with the Department of Environmental Quality within thirty (30) days after receiving the notice prescribed in paragraph (A) of this subsection. The notice may be filed by a party whose legal rights, duties, privileges were determined by the appealable agency action. A notice of appeal may also be filed by a party who will be adversely affected by the issuance or denial of a permit and who exercised any right to comment on the action as provided by law or ordinance, provided that the grounds for appeal are limited to issues raised in that party's comment. The Director of DEQ has the discretion to accept Notices that are filed late due to circumstances beyond the party's control.

**C.** The notice of appeal shall identify the party, the party's address, the action being appealed and shall contain a concise statement of the reasons for the appeal. The Department of Environmental Quality shall notify the Governor of the appeal and the Governor shall schedule a hearing pursuant to subsection 3.4.

### 3.2 Service.

**A.** Every notice or decision shall be served by personal delivery or certified mail, return receipt requested, or by any other method reasonably calculated to effect actual notice to every party to the action. Notice shall be served to the party's last address of record with the Department of Environmental Quality.

**B.** Each party shall inform the Department of Environmental Quality and if applicable, the administrative law judge of any change of address within (5) days of the change.

**3.3** **Request for a Hearing.**

**A.** The Director of the Department of Environmental Quality shall notify the Governor's office of the appeal within five (5) business days.

**B.** The Department of Environmental Quality shall provide the following information to the Governor's Office:

**1.** Caption of the matter, including the names of the parties.

**2.** The date the party appealed the agency action.

**3.** Estimated time for the hearing.

**4.** Proposed Hearing dates.

**5.** Any request to expedite or consolidate the matter.

**6.** Any agreement of the parties to waive the applicable time limits to set the hearing.

**7.** Information regarding the nature of the proceeding, including the specific allegation.

**3.4** **Assignment of Administrative Law Judge: Setting the Hearing.** Within thirty (30) days of the Governor's receipt of a request for a hearing, the Governor shall provide, in writing, to the appealing party and the Department of Environmental Quality:

**A.** The name of the administrative law judge assigned to hear the matter.

**B.** The date, time, and location of the hearing.

**3.5** **Scheduling of Hearing.**

**A.** Except as provided in paragraph (B) of this subsection, hearings for appealable agency actions shall be held within ninety (90) days after the notice of appeal is filed.

**B.** The date scheduled for the hearing may be advanced or delayed upon the agreement of the parties or on a showing of good cause.

**C.** The Administrative Law Judge shall prepare and serve a notice of hearing on all parties to the appeal at least thirty (30) days before the hearing. The notice shall include:

**1.** A statement of the time, place, and nature of the hearing.

**2.** A statement of legal authority and jurisdiction under which the hearing is to be held.

**3.** A reference to the particular sections of the ordinance involved.

**4.** A short and plain statement of the matters asserted.

**D.** Any party to the appeal may file a motion with the administrative law judge asserting the party's right to an expedited hearing.

**3.6 <u>Pre-Hearing Conference</u>.**

**A.** Upon written request of any party or upon the administrative law judge's own motion, the administrative law judge may schedule a pre-hearing conference at least ten (10) days before the date set for hearing. The purpose of the pre-hearing conference is to:

**1.** Clarify or limit procedural, legal, or factual issues.

**2.** Consider amendments to any pleading.

**3.** Identify and exchange lists of witnesses and exhibits intended to be introduced at the hearing.

**4.** Obtain stipulations or rulings regarding testimony, exhibits, fact or law.

**5.** Schedule deadlines, hearing dates, and locations if not previously set.

**6.** Allow the parties the opportunity to discuss settlement.

**B.** The pre-hearing conference must be scheduled at least ten (10) days before the hearing takes place. The administrative law judge may issue a pre-hearing order outlining the issues to be discussed. This order shall control the subsequent course of the action.

**C.** The administrative law judge shall record any agreements reached during a pre-hearing conference by electronic or mechanical means or memorialize them in an order reciting the agreement or action taken.

**3.7 <u>Hearing</u>.**

**A.** The parties to an appealable agency action have the right to be represented by counsel or to proceed without counsel, to submit evidence and to cross-examine witnesses.

**B.** The administrative law judge may issue subpoenas to compel the attendance of witnesses and the production of documents. The subpoenas shall be served and enforced in a manner provided by the Gila River Community Code of Law and Order for the service and enforcement of subpoenas in civil matters.

**C.** All parties shall have the opportunity to respond and present evidence and argument on all relevant issues. All relevant evidence is admissible, but the administrative law judge may exclude evidence if its probative value is outweighed by danger of unfair prejudice, by confusion of the issues or considerations of undue delay, waste of time, or needless presentation of cumulative evidence. The administrative law judge shall exercise reasonable control over the manner and order of cross-examining witnesses and presenting evidence to make cross-examination and presentation effective for ascertaining the truth, avoiding needless consumption of time and protecting witnesses from harassment or undue embarrassment.

**D.** The administrative law judge shall secure either a court reporter or an electronic means of producing a clear and accurate record of the proceeding at the Department of Environmental Quality's expense. Any party requesting a transcript shall pay the costs of the transcript.

**E.** Informal disposition may be made by stipulation, agreed settlement, consent order, or default.

**F.** The hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings is grounds for reversing any administrative decision if the evidence supporting the decision is substantial, reliable, and probative.

## 4.0 FINAL ADMINISTRATIVE DECISION: REVIEW

### 4.1 Recommended Decision.

**A.** The administrative law judge shall issue a written recommended decision within twenty (20) days after the hearing is concluded. The recommended decision shall include findings of fact and conclusions of law, separately stated, and a concise explanation of the reasons supporting the recommended decision.

**B.** The administrative law judge shall serve a copy of the recommended decision on the appealing party and the Director of the Department of Environmental Quality and the record of the hearing.

**C.** Within thirty (30) days after the date the administrative law judge sends a copy of the recommended decision to the Director, the Director may review the decision and accept, reject or modify it in accordance with the following requirements:

**1.** If the Director declines to review the administrative law judge's decision or accepts the decision, the Director shall serve the decision on all parties.

**2.** Prior to rejecting or modifying the decision, the Director shall consult with and obtain the written consent of the Governor or his or her designee. The Director shall thereafter serve on all parties a copy of the administrative law judge's decision with the rejection or modification and a written justification setting forth reasons for the rejection or modification.

### 4.2 Final Decision.

**A.** The Director's final decision shall state separately the findings of fact and conclusions of law. If no appeal is taken within thirty-five (35) days, the decision shall become final.

**B.** A party may appeal a final administrative decision pursuant to Section 5.0 of this Part.

## 5.0 JUDICIAL REVIEW OF FINAL ADMINISTRATIVE DECISIONS

### 5.1 Scope.

**A.** This Section applies to and governs every action to review judicially a final administrative decision of the Director.

**B.** Unless review is sought of an administrative decision within the time and in the manner provided in subsection 5.2, the parties to the proceeding shall be barred from obtaining judicial review of such decision.

### 5.2 Commencement of Action.

An action to review a final administrative decision shall be commenced by the affected party by filing a complaint within thirty five days from the date when a copy of the decision sought to be reviewed is served upon the party affected. The decision shall be deemed to have been served when personally delivered or mailed by registered mail to the party affected at the last recorded residence or place of business.

### 5.3 Jurisdiction.

Jurisdiction to review final administrative decisions is vested in the Gila River Indian Community Court.

### 5.4 Service of Process.

In an action to review a final administrative decision, a copy of the summons and complaint shall be served as in civil actions and as provided by the Gila River Indian Community Code of Law and Order, upon the Director of the Office of the Department of Environmental Quality.

### 5.5 Appearance of Defendants.

Within twenty (20) days after service of the summons and complaint, the Director shall answer the complaint.

### 5.6 Pleadings and Record on Review.

**A.** The complaint shall contain a statement of the findings and decision or part thereof for which review is sought, and shall clearly specify the grounds upon which review is sought. It shall also state what portion of the record the party asserts is relevant to the review it is seeking and which shall be filed by the Director as part of the record on review.

**B.** Except as otherwise provided, the Director shall file an answer which shall contain the original or a certified copy of the portion of record designated in the complaint. The answer may also contain other portions of the record as the Director deems relevant. By order of the court or by stipulation of all parties to the action, the record may be shortened or supplemented.

**C.** If, as a result of judicial review, the cause is remanded to the Department of Environmental Quality and a review thereafter is sought of the administrative decision, the original and supplemental record, or so much thereof as is determined by court order or stipulation of all parties, shall constitute the record on review.

**5.7 Scope of Review.**

**A.** An action to review a final administrative decision shall be heard and determined within a reasonable time. The hearing and determination shall be extended to all questions of law and fact presented by the entire record before the court. No new or additional evidence in support of or in opposition to a finding, order, or decision of the Department of Environmental Quality shall be heard by the court, except in the event of a trial de novo or in cases where in the discretion of the court, justice demands the admission of such evidence.

**B.** The trial shall be de novo if a trial de novo is demanded in the complaint or answer and if no hearing was held by an administrative law judge or the proceedings before the administrative law judge were not stenographically reported or mechanically recorded so that a transcript might be made.

**C.** A party who has demanded a trial de novo in the complaint or answer pursuant to subsection 5.7 (B) shall file, prior to the time for filing the opening appellate brief, a motion explaining the need for a trial de novo with citation to legal authority supporting the demand. Any party opposing the motion may file a response thereto.

**D.** The Gila River Indian Community Court may not reverse the Director's finding of fact unless it is clearly erroneous and may not reverse the Director's final administrative decision unless it has no substantial evidentiary basis in the record or is erroneous as a matter of law.

**5.8 Authority of the Gila River Indian Community Court.**

**A.** The Gila River Indian Community Court may:

**1.** With or without bond, unless required by ordinance under authority of which the administrative decision was entered, and before or after answer, stay the decision in whole or in part pending final disposition of the case, after notice to the Department of Environmental Quality and for substantial good cause shown.

**2.** Make any order that it deems proper for the amendment, completion, or filing of the record of the proceedings by the Department of Environmental Quality.

**3.** Allow substitution of parties by reason of marriage, death, bankruptcy, assignment or other cause.

**4.** Dismiss parties or realign parties plaintiff and defendant.

**5.** Modify, affirm, or reverse the decision in whole or in part.

**6.** Specify questions or matters requiring further hearing or proceedings and give other proper instructions.

**7.** When a hearing has been held by the administrative law judge, remand for the purpose of taking additional evidence when from the state of the record or otherwise it appears that such action is just.

**8.** In the case of affirmance or partial affirmance of an administrative decision requiring payment of money, enter judgment for the amount justified by the record and for costs, upon which execution may issue.

**B.** Technical errors in the proceedings before the administrative law judge or failure to observe technical rules of evidence shall not constitute grounds for reversal of the decision, unless the trial court determines that the error or failure affected the rights of a party and resulted in injustice to that party.

**C.** On motion of a party before rendition of judgment, the trial court shall make findings of fact and state conclusions of law upon which its judgment is based.

**5.9 <u>Appellate Review</u>.**

The final decision, order, judgment, or decree of the Gila River Indian Community Court entered for an action to review a final administrative decision of the Director may be appealed to the Gila River Indian Community Court of Appeals.

**5.10 <u>Rules of Civil Procedure</u>.**

Where applicable, all rules of civil procedure in the Gila River Indian Community Court, including rules relating to appeals to the Gila River Indian Community Court of Appeals, shall apply to all proceedings.

**Part V. Area Source Emission Limits**

**Section 1.0 Open Burning**


**1.0 Applicability**
**2.0 Definitions**
**3.0 Standards**
- **3.1 General Prohibition**
- **3.2 Exemptions**
- **3.3 Prohibitions**
- **3.4 Permit – Authorized Fires**

**4.0 Open Burn Permits**
- **4.1 Permit Requirements**
- **4.2 Permit Conditions**
- **4.3 Permit Denial**

## 1.0 APPLICABILITY

This Section limits the types of materials that can be openly burned within the Community and applies to any person who conducts any open burning within the Community.

## 2.0 DEFINITIONS

**"Cultural/Religious/Ceremonial fire"** means a fire associated with a Native American ceremony or ritual.

**"Cooking fire"** means a fire set for the domestic cooking of food.

"**Commercial fires**" means fires set for the disposal of vegetative waste resulting from the process of commercial clearing of land five (5) acres or greater.

**"Construction debris"** means waste generated from construction of homes, dwellings or structures or demolishing a home, dwelling or structure and is comprised of wood, metal, fiberglass, tar, tar paper, plastic, and other debris associated with construction of a structure, demolishing a structure or rebuilding a structure.

**"High Winds"** means, for the purposes of a commercial burn permit, winds above ten (10) miles per hour.

**"Nuisance"** means an emission of smoke or other emissions from any open fire that creates a condition that is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property.

"**Open burning**" means the burning of a material that results in the products of combustion being emitted directly into the atmosphere without passing through a stack. Open burning includes burning in burn barrels.

**"Recreational fire"** means barbeques and campfires, using charcoal, natural gas, propane, or natural wood which occur in designated areas or on private property. Fires used for debris disposal purposes are not considered recreational fires.

**"Residential fire**" means a fire set for the purpose of destroying weeds, brush, small limbs and other yard waste around a home, along a fence line or other small area which does not last for an extended period of time and is usually small in size.

**"Yard waste"** means leaves, grass clippings, garden debris, and smaller chip branches.

## 3.0 STANDARDS

**3.1** **General Prohibition.** Except as otherwise provided in this Section, no person shall permit, cause, suffer or allow open burning within the exterior boundaries of the Community.

**3.2** **Exemptions.** The following open fires are exempted from the provisions of this Section (these fires are allowed under this Section without a permit):

**A.** Fires used only for the domestic cooking of food (indoors and outdoors);

**B.** Fires used for cultural, religious or ceremonial purposes;

**C.** Fires used only for providing warmth (indoors and outdoors);

**D.** Fires set for recreational purposes;

**E.** Fires set for branding of animals; and

**F.** Fires set by the GRIC Fire Department for purposes of training personnel as long as notice is given to the GRIC DEQ prior to ignition of the fire.

**3.3** **Prohibitions.** Open burning of the following materials is forbidden.

Garbage resulting from the processing, storage, service or consumption of food; asphalt shingles, tar paper; plastic and rubber products; petroleum products (such as waste crankcase oil, transmission oil and oil filters); transformer oils; hazardous material containers including those that contained inorganic pesticides, lead, cadmium, mercury, or arsenic compounds, tires, shredded or chopped tires, construction debris, debris from demolished homes and trailers homes and asbestos containing materials.

**3.4** **Permit- Authorized Fires.** The following fires are allowed but only after acquiring a permit from the DEQ.

**A.** Permitted residential fires:

**1.** Fires set for the disposal of leaves, lawn clippings, tree trimmings/tree limbs and other yard waste, provided that no materials that generate toxic fumes, such as oleander leaves or branches, may be burned.

**B.** Permitted commercial fires: Fires set for the disposal of vegetative waste resulting from the process of land clearing, commercial development or other large scale permitted fires.

**C.** Permitted agricultural fires: Fires set for weed control or abatement, clearing fields or ditches of vegetation, or the disposal of other naturally grown products of horticulture, provided that no materials that generate toxic fumes, such as oleander leaves or branches, may be burned.

## 4.0 OPEN BURN PERMITS

### 4.1 <u>Permit Requirements</u>.

**A.** Permit applications: Any person seeking a residential or agricultural burn permit shall do so by submitting a burn permit application to the Department of Environmental Quality (DEQ). The Department shall require the applicant to provide the following information in writing:

**1.** the applicant's name, address and telephone number;

**2.** the location where the burning is to be conducted;

**3.** the type and quantity of material to be burned;

**4.** the date(s) when the burning is to be conducted; and

**5.** the permittee's signature.

**B.** The Department may required the applicant to comply with the following requirements:

**1.** to burn only between the hours of 9:00 am and 3:00 pm from November through February, and during daylight hours from March through October;

**2.** to burn only dry materials;

**3.** to notify any neighbors within one-quarter of a mile of the area where the burn will occur twenty-four (24) hours prior to burning; and

**4.** to have a signed copy of the burn permit available at the site of the burn while burning is ongoing.

**C.** Additional requirements for commercial burn permits may include:

**1.** A requirement to cease burning operations during High Winds;

**2.** A requirement to notify any persons that may be affected by burning operations twenty-four (24) hours prior to burning;

**3.** A requirement to pay a permit fee;

**4.** A requirement to notify the GRIC Fire Department before burning;

**5.** A requirement to provide fire control equipment to prevent the fire from spreading (e.g., water truck etc.); and

**6.** The methods that will be followed to ignite, maintain and control the burning.

**D.** Fees: A fee of $100.00 shall be submitted to the GRIC DEQ with each commercial Open Burning Permit application.

**4.2** **Permit Conditions.** Each residential, agricultural, and commercial permit shall contain a provision that requires all burns to be extinguished when the Department of Environmental Quality, the GRIC Fire Department or the GRIC Department of Public Health makes a determination that inadequate smoke dispersion may cause a potential health problem, an adverse environmental impact, a nuisance or may be detrimental to public safety.

**4.3** **Permit Denial.** A permit to burn shall not be issued if the Department determines that:

**A.** A practical alternative to burning exists;

**B.** The Governor of the Gila River Indian Community determines that there is an extreme fire hazard;

**C.** An air quality emergency exists as described in Part I (General Provisions), Section 2.2 of Title 17, Chapter 9.

**D.** The application contains a material or operation that does not meet the criteria described in this ordinance or the GRIC Fire Department uniform fire code.

**Part V. Area Source Fugitive Dust Emission Limits**

**Section 2.0 General Requirements for Fugitive Dust-Producing Activities**


**1.0 Applicability**
- **1.1 General Applicability**
- **1.2 Exemptions**

**2.0 Definitions**
**3.0 Limitations and Standards**
- **3.1 Fugitive Dust/Fugitive Emissions**

**4.0 Unpaved Parking Lots**
**5.0 Unpaved Haul/Access Road**
**6.0 Dust Control Plan Required**
**7.0 Elements of a Dust Control Plan**
**8.0 Dust Control Plan Revisions**
**9.0 Control Measures**
**10.0 Work Practices**
- **10.1 Bulk Material Hauling Off-site onto Paved Public Roadways**
- **10.2 Bulk Material Hauling On-site within the Boundaries of the Work Site**
- **10.3 Spillage, Carry-out, Erosion, and/or Trackout**
- **10.4 Unpaved Haul/Access Roads**
- **10.5 Open Storage Piles**

**11.0 Project Information Sign**
**12.0 Compliance Determination**
- **12.1 Stabilization Observations**
- **12.2 Test Methods Adopted by Reference**

**13.0 Recordkeeping**

**Table 1 Source Type and Control Measures**

## 1.0 APPLICABILITY

**1.1** **General Applicability.** This Section limits particulate matter emissions into the ambient air from any property, operation or activity that may serve as a fugitive dust source. The effect of this Section shall be to minimize the amount of PM10 emitted into the ambient air as a result of the impact of human activities by requiring measures to prevent, reduce, or mitigate particulate matter emissions.

**1.2** **Exemptions.** This Section does not apply to the owner or occupant of a single family residence, the owner or manager of a residential building with four or less units, normal farming practices or public roads owned or maintained by any federal, tribal, or local government. However, one or more of these activities may be regulated under a separate Section.

## 2.0 DEFINITIONS

The following definitions apply to this Section:

**"Carry-out/Trackout"** means any and all bulk materials that adhere to and agglomerate on the exterior surfaces of motor vehicles, haul trucks, and/or equipment (including tires) and that have fallen onto a paved public roadway.

**"Dust Control Plan"** means a written plan describing all dust control measures to be implemented by a source.

**"Dust Generating Operation"** means any activity capable of generating fugitive dust including, but not limited to, land clearing, earthmoving, excavating, construction, demolition, material handling, storage and/or transporting operations, vehicle use and movement, the operation of any outdoor equipment, or unpaved parking lots. For the purpose of this Section, landscape maintenance and/or playing on a ballfield shall not be considered a dust generating operation. However, landscape maintenance shall not include grading, trenching, nor any other mechanized surface disturbing activities performed to establish initial landscapes or to redesign existing landscapes.

**"Earthmoving Operation"** means the use of any equipment for an activity which may generate fugitive dust including, but not limited to, cutting and filling, grading, leveling, excavating, trenching, loading or unloading of bulk materials, demolishing, blasting, drilling, adding to or removing bulk materials from open storage piles, backfilling, soil mulching, or landfill operations.

**"Freeboard"** means the vertical distance between the top edge of a cargo container area and the highest point at which the bulk material contacts the sides, front, and back of a cargo container area.

**"Fugitive Dust"** means particulate matter emissions made airborne by forces of wind, mechanical disturbances of surfaces, or both. Unpaved roads, construction sites, and tilled land are examples of sources of fugitive dust.

**"Fugitive Particulate Matter"** means particulate matter emissions which do not pass through a stack, chimney, vent, or other functionally equivalent opening.

**"Gravel Pad"** means a layer of washed gravel, rock, or crushed rock which is at least one inch or larger in diameter, maintained at the point of intersection of a paved public roadway and a work site entrance to dislodge mud, dirt, and/or debris from the tires of motor vehicles and/or haul trucks, prior to leaving the work site.

**"Grizzly"** means a device (i.e., rails, pipes, or grates) used to dislodge mud, dirt, and/or debris from the tires and undercarriage of motor vehicles and/or haul trucks prior to leaving the work site.

**"Normal Farming Practice(s)"** means all activities by the owner, lessee, agent, independent contractor, and/or supplier conducted on any facility for the production of crops and/or nursery plants. Disturbances of the field surface caused by turning under stalks, tilling, leveling, planting, fertilizing, or harvesting are included in this definition.

**"Owner and/or Operator"** means the person responsible for obtaining an earthmoving permit under Section 6.0 of this ordinance, or any person who owns, leases, operates, controls, or supervises a fugitive dust source subject to the requirements of this ordinance.

**"Silt"** means any aggregate material with a particle size less than seventy-five (75) micrometers in diameter, which passes through a No. 200 Sieve.

**"Unpaved Haul/Access Road"** means any on-site unpaved road used by commercial, industrial, institutional, and/or governmental traffic.

**"Unpaved Parking Lot"** means any area larger than 5,000 square feet that is not paved and that is used for parking, maneuvering, or storing motor vehicles.

## 3.0 LIMITATIONS AND STANDARDS

### 3.1 <u>Fugitive Dust/Fugitive Emissions</u>.

**A.** The owner or operator of any source of fugitive dust or fugitive particulate matter emissions including, but not limited to, any source or activity engaged in materials handling or storage, construction, demolition, or any other operation which is or may be a source of fugitive particulate matter emissions shall take all reasonable precautions to prevent fugitive dust and fugitive particulate matter emissions and shall maintain and operate the source to minimize fugitive dust and fugitive particulate matter emissions. Under no circumstances shall the owner/operator of any source of fugitive dust or fugitive particulate matter emissions allow visible emissions to exceed twenty (20) percent opacity. Compliance with this section is based on documented compliance with the applicable performance standards, the work practice requirements, the applicable requirements listed in Table 1, and the reasonable precautions listed below.

**B.** Reasonable precautions include, but are not limited to, the following:

**1.** Use of water or chemicals for control of dust in the demolition of buildings or structures, construction operations, grading of roads, or clearing of land.

**2.** Application of asphalt, water, or other suitable chemicals on unpaved roads, materials stockpiles, and other surfaces which can create airborne dust.

**3.** Full or partial enclosure of materials stockpiles in cases where application of water, or chemicals is not sufficient or appropriate to prevent particulate matter from becoming airborne. Implementation of good housekeeping practices to avoid or minimize the accumulation of dusty materials which have the potential to become airborne. This includes, but is not limited to, manual sweeping and the use of industrial vacuum cleaners.

**4.** Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials.

**5.** Adequate containment during sandblasting or other similar operations.

**6.** Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne.

**7.** The prompt removal from paved streets of earth or other material which does or may become airborne.

**4.0 UNPAVED PARKING LOTS.** The owner and/or operator of any unpaved parking lot in an industrial/commercial area with traffic exceeding twenty (20) vehicle trips per day shall not allow visible fugitive dust emissions to exceed twenty (20) percent opacity, and shall employ one of the following control measures:

**A.** Apply a palliative approved by the Department;

**B.** Apply gravel at quantities sufficient to ensure that particulate emissions do not exceed twenty (20) percent opacity;

**C.** Paving; or

**D.** Employ an alternate dust control measure approved by the Department. At a minimum, an alternative dust control measure shall not allow silt loading equal to or greater than 0.33 ounces per square foot, or allow silt content to exceed eight (8) percent as determined by applicable test methods in Section 12.0.

**5.0 UNPAVED HAUL/ACCESS ROAD.** The owner and/or operator of any unpaved haul/access road (whether at a work site that is under construction or at a work site that is temporarily or permanently inactive):

**5.1** Shall not allow visible fugitive dust emissions to exceed twenty (20) percent opacity, and shall:

**A.** Apply a dust palliative, including water, approved by the Department;

**B.** Apply water in sufficient quantities to ensure that particulate matter emissions do not exceed twenty (20) percent opacity (at a minimum, application of water must be confirmed utilizing log books on water trucks); or

**C.** Apply gravel at quantities sufficient to ensure that particulate matter emissions do not exceed twenty (20) percent opacity; or

**D.** Employ an alternate dust control measure approved by the Department. At a minimum, an alternative dust control measure shall not allow silt loading equal to or greater than 0.33 ounces per square foot, or allow silt content to exceed six (6) percent as determined by applicable test methods in Section 12.0.

**5.2** Shall, as an alternative to meeting the stabilization requirements in subsection 5.1 for an unpaved haul/access road, limit vehicle trips to no more than twenty (20) per day and limit vehicle speeds to no more than fifteen (15) miles per hour. If complying with this subsection, the owner/operator of an unpaved haul/access road must include, in a Dust Control Plan, a list of the number of vehicles traveled on the unpaved haul/access roads (i.e., number of employee vehicles, earthmoving equipment, haul trucks, and water trucks). At no time shall the owner or operator of an unpaved haul/access road allow particulate emissions to exceed twenty (20) percent opacity.

**6.0 DUST CONTROL PLAN REQUIRED.** The owner and/or operator of a source shall submit to the Department, a Dust Control Plan with any permit applications that involve earthmoving operations which exceed one (1.0) acre. The owner and/or operator proposing to conduct earthmoving operations which exceed one (1.0) acre in size shall apply for and receive a permit from the Department prior to conducting any earthmoving operations. Failure to submit and obtain an approved Dust Control Plan and earthmoving permit prior to commencing earthmoving operations shall be a violation of this Section. Compliance with this subsection does not affect a source's responsibility to comply with any other applicable requirements. The Dust Control Plan shall describe all control measures to be implemented before, after, and while conducting any dust generating operation, including during weekends, after work hours, and on holidays.

**6.1** A Dust Control Plan shall, at a minimum, contain all the information described in subsection 7.0 of this Section. The Department shall approve, disapprove, or conditionally approve the Dust Control Plan, in accordance with the criteria used to approve, disapprove or conditionally approve a permit. Failure to comply with the provisions of an approved Dust Control Plan is deemed to be a violation of this Section. Regardless of whether an approved Dust Control Plan is in place or not, the owner and/or operator of a source is still subject to all requirements of this Section at all times. In addition, the owner and/or operator of a source with an approved Dust Control Plan is still subject to all of the requirements of this Section, even if such owner and/or operator is complying with the approved Dust Control Plan.

**6.2** At least one primary control measure and one contingency control measure must be identified in the Dust Control Plan for all fugitive dust sources. Should any primary control measure(s) prove ineffective, the owner and/or operator shall immediately implement the contingency control measure(s), which may obviate the requirement of submitting a revised Dust Control Plan.

**6.3** The following subsections, subsection 6.3(A) and subsection 6.3(B) of this Section, describe the permit applications with which a Dust Control Plan must be submitted.

**A.** Each person required to obtain an Earthmoving Permit in accordance with this Section, must first submit a Dust Control Plan and obtain

Departmental approval of the Dust Control Plan before commencing any dust generating operation.

**B.** If a person is required to obtain or has obtained a Title V Permit, a Non-Title V Permit, or a General Permit under Part II (Permit Requirements), then such person must submit a Dust Control Plan and obtain Departmental approval of the Dust Control Plan before commencing any routine dust generating operation.

**6.4** A Dust Control Plan shall not be required:

**A.** To play on a ballfield and/or for landscape maintenance. For the purpose of this Section, landscape maintenance does not include grading, trenching, nor any other mechanized surface disturbing activities.

**B.** To establish initial landscapes or to redesign existing landscapes of legally-designated Community parks and recreational areas, including national parks, national monuments, national forests, and tribal parks, hiking paths, horse trails, bicycle paths, ballfields, playgrounds at camp sites, and camp sites, which are used exclusively for purposes other than travel by motor vehicles. For the purpose of this Section, establishing initial landscapes or redesigning existing landscapes does not include grading, trenching, nor any other mechanized surface disturbing activities.

**C.** For normal farming practices.

**7.0 ELEMENTS OF A DUST CONTROL PLAN.** A Dust Control Plan shall contain, at a minimum, all of the following information:

**7.1** Names, address(es), and phone numbers of person(s) responsible for the submittal and implementation of the Dust Control Plan and responsible for the dust generating operations.

**7.2** A drawing, on at least 8½" x 11" paper, which shows:

**A.** Entire project site boundaries;

**B.** Acres to be disturbed with linear dimensions;

**C.** Nearest public roads;

**D.** North arrow;

**E.** Planned exit locations onto paved public roadways; and

**F.** The expected duration of the project.

**7.3** Control measures or combination thereof to be applied to all actual and potential fugitive dust sources, before, after, and while conducting any dust generating operations, including during weekends, after work hours, and on holidays.

**A.** At least one primary control measure and one contingency control measure must be identified, from Table 1 to this Section, for all fugitive dust sources. Should any primary control measure(s) prove ineffective, the owner and/or operator shall immediately implement the contingency control measure(s), which may obviate the requirement of submitting a revised Dust Control Plan.

**B.** Alternatively, a control measure(s) that is not in Table 1 to this Section may be chosen, provided that the control measure is approved in writing by the Department and implemented by the permittee, in accordance with the appropriate test method in Section 12.0 of this ordinance.

**C.** If complying with subsection 5.0 (Unpaved Haul/Access Roads) of this Section, the plan must include the number of vehicles traveled on the unpaved haul/access roads (i.e., number of employee vehicles, earthmoving equipment, haul trucks, and water trucks).

**7.4** Identification of the dust suppressants to be applied, including:

**A.** Product specifications or label instructions for approved usage;

**B.** Method, frequency, and intensity of application;

**C.** Type, number, and capacity of application equipment; and

**D.** Information on environmental impacts and approvals or certifications related to appropriate and safe use for ground application.

**7.5** Specific surface treatment(s) and/or control measures utilized to control material trackout and sedimentation where unpaved and/or access points join paved public roadways.

**8.0 DUST CONTROL PLAN REVISIONS.** If the Department determines that an approved Dust Control Plan has been followed, yet fugitive dust emissions from any given fugitive dust source still exceed the twenty (20) percent opacity standard contained in this Section, then the Department shall issue a notice to the owner and/or operator of such source explaining such determination. The owner and/or operator of such source shall make written revisions to the Dust Control Plan as necessary to meet the twenty (20) percent opacity standard and shall submit such revised Dust Control Plan to the Department within three working days of receipt of the Department's notice, unless such time period is extended by the Department, for good cause. During the time that such owner and/or operator is preparing revisions to the approved Dust Control Plan, such owner and/or operator must still comply with all requirements of this Section.

**9.0 CONTROL MEASURES.** The owner and/or operator of a source shall implement control measures before, after, and while conducting any dust generating operation, including during weekends, after work hours, and on holidays in accordance with subsection 7.3 and Table 1 of this Section. Failure to comply with the provisions of subsection 10.0 (Work Practices) of this Section, as applicable, and/or of an approved Dust Control Plan, is deemed a violation of this Section. Regardless of whether an approved Dust Control Plan is in place or not, the owner and/or operator of a dust generating operation is still subject to all requirements of this Section at all times. In addition, the owner and/or operator of a dust generating operation with an approved Dust Control Plan is still subject to all of the requirements of this Section, even if such owner and/or operator of a dust generating operation is complying with the approved Dust Control Plan.

**10.0 WORK PRACTICES.** When engaged in the following specific activities, the owner and/or operator of a source shall comply with the following work practices in addition to implementing, as applicable, the control measures described in Table 1 of this Section. Such work practices shall be implemented to meet the twenty (20) percent opacity standard of this Section and the stabilization requirements in Table 1, as determined by the applicable test method in Section 12.0.

**10.1 <u>Bulk Material Hauling Off-Site Onto Paved Public Roadways</u>.**

**A.** Load all haul trucks such that the freeboard is not less than three inches;

**B.** Prevent spillage or loss of bulk material from holes or other openings in the cargo compartment's floor, sides, and/or tailgate(s);

**C.** Cover all haul trucks with a tarp or other suitable closure; and

**D.** Before the empty haul truck leaves the site, clean the interior of the cargo compartment or cover the cargo compartment.

**10.2 <u>Bulk Material Hauling On-Site Within the Boundaries of the Work Site</u>.** When crossing a public roadway upon which the public is allowed to travel while construction is underway:

**A.** Load all haul trucks such that the freeboard is not less than three inches;

**B.** Prevent spillage or loss of bulk material from holes or other openings in the cargo compartment's floor, sides, and/or tailgate(s); and

**C.** Install a suitable trackout control device that controls and prevents trackout and/or removes particulate matter from tires and the exterior surfaces of haul trucks and/or motor vehicles that traverse such work site. Examples of trackout control devices are described in Table 1 (Trackout-1J, 2J, 3J) of this Section.

**10.3 <u>Spillage, Carry-Out, Erosion, and/or Trackout</u>.**

**A.** Install a suitable trackout control device (Examples of trackout control devices are described in Table 1 (Trackout-1J, 2J, 3J) of this Section) that

controls and prevents trackout and/or removes particulate matter from tires and the exterior surfaces of haul trucks and/or motor vehicles that traverse such work site at all exits onto a paved public roadway:

**1.** From all work sites with a disturbed surface area of five acres or larger.

**2.** From all work sites where one hundred (100) cubic yards of bulk materials are hauled on-site and/or off-site per day.

**B.** Cleanup spillage, carry-out, erosion, and/or trackout on the following time-schedule:

**1.** Immediately, when spillage, carry-out, and/or trackout extends a cumulative distance of fifty (50) linear feet or more; or

**2.** At the end of the work day, when spillage, carry-out, erosion, and/or trackout are other than the spillage, carryout, erosion, and/or trackout described above, in subsection 10.3(b)(1) of this Section.

**10.4** **Unpaved Haul/Access Roads.** Implement 1 or more control measure(s) described in Table 1 (Unpaved Haul/Access Roads-1C through 5C) of this Section, before engaging in the use of or in the maintenance of unpaved haul/access roads.

**10.5** **Open Storage Piles.** For the purpose of this Section, an open storage pile is any accumulation of bulk material with a five (5) percent or greater silt content which in any one point attains a height of three feet and covers a total surface area of one hundred fifty (150) square feet or more. Silt content shall be assumed to be five (5) percent or greater unless a person can show, by testing in accordance with ASTM Method C136-96A or other equivalent method approved in writing by the Department and the Administrator of EPA, that the silt content is less than five (5) percent.

**A.** During stacking, loading, and unloading operations, apply water, other dust palliatives or other Department-approved dust control technologies, as necessary, to maintain compliance with subsection 3.0 of this Section; and

**B.** When not conducting stacking, loading, and unloading operations, comply with one of the following work practices:

**1.** Cover open storage piles with tarps, plastic, or other material to prevent wind from removing the coverings; or

**2.** Apply water to maintain a soil moisture content at a minimum of twelve (12) percent, as determined by ASTM Method D2216-98, or other equivalent method as approved by the Department and the Administrator of EPA. For areas which have an optimum moisture content for compaction of less than twelve (12) percent, as determined by ASTM Method D1557-91 (1998) or other equivalent method approved by the Department or the Administrator of EPA, maintain at least seventy (70) percent of the optimum soil moisture content or maintain a visible crust that complies with the test method in subsection 12.2(B) of this Part V; or

**3.** Meet one of the stabilization requirements described in subsection 3.1 (B) of this Section; or

**4.** Construct and maintain wind barriers, storage silos, or a three-sided enclosure with walls, whose length is no less than equal to the length of the pile, whose distance from the pile is no more than twice the height of the pile, whose height is equal to the pile height, and whose porosity is no more than fifty (50) percent. If implementing this subsection 10.5(b)(4), either subsection 10.5(b)(2) or subsection 10.5(b)(3) also must be implemented; or

**5.** Maintain a visible crust that complies with the test method in subsection 12.2 (B) of this Part V.

**11.0 PROJECT INFORMATION SIGN.** The owner and/or operator of a source shall erect a project information sign at the main entrance, that is visible to the public, of all sites with Earthmoving Permits that are five (5) acres or larger. Such sign shall be a minimum of four (4) feet long by four feet wide, have a white background, have black block lettering which is at least four (4) inches high, and shall contain the following information:

**A.** Project name; and

**B.** Name and phone number of person(s) responsible for conducting the project; and

**C.** Text stating: "Complaints? Call GRIC Department of Environmental Quality (520) 562-2234."

**12.0 COMPLIANCE DETERMINATION.** To determine compliance with this section, the following test methods shall be followed:

**12.1 <u>Stabilization Observations</u>.**

**A.** Unpaved Parking Lots in an Industrial/Commercial Area. Stabilization observations for unpaved parking lots in industrial/commercial areas shall be conducted in accordance with Maricopa County Appendix C (Fugitive Dust Test Methods), Section 2.1 Adopted by Referenced as of [date of promulgation] (Test Methods For Stabilization-For Unpaved Roads And Unpaved Parking Lots) of these sections. When more than 1 test method is permitted for a determination, an exceedance of the limits established in this section determined by any of the applicable test methods constitutes a violation of this section.

**B.** Unpaved Haul/Access Road. Stabilization observations for unpaved haul/access roads (whether at a work site that is under construction or at a work site that is temporarily or permanently inactive) shall be conducted in accordance with Maricopa County Appendix C (Fugitive Dust Test Methods), Section 2.1 Adopted by Referenced as of [date of promulgation] (Test Methods For Stabilization-For Unpaved Roads And Unpaved Parking Lots) of this section. When more than 1 test method is permitted for a determination, an exceedance of the limits established in this section determined by any of the applicable test methods constitutes a violation of this section.

**12.2 <u>Test Methods Adopted By Reference</u>.** The test methods listed in this section are adopted by reference as of July 1, 2006. These adoptions by reference include no future editions or amendments. Copies of the test methods listed in this section are available for review at the Gila River Indian Community Department of Environmental Quality, 35 Pima Street, Sacaton, Arizona 85247.

**A.** Maricopa County Appendix C (Fugitive Dust Test Methods), Section 2.1 Adopted by Referenced as of [date of promulgation] (Test Methods For Stabilization-For Unpaved Roads And Unpaved Parking Lots).

**B.** Maricopa County Appendix C (Fugitive Dust Test Methods), Section 2.3 Adopted by Reference (Test Methods For Stabilization-Visible Crust Determination) (The Drop Ball/Steel Ball Test) for a visible crust.

**C.** ASTM Method C136-96A ("Standard Test Method For Sieve Analysis Of Fine And Coarse Aggregates"), 1996 edition.

**D.** ASTM Method D2216-98 ("Standard Test Method For Laboratory Determination Of Water (Moisture) Content Of Soil And Rock By Mass"), 1998 edition.

**E.** ASTM Method D1557-91(1998) ("Test Method For Laboratory Compaction Characteristics Of Soil Using Modified Effort (56,000 ft-lbf/ft3 (2,700 kN-m/m3)"), 1998 edition.

**F.** An alternative test method approved in writing by the Director and the Administrator of the EPA.

**13.0 RECORDKEEPING.** Any person who conducts dust-generating operations that require a Dust Control Plan shall keep a daily written log recording the actual application or implementation of the control measures delineated in the approved Dust Control Plan. Any person who conducts dust-generating operations which do not require a Dust Control Plan shall compile and retain records that provide evidence of control measure application, by indicating the type of treatment or control measure, extent of coverage, and date applied. Upon verbal or written request by the Department, the log or the records and supporting documentation shall be provided within 48 hours, excluding weekends. If the Director or his/her designee is at the site where requested records are kept, records shall be provided without delay. Records required by this section must be kept for a period of two (2) years.

| TABLE 1. SOURCE TYPE AND CONTROL MEASURES |
|---|
| **Vehicle Use In Open Areas And Vacant Lots:**<br>1A Restrict trespass by installing signs.<br>2A Install physical barriers such as curbs, fences, gates, posts, signs, shrubs, and/or trees to prevent access to the area. |
| **Unpaved Parking Lots:**<br>1B Pave.<br>2B Apply and maintain gravel, recycled asphalt, or other suitable material, in compliance with subsection 4.0 of this Section.<br>3B Apply a suitable dust suppressant, in compliance with subsection 4.0 of this Section. |
| **Unpaved Haul/Access Roads:**<br>1C Limit vehicle speed to 15 miles per hour or less and limit vehicular trips to no more than 20 per day.<br>2C Apply water, so that the surface is visibly moist and subsection 5.0 of this Section is met.<br>3C Pave.<br>4C Apply and maintain gravel, recycled asphalt, or other suitable material, in compliance with subsection 5.0 of this Section.<br>5C Apply a suitable dust suppressant, in compliance with subsection 5.0 of this Section. |
| **Disturbed Surface Areas:**<br>**Pre-Activity:**<br>1D Pre-water site to the depth of cuts.<br>2D Phase work to reduce the amount of disturbed surface areas at any one time.<br>**During Dust Generating Operations:**<br>3D Apply water or other suitable dust suppressant, in compliance with subsection 3.0 of this Section.<br>4D Construct fences or 3 foot - 5 foot high wind barriers with 50% or less porosity adjacent to roadways or urban areas that reduce the amount of wind blown material leaving a site. If constructing fences or wind barriers, 3D must also be implemented.<br>**Temporary Stabilization During Weekends, After Work Hours, And On Holidays:**<br>5D Apply a suitable dust suppressant, in compliance with subsection 9.0 of this Section.<br>6D Restrict vehicular access to the area, in addition to the control measure described in 5D above. |
| **Permanent Stabilization**<br>7D Restore area such that the vegetative ground cover and soil characteristics are similar to adjacent or nearby undisturbed native conditions.<br>8D Pave, apply gravel, or apply a suitable dust suppressant. |

| TABLE 1. SOURCE TYPE AND CONTROL MEASURES |
|---|
| 9D Establish vegetative ground cover in sufficient quantity. |
| **Bulk Material Handling Operations And Open Storage Piles:**<br>**During Stacking, Loading, And Unloading Operations:**<br>1F Apply water as necessary, to maintain compliance with subsection 3.0 of this Section; and<br>**When Not Conducting Stacking, Loading, And Unloading Operations:**<br>2F Cover open storage piles with tarps, plastic, or other material to prevent wind from removing the coverings; or<br>3F Apply water to maintain a soil moisture content sufficient to maintain opacity below 20%; or<br>4F Meet the stabilization requirements described in subsection 10.5 of this Section; or<br>5F Construct and maintain wind barriers, storage silos, or a three-sided enclosure with walls, whose length is no less than equal to the length of the pile, whose distance from the pile is no more than twice the height of the pile, whose height is equal to the pile height, and whose porosity is no more than 50%. If implementing 5F, the owner/operator must also implement 3F or 4F above. |
| **Bulk Material Hauling/Transporting:**<br>**When On-Site Hauling/Transporting Within The Boundaries Of The Work Site That Involves Crossing A Public Roadway Upon Which The Public Is Allowed To Travel While Construction Is Underway:**<br>1G Load all haul trucks such that the freeboard is not less than 3 inches when crossing a public roadway upon which the public is allowed to travel while construction is underway; and<br>2G Prevent spillage or loss of bulk material from holes or other openings in the cargo compartment's floor, sides, and/or tailgate(s); and<br>3G Install a suitable trackout control device that controls and prevents trackout and/or removes particulate matter from tires and the exterior surfaces of haul trucks and/or motor vehicles that traverse such work site. Examples of trackout control devices are described in Table 1 (Trackout 1J, 2J, 3J) of this Section; and<br>**When On-Site Hauling/Transporting Within The Boundaries Of The Work Site But Not Crossing A Public Roadway Upon Which The Public Is Allowed To Travel While Construction Is Underway:**<br>4G Limit vehicular speeds to 15 miles per hour or less while traveling on the work site; or<br>5G Apply water to the top of the load such that the 20% opacity standard, as described in subsection 3.0 of this Section, is not exceeded, or cover haul trucks with a tarp or other suitable closure.<br>**Off-Site Hauling/Transporting Onto Paved Public Roadways:**<br>6G Cover haul trucks with a tarp or other suitable closure; and<br>7G Load all haul trucks such that the freeboard is not less than 3 inches; and<br>8G Prevent spillage or loss of bulk material from holes or other openings in the cargo |

| TABLE 1. SOURCE TYPE AND CONTROL MEASURES |
|---|
| compartment's floor, sides, and/or tailgate(s); and<br>9G Before the empty haul truck leaves the site, clean the interior of the cargo compartment or cover the cargo compartment.<br>**Cleanup Of Spillage, Carry Out, Erosion, And/Or Trackout:**<br>1H Operate a street sweeper or wet broom with sufficient water, if applicable, at the speed recommended by the manufacturer and at the frequency(ies) described in the owner/operator's dust control plan; or<br>2H Manually sweep-up deposits. |
| **Trackout:**<br>1J Install a grizzly or wheel wash system at all access points.<br>2J At all access points, install a gravel pad at least 30 feet wide, 50 feet long, and 6 inches deep.<br>3J Pave starting from the point of intersection with a paved public roadway and extending for a centerline distance of at least 100 feet and a width of at least 20 feet. |
| **Easements, Rights-Of-Way, And Access Roads For Utilities (Electricity, Natural Gas, Oil, Water, And Gas Transmission) Associated With Sources That Have A Non-Title V Permit, A Title V Permit, And/Or A General Permit Under Part II :** |
| **Earthmoving Operations On Disturbed Surface Areas Larger Than 1 Acre:**<br>1M If water is the chosen control measure, operate water application system (e.g., water truck), while conducting earthmoving operations on disturbed surface areas larger than 1 acre. |
| **Blasting Operations from Mining Activities**<br>An owner and/or operator must implement all of the following control measures:<br>1N In wind gusts above 25 m.p.h., discontinue blasting; and<br>2N Pre-water and maintain surface soils in a stabilized condition where support equipment and vehicles will operate. |
| **Demolition Activities**<br>An owner and/or operator must implement all of the following control measures:<br>1O Stabilize demolition debris. Apply water to debris immediately following demolition activity; and<br>2O Stabilize surrounding area immediately following demolition activity. Water all disturbed soil surfaces to establish a crust and prevent wind erosion of soil. |

**Part VI. Generally Applicable Individual Source Requirements for Existing and New Sources**

**Section 1.0 Visible Emissions**


**1.0 Applicability**
**2.0 Definitions**
**3.0 Limitations and Standards**
**3.1 Opacity Limitations**
**3.2 Exceptions**
**4.0 Compliance and Test Methods**
**4.1 Compliance Determination – Opacity**
**4.2 Test Methods – Opacity of Visible Emissions from Intermittent Sources**

## 1.0 APPLICABILITY

This Section applies to visible emissions resulting from the discharge of any air contaminant into the ambient air within the exterior boundaries of the Gila River Indian Community.

## 2.0 DEFINITIONS

**"Intermittent Source"** means a source which causes or discharges visible emissions for a duration of less than 6 consecutive minutes.

**"Opacity"** means a condition of the ambient air, or any part thereof, in which an air contaminant partially or wholly obscures the view of an observer.

**"Percent Opacity"** means the degree to which an effluent plume or any other emission of air contaminants obscures the transmission of light expressed as a percentage.

**"Shutdown"** means the cessation of operation of any air pollution control equipment and/or process equipment for any purpose, except routine phasing in of process equipment.

**Start-up"** means the setting into operation of any air pollution control equipment and/or process equipment for any purpose, except routine cycling of process equipment.

**"Visible Emissions"** means any emissions which are visually detectable without the aid of instruments and which contain particulate matter.

**"Uncombined Water"** means condensed water containing no more than analytical trace amounts of other chemical elements or compounds.

## 3.0 LIMITATIONS AND STANDARDS

**3.1** **Opacity Limitations.** No person shall discharge into the ambient air from any single source of emissions, any air contaminant, other than uncombined water, in excess of twenty (20) percent opacity.

**3.2** **Exceptions.**

**A.** Charging Electric Arc Furnaces. When charging or back-charging any electric arc furnace for which construction commenced prior to February 2, 1963, a person may discharge air contaminants, other than uncombined water, in excess of the applicable opacity limit in subsection 3.1 for no more than an aggregate of three (3) minutes in any forty-five (45) minute period; however, visible emissions resulting from such discharge of air contaminants shall not exceed forty (40) percent opacity.

**B.** Firing of Ordnance at Test Facilities**.** Visible emissions exceeding the opacity standards for short periods of time resulting from firing test rounds in enclosed bunkers at ordnance test facilities which do not exceed six (6) minutes in length shall not constitute a violation of this Section.

**C.** Opacity Training. Equipment or processes used to train individuals in opacity observations shall be exempt from opacity standards during the preparation for and during the actual training sessions.

## 4.0 COMPLIANCE AND TEST METHODS

**4.1** **Compliance Determination – Opacity.** Opacity shall be determined by observations of visible emissions conducted in accordance with EPA Test Method 9, 40 C.F.R. Part 60, Appendix A, except as provided in subsection 4.2 of this Section.

**4.2** **Test Methods - Opacity of Visible Emissions from Intermittent Sources.** Opacity of visible emissions from intermittent sources shall be determined by observations of visible emissions conducted in accordance with EPA Test Method 9, 40 C.F.R. Part 60, Appendix A, except that at least twelve (12) rather than twenty-four (24) consecutive readings shall be required at 15-second intervals for the averaging time.

**Part VI. Generally Applicable Individual Source Requirements for Existing and New Sources**

**Section 2.0 VOC Usage, Storage And Handling**

**1.0 Applicability**
- **1.1 General Applicability**
- **1.2 Exemptions**

**2.0 Definitions**

**3.0 Limitations and Standards**
- **3.1 Operations Involving Heat**
- **3.2 Non-complying Solvents**
- **3.3 Process Lines**
- **3.4 Required Emissions Reductions**
- **3.5 VOC Containment and Disposal**

**4.0 Requirements for Handling, Storage and Disposal of Materials Containing VOCs**
- **4.1 General Operating Requirements**
- **4.2 Specifications for Storage of VOCs**
- **4.3 Specifications for Loading of VOC**
- **4.4 Monitoring and Inspection Requirements for VOC Storage and Transfer**

**5.0 General Administrative Requirements**
- **5.1 Operation and Maintenance Plan**
- **5.2 Providing and Maintaining Monitoring Devices**
- **5.3 Recordkeeping and Recording**

**6.0 Compliance Determination and Test Methods**
- **6.1 Determination of Compliance**
- **6.2 Test Methods**

## 1.0 APPLICABILITY

**1.1** **General Applicability.** The provisions of this Section apply to each operation involving the usage and storage of volatile organic compounds (VOCs) that is not otherwise specifically covered in other sections of these Parts. In addition, these provisions apply to the transfer of VOC-containing liquids having a true vapor pressure of 1.5 psia (77.5 mm Hg) or greater under actual loading conditions.

**1.2** **Exemptions.** The provisions of this Section shall not apply to:

**A.** Organic solvent manufacturing facilities and the overland transport of organic solvents and materials containing any VOC.

**B.** The spraying or other employment of insecticides, pesticides, or herbicides.

**C.** Foundries; smelters; melting or roasting of metal, ore, or dross; all operations included under Standard Industrial Classifications (SIC) codes 3312, 3313, 332, 333, 334, 336, and 3398, and/or the corresponding North American Classification System (NAICS) code; and all on-site mold making activities at such operations and industries.

**D.** Any other VOC source category specifically regulated under this Ordinance.

## 2.0 DEFINITIONS

**"Adhesive"** means a material used for the primary purpose of bonding two or more surfaces together.

**"Bulk Plant"** means any loading facility at which gasoline and/or other organic liquids with a true vapor pressure of 1.5 psia (77.5 mm Hg) or greater under any actual storage conditions are received from delivery vessels for storage in on-site stationary tanks, and from which such liquids also are transferred to delivery vessels.

**"Day"** means a period of twenty-four (24) consecutive hours beginning at midnight.

**"External Floating Roof"** means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

**"Excess Organic Liquid Drainage"** means more than ten (10) milliliters (0.34 fluid ounces) per disconnect of a liquid fill line.

**"Liquid Leak"** means that state or condition in which an organic liquid is allowed to seep or drip, or otherwise enters or escapes, at either three (3) or more drops per minute or a puddle of organic liquid greater than one (1) square inch.

**"Loading Facility"** means any operation or facility including, but not limited to, a gasoline storage tank farm, pipeline terminal, bulk plant, or loading dock or combination thereof, where organic liquids are transferred or loaded into or out of delivery vessels for future distribution. Included are all related pollutant-emitting activities which are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control.

**"Makeup Solvent"** means the increment of cleaning-solvent that replaces solvent lost through evaporation or other means, and that is added to the solvent remaining in a cleaning machine to bring the solvent quantity to the desired level.

**"No detectable organic emissions"** means no escape of organics to the atmosphere with a VOC concentration exceeding 10,000 ppmv.

**"Non-Complying Solvent"** means a solvent that exceeds the applicable percentage composition limit for any of the following four chemical groupings:

- Group I: One or more of the following families of compounds having the olefinic or cyclo-olefinic type of unsaturation - hydrocarbons, alcohols, aldehydes, esters, ethers, and /or ketones; except perchloroethlylene: five (5) percent by volume.

- Group II: One or more aromatic compounds having eight or more carbon atoms to the molecule except ethylbenzene, methyl benzoate, and phenylacetate: eight (8) percent by volume.

- Group III: One or more of the following compounds and compound types - ketones having a branched hydrocarbon structure, ethylbenzene, trichloroethylene, and/or toluene: twenty (20) percent by volume.

- An aggregate of any combination of the above three groups: twenty (20) percent by volume.

Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the above groups of organic compounds, it shall be considered a member of the most reactive chemical group that it can be classified into, that is, that group having the lowest percentage composition limit.

**"Non-Precursor Organic Compound"** means any of the following organic compounds which have been designated by the EPA as having negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane;trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (CFC-22); 1,1,2-trichlorotrifluoroethane (CFC-113); 1,2-dichlorotetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); trifluoromethane (FC-23); 2,2-dichloro-1,1,1-trifluoroethane (HCFC-123); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); 1,1-dichloro-1-fluoroethane (HCFC-141b); 1-chloro-1,1-difluoroethane (HCFC-142b); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); all completely fluorinated, completely saturated: alkanes, ethers and tertiary amines.

**"Organic Compound"** means any compound of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, carbonates, and metallic carbides.

**"Organic Liquids"** means all precursor organic compounds which contain hydrogen and which would exist as liquids at standard conditions of use or storage.

**"Organic Solvent"** means any organic compound which is liquid at standard conditions of use or storage and which is used as a diluent, thinner, dissolver, viscosity reducer, extractant, cleaning agent or is a reactant or product in a manufacturing process.

**"Organic Vapors"** means all precursor organic compounds which contain hydrogen and which exist in a gaseous state at standard conditions of use or storage.

**"Pipeline Terminal"** means any primary distributing loading facility which receives in any consecutive 30-day period, by pipeline, over 600,000 gallons (2,271,180 l) of gasoline and/or other organic liquids with a true vapor pressure of 1.5 psia (77.5 mm Hg) or greater under actual storage conditions.

**"PPMV"** means parts per million by volume.

**"Submerged Fill Pipe"** means any fill pipe or discharge nozzle that meets any one of the following:

**A.** The bottom of the discharge pipe or nozzle is below the surface of the liquid in the receiving vessel for at least ninety-five (95) percent of the volume filled.

**B.** The bottom of the discharge pipe or nozzle is less than six (6) inches from the bottom of the receiving vessel.

**C.** The bottom of the discharge pipe or nozzle is less than two (2) pipe or nozzle diameters from the bottom of the receiving vessel.

**D.** For side-filling, the end of the discharge pipe or nozzle is totally submerged when the liquid level is eighteen (18) inches from the bottom of the tank.

**"True Vapor Pressure"** means absolute vapor pressure of a liquid at its existing temperature of storage and handling.

**"Vapor"** means the gaseous form of a substance normally occurring in a liquid or solid state.

**"Vapor Leak"** means that state or condition in which an organic vapor is allowed to seep or otherwise escape, such that when measured in accordance with subsection 4.3(C)(2)(c) results in detectable organic emissions above 10,000 ppmv.

**"Vapor Loss Control System"** means any piping, hoses, equipment, and devices which are used to collect, store, process and/or dispose of organic vapors at a pipeline terminal, bulk plant, service station or other operation handling gasoline and/or other organic liquids.

**"Volatile Organic Compounds" or "(VOCs)"** means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions and is not exempt as a Non-Precursor Organic Compound.

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC–113); trichlorofluoromethane (CFC–11); dichlorodifluoromethane (CFC–12); chlorodifluoromethane (HCFC–22); trifluoromethane (HFC–23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC–114); chloropentafluoroethane (CFC–115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC–123); 1,1,1,2-tetrafluoroethane (HFC–134a); 1,1-dichloro 1-fluoroethane (HCFC–141b); 1-chloro 1,1-difluoroethane (HCFC–142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC–124); pentafluoroethane (HFC–125); 1,1,2,2-tetrafluoroethane (HFC–134); 1,1,1-trifluoroethane (HFC–143a); 1,1-difluoroethane (HFC–152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC–225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC–225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43–10mee); difluoromethane (HFC–32); ethylfluoride (HFC–161); 1,1,1,3,3,3-hexafluoropropane (HFC–236fa); 1,1,2,2,3-pentafluoropropane (HFC–245ca); 1,1,2,3,3-pentafluoropropane (HFC–245ea); 1,1,1,2,3-pentafluoropropane (HFC–245eb); 1,1,1,3,3-pentafluoropropane (HFC–245fa); 1,1,1,2,3,3-hexafluoropropane (HFC–236ea); 1,1,1,3,3-pentafluorobutane (HFC–365mfc); chlorofluoromethane (HCFC–31); 1 chloro-1-fluoroethane (HCFC–151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC–123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$ or HFE–7100); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$ or HFE–7200); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$); methyl acetate, 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-$C_3F_7OCH_3$, HFE–7000), 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE–7500), 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea), and methyl formate (HCOOCH3), and perfluorocarbon compounds which fall into these classes:

(i) Cyclic, branched, or linear, completely fluorinated alkanes;

(ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
(iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

## 3.0 LIMITATIONS AND STANDARDS

**3.1** **Operations Involving Heat.** No person shall discharge more than fifteen (15) pounds (6.8 kg) of VOCs into the atmosphere in any one day from any machine, equipment, device, or other article in which any VOC or any material containing a VOC comes into contact with flame or is evaporated at temperatures exceeding 200 degrees Fahrenheit (93.3 degrees Celsius), in the presence of oxygen, unless the entire amount of such discharge has been reduced in accordance with subsection 3.4 of this Section.

**3.2** **Non-Complying Solvents.** No person shall discharge more than forty (40) pounds (18kg) of VOCs into the atmosphere in any one day from any machine, equipment, device, or other article for employing, applying, evaporating or drying any non-complying solvent, as defined by subsection 2.0 of this Section, or material containing such non-complying solvent unless the entire amount of such discharge has been reduced in accordance with subsection 3.4 of this Section.

**3.3** **Process Lines.** Emissions of VOCs from any series of machines, equipment, devices or other articles which are designed for processing any item including, but not limited to, continuous web(s), strip(s), or wire(s) and which use operations described in subsections 3.1 or 3.2 of this Section shall be collectively subject to the limitations of and compliance with those subsections.

**3.4** **Required Emissions Reductions.** Emissions to the atmosphere of VOCs requiring control pursuant to subsections 3.1 or 3.2 of this Section shall be reduced using at least one of the following methods:

**A.** Incineration, provided that ninety (90) percent or more of the carbon in the VOCs entering the incineration device is oxidized to carbon dioxide and overall control efficiency (capture plus processing) is at least eighty-five (85) percent by weight; or

**B.** Adsorption, provided that overall control efficiency (capture plus processing) is at least eighty-five (85) percent by weight; or

**C.** Using low VOC material containing no more than twenty (20) percent VOC by volume (as determined by the applicable test method(s) and excluding non-precursor organic compounds and water), provided that no VOC from the material comes into contact with flame; or

**D.** Processing in a manner not less effective than incineration or adsorption and verified by test methods set forth in subsection 6.2 of this Section.

**3.5** **VOC Containment and Disposal.** No person shall store, discard, handle, or dispose of VOC or VOC-containing material in a way intended to cause or to allow the evaporation of VOC to the atmosphere. Reasonable measures shall be taken to prevent such evaporation which include, but are not limited to, the following:

**A.** All materials from which VOC can evaporate, including, but not limited to, fresh solvent, waste solvent and solvent-soaked rags and residues, shall be stored in closed containers when not in use;

**B.** Such containers one (1) gallon and larger shall be legibly labeled with their contents;

**C.** Records of the disposal/recovery of such materials shall be kept. Records of hazardous waste disposal shall be kept in accordance with the applicable hazardous waste disposal statutes and regulations; and

**D.** Any transfer of VOCs or VOC-containing material from one container to another (aggregation) shall be conducted in a manner that is consistent with good practice for minimizing VOC emissions.

## 4.0 REQUIREMENTS FOR HANDLING, STORAGE AND DISPOSAL OF MATERIALS CONTAINING VOCS

**4.1** **General Operating Requirements.** Any person subject to the requirements of this Section shall comply with the following operating requirements:

**A.** Control techniques and work practices shall be implemented at all times to reduce VOC emissions from fugitive sources. Control techniques and work practices include, but are not limited to:

**1.** Containers with no detectable organic emissions shall be used for the storage of waste or fresh material containing VOC.

**2.** Containers used for the storage or disposal of cloth, paper, filters, or other materials impregnated with VOC-containing materials shall be covered.

**3.** Waste solvent shall be disposed or recycled in accordance with applicable EPA regulations.

**4.** Any waste or fresh material containing VOC that escapes from a container, shall be cleaned up or otherwise removed immediately if in accessible areas. For areas where access is not feasible during normal production, any such VOC-containing material shall be removed as soon as reasonably possible, but not later than within twenty-four (24) hours.

**B.** Each container shall be clearly labeled with its contents.

**C.** No person shall use materials containing more than ten (10) percent VOC for the cleanup of spray equipment unless equipment is used to collect the cleaning compounds and to minimize their evaporation to the atmosphere.

**D.** Unless records show that VOC-containing materials were sent off-site for legal disposal, the Department will assume that the materials evaporated on-site.

**4.2 <u>Specifications for Storage of VOCs.</u>**

**A.** Storage Capacities More Than 40,000 Gallons. Each VOC storage tank or vessel with a capacity of more than 40,000 gallons shall be a pressure vessel capable of maintaining working pressures sufficient at all times to prevent VOC loss to the atmosphere or be designed and equipped with a permanent submerged fill pipe and one of the following Vapor Loss Control Systems:

**1.** An external floating roof that consists of a pontoon-type or double deck-type cover, or a fixed roof with an internal-floating cover. The cover shall rest on the surface of the liquid contents at all times (i.e., off the leg supports), except during initial fill, when the storage vessel is completely emptied or during refilling. When the cover is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible. The floating roof shall be equipped with a closure seal, or seals, to close the space between

the cover edge and vessel wall. Floating roofs shall not be used if the VOCs have a true vapor pressure of 11.1 psia (76.6 kPa) or greater under actual conditions.

**2.** A vapor-recovery system that consists of a vapor-gathering system capable of collecting ninety-five (95) percent or more of the uncontrolled VOCs that would otherwise be emitted to the atmosphere and a vapor-disposal system capable of processing these VOCs to prevent their emission to the atmosphere.

**3.** Other equipment or methods that are of equal efficiency for purposes of air pollution control may be used if approved by the Department prior to installation.

**B.** Storage Capacities Between 250 and 40,000 Gallons. Each VOC storage vessel with a capacity greater than 250 gallons and up to 40,000 gallons shall: (1) be equipped with a permanent submerged fill pipe; (2) be a pressure vessel capable of maintaining working pressures that prevent the loss of VOC to the atmosphere; or (3) be equipped with a vapor-recovery system as described in subsection 4.2(A)(2) of this Section.

**C.** Exemptions. VOC storage vessels that are subject to the equipment standards set forth in 40 C.F.R. Part 60, Subparts K, Ka, and Kb are exempt from the specifications for storage of VOCs set forth in paragraphs (A) and (B) of subsection 4.2 of this Section.

**4.3 <u>Specifications for Loading of VOC.</u>**

**A.** Operating Requirements for Vapor Loss Control Systems. The owner or operator of a Vapor Loss Control System subject to this section shall operate the system and organic liquid transfer equipment as follows:

**1.** Loading shall be accomplished in a manner that prevents gauge pressure from exceeding eighteen (18) inches of water (33.6 mm Hg) and vacuum from exceeding six (6) inches of water (11.2 mm Hg) in the tank truck. Each owner or operator of a loading facility shall ensure that vapor recovery lines are connected between the delivery vessel and the storage tank during all organic liquid transfers.

**2.** Loading shall be accomplished in a manner that prevents overfills, liquid leaks or excess organic liquid drainage. Owners or

operators of bulk plants or operators of delivery vessels shall observe all parts of the transfer and shall discontinue transfer if any leaks are observed. Measures shall be taken to prevent liquid leaks from the loading device when it is not in use, and to complete drainage before the loading device is disconnected. During loading or unloading operations, potential leak sources shall have no detectable organic emissions.

**3.** Loading operations which use a Vapor Loss Control System shall be accomplished in such a manner that the displaced vapor and air will be vented only to the Vapor Loss Control System, which shall be operated with no detectable organic emissions and in a manner such that the vapor processing capacity is not exceeded.

**4.** Diaphragms used in vapor storage tanks shall be maintained with no detectable organic emissions.

**5.** Vapor transfer lines shall be equipped with fittings that allow no detectable organic emissions and that automatically and immediately close upon disconnection. Vapor balance systems shall be designed to prevent any vapors collected at one loading rack from passing to another loading rack.

**6.** When loading of organic liquids is effected through the top hatches of a tank truck, trailer or railroad tank car with a loading arm equipped with a VAPOR collecting adaptor, a pneumatic, hydraulic or other mechanical means shall be provided to force a seal with no detectable organic emissions between the adaptor and the hatch. A means shall be provided to prevent organic liquid drainage from the loading device when it is removed from the hatch of any tank truck or trailer, or to accomplish complete drainage before such removal.

**B.** Equipment Maintenance and Operating Practices. All equipment associated with delivery and loading operations shall be maintained to be leak free, with no detectable organic emissions and in good working order. Organic liquids shall not be spilled, discarded in sewers, stored in open containers, or handled in any other manner that would result in evaporation to the atmosphere. Purging of vapors is prohibited.

**C.** Equipment Leaks.

**1.** The owner or operator shall perform monthly inspections, while vapor is being transferred, for liquid and vapor leaks and for faulty equipment. In these monthly inspections detection methods incorporating sight, sound, smell and/or touch may be used.

**a.** A log book shall be used and shall be signed by the owner or operator at the completion of each monthly inspection for equipment leaks. A section of the log shall contain a list, summary description, or diagram(s) showing the location of all equipment at the facility.

**b.** Leak detection tests shall be conducted quarterly by the owner of each loading facility or by a consultant, at the expense of the owner. Testing shall be done according to procedures in subsection 6.0 of this Section, except that EPA Method 21 shall be used to test for leaks from a Vapor Loss Control System and its associated piping outside the loading area. Equipment shall conform to the specifications of those test methods cited in subsection 6.0 of this Section. At lease twenty-four (24) hours prior to testing, the owner shall notify the Director of the date, time and location of the testing. The Director or his representatives shall at their discretion observe the tests.

**2.** Leak Detection Test Procedure. During loading into or unloading out of delivery vessels, the peripheries of all potential sources of leakage at the loading facility shall be checked with a combustible gas detector or organic vapor analyzer (OVA) as follows:

**a.** Pressure. A pressure tap shall be placed in the loading facility's Vapor Loss Control System, as close as possible to the delivery vessel's tank. The pressure shall be recorded periodically during testing, at least once every minute. Instantaneous maximum pressure shall be recorded either automatically or by visual observation. A pressure measurement device capable of measuring twenty (20) inches (50.8 cm) of water pressure with a precision of 0.1 inch (2.5 mm) of water shall be calibrated. This device shall fit the tap and shall either be permanently installed or shall be kept available at all times at the facility.

**b.** Calibration. Within four (4) hours prior to monitoring, the combustible gas detector or OVA shall be calibrated with 10,000 ppmv methane in accordance with EPA Test Method 21.

**c.** Probe Distance. The probe inlet shall be one (1) inch (2.5 cm) or less from the potential leak source when searching for leaks. The probe inlet shall be one (1) inch (2.5 cm) from the leak source when the highest detector reading is being determined for a discovered leak. When the probe is obstructed from moving within one (1) inch (2.5 cm) of an actual or potential leak source, the closest practicable probe distance shall be used.

**d.** Probe Movement. The probe shall be moved slowly, not faster than 1.6 inches per second (4 centimeters per second). If there is any meter deflection at a potential or actual leak source, the probe shall be positioned to locate the point of highest meter response.

**e.** Probe Position. The probe inlet shall be positioned in the path of the vapor flow from a leak such that the central axis of the probe-tube inlet shall be positioned coaxial with the path of the most concentrated vapors.

**f.** Wind. Wind shall be blocked as much as possible from the space being monitored. The quarterly leak detection test required by subsection 4.3(C)(2) of this Section shall be valid only when wind speed in the space being monitored is five (5) mph or less.

**g.** Data Recording. The highest detector reading and location for each incidence of leakage shall be recorded along with the date and time.

**D.** Loading Facilities with Throughput Greater than 40,000 Gallons/Day. Each VOC loading facility with a throughput greater than 40,000 gallons/day from its aggregate loading pipes shall be equipped with a Vapor Loss Control System unless all tank trucks, trailers, or railroad tank cars are bottom loaded with hatches closed. The Vapor Loss Control System shall conform to the following requirements:

**1.** Vapor-Collection Portion of the System. When loading VOCs through the hatches of a tank truck, trailer, or railroad tank car, using a loading arm equipped with a vapor collecting adapter, a pneumatic, hydraulic, or mechanical means shall be provided to ensure a seal such that there are no detectable organic emissions between the adapter and the hatch. When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings that make connections with no detectable organic emissions and that must be closed when disconnected or that close automatically when disconnected.

**2.** Vapor-Disposal Portion of the System. The vapor-disposal portion of the system shall consist of: (1) a vapor-liquid absorber system with a minimum recovery efficiency of ninety-five (95) percent by weight of all the VOC vapors entering such disposal system; or (2) a variable-vapor space tank, compressor, and fuel-gas system of sufficient capacity to receive all VOC vapors displaced from any tank truck, trailer, or railroad tank car being loaded.

**E.** Loading Facilities with Throughput Equal To or Less Than 40,000 Gallons/Day. Each loading pipe at a VOC loading facility with an aggregate throughput of 40,000 gallons/day or less shall be equipped with a system for submerged filling of tank trucks, trailers, or railroad tank cars that is installed and operated to maintain a ninety-seven (97) percent submerged factor. This applies to vessels with a capacity greater than two hundred (200) gallons.

**F.** Prevention of Spills and Leaks. Precautions must be made to prevent spills during the attachment and disconnection of filling lines or arms. No liquid or vapor leaks shall exist during loading or unloading operations. Inspection for visible liquid leaks, visible fumes, or odors resulting from VOC dispensing operations shall be conducted by the owner or operator of the VOC loading facility or the owner or operator of the tank truck, trailer, or railroad car pursuant to subsection 4.4 of this Section. VOC loading or unloading through the affected transfer lines shall be discontinued immediately once a leak is observed and shall not resume until the observed leak is repaired.

**G.** Exemptions. Loading facilities subject to the requirements of 40 C.F.R. Part 60, Subpart XX or 40 C.F.R. Part 63, Subpart R are exempt from complying with the specifications for loading of VOCs set forth in paragraphs (A), (B), and (C) of subsection 4.3 of this Section.

**4.4 <u>Monitoring and Inspection Requirements for VOC Storage and Transfer</u>.**

**A.** Loading Facility Inspections. The owner or operator of a loading facility subject to this Section shall perform routine inspections of each loading rack handling VOCs for vapor leaks or liquid leaks and the Vapor Loss Control System, if applicable, using one of the following inspection schedules:

**1.** Monthly inspections, if sight, sound, and smell are used as detection methods;

**2.** Quarterly inspections, if an organic vapor analyzer is used to monitor for vapor leaks.

**B.** If a leak is detected during such inspection, the leak shall be repaired or the equipment replaced within seventy-two (72) hours. The owner or operator shall re-inspect the repaired leak or replaced equipment the first time after the repair or replacement that the equipment is operated.

**C.** Floating Roof Tank Inspections. The owner or operator of any floating roof tank subject to this Section shall:

**1.** Inspect the tank and seals at least once every six (6) months to determine ongoing compliance with both the applicable standards of this Section and any permit conditions pertaining to the tank. Floating roof tanks shall have no visible holes, tears, or other openings in the seal or in any seal fabric.

**2.** For external floating roofs, determinations of secondary seal gap area may be made only once per year.

**D.** Storage Tank Gauging Devices. All storage tank gauging devices, anti-rotation devices, accesses, seals, hatches, roof drainage systems, support structures, and pressure relief valves shall be maintained and operated with no detectable organic emissions except when opened, actuated, or used for necessary and proper activities. Such opening, actuation, or use shall be limited so as to minimize vapor loss.

## 5.0 GENERAL ADMINISTRATIVE REQUIREMENTS

**5.1** **Operation and Maintenance Plan.** Any owner or operator using an emissions control system to reduce emissions in accordance with this Section shall provide to the Department for approval an Operation and Maintenance Plan ("O&M Plan") at the time the initial permit application is submitted to the Department for an operating permit. The O&M Plan shall specify key system operating parameters, such as temperatures, pressures and/or flow rates, necessary to determine compliance with this Section and describe in detail procedures to maintain the approved emission control system. The Department's written approval of the O&M Plan shall be required in order to comply with this subsection.

**5.2** **Providing and Maintaining Monitoring Devices.** Any person incinerating, adsorbing, or otherwise processing organic materials pursuant to this Section shall provide, properly install and maintain in calibration, in good working order, and in operation, devices specified in the O&M Plan as well as in either the Permit to Operate or the Installation Permit for indicating temperatures, pressures, rates of flow, or other operating conditions necessary to determine if air pollution control equipment is functioning properly and is properly maintained.

**5.3** **Recordkeeping and Recording.**

**A.** General Recordkeeping Requirements. Any person subject to this Section shall comply with the following recordkeeping requirements. Records shall be retained for five (5) years and shall be made available to the Department upon request.

**1.** Current Lists. Maintain a current list of coatings, adhesives, makeup solvents, and any other VOC-containing materials. Such lists shall state the VOC content in pounds per gallon or grams per liter. The VOC content shall be expressed less water and non-precursor organic compounds for materials that are not used for cleaning or cleanup.

**2.** Monthly Usage Records. Maintain monthly records of the amount of each coating; adhesive; makeup solvent; solvent used for surface preparation, for cleanup, and for the removal of materials, and any other VOC-containing material used or processed. Such records shall identify any materials subject to the emission limits in

subsections 3.1 and 3.2 of this Section and shall maintain separate totals for these materials.

**3.** Operation and Maintenance Records. Maintain a continuous record of the times an approved emissions control device is used to comply with this Section. Maintain daily records of the O&M Plan's key system operating parameters, and account for any periods of operation when the control device was not operating. Maintain records of all maintenance performed according to the O&M Plan.

**4.** Records of Discarded Materials. Maintain records of the type, amount, and method of disposing or recycling of VOC-containing materials on each day of disposal.

**B.** Recordkeeping Requirements for VOC Storage and Transfer.

**1.** Storage Records. For tanks subject to the VOC storage and transfer specifications, maintain accurate records of the liquids stored in such tanks including either the true or Reid vapor pressure ranges of each stored liquid. The Director may approve an alternative recordkeeping requirement if appropriate for the operational characteristics of an individual tank.

**2.** Loading Facility Records. For facilities subject to the loading requirements set forth in subsection 4.3 of this Section, maintain a daily record of the total throughput of VOC loaded at the facility, and the number of delivery vessels loaded at the facility and the quantity and type of VOC loaded.

**3.** Inspection Records. Maintain records of the results of inspections required by this Section including a record of any leaks found at the facility and the corrective action taken.

**4.** Vapor Loss Control System Records.

**a.** Maintain daily measurements of the exhaust gas temperature immediately downstream of a direct flame incinerator;

**b.** Maintain daily measurements of the inlet and outlet gas temperature of a chiller or catalytic incinerator;

**c.** Maintain records of the results of monitoring outlet VOC concentration of a carbon adsorption bed to detect breakthrough; or

**d.** Maintain records of the operational parameters for any other Vapor Loss Control System in accordance with the requirements of an O&M Plan approved by the Department.

**5.** Maintenance and Repair Records. Maintain records of the date and reason for any maintenance and repair of any applicable control devices and the estimated quantity and duration of VOC emissions during such activities.

**6.** Performance Test Records. Maintain records of the results of any performance testing conducted as required by this Section.

## 6.0 COMPLIANCE DETERMINATION AND TEST METHODS

**6.1** **Determination of Compliance.** Determination of the organic solvent content and composition of a solvent or material shall be made as of the time that the solvent or material is in its final form for application or employment, notwithstanding any prior blending, reducing, thinning or other preparation for application or employment. Emissions resulting from air or heat drying of products for the first twelve (12) hours after the removal from any machine, equipment, device or other article shall be included in determining compliance with this Section.

**6.2** **Test Methods.**

**A.** Generally Applicable Test Methods.

**1.** Measurement of VOC content of materials shall be conducted and reported in accordance with Test Method 24 (40 C.F.R. Part 60, Appendix A).

**2.** The non-complying organic compound content shall be determined using the ASTM Standard Recommended Practices for General Gas Chromatography Procedures, E 260-96 General Techniques or Infrared Quantitative Analysis, E 168-92; or General Techniques of Ultraviolet Quantitative Analysis, E 169-93.

**3.** Measurement of VOC emissions subject to this Section shall be conducted in accordance with EPA Test Method 18 and/or by EPA Test Method 25 or an applicable submethod of Method 25 (40 C.F.R. Part 60, Appendix A), in combination with the appropriate capture efficiency method.

**4.** Capture/control efficiency shall be determined by mass balance in combination with ventilation/draft rate determination or by applying U.S. EPA's "Guidelines for Determining Capture Efficiency" (January 1995).

**5.** Ventilation/draft rates shall be determined by EPA Test Methods 2, 2a, 2c, and 2d (40 C.F.R. Part 60, Appendix A).

**6.** Temperature measurements shall be done with an instrument with an accuracy and precision of less than one-half degree Fahrenheit (25 degrees Celsius) for temperatures up to 480 degrees Fahrenheit (250 degrees Celsius). Higher temperatures shall be determined by instruments no less accurate than 1.0 percent of full scale unless the Department specifies greater accuracy.

**B.** Test Methods Specific to VOC Storage and Transfer.

**1.** EPA Test Methods 1-4 (40 C.F.R. Part 60, Appendix A) for determining flow rates, as necessary;

**2.** EPA Test Method 18 (40 C.F.R. Part 60, Appendix A) for determining gaseous organic compound emissions by gas chromatography;

**3.** Vapor Loss Control System. Control efficiency of a Vapor Loss Control System shall be determined according to EPA Test Method 25A or Method 25B subsequent to the Department's approval of test protocol. Leak tests to verify there are no detectable organic emissions from the equipment associated with the Vapor Loss Control System, including the piping outside of the loading area, shall be conducted according to EPA Test Method 21;

**4.** True Vapor Pressure. True vapor pressure shall be determined by ASTM Method 2879-97 and by temperature measurement under actual conditions using an instrument accurate to within ±1 degree Fahrenheit (± 0.5 degrees Celsius). For purposes of recording and reporting, the Reid vapor pressure and the foregoing temperature determination may be used in conjunction with the method of American Petroleum Institute Bulletin 2517, February 1980, to determine true vapor pressure, unless the Department specifies ASTM Method 2879-97;

**5.** Reid Vapor Pressure. Reid vapor pressure shall be determined by ASTM Method D323-94 or by ASTM Method D-5191;

**6.** Detectable vapor loss from all storage tank gauging devices, anti-rotation devices, accesses, seals, hatches, roof drainage systems, support structures, and pressure relief valves shall be determined visually, by touch, by presence of odor, or by using a portable

hydrocarbon analyzer. Testing and calibration procedures to determine compliance shall be consistent with EPA Test Method 21, set forth in 40 C.F.R. Part 60, Appendix A.

**7.** An alternative test method may be substituted for any of the test methods prescribed in paragraphs A and B of this subsection 6.2 of this Section if such alternative test method is approved in advance and in writing by the Administrator.

**Part VI – Generally Applicable Individual Source Requirements For Existing and New Sources**

**Section 3.0 Degreasing and Solvent Metal Cleaning**


**1.0 Applicability**
- **1.1 General Applicability**
- **1.2 Exemptions**

**2.0 Definitions**

**3.0 Limitations and Standards**
- **3.1 Solvent Handling Requirements**
- **3.2 Operating and Signage Requirements for Solvent Cleaning Operations**
- **3.3 Equipment Requirements**

**4.0 Cold Cleaning Operations**
- **4.1 Equipment Specifications for Cold Cleaning Operations**

**5.0 Open-Top Vapor Degreasers**
- **5.1 Equipment Specifications**
- **5.2 Operating Standards**

**6.0 Conveyorized Degreasers**
- **6.1 Equipment Specifications**
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**7.0 Emissions Control Requirements**
- **7.1 Operation and Maintenance Plan Required for ECS**
- **7.2 Providing and Maintaining ECS Monitoring Devices**

**8.0 Monitoring and Records**
- **8.1 Reporting – Initial Compliance Certification**
- **8.2 Recordkeeping**

**9.0 Compliance and Test Methods**
- **9.1 Compliance Determination**
- **9.2 Test Methods**


## 1.0 APPLICABILITY

**1.1** **General Applicability.** The provisions of this Section shall apply to all new and existing solvent cleaning operations using volatile organic compounds for solvent cleaning. Other standards, such as the National Emission Standards for Hazardous Air Pollutants for Halogenated Solvent Cleaning, may also regulate the usage of such compounds as trichloroethylene.

**1.2** **Exemptions.** The provisions of this Section shall not apply to the following activities:

**A.** Solvent cleaning operations specifically regulated by another Section in this Part VI.

**B.** Laundering and housekeeping supplies and activities.

**C.** Testing for surface cleanliness or the cleaning of laboratory equipment at a laboratory.

**D.** A cleaning solution containing twenty (20) percent or less VOC by either weight or volume, or equivalent, as shown by any of the following:

**1.** Is composed of at least ninety-eight (98) percent water by either weight or volume; or

**2.** Contains only water and material which is a dry solid before mixing with water; or

**3.** Has a VOC content not exceeding twenty (20) grams per liter (0.17 lb/gal).

## 2.0 DEFINITIONS

**"Agitation/Agitated"** means a state that moves cleaning liquid continuously back and forth or up and down. This includes such motion created by sound waves and to the splashing of a rinse stream operated at a pressure that creates a trajectory exceeding 2 feet along the horizontal plane intersecting the nozzle when the nozzle is at a 45 degree angle above the plane. Liquid motion incidental to a continuous entrance or withdrawal of objects undergoing is not agitation.

**"Air Solvent Interface"** means the surface area defined by points of contact between the solvent liquid or vapor in the solvent cleaner and the surrounding air.

**"Carry-Out"** means solvent carried out of the cleaning machine along with a part being removed from the cleaning machine. The solvent may exist as a liquid coating the part or the part's hanger or as a liquid entrapped in cavities and irregular surfaces, or entrapped by capillary action within or on the part.

**"Cleaning Solvent"** means solvent used for cleaning that contains more than 2.0% VOC by weight and more than 20 grams of VOC per liter (0.17 lb/gal).

**"Cold Cleaning Degreaser"** means an apparatus used to clean and remove soil from surfaces through a batch process by spraying, brushing, flushing, or immersion while maintaining the solvent below its boiling point.

**"Control Device"** means equipment used to reduce, by destruction or removal, the amount of air pollutant(s) in an air stream prior to discharge to the ambient air.

**"Conveyorized Degreaser"** means an apparatus used to clean and remove soil from a continuous stream of parts using either cold or vaporized solvents.

**"Degreaser":** see "SOLVENT CLEANER"

**"Dry Solid"** means any substance that appears and feels dry and that shatters or pulverizes when struck with a hard object. Evaporating solids, all of which have a strong odor, are not included.

**"Emission Control System (ECS)"** means a system designed and operated in accordance with good engineering practice to reduce emissions of volatile organic compounds. Such system consists of an emissions collection subsystem and an emissions processing subsystem.

**"Freeboard Height"** means:

A. For a cold cleaner, the distance from the liquid solvent level in the cold cleaning degreaser tank to the lip of the tank.

B. For an open-top vapor degreaser, it is the distance from the vapor level in the tank during idling to the lip of the tank.

C. For a conveyorized degreaser using vaporized solvents, it is the distance from the vapor level to the bottom of the entrance or exit opening, whichever is lower.

D. For a conveyorized degreaser using cold solvents, it is the distance from the liquid solvent level to the bottom of the entrance or exit opening, whichever is lower.

**"Freeboard Ratio"** means the freeboard height divided by the smaller interior dimension (length, width, or diameter) of the solvent cleaner tank.

**"Leak"** means that state or condition in which a cleaning-solvent is allowed to seep or drip or otherwise enters or escapes at either 3 or more drops per minute or a puddle of cleaning-solvent greater than 1 square inch.

**"Leakproof Coupling"** means a threaded or other type of coupling that prevents solvents from leaking while filling or draining solvent to and from the solvent cleaner.

**"Lip Exhaust"** means a system that collects solvent vapors escaping from the top of the cleaner.

**"Low Pressure Spray Gun"** means an air-atomized spray gun that, by design, functions best at tip pressures below ten (10) psig (516 mm Hg) and for which the manufacturer makes no claims to the public that the gun can be used effectively above twelve (12) psig (619 mm Hg). Measurement of air pressure at the center of the spray gun tip and air horns of an air-atomizing spray gun shall be performed using an attachable device in proper working order supplied by the gun's manufacturer for performing such a measurement.

**"Make-up Solvent"** means the increment of cleaning-solvent that replaces solvent lost through evaporation or other means and that is added to the solvent remaining in a cleaning machine to bring solvent quantity to the desired level.

**"Non-complying Solvent"** means a solvent that exceeds the applicable percentage composition limit for any of the following four chemical groupings:

A. **Group I**: One or more of the following families of compounds having the olefinic or cyclo-olefinic type of unsaturation - hydrocarbons, alcohols, aldehydes, esters, ethers, and /or ketones; except perchloroethlylene: five (5) percent by volume.
B. **Group II**: One or more aromatic compounds having eight or more carbon atoms to the molecule except ethylbenzene, methyl benzoate, and phyenlcetate: eight (8) percent by volume.
C. **Group III**: One or more of the following compounds and compound types - ketones having a branched hydrocarbon structure, ethylbenzene, trichloroethylene, and/or toluene: twenty (20) percent by volume.
D. An aggregate of any combination of the above three groups: twenty (20)

percent by volume.

Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the above groups of organic compounds, it shall be considered a member of the most reactive chemical group that it can be classified into, that is, that group having the lowest percentage composition limit.

**"Non-Precursor Organic Compound"** means any of the following organic compounds which have been designated by the EPA as having negligible photochemical reactivity. EPA designates such compounds as "exempt":
67-64-1 Acetone;
74-82-8 Methane;
74-84-0 Ethane;
75-09-2 Methylene chloride (dichloromethane);
71-55-6 1,1,1-trichloroethane (methyl chloroform);
75-69-4 Trichlorofluoromethane (CFC-11);
75-71-8 Dichlorodifluoromethane (CFC-12);
75-45-6 Chlorodifluoromethane (HCFC-22);
76-13-1 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
76-14-2 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114);
76-15-3 Chloropentafluoroethane (CFC-115);
75-46-7 Trifluoromethane (HFC-23);
306-83-2 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
2837-89-0 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
1717-00-6 1,1-dichloro-1-fluoroethane (HCFC-141b);
75-68-3 1-chloro-1,1-difluoroethane (HCFC-142b);
354-33-6 Pentafluoroethane (HFC-125);
354-25-6 1,1,2,2-tetrafluoroethane (HFC-134);
811-97-2 1,1,1,2-tetrafluoroethane (HFC-134a);
420-46-2 1,1,1-trifluoroethane (HFC-143a);
75-37-6 1,1-difluoroethane (HFC-152a);
98-56-6 Parachlorobenzotrifluoride (PCBTF);
127-18-4 Perchloroethylene (tetrachloroethylene);
422-56-0 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
507-55-1 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
75-10-5 Difluoromethane (HFC-32);

353-36-6 Ethylfluoride (HFC-161);
690-39-1 1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
678-86-7 1,1,2,2,3-pentafluoropropane (HFC-245ca);
460-73-1 1,1,2,3,3-pentafluoropropane (HFC-245ea);
431-31-2 1,1,1,2,3-pentafluoropropane (HFC-245eb);
1,1,1,3,3-pentafluoropropane (HFC-245fa);
431-63-0 1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
1,1,1,3,3-pentafluorobutane (HFC-365mfc);
593-70-4 Chlorofluoromethane (HCFC-31);
1615-75-4 1-chloro-1-fluoroethane (HCFC-151a);
354-23-4 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C4F9OCH3);
2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF3)2CFCF2OCH3);
1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C4F9OC2H5);
2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF3)2CFCF2OC2H5);
79-20-9 methyl acetate;
cyclic, branched, or linear completely methylated siloxanes;
perfluorocarbon compounds that fall into these classes:

(1) Cyclic, branched, or linear, completely fluorinated alkanes;
(2) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
(3) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

**"Open-Top Vapor Degreaser"** means any batch-loaded degreaser using solvent that is maintained above the initial boiling point temperature of the solvent. Degreasing occurs through the condensation of the resultant solvent vapor onto the surface of the workload.

**"Organic Compound"** means any compound of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, carbonates, and metallic carbides.

**"Organic Solvent"** means any organic compound which is liquid at actual conditions of use or storage and which is used as a diluent, thinner, dissolver, viscosity reducer, extractant, cleaning agent or is a reactant or product in a manufacturing process.

**"Refrigerated Chiller"** means a control device mounted above both the water jacket and the primary condenser coils, consisting of secondary coils, which carry a refrigerant that provides a chilled air blanket above the solvent vapor, thereby reducing VOC emissions from the solvent degreaser bath.

**"Rotating Basket"** means a perforated or wire mesh cylinder containing parts to be cleaned that is slowly rotated while proceeding through the degreaser.

**"Solvent"** for the purposes of this Section, means any liquid or vapor which is used to dissolve, clean, strip, or remove impurities, coatings, contaminants, or films from surfaces or from internal spaces and voids. In addition to VOC-containing solvents, this also includes plain water and mixtures containing water.

**"Solvent Cleaner"** means a device that applies solvent or in which solvent is applied to items for the purpose of solvent cleaning.

**"Solvent Cleaning"** means the use of organic solvent to remove loosely held uncured adhesives, uncured inks, uncured coating, and other contaminants that include, but are not limited to, dirt, soil, lubricants, coolant, moisture, grease, and fingerprints from parts, products, tools, machinery, equipment, and general work areas.

**"Solvent Cleaning Operation"** means any process, including wipe cleaning, used to clean or dry metal and non-metal surfaces typically using a cold, vapor, or conveyorized solvent cleaner.

**"Solvent Container"** means that part of the solvent cleaner that is intended to hold the cleaning-solvent.

**"Sump"** means the part of a solvent cleaner where the liquid solvent is located.

**"True Vapor Pressure"** means absolute vapor pressure of a liquid at its existing temperature of storage and handling.

**"Vapor Loss Control Device"** means any piping, hoses, equipment, and devices which are used to collect, store and/or process organic vapors at a bulk terminal, bulk plant, service station or other operation handling gasoline and/or other organic liquids.

**"Volatile Organic Compounds" or "(VOCs)"** means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or

carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC–113); trichlorofluoromethane (CFC–11); dichlorodifluoromethane (CFC–12); chlorodifluoromethane (HCFC–22); trifluoromethane (HFC–23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC–114); chloropentafluoroethane (CFC–115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC–123); 1,1,1,2-tetrafluoroethane (HFC–134a); 1,1-dichloro 1-fluoroethane (HCFC–141b); 1-chloro 1,1-difluoroethane (HCFC–142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC–124); pentafluoroethane (HFC–125); 1,1,2,2-tetrafluoroethane (HFC–134); 1,1,1-trifluoroethane (HFC–143a); 1,1-difluoroethane (HFC–152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC–225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC–225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43–10mee); difluoromethane (HFC–32); ethylfluoride (HFC–161); 1,1,1,3,3,3-hexafluoropropane (HFC–236fa); 1,1,2,2,3-pentafluoropropane (HFC–245ca); 1,1,2,3,3-pentafluoropropane (HFC–245ea); 1,1,1,2,3-pentafluoropropane (HFC–245eb); 1,1,1,3,3-pentafluoropropane (HFC–245fa); 1,1,1,2,3,3-hexafluoropropane (HFC–236ea); 1,1,1,3,3-pentafluorobutane (HFC–365mfc); chlorofluoromethane (HCFC–31); 1 chloro-1-fluoroethane (HCFC–151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC–123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$ or HFE–7100); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$ or HFE–7200); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$); methyl acetate, 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-$C_3F_7OCH_3$, HFE–7000), 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE–7500), 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea), and methyl formate (HCOOCH3), and perfluorocarbon compounds which fall into these classes:

(i) Cyclic, branched, or linear, completely fluorinated alkanes;

(ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

**"Waste Solvent Residue"** means sludge that may contain dirt, oil, metal particles, and/or other undesirable waste products concentrated after heat distillation of the waste solvent either in the solvent cleaner itself or after distillation in a separate still.

**"Wipe Cleaning"** means the cleaning and removal of residue or contaminants from surfaces by manually rubbing the surfaces with solvent-containing rags or disposable wipers.

**"Workload"** means the objects put in a cleaner for the purposes of removing oil, grease, soil, coating, dirt, or other undesirable matter from the surface of the objects.

## 3.0 LIMITATIONS AND STANDARDS

**3.1** **Solvent Handling Requirements.** Any person to whom this Section applies must comply with all of the following solvent handling requirements:

**A.** All cleaning solvent, including solvent soaked materials, shall be kept in closed leakfree containers that are opened only when adding or removing materials.

**B.** Rags used for wipe cleaning shall be stored in closed containers when not in use.

**C.** Each container shall be clearly labeled with its contents.

**D.** If any cleaning solvent escapes from a container:

**1.** Wipe up or otherwise remove immediately if in accessible areas.

**2.** For areas where access is not feasible during normal production, remove as soon as reasonably possible.

**3.2** **Operating and Signage Requirements for Solvent Cleaning Operations.**

**A.** Any person who uses a solvent cleaner must conform to the following operating requirements:

**1.** The solvent cleaner, ventilation system, and emission control equipment shall be installed, operated, and maintained in proper working order.

**2.** The solvent containers shall be free of all liquid leaks. Auxiliary cleaner equipment, such as pumps, water separators, steam traps, or distillation units shall not have any liquid leaks, visible tears, or cracks.

**3.** Any such liquid leak, visible tear, or crack that is detected shall be repaired within one day from discovery by the operator, or the cleaner shall be drained of all solvent and shut down until replaced or repaired.

**4.** Solvent cleaners shall not be operated when leaking.

**5.** When solvent is added to or drained from a solvent cleaner, the solvent shall be transferred using threaded or other leakproof couplings and the end of the pipe in the solvent sump shall be located beneath the liquid solvent surface.

**6.** If distillation recovery of waste solvent is performed, solvent residues shall not contain more than twenty (20) percent solvent by weight.

**7.** No person shall remove or open any device designed to cover the solvent unless processing work in the solvent cleaner or performing maintenance on the solvent cleaner.

**8.** Drain clean parts after cleaning for at least fifteen (15) seconds or until dripping ceases.

**9.** Drain cleaned material within the freeboard area so that the drained solvent is returned to the container. Parts shall be oriented for best drainage.

**10.** If using a solvent flow, use only a continuous, fluid stream (not a fine, atomized, or shower type spray) at a pressure that does not cause liquid solvent to splash outside of the solvent cleaner.

**11.** Perform solvent agitation, where necessary, by means other than air agitation.

**12.** Solvent cleaning or solvent vapor cleaning of porous or absorbent materials such as sponges, cloth, leather, wood, or rope is prohibited.

**13.** Minimize solvent carry-out by employing the following measures:

**a.** Rack workload to facilitate drainage;

**b.** Move workload in and out of the degreaser at less than 3.3 m/minute (11 ft/minute);

**c.** Degrease the workload in the vapor zone until condensation ceases;

**d.** Allow workload to dry within the solvent cleaner until visually dry;

**e.** For manual operation, tip out any pools of solvent remaining on the workload before removing it from the solvent cleaner.

**14.** A cleaner shall not be located where drafts are directed across the cleaner.

**15.** For those cleaners equipped with water separators, no solvent shall be visually detectable in the water exiting the water separator.

**16.** A lip exhaust system shall not be added to any solvent cleaner, unless it is vented to an emission control system. The lip exhaust shall be turned off when the degreaser is covered.

**17.** Operators must receive training in proper solvent cleaning procedures.

**B.** Any person using a solvent cleaner must post a permanent, conspicuous label that summarizes proper operating procedures consistent with minimizing emissions of organic solvents.

**3.3** **Equipment Requirements.** Any person using a solvent cleaner shall utilize the following:

**A.** An apparatus or cover that prevents the solvent from evaporating when not processing work in the solvent cleaner.

**1.** For cold cleaning degreasers, if the solvent volatility is greater than 0.3 psia (at 100 degrees Fahrenheit), the solvent is agitated, or heated, the cover should be a sliding, rolling or guillotine (bi-parting) type that can be opened and closed easily with one hand or foot. Covers for larger degreasers may require mechanical assistance, by spring loading, conterweighting or powered systems.

**2.** For open-top vapor degreasers, the cover should be a sliding, rolling or guillotine (bi-parting) type that can be opened and closed easily without disturbing the vapor zone.

**3.** For conveyorized degreasers, a cover shall be provided for closing off the entrance and exit during shutdown hours.

**4.** If the solvent cleaner is equipped with a lip exhaust, the cover shall be located below the lip exhaust. The lip exhaust shall be turned off when the solvent cleaner is covered. As of (the effective date of this Section), a lip exhaust system shall not be added to any solvent cleaner unless it is vented to an ECS.

**5.** Equipment covers and dipping or rotating baskets must be constructed of nonporous or nonabsorbent material. Covers must form a tight seal with the sides of the solvent cleaner and have no gaps or holes.

**B.** A facility for draining cleaned parts such that the drained solvent is returned to the container.

## 4.0 COLD CLEANING OPERATIONS

**4.1** **Equipment Specifications for Cold Cleaning Operations.** The owner or operator of a cold cleaning degreaser shall comply with the following applicable equipment specifications:

**A.** The cleaner shall be equipped with an internal drainage basket so that parts are enclosed under the cover while draining if the solvent true vapor pressure is greater than 4.3 kPa (32 mm Hg or 0.6 psi) measured at one hundred (100) degrees Fahrenheit (thirty-eight (38) degrees Celsius) by ASTM D2879-92.

**B.** If the solvent true vapor pressure is greater than 4.3 kPa (32 mm Hg or 0.6 psi) measured at one hundred (100) degrees Fahrenheit (thirty-eight (38) degrees Celsius) by ASTM D2879-92 or if the solvent is heated above one hundred twenty (120) degrees Fahrenheit (fifty (50) degrees Celsius), one of the following control measures shall be implemented:

**1.** Freeboard height that gives a freeboard ratio greater than or equal to 0.7;

**2.** Water cover at least 2.54 centimeters (1 inch) in depth (solvent shall be insoluble in and heavier than water); or

**3.** Another system of equivalent control (as determined by the test methods in section 9.2), such as a refrigerated chiller or a carbon adsorber, approved by the Department.

**C.** The height of the solvent shall not exceed the manufacturer's fill-line for the machine.

## 5.0 OPEN-TOP VAPOR DEGREASERS

**5.1** **Equipment Specifications.**

**A.** The owner or operator of an open-top vapor degreaser shall comply with the following applicable equipment specifications:

**1.** The open-top vapor degreaser shall be equipped with a baffle on the windward side of the open-top vapor degreaser;

**2.** The open-top degreaser shall be equipped with the following safety switches:

**a.** A condenser coolant flow and high level thermostat switch that shuts off the sump heat if the condenser coolant is either not circulating or is too warm;

**b.** A spray safety switch that shuts off the spray pump if the vapor level drops more than ten (10) cm (4 in) below the lowest condensing coil;

**c.** A vapor level control thermostat that shuts off the sump heat when the vapor level rises above the recommended level;

**d.** A solvent level control; and

**e.** A sump thermostat.

**3.** One of the following control measures shall be implemented:

**a.** Freeboard ratio greater than or equal to 0.75 and, if the open-top vapor degreaser opening is greater than 1 $m^2$ (10.8 $ft^2$), a powered (motorized) cover;

**b.** Refrigerated chiller with a chilled air blanket temperature no greater than thirty (30) percent of the solvent's boiling point in degrees Fahrenheit measured at the centroid of the open-top vapor degreaser at the coldest point;

**c.** Enclosed design (cover or door opens only when the dry part to be cleaned is actually entering or exiting the open-top vapor degreaser);

**d.** Carbon adsorption system, with ventilation greater than or equal to fifteen (15) cubic meters per minute per square meter ($m^3/min/m^2$) (fifty (50) cubic feet per minute per square foot [$cfm/ft^2$]) of air/solvent interface (when cover is open), and exhausting less than twenty-five (25) parts per million (ppm) of solvent averaged over one complete adsorption cycle, or twenty-four (24) hours, whichever is less; or

**e.** A control system, such as a thermal or catalytic incinerator, demonstrated to have a control efficiency equivalent to or greater than the control measures listed in the above paragraphs (as determined by the test methods in section 9.2) and approved by the Department.

**5.2 OPERATING STANDARDS:** The owner or operator of an open-top vapor degreaser shall comply with the following applicable operating standards:

**A.** Workloads shall not occupy more than half of the degreaser's evaporative surface area.

**B.** Spray shall be conducted within the vapor zone.

**C.** The vapor level shall not drop to more than ten (10) cm (4 in) below the lowest condensing coil.

**D.** Workplace fans shall not be used near the open-top vapor degreaser opening and the exhaust ventilation shall not exceed twenty (20) $m^3/min/m^3$ (65 $cfm/ft^2$);

**E.** When starting the degreaser, the cooling system shall be turned on before, or simultaneously with, the sump heater.

**F.** When shutting down the degreaser, the sump heater shall be turned off before or simultaneously with the cooling system.

**G.** The degreaser shall be covered whenever the cooling system is off.

## 6.0 CONVEYORIZED DEGREASERS

**6.1 EQUIPMENT SPECIFICATIONS**: Any person who owns or operates a conveyorized degreaser shall comply with the following requirements:

**A.** The conveyorized degreaser shall be equipped with a drying tunnel or rotating (tumbling) basket sufficient to prevent cleaned parts from carrying out solvent liquid or vapor.

**B.** Downtime covers shall be provided for closing off the entrance and exit at all times when the conveyors and exhausts are not being operated.

**C.** A conveyorized degreaser shall be fully enclosed except for entrance and exit portals.

**D.** The machine shall have a freeboard ratio greater than or equal to 0.75.

**E.** An owner and/or operator may meet the requirements of any one or combination of the requirements of subsection 6.1 by operating an ECS in accordance with Section 7.0 of this Section.

**6.2 OPERATING STANDARDS**: Any person that owns or operates a conveyorized degreaser shall comply with the following operating standards:

**A.** Openings shall be minimized during operation so that entrances and exits silhouette workloads with an average clearance between the parts and the edge of the conveyorized degreaser opening of less than ten (10) cm (4 in) or less than ten (10) percent of the width of the opening.

**B.** Workplace fans shall not be used near the conveyorized degreaser opening and the exhaust ventilation shall not exceed ten (10) $m^3/min/m^2$ (65 $cfm/ft^2$).

**C.** Any installed downtime covers shall be placed over entrances and exits of the conveyorized degreaser at all times when the conveyors and exhausts are not being operated.

**D.** When starting the degreaser, the cooling system shall be turned on before, or simultaneously with, the sump heater.

**E.** When shutting down the degreaser, the sump heater shall be turned off before, or simultaneously with, the cooling system.

## 7.0 EMISSIONS CONTROL REQUIREMENTS

### 7.1 Operation and Maintenance Plan Required for ECS.

**A.** Existing ECS. The owner or operator of a solvent cleaning operation in operation on or after November 1, 2004 shall submit an Operation and Maintenance Plan (O&M Plan) for emission control systems at the time the initial permit application is submitted to the Department for an operating permit. The O&M Plan shall describe the ECS monitoring devices and indicate temperatures, rates of flow, and other operating conditions necessary to determine if air pollution control equipment is functioning properly and is properly maintained. The O&M Plan shall also describe the procedures to properly install and maintain these devices in calibration, in good working order and in operation.

**B.** New ECS. If the owner or operator of a solvent cleaning operation intends to install a new ECS as the means of meeting the provisions of this Section, he or she shall notify the Department in writing within thirty (30) days of applicability. Such an ECS shall be in use within nine (9) months of the effective date of this Section. The O&M Plan required by paragraph A of this subsection shall be submitted to the Department for approval upon startup of the ECS.

### 7.2 Providing and Maintaining ECS Monitoring Devises.

Any person incinerating, adsorbing, or otherwise processing VOC emissions from a solvent cleaning operation shall provide, maintain and operate ECS monitoring devices, as indicated in the facility's O&M Plan.

## 8.0 MONITORING AND RECORDS

**8.1 Reporting - Initial Compliance Certification.** By no later than May 1, 2006, or upon startup of a new solvent cleaner or new ECS used to comply with this Section, the owner or operator shall provide to the Department an initial compliance certification, pursuant to the requirements of subsection 9.1.A. Owners or operators of solvent cleaners that are still in operation five (5) years

after the date from which the initial compliance certification was provided to the Department shall provide an updated compliance certification within thirty (30) days of the five-year date.

**8.2** **Recordkeeping.** Any person subject to the requirements of this Section shall comply with the following recordkeeping requirements. Records shall be retained for five (5) years and shall be made available to the Director upon request.

**A.** Current List of Solvents. Maintain a current list of cleaning-solvents being utilized and state the VOC-content of each in pounds VOC per gallon of material or grams per liter of material.

**B.** Usage Records.

**1.** Monthly Usage Records. Maintain monthly records of the amount of cleaning-solvent used. Records of the amount of cleaning solvent used shall be updated by the last day of the month for the previous month.

**2.** Grouping by VOC Content. For purposes of recording usage, an operator may give cleaning-solvents of similar VOC content a single group-name, distinct from any product names in the group. The total usage of all the products in that group are then recorded under just one name. (In such a case, the operator must also keep a separate list that identifies the product names of the particular solvents included under the group name). To the group name shall be assigned the highest VOC content among the members of that group, rounded to the nearest $10^{th}$ of a pound of VOC per gallon of material, or to the nearest gram VOC per liter of material.

**C.** ECS Records. Any person using an add-on emission control system as a means of complying with the provisions in subsections 4.1, 5.1, or 6.1 shall maintain daily records of key system operating parameters and maintenance procedures which will demonstrate continuous operation and compliance of the emission control system during periods of emission producing activities. Key system operating parameters are those necessary to ensure compliance with VOC limits. The parameters may include, but are not limited to, temperatures, pressures, and flow rates.

## 9.0 COMPLIANCE AND TEST METHODS

### 9.1 **Compliance Determination.**

**A.** Equipment Standards. Upon startup of a new solvent cleaner, replacement of an existing solvent cleaner with one of a different model, changing the control device used on an existing solvent cleaner, or upon request by the Department, the owner of the solvent cleaner shall perform tests and submit to the Department a compliance certification which contains the results of all tests and calculations necessary to demonstrate that the solvent cleaner will be in compliance with the applicable equipment standards.

**B.** Safety Switches. In addition to the monitoring requirement set forth in the requisite O&M Plan, safety switches must be tested semiannually.

**9.2** **Test Methods.** Compliance with the emission standards in this Section shall be determined by applying the following test methods, which are set forth in 40 C.F.R. Part 60, Appendix A (adopted as of [date of proposed rule], and no future additions or amendments, and incorporated herein by reference), the ASTM methods, or as indicated. [When more than one test method is permitted for a determination, an exceedance of the limits established in this Section determined by any of the applicable test methods constitutes a violation of this Section.]

**A.** EPA Methods 1-4 to determine flow rates.

**B.** EPA Method 18 ("Measurement of Gaseous Organic Compound Emissions by Gas Chromatography") and its submethods (40 C.F.R. Part 60, Appendix A).

**C.** EPA Method 25 ("Determination of Total Gaseous Nonmethane Organic Emissions as Carbon") and its submethods (40 C.F.R Part 60, Appendix A).

**D.** EPA Method 25A ("Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer") or 25B ("Determination of Total Gaseous Organic Concentration Using a Non-Dispersive Infrared Analyzer") (40 C.F.R. Part 60, Appendix A).

**E.** EPA Test Method 204 ("Criteria for and Verification of a Permanent or Temporary Total Enclosure"), 204a, 204b, 204c, 204d, 204e, and 204f (40 C.F.R. Part 51, Appendix M).

**F.** California's Bay Area Air Quality Management District (BAAQMD) Method 31, "Determination of Volatile Organic Compounds in Paint Strippers, Solvent Cleaners, and Low Solids Coatings."

**G.** California's South Coast Air Quality Management District (SCAQMD) Method 313-91.

**H.** ASTM D2879-92 for measuring solvent true vapor pressure.

**I.** The control equipment efficiency of an emission control system as specified in 40 C.F.R. Part 60, Appendix A, subsection (k)(1)(D), on a mass emissions basis, and the VOC concentrations in the exhaust gases, measured and calculated as carbon, shall be determined by EPA Methods 25, 25A, SCAQMD Method 25.1 ("Determination of Total Gaseous Non-Methane Organic Emissions as Carbon"), or SCAQMD Method 25.3 ("Determination of Low Concentration Non-Methane Non-Ethane Organic Compound Emissions from Clean Fueled Combustion Sources"), as applicable. EPA Method 18, or California Air Resources Board (CARB) Method 422 shall be used to determine emissions of exempt compounds.

## Part VII. Source/Category Specific Emission Limits for Existing and New Sources

### Section 1.0 Secondary Aluminum Production


**1.0 Applicability**
**2.0 Emission Limitations, Standards and Operating Requirements**
- **2.1 Visible Emissions**
- **2.2 Volatile Organic Compounds**

**3.0 General Administrative Requirements**
- **3.1 Operation and Maintenance Plan**
- **3.2 Providing and Maintaining Monitoring Devices**

**4.0 Recordkeeping**
**5.0 Opacity Test Methods**

**1.0** **Applicability.** The requirements set forth in this section are in addition to those set forth in 40 C.F.R. Part 63, Subpart RRR, incorporated herein by reference as of July 1, 2006. This Section applies to all new, existing and modified secondary aluminum production facilities located on the Gila River Indian Community.

## 2.0 EMISSION LIMITATIONS, STANDARDS AND OPERATING REQUIREMENTS

**2.1** **Visible Emissions.** No person shall cause, allow or permit to be discharged into the atmosphere from any emission source at a secondary aluminum production facility any air contaminant, other than uncombined water, in excess of twenty (20) percent opacity, as determined by applying EPA Method 9 protocol.

**2.2** **Volatile Organic Compounds.**

**A.** The owner or operator of a source subject to this Section shall, in its initial permit application submitted pursuant to Part II, propose a VOC baseline emission rate in tons per year. The baseline emission rate shall be the source's actual emissions as determined pursuant to Part II, Section 1.0.

**B.** Each source subject to this Section shall demonstrate annually by February 15 that for the preceding calendar year total VOC emissions were reduced by at least three (3) percent of the VOC baseline emission rate. This demonstration shall be required each year for five (5) consecutive years after issuance of the source's initial permit pursuant to Part II for a total VOC reduction of at least fifteen (15) percent from the VOC baseline emission rate.

**C.** If within the five year period, a secondary aluminum production facility achieves a VOC reduction of fifteen (15) percent from the established VOC baseline emission rate, such facility shall be considered to have achieved the requirements for VOC reduction and shall not be required to achieve additional yearly incremental VOC reductions.

## 3.0 GENERAL ADMINISTRATIVE REQUIREMENTS

**3.1** **Operation and Maintenance Plan.** Any owner or operator using an emissions control system to reduce emissions in accordance with this section shall provide to the Department for approval an Operation and Maintenance Plan ("O&M Plan") at the time the initial permit application is submitted to the Department for an operating permit. The O&M Plan shall specify key system operating parameters, such as temperatures, pressures and/or flow rates, necessary to determine compliance with this Section and describe in detail procedures to maintain the approved emission control system. The Department's written approval of the O&M Plan shall be required in order to comply with this subsection.

**3.2** **Providing and Maintaining Monitoring Devices.** Any person incinerating, adsorbing, or otherwise processing organic materials pursuant to this Section shall provide, properly install and maintain in calibration, in good working order, and in operation, devices specified in the O&M Plan as well as in either the Permit to Operate or the Installation Permit for indicating temperatures, pressures, rates of flow, or other operating conditions necessary to determine if air pollution control equipment is functioning properly and is properly maintained.

**4.0 RECORDKEEPING.** Any owner or operator of a secondary aluminum production facility subject to this Section shall comply with the following recordkeeping requirements:

**A.** Maintain records of the amount and type of solvent used and disposed.

**B.** Maintain records of maintenance performed on air pollution control devices as required per the O&M Plan.

**C.** Maintain records of any malfunctions of air pollution control devices and actions taken in response thereto.

**D.** Maintain records of monthly afterburner inspections including any maintenance performed.

**5.0 OPACITY TEST METHODS.** Compliance with opacity limitations shall be determined using Method 9, 40 C.F.R. Part 60 Appendix A, except that the opacity observations for intermittent visible emissions shall require twelve (12) rather than twenty-four (24) consecutive readings at fifteen (15) second intervals. Alternatively, Method 22 may be used if approved by DEQ pursuant to a complete source monitoring/test protocol. Frequencies and locations for conducting visible emissions readings shall be integrated into each individual facility permit. Each facility shall provide for a certified opacity observer to conduct visible emissions readings at locations and on a schedule specified in each individual facility permit.

**Part VII. Source/Category Specific Emission Limits for Existing and New Sources**

**Section 2.0 Aerospace Manufacturing and Rework Operations**


**1.0 Applicability**
- **1.1 General Applicability**
- **1.2 Exemptions**

**2.0 Definitions**

**3.0 Limitations and Standards**
- **3.1 Primers, Topcoats and Chemical Milling Maskants**
- **3.2 Specialty Coatings**
- **3.3 Emissions Control Devices**
- **3.4 Application Equipment**
- **3.5 Hand-wipe Cleaning Operations**
- **3.6 Solvent Cleaning Operations**
- **3.7 Housekeeping Requirements**

**4.0 Monitoring and Records**
- **4.1 Recordkeeping**
- **4.2 Reporting**

**5.0 Compliance and Test Methods**
- **5.1 Primers and Topcoats**
- **5.2 Specialty Coatings**
- **5.3 Coatings**
- **5.4 Control Equipment**

## 1.0 APPLICABILITY

**1.1** **General Applicability.** The provisions of this Section apply to each aerospace manufacturing or rework facility within the exterior boundaries of the Gila River Indian Community ("Community") whose plant-wide potential to emit exceeds ten (10) pounds of volatile organic compounds ("VOC") per day. Compliance with the provisions of this Section shall not relieve any person subject to the requirements of this Section from complying with any other federally enforceable New Source Performance Standard ("NSPS") or National Emissions Standard for Hazardous Air Pollutants ("NESHAPs"). In such cases, the more stringent standard shall apply.

**1.2** **Exemptions.** The following activities shall be exempt from the provisions of this Section:

**A.** Research and development;

**B.** Quality control;

**C.** Laboratory testing activities;

**D.** Chemical milling (except for application of chemical milling maskants);

**E.** Metal finishing;

**F.** Electrodeposition (except for the electrodeposition of paints);

**G.** Composites processing (except for cleaning and coating of composite parts or components that become part of an aerospace vehicle or component as well as composite tooling that comes in contact with such composite parts or components prior to cure);

**H.** Electronic parts and assemblies (except for cleaning and topcoating of completed assemblies);

**I.** Manufacture of aircraft transparencies;

**J.** Wastewater treatment operations;

**K.** Manufacturing and rework of parts and assemblies not critical to the vehicle's structural integrity or flight performance;

**L.** Regulated activities associated with space vehicles designed to travel beyond the limit of the earth's atmosphere including, but not limited to, satellites, space stations, and space shuttles;

**M.** Utilization of primers, topcoats, specialty coatings, cleaning solvents, chemical milling maskants, and strippers containing VOCs at concentrations less than 0.1 percent for carcinogens or 1.0 percent for noncarcinogens;

**N.** Utilization of touchup, aerosol, and Department of Defense classified coatings;

**O.** Maintenance and rework of antique aerospace vehicles and components;

**P.** Rework of aircraft or aircraft components if the holder of the Federal Aviation Administration design approval, or the holder's licensee, is not actively manufacturing the aircraft or aircraft components.

## 2.0 DEFINITIONS

**"Ablative Coating"** means a coating that chars when exposed to open flame or extreme temperatures, as would occur during the failure of an engine casing or during aerodynamic heating. The ablative char surface serves as an insulative barrier, protecting adjacent components from the heat or open flame.

**"Adhesion Promoter"** means a very thin coating applied to a substrate to promote wetting and form a chemical bond with the subsequently applied material.

**"Adhesive Bonding"** means the joining together of two or more metal parts, such as the parts of a honeycomb core. The surfaces to be bonded are first coated with an adhesive bonding primer to promote adhesion and protect from subsequent corrosion. Structural adhesives are applied as either a thin film or as a paste and can be oven cured in an autoclave.

**"Adhesive Bonding Primer"** means a primer applied in a thin film to aerospace components for the purpose of corrosion inhibition and increased adhesive bond strength by attachment. There are two categories of adhesive bonding primers, primers with a design cure at 250° F (120° C) or below and primers with a design cure above 250° F (120° C).

**"Aerospace Manufacturing Rework Facility"** means a commercial, civil, or military facility that produces in any amount an aerospace vehicle or component, or a commercial, civil, or military facility that reworks (or repairs) these vehicles or components. Aerospace manufacturing and rework operations may consist of, but not be limited to, any of the following basic operations: chemical milling maskant application, chemical milling, adhesive bonding, cleaning, metal finishing electrodeposition, coating application, depainting, and composite processing.

**"Aerospace Vehicle or Component"** means any fabricated part, processed part, assembly of parts, or completed unit, with the exception of electronic components, of any aircraft including, but not limited to, airplanes, helicopters, missiles, rockets, and space vehicles.

**"Aircraft Fluid Systems"** means those systems that handle hydraulic fluids, fuel, cooling fluids, or oils.

**"Aircraft Transparency"** means the aircraft windshield, canopy, passenger windows, lenses and other components which are constructed of transparent materials.

**"Antichafe Coating"** means a coating applied to areas of moving aerospace components that may rub during normal operations or installations.

**"Antique Aerospace Vehicle or Component"** means an antique aircraft, as defined by 14 C.F.R. Part 45, or components thereof. An antique aerospace vehicle would not routinely be in commercial or military service in the capacity for which it was designed.

**"Aqueous Cleaning Solvent"** means a cleaning solvent in which water is the primary ingredient (greater than eighty (80) percent by weight of cleaning solvent solution as applied must be water). Detergents, surfactants, and bioenzyme mixtures and nutrients may be combined with the water along with a variety of additives such as organic solvents, builders, saponifiers, inhibitors, emulsifiers, pH buffers, and antifoaming agents. Aqueous solutions must have a flash point greater than 200° F (93° C) (as reported by the manufacturer) and the solution must be miscible with water.

**"Application Equipment"** means equipment used for applying coatings to a substrate. Application equipment includes, but is not limited to, coating distribution lines, coating hoses, equipment used in hand application methods, and equipment used in mechanically operated application methods including, but not limited to, spray guns, spinning disks, and pressure pots.

**"Bearing Coating"** means a coating applied to an antifriction bearing, a bearing housing, or the area adjacent to protect base material from excessive wear. A material shall not be classified as bearing coating if it can also be classified as a dry lubricative material or a solid film lubricant.

**"Bonding Maskant"** means a temporary coating used to protect selected areas of aerospace parts from strong acid or alkaline solutions during processing for bonding.

**"Brush Coating"** means the manual application of coatings using brushes or rollers.

**"Caulking and Smoothing Compounds"** means semi-solid materials that are applied by hand application methods and are used to aerodynamically smooth exterior vehicle surfaces or fill cavities such as bolt hold accesses. A material shall not be classified as a caulking and smoothing compound if it can be classified as a sealant.

**"Chemical-agent Resistance Coating" or "CARC"** means an exterior topcoat designed to withstand exposure to chemical warfare agents or the decontaminates used in these agents.

**"Chemical Milling Maskant Application Operation"** means the use of spray equipment or a dip tank to apply a chemical milling maskant, prior to chemically milling the component with a Type II etchant.

**"Chemical Milling Maskant"** means a coating that is applied directly to aluminum components to protect surface areas when chemical milling the component with a Type I or Type II etchant. Type I chemical milling maskants are used with a Type I etchant and Type II chemical milling maskants are used with a Type II etchant. This definition does not include bonding maskants, critical use and line sealer maskants, and seal coat maskants. Additionally, maskants that must be used with a combination of Type I or Type II etchants and any other of the above types of maskants are also not included in this definition.

**"Chemical Milling"** means a process used to reduce the thickness of selected areas of metal parts in order to reduce weight by submerging the metal parts in an etchant.

**"Cleaning Operation"** means any operation that removes dirt or impurities from aerospace vehicles, components, or coating equipment. This may include spray-gun, hand-wipe, and flush cleaning operations.

**"Cleaning Solvent"** means any liquid material used for hand-wipe, spray-gun, or coating-line cleaning.

**"Clear Coating"** means a transparent coating usually applied over a colored opaque coating, metallic substrate, or placard to give improved gloss and protection to the color coat. In some cases, a clearcoat refers to any transparent coating without regard to substrate.

**"Coating"** means a material that is applied to the surface of an aerospace vehicle or component to form a decorative or functional solid film, or the solid film itself.

**"Coating Class"** means a specific subgroup of coatings such as all Topcoats, all Primers, all Type I Chemical Millings Maskants, etc.; or a specific type of specialty coating such as all Ablative Coatings, all Adhesion Promoters, all Antichafe Coatings, etc.

**"Coating Operation"** means using a spray booth, tank, or other enclosure or any area, such as a hangar, for applying a single type of coating (e.g., primer); using the same spray booth for applying another type of coating (e.g., topcoat) constitutes a separate coating operation for which compliance determinations are performed separately.

**"Coating Unit"** means a series of one or more coating applicators and any associated drying area and/or oven wherein a coating is applied, dried, and/or cured. A coating unit

ends at the point where the coating is dried or cured, or prior to any subsequent application of a different coating. It is not necessary to have an oven or flashoff area to be included in this definition.

**"Commercial Exterior Aerodynamic Structure Primer"** means a primer used on aerodynamic components and structures that protrude from the fuselage, such as wings and attached components, control surfaces, horizontal stabilizers, vertical fins, wing-to-body fairings, antennae, and landing gear and doors, for the purpose of extended corrosion protection and enhanced adhesion.

**"Commercial Interior Adhesive"** means materials used in the bonding of passenger cabin interior components. These components must meet the Federal Aviation Administration ("FAA") fireworthiness requirements.

**"Compatible Substrate Primer"** means either compatible epoxy primer or adhesive primer.

**"Composite Processing Operations"** means layup, thermal forming, debulking, curing, break-out, compression molding, and injection molding of composites. *Layup* means the process of assembling the layers of the composite structure by positioning composite material in a mold and impregnating the material with a resin. *Thermal forming* means the process of forming the layup in a mold, which usually takes place in an autoclave. *Debulking* means the simultaneous application of low-level heat and pressure to the composite structure to force out excess resin, trapped air, vapor, and volatiles from between the layers of the composite structure. *Curing* means the process of changing resin into a solid material through a polymerization reaction. *Break-out* means the removal of the composite structure from the mold or curing fixtures. *Compression molding* means the process of filling one half of a mold with a molding compound, closing the mold, and applying heat and pressure until the material is cured. *Injection molding* means the use of a closed mold, where the molding compound is injected into the mold, maintained under pressure, and then cured by applying heat.

**"Confined Space"** means a space that (1) is large enough and so configured that an employee can bodily enter and perform assigned work; (2) is limited or restricted for entry or exit (for example, fuel tanks, fuel vessels, and other spaces that have limited entry); and (3) is not suitable for continuous employee occupancy.

**"Corrosion Prevention Compound"** means a compound that provides corrosion protection by displacing water and penetrating mating surfaces, forming a protective barrier between the metal surface and moisture. Coatings containing oils or waxes are excluded from this category.

**"Critical Use and Line Sealer Maskant"** means a temporary coating, not covered under other maskant categories, used to protect selected areas of aerospace parts from strong acid or alkaline solutions such as those used in anodizing, plating, chemical milling and processing of magnesium, titanium, or high strength steel, high precision aluminum chemical milling of deep cuts, and aluminum chemical milling of complex shapes. Materials used for repairs or to bridge gaps left by scribing operations are also included in this category.

**"Cryogenic Flexible Primer"** means a primer designed to provide corrosion resistance, flexibility, and adhesion of subsequent coating systems when exposed to loads up to and surpassing the yield point of the substrate at cryogenic temperatures (i.e., -275° F (-170° C) and below).

**"Cryoprotective Coating"** means a coating that insulates cryogenic or subcooled surfaces to limit propellant boil-off, maintain structural integrity of metallic structures during ascent or re-entry, and prevent ice formation.

**"Cyanoacrylate Adhesive"** means a fast-setting, single component adhesive that cures at room temperature. (Also known as "super glue").

**"Depainting Operation"** means the use of a chemical agent, media blasting, or any other technique to remove coatings from the outer surface of aerospace components or vehicles. The depainting operation includes washing of the aerospace component or vehicle to remove residual stripper and coating residue.

**"Depainting"** means the removal of any coating from the outer surface of the aircraft by either chemical or non-chemical means.

**"Dip Coating"** means the application of a coating material to a substrate by dipping the part into a tank of the coating material.

**"Dry Lubricative Material"** means a coating consisting of lauric acid, acetyl alcohol, waxes, or other noncross linked resin-bond materials that act as a dry lubricant.

**"Electric or Radiation-Effect Coating"** means a coating or coating system engineered to interact, through absorption or reflection, with specific regions of the electromagnetic energy spectrum, such as the ultraviolet, visible, infrared, or microwave regions. Uses include, but are not limited to, lightning strike protection, electromagnetic pulse ("EMP") protection, and radar avoidance. Coatings that have been designated "classified" by the Department of Defense are exempt.

**"Electrodeposition or Metal Plating"** means an additive process for metal substrates in which another metal layer is added to the substrate in order to enhance corrosion and wear resistance necessary for the successful performance of the component. The two types of electro-deposition typically used are electroplating and plasma arc spraying.

**"Electrostatic Discharge and Electromagnetic Interference (EMI)"** means a coating applied to space vehicles, missiles, aircraft radomes, and helicopter blades to disperse static energy or reduce electromagnetic interference.

**"Electrostatic Spray"** means a method of applying a spray coating in which opposite electrical charges are applied to the substrate and the coating. The coating is attracted to the substrate by the electrostatic potential between them.

**"Elevated Temperature Skydrol Resistant Commercial Primer"** means a primer applied primarily to commercial aircraft (or commercial aircraft adapted for military use) that must withstand immersion in phosphate-ester (PE) hydraulic fluid (Skydrol 500b or equivalent) at the elevated temperature of 150° F for 1,000 hours.

**"Epoxy Polyamide Topcoat"** means a coating used where harder films are required or in some areas where engraving is accomplished in camouflage colors.

**"Etchant"** means a chemical used to mill a part or subassembly, such as sodium hydroxide for aluminum parts.

**"Fire-resistant (Interior) Coating"** means for civilian aircraft, fire-resistant coatings are used on passenger cabin interior parts that are subject to the FAA fireworthiness requirements. For military aircraft, fire-resistant interior coatings are used on parts that are subject to the flammability requirements of MIL-STD-1630A and MIL-A-87721. For space applications, these coatings are used on parts that are subject to the flammability requirements of SE-R-0006 and SSP 30233.

**"Flexible Primer"** means a primer that meets flexibility requirements such as those needed for adhesive bond primed fastener heads or on surfaces expected to contain fuel.

**"Flight Test Coating"** means a coating applied to aircraft other than missiles or single-use aircraft prior to flight testing to protect the aircraft from corrosion and to provide required marking during flight test evaluation.

**"Flow Coating"** means the application of a coating material to a substrate by pouring the coating over the suspended part.

**"Flush Cleaning"** means removal of contaminants such as dirt, grease, oil, and coatings from an aerospace vehicle or component or coating equipment by passing solvent over, into, or through the item being cleaned. The solvent simply may be poured into the item being cleaned and then drained or assisted by air or hydraulic pressure or by pumping. Hand-wipe cleaning operations where wiping, scrubbing, mopping or other hand action are used are not included.

**"Flush Cleaning Operation"** means the cleaning of an aerospace vehicle or component by passing solvent over, into, or through the vehicle or component. The solvent may simply be poured into the vehicle or component and then drained, or be assisted by air or hydraulic pressure, or by pumping.

**Fuel Tank Adhesive"** means an adhesive used to bond components exposed to fuel and must be compatible with fuel tank coatings.

**"Fuel Tank Coating"** means a coating applied to fuel tank components for the purpose of corrosion and/or bacterial growth inhibition and to assure sealant adhesion in extreme environmental conditions.

**"General Aviation (GA)"** means the segment of civil aviation that encompasses all facets of aviation except air carriers, commuters and military. General aviation includes charter and corporate-executive transportation, instruction, rental, aerial application, aerial observation, business, pleasure and other special uses

**"General Aviation Rework Facility"** means any aerospace facility with the majority of its revenues resulting from the reconstruction, repair, maintenance, repainting, conversion, or alteration of general aviation, aerospace vehicles or components.

**"Grams per Liter VOC"** means a weight of VOC per combined volume of VOC and coating solids, less water and exempt compounds, and can be calculated by the following equation:

$$\textit{grams per liter} = \frac{W_s - W_w - W_{es}}{V_s - V_w - V_{es}}$$

$W_s$ = weight of volatile organic compounds in grams
$W_w$ = weight of water in grams
$W_{es}$ = weight of exempt compounds in grams
$V_s$ = volume of material in liters
$V_w$ = volume of water in liters
$V_{es}$ = volume of exempt compounds in liters

**"Hand-Wipe Cleaning Operation"** means the removal of contaminants such as dirt, grease, and oil from aerospace components or vehicles by physically rubbing them with a material such as a rag, paper, or cotton swab that has been moistened with a cleaning solvent.

**"High Temperature Coating"** means a coating designed to withstand temperatures of more than 350°F (175°C).

**"High Volume Low Pressure (HVLP) Spray Equipment"** means spray equipment that is used to apply coatings by means of a gun that operates at ten (10.0) psig of atomizing air pressure or less at the air cap.

**"Insulation Covering"** means material that is applied to foam insulation to protect the insulation from mechanical or environmental damage.

**"Intermediate Release Coating"** means a thin coating applied beneath topcoats to assist in removing the topcoat in depainting operations and generally to allow the use of less hazardous depainting methods.

**"Lacquer"** means a clear or pigmented coating formulated with a nitrocellulose or synthetic resin to dry by evaporation without a chemical reaction. Lacquers are resoluble in their original solvent.

**"Leak"** means any visible leakage, including misting and clouding.

**"Limited Access Space"** means internal surfaces or passages of an aerospace vehicle or component that cannot be reached without the aid of an airbrush or spray gun extension for the application of coatings.

**"Metal Finishing Operations"** means conversion coating, anodizing, desmutting, descaling, and any operations that chemically affect the surface layer of a part, and are used to prepare the surface of a part for better adhesion, improved surface hardness, and improved corrosion resistance.

**"Metallized Epoxy Coating"** means a coating that contains relatively large quantities of metallic pigmentation for appearance and/or added protection.

**"Mold Release"** means a coating applied to a mold surface to prevent the molded piece from sticking to the mold as it is removed.

**"Non-Chemical-Based Depainting Equipment"** means any depainting equipment or technique, including media blasting equipment, that does not rely on a chemical stripper to depaint an aerospace vehicle or components.

**"Non-Precursor Organic Compound"** means any of the following organic compounds which have been designated by the EPA as having negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane;trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (CFC-22); 1,1,2-trichlorotrifluoroethane (CFC-113); 1,2-dichlorotetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); trifluoromethane (FC-23); 2,2-dichloro-1,1,1-trifluoroethane (HCFC-123); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); 1,1-dichloro-1-fluoroethane (HCFC-141b); 1-chloro-1,1-difluoroethane (HCFC-142b); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); all completely fluorinated, completely saturated: alkanes, ethers and tertiary amines.

**"Nonstructural Adhesive"** means an adhesive that bonds nonload bearing aerospace components in noncritical applications and is not covered in any other specialty adhesive categories.

**"Optical Anti-reflection Coating"** means a coating with a low reflectance in the infrared and visible wavelength ranges that is used for antireflection on or near optical and laser hardware.

**"Part Marking Coating"** means coatings or inks used to make identifying markings on materials, components, and/or assemblies. These markings may be either permanent or temporary.

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

**"Pretreatment Coating"** means an organic coating that contains at least 0.5 percent acids by weight and is applied directly to metal surfaces to provide surface etching, corrosion resistance, adhesion, and ease of stripping.

**"Primer"** means the first layer and any subsequent layers of identically formulated coating applied to the surface of an aerospace vehicle or component. Primers are typically used for the corrosion prevention, protection from the environment, functional fluid resistance, and adhesion of subsequent coatings. Primers that are defined as specialty coatings are not included under this definition.

**"Radome"** means the nonmetallic protective housing for electromagnetic transmitters and receivers.

**"Rain Erosion-Resistant Coating"** means a coating or coating system used to protect the leading edges of parts such as flaps, stabilizers, radomes, engine inlet nacelles, etc. against erosion caused by rain impact during flight.

**"Research and Development"** means an operation whose primary purpose is for research and development of new processes and products and that is conducted under the close supervision of technically trained personnel and is not involved in the manufacture of final or intermediate products for commercial purposes, except in a de minimis manner. This definition includes aerospace coating operations, including operations performed for purposes of testing and quality control, which are not used for production purposes to directly produce a deliverable product or service, other than the first-article product or service.

**"Rocket Motor Bonding Adhesive"** means an adhesive used in rocket motor bonding applications.

**"Rocket Motor Nozzle Coating"** means a catalyzed epoxy coating system used in elevated temperature applications on rocket motor nozzles.

**"Rubber-based Adhesive"** means a quick setting contact cement that provides a strong, yet flexible bond between two mating surfaces that may be of dissimilar materials.

**"Scale Inhibitor"** means a coating that is applied to the surface of a part prior to thermal processing to inhibit the formation of scale.

**"Screen Print Ink"** means inks used in screen printing processes during fabrication of decorative laminates and decals.

**"Seal Coat Maskant"** means an overcoat applied over a maskant to improve abrasion and chemical resistance during production operations.

**"Sealant"** means a material used to prevent the intrusion of water, fuel, air, or other liquids or solids from certain areas of aerospace vehicles or components.

**"Self-Priming Topcoat"** means a topcoat that is applied directly to an uncoated aerospace vehicle or component for purposes of corrosion prevention, environmental protection, and functional fluid resistance. More than one layer of identical coating formulation may be applied to the vehicle or component.

**"Semiaqueous Cleaning Solvent"** means a solution in which water is the primary ingredient (greater than sixty (60) percent by weight of the solvent solution as applied must be water).

**"Silicone Insulation Material"** means an insulating material applied to exterior metal surfaces for protection from high temperatures caused by atmospheric friction or engine exhaust. These materials differ from ablative coatings in that they are not "sacrificial."

**"Solid Film Lubricant"** means a very thin coating consisting of a binder system containing as its chief pigment material one or more of the following: molybdenum, graphite, polytetrafluoroethylene (PTFE), or other solids that act as a dry lubricant between faying surfaces.

**"Space Vehicle"** means a man-made device, either manned or unmanned, designed for operation beyond earth's atmosphere. This definition includes integral equipment such as models, mock-ups, prototypes, molds, jigs, tooling, hardware jackets, and test coupons. Also included is auxiliary equipment associated with test, transport, and storage that through contamination can compromise the space vehicle performance.

**"Specialized Function Coating"** means a coating that fulfills extremely specific engineering requirements that are limited in application and are characterized by low volume usage. This category excludes coatings covered in other Specialty Coating categories.

**"Specialty Coating"** means a coating that, even though it meets the definition of a primer, topcoat, or self-priming topcoat, has additional performance criteria beyond those of primers, topcoats, and self-priming topcoats for specific applications. These performance criteria may include, but are not limited to, temperature or fire resistance, substrate compatibility, antireflection, temporary protection or marking, sealing, adhesively joining substrates, or enhanced corrosion protection.

**"Spray-Gun"** means a device that uses air pressure or air flow to atomize a coating or other material and to project the atomized coating particulates or other material into a component.

**"Stripper"** means a liquid that is applied to an aerospace component or vehicle to remove primer, topcoat, or coating residue.

**"Structural Autoclavable Adhesive"** means an adhesive used to bond load carrying aerospace components that is cured by heat and pressure in an autoclave.

**"Structural Nonautoclavable Adhesive"** means an adhesive cured under ambient conditions that is used to bond load carrying aerospace components or other critical functions, such as nonstructural bonding in the proximity of engines.

**"Surface Preparation"** means the removal of contaminants from the surface of an aerospace vehicle or component or the activation or reactivation of the surface in preparation for the application of a coating.

**"Temporary Protective Coating"** means a coating applied to provide scratch or corrosion protection during manufacturing, storage, or transportation. Two types include peelable protective coatings and alkaline removable coatings. These materials are not intended to protect against strong acid or alkaline solutions. Coatings that provide this type of protection from chemical processing are not included in this category.

**"Thermal Control Coating"** means a coating formulated with specific thermal conductive or radioactive properties to permit temperature control of the substrate.

**"Topcoat"** means a coating that is applied over a primer on an aerospace vehicle or component for appearance, identification, camouflage, or protection. Topcoats that are defined as specialty coatings are not included under this definition.

**"Type I Etchant"** means a chemical milling etchant that contains varying amounts of dissolved sulfur and does not contain amines.

**"Type II Etchant" or "Type II Chemical Milling Etchant"** means a chemical milling etchant that is a strong sodium hydroxide solution containing amines.

**"Wet Fastener Installation Coating"** means a primer or sealant applied by dipping, brushing, or daubing to fasteners that are installed before the coating is cured.

**"Wing Coating"** means a corrosion-resistant topcoat that is resilient enough to withstand the flexing of the wings.

## 3.0 LIMITATIONS AND STANDARDS

**3.1** **Primers, Topcoats and Chemical Milling Maskants.** No person shall apply any primer, topcoat (including self-priming topcoats), or chemical milling maskants that contain VOCs in excess of the limits in this Table 1.

**TABLE 1**

| PRIMER or TOPCOAT TYPE | VOC LIMIT |
|---|---|
| All primers (except Specialty or General Aviation Rework Facility Primers) | 350 g/L (2.9 lb/gal) |
| All topcoats (except Specialty or General Aviation Rework Facility Primers) | 420 g/L (3.5 lb/gal) |
| General Aviation Rework Facility Primers | 540 g/L (4.5 lb/gal) |
| General Aviation Rework Facility Topcoats | 540 g/L (4.5 lb/gal) |
| All Type I Chemical Milling Maskants | 620 g/L (5.2 lb/gal) |
| All Type II Chemical Milling Maskants | 150 g/L (1.3 lb/gal) |

**3.2** **Specialty Coatings:** No person shall apply any surface coating that contains VOC emissions in excess of the limits set forth in this Table 2.

**TABLE 2**

| Type of Specialty Coating | VOC Limits |
|---|---|
| Ablative Coatings | 600g/L (5.0 lb/gal) |
| Adhesion Promoters | 890 g/L (7.4 lb/gal) |
| Adhesion Bonding Primers: Cured at 120ºC or below | 850 g/L (7.1 lb/gal) |
| Adhesive Bonding Primers: Cured at above 120ºC | 1030 g/L (8.6 lb/gal) |
| Adhesives: Commercial Interior | 760 g/L (6.3 lb/gal) |
| Adhesives: Cyanoacrylate | 1020 g/L (8.5 lb/gal) |
| Adhesives: Fuel Tanks | 620 g/L (5.2 lb/gal) |
| Adhesives: Nonstructural | 360 g/L (3.0 lb/gal) |
| Adhesives: Rocket Motor Bonding | 890 g/L (7.4 lb/gal) |
| Adhesives: Rubber-Based | 850 g/L (7.1 lb/gal) |
| Adhesives: Structural Autoclavable | 60 g/L (0.5 lb/gal) |
| Adhesives: Structural Nonautoclavable | 850 g/L (7.1 lb/gal) |
| Antichafe Coatings | 660 g/L (5.5 lb/gal) |

| Type of Specialty Coating | VOC Limits |
|---|---|
| Bearing Coating Compounds | 620 g/L (5.2 lb/gal) |
| Caulking and Smoothing Compounds | 850 g/L (7.1 lb/gal) |
| Chemical Agent-Resistant Coatings | 550 g/L (4.6 lb/gal) |
| Clear Coatings | 720 g/L (6.0 lb/gal) |
| Commercial Exterior Aerodynamic Structure Primers | 650 g/L (5.4 lb/gal) |
| Compatible Substrate Primers | 780 g/L (6.5 lb/gal) |
| Corrosion Prevention Compounds | 710 g/L (5.9 lb/gal) |
| Cryogenic Flexible Primers | 645 g/L (5.4 lb/gal) |
| Cryoprotective Coatings | 600 g/L (5.0 lb/gal) |
| Dry Lubricative Materials | 880 g/L (7.3 lb/gal) |
| Electric or Radiation-Effect Coatings | 800 b/L (6.7 lb/gal) |
| Electrostatic Discharge and Electromagnetic Interference (EMI) Coatings | 800 g/L (6.7 lb/gal) |
| Elevated Temperature Skydrol Resistant Commercial Primers | 740 g/L (6.2 lb/gal) |
| Epoxy Polyamide Topcoats | 660 g/L (5.5 lb/gal) |
| Fire-Resistant (Interior) Coatings | 800 g/L (6.7 lb/gal) |
| Flexible Primers | 640 g/L (5.3 lb/gal) |
| Flight-Test Coatings, Missile or Single Use Aircraft | 420 g/L (3.5 lb/gal) |
| Flight-Test Coatings, All Others | 840 g/L (7.0 lb/gal) |
| Fuel-Tank Coatings | 720 g/L (6.0 lb/gal) |
| High-Temperature Coatings | 850 g/L (7.1 lb/gal) |
| Insulations Coverings | 740 g/L (6.2 lb/gal) |
| Intermediate Release Coatings | 750 g/L (6.3 lb/gal) |
| Lacquers | 830 g/L (6.9 lb/gal) |
| Maskants: Bonding | 1230 g/L (10.3 lb/gal) |
| Maskants: Critical Use and Line Sealers | 1020 g/L (8.5 lb/gal) |
| Maskants: Seal Coat Maskants | 1230 g/L (10.3 lb/gal) |
| Metallized Epoxy Coatings | 740 g/L (6.2 lb/gal) |
| Mold Releases | 780 g/L (6.5 lb/gal) |
| Optical Anti-Reflective Coatings | 750 g/L (6.3 lb/gal) |
| Part Marking Coatings | 850 g/L (7.1 lb/gal) |
| Pretreatment Coatings | 780 g/L (6.5 lb/gal) |

| Type of Specialty Coating | VOC Limits |
|---|---|
| Rain Erosion-Resistant Coatings | 850 g/L (7.1 lb/gal) |
| Rocket Motor Nozzle Coatings | 660 g/L (5.5 lb/gal) |
| Scale Inhibitors | 880 g/L (7.3 lb/gal) |
| Screen Print Inks | 840 g/L (7.0 lb/gal) |
| Sealants: Extrudable/Rollable/Brushable | 280 g/L (2.3 lb/gal) |
| Sealants: Sprayable | 600 g/L (5.0 lb/gal) |
| Silicone Insulation Materials | 850 g/L (7.1 lb/gal) |
| Solid Film Lubricants | 880 g/L (7.3 lb/gal) |
| Specialized Function Coatings | 890 g/L (7.4 lb/gal) |
| Temporary Protective Coatings | 320 g/L (2.7 lb/gal) |
| Thermal Control Coatings | 800 g/L (6.7 lb/gal) |
| Wet Fastener Installations Coatings | 675 g/L (5.6 lb/gal) |
| Wing Coatings | 850 g/L (7.1 lb/gal) |

**3.3** **Emissions Control Devices.** As an alternative to meeting the applicable coating limits set forth in subsection 3.2, an owner or operator may comply with this Section by installing and operating an emissions capture and control system approved by the Director, provided that the control system demonstrates, at a minimum, a combined VOC emissions reduction efficiency of greater than or equal to eighty-one (81) percent by weight.

**3.4** **Application Equipment.**

**A.** Application Techniques. A person shall use one or more of the following application techniques in applying any primer or topcoat (including self-priming topcoats) to aerospace vehicles or components:

**1.** Flow/curtain application;

**2.** dip coat application;

**3.** roll coating;

**4.** brush coating;

**5.** cotton-tipped swab application;

**6.** electrodeposition (dip) coating;

**7.** high volume low pressure (HVLP) spraying;

**8.** electrostatic spray application;

**9.** other coating application methods that achieve emission reductions equivalent to HVLP or electrostatic spray application methods. Any such alternative methods shall be demonstrated to be equivalent to these methods and such demonstration must be approved by the Director in advance of the use of such alternatives.

**B.** Manufacturer Specifications. Each owner or operator of an aerospace manufacturing and/or rework operation shall ensure that all application devices listed in paragraph A of this subsection are operated at all times in accordance with company procedures and/or the manufacturer's specifications, whichever is more stringent. Equipment modified by the owner or operator shall maintain a transfer efficiency equivalent to HVLP and electrostatic spray application techniques.

**C.** Exemptions. The following situations are exempt from the application equipment requirements listed in paragraph A of this subsection**.**

**1.** The application of chemical milling maskants.

**2.** Any situation that normally requires the use of an extension on the spray-gun to properly reach limited access spaces.

**3.** The application of coatings with fillers that adversely affect atomization with HVLP spray-guns and that cannot be applied by any of the specified application techniques.

**4.** The application of coatings that normally have a dried film thickness of less than 0.0005 inches and that cannot be applied by any of the specified application techniques.

**5.** Any situation that normally requires the use of airbrush application methods for stenciling, letters, and other identification markings.

**6.** Touch-up and repair operations.

**3.5 <u>Hand-Wipe Cleaning Operations</u>.**

**A.** Standards. Except as provided in paragraph B of this subsection, a person shall not use solvents for hand-wipe cleaning of aerospace vehicles or components unless the cleaning solvents satisfy one of the following:

**1.** Meet the definition of "aqueous cleaning solvent" in subsection 2.0.

**2.** Have a VOC composite vapor pressure less than or equal to forty-five (45) millimeters of mercury (mm Hg) at 20 degrees Celsius.

**3.** Is a hydrocarbon-based solvent that has a maximum composite vapor pressure of seven (7) mm Hg at 20 degrees Celsius.

**B.** Exemptions. The following aerospace vehicle and component solvent cleaning operations are exempt from the hand-wipe cleaning operations listed in paragraph A of this subsection:

**1.** Cleaning during the manufacture, assembly, installation, maintenance, or testing of components of breathing oxygen systems that are exposed to the breathing oxygen.

**2.** Cleaning during the manufacture, assembly, installation, maintenance, or testing of parts, subassemblies, or assemblies, that are exposed to strong oxidizers or reducers.

**3.** Cleaning and surface activation prior to adhesive bonding.

**4.** Cleaning of electronic parts and assemblies containing electronic parts.

**5.** Cleaning of aircraft and ground support equipment fluid systems that are exposed to the fluid including air-to-air heat exchangers and hydraulic fluid systems.

**6.** Cleaning of fuel cells, fuel tanks**,** and confined spaces.

**7.** Surface cleaning of solar cells, coating optics, and thermal control surfaces.

**8.** Cleaning during fabrication, assembly, installation, and maintenance of upholstery, curtains, carpet, and other textile materials used in the interior of the aircraft.

**9.** Cleaning of metallic and non-metallic materials used in honeycomb cores during the manufacture or maintenance of these cores, and the cleaning of the completed cores used in the manufacture or maintenance of aerospace vehicles or components.

**10.** Cleaning of aircraft transparencies, polycarbonates, or glass substrates.

**11.** Cleaning and solvent usage associated with research and development, quality control, and laboratory testing.

**12.** Cleaning operations, using nonflammable liquids, conducted within five feet of energized electrical systems. Energized electrical systems means any alternating current (AC) or direct current (DC) electrical circuit on an assembled aircraft once electrical power is connected, including interior passenger and cargo areas, wheel wells, and tail sections.

**13.** Cleaning operations identified as essential uses under the Montreal Protocol for which the U.S. EPA has allocated essential use allowances or exemptions.

**3.6 <u>Solvent Cleaning Operations</u>.**

**A.** Flush Cleaning. Cleaning solvents, except semiaqueous cleaning solvents, used in the flush cleaning of aerospace vehicles, components, parts, assemblies, and coating unit components, with the exception of spray-guns, shall be emptied into an enclosed container or collection system that is kept closed when not in use or captured with wipers which comply with the housekeeping requirements of paragraph C. Aqueous cleaning solvents are exempt from these requirements.

**B.** Spray Gun Cleaning. All spray-guns shall be cleaned by one of the following methods:

**1.** Enclosed spray-gun cleaning, provided that it is kept closed when not in use and leaks are repaired as expeditiously as practicable, but no later than fifteen (15) days after the leak is first discovered. If the leak is not repaired by the 15$^{th}$ day after detection, the cleaning solvent shall be removed and the enclosed cleaner shall be shut down until the leak is repaired or its use is permanently discontinued.

**2.** Nonatomized discharge of solvent into a vat, drum, or other waste container that is closed when not in use.

**3.** Disassembly and cleaning of the spray-gun by hand in a vat that is kept closed at all times except when in use. Alternatively, the components shall be soaked in a vat, which shall remain closed during the soaking period and when not inserting or removing components.

**4.** Atomized spray into a waste container that is fitted with a device designed to capture the atomized cleaning solvent emissions.

**3.7** **Housekeeping Requirements.** Each owner or operator of an aerospace manufacturing and/or rework operation shall comply with the following housekeeping requirements:

**A.** Solvent-laden cloth, paper, or any other absorbent applicators used for cleaning shall be placed in bags or other closed containers upon completing their use. These bags and containers shall be kept closed at all times except when depositing or removing these materials from the container. The bags and containers shall be designed so as to ensure that the vapors of the cleaning solvent are contained. Cotton-tipped swabs used for very small cleaning operations are exempt from this requirement.

**B.** All fresh and spent cleaning solvents, except semi-aqueous solvent cleaners, that are used in aerospace cleaning operations shall be stored in closed containers.

**C.** Conduct the handling and transfer of cleaning solvents to or from enclosed systems, vats, waste containers, and other cleaning operation equipment that hold or store fresh spent cleaning solvents in such a manner that spills are minimized.

## 4.0 MONITORING AND RECORDS

**4.1** **Recordkeeping.** All persons subject to this Section shall comply with the following recordkeeping requirements. Records shall be retained for five (5) years and shall be made available to the Director upon request.

**A.** Coatings. Each owner or operator of an aerospace manufacturing and/or rework operation utilizing coatings specified in this Section shall maintain a current list of coatings that includes the specific category including noncompliant compounds, VOC content as applied, and the monthly amount used for each coating. If compliance is demonstrated using averaging, records of any such calculations must also be maintained.

**B.** Cleaning Solvents. Each owner or operator of an aerospace manufacturing and/or rework operation utilizing cleaning solvents shall:

**1.** Maintain a list of materials with corresponding water contents for aqueous and semi-aqueous hand-wipe cleaning solvents.

**2.** Maintain a current list of all cleaning solvents in use with their respective vapor pressures or, for blended solvents, VOC composite vapor pressures and records of the monthly usage of such cleaning solvents.

**3.** Maintain a current list of exempt hand-wipe cleaning processes for all cleaning solvents with a vapor pressure greater than forty-five (45) mm Hg used in exempt hand-wipe cleaning operations. This list shall include the monthly amount of each applicable solvent used.

**4.** Maintain a list of any non-compliance occurrence, including the names and volumes of any non-compliant solvents or cleaners used.

**C.** Spray Gun Operations. An owner or operator of a cleaning operation subject to this Section shall maintain a record of all leaks from spray-gun cleaners, including identification of the source, the date the leak was first discovered, and the date the leak was repaired.

**D.** Emissions Control Devises Approved Pursuant to Subsection 3.3. An owner or operator of an emissions control device shall maintain daily records of the operating parameters for the device.

**4.2** **<u>Reporting</u>.**

**A.** All facilities subject to the provisions of this Section are required to file with the Department an annual report covering activities for one calendar year. The report shall be submitted to the Department by March 31st of the following year. The report shall list any noncompliance situations that occurred in the reporting year. For each incident of non-compliance, the report shall provide an explanation of how the non-compliance situation occurred and it shall describe the preventative measures implemented to prevent similar non-compliance incidents in the future.

**B.** If no non-compliance situations occur in a calendar year, the facility shall submit in letter form a certification of compliance signed by a responsible official of the company.

## 5.0 COMPLIANCE AND TEST METHODS

**5.1** **Primers and Topcoats.** Compliance with the limits in Table 1 of subsection 3.1 may be determined for each coating used or by computing the monthly mass-weighted average VOC content for all coatings within a given coating class used during that month. As an alternative to compliance with the emission limits set forth in Table 1 of subsection 3.1, an owner or operator may meet the requirements in subsection 3.3 of this Section.

**5.2** **Specialty Coatings.** Compliance with the limits set forth in Table 2 of subsection 3.2 shall be determined for each and every coating used. Averaging within a given coating class is prohibited.

**5.3** **Coatings.** The VOC content of coatings (less water and less nonprecursor organic compounds) as applied shall be determined by manufacturer's supplied data or Method 24 of 40 CFR part 60, Appendix A. If there is a discrepancy between the manufacturer's formulation data and the results of the Method 24 analysis, compliance shall be based on the results from the Method 24 analysis. For waterborne (water-reducible) coatings, only manufacturer's supplied data can be used to determine the VOC content of each formulation.

**5.4** **Control Equipment.** Measurements of VOC emissions from control equipment shall be conducted in accordance with EPA Methods 18, 25, and/or 25A, 40 CFR 60, Appendix A.

**5.5** **Test Methods Adopted by Reference.** The EPA test methods as they exist in the Code of Federal Regulations (CFR) as of [date of rule promulgation], as listed below, are adopted by reference. These adoptions by reference include no future editions or amendments. Copies of test methods referenced in this section are available at the Gila River Indian Community Department of Environmental Quality, 35 Pima Street, Sacaton, Arizona 85247.

**A.** EPA Method 18 ("Measurement of Gaseous Organic Compound Emissions by Gas Chromatography") and its submethods (40 CFR 60, Appendix A).

**B.** EPA Test Method 24 ("Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings") (40 CFR 60, Appendix A).

**C.** EPA Method 25 ("Determination of Total Gaseous Nonmethane Organic Emissions as Carbon") and its submethods (40 CFR 60, Appendix A).

**D.** EPA Test Methods 204 ("Criteria For and Verification Of a Permanent or Temporary Total Enclosure"), 204a, 204b, 204c, 204d, 204e, and 204f (Appendix M, 40 CFR 51).

**5.6 <u>Formula for Total VOC Vapor Pressure</u>.**

$$PP_c = \frac{\sum_{i=1}^{n} (W_i)(VP_i) / MW_i}{\frac{W_w}{18} + \sum_{i=1}^{m} \frac{W_{ej}}{MW_{ej}} + \sum_{i=1}^{n} \frac{W_i}{MW_i}}$$

*Wi* = Weight of the "i"th VOC compound in grams
*Ww* = Weight of water in grams
*Wej* = Weight of the "j"th non-precursor compound in grams
*MWi* = Molecular weight of the "i"th VOC compound in grams per gram mole, e.g., one gram-mole of isopropyl alcohol weighs 60 grams
*MWej* = Molecular weight of the "j"th non-precursor compound, e.g., 1 gram-mole of acetone weighs 58 grams
*PPc* = VOC composite partial pressure at 20°C in mm mercury (Hg)
*VPi* = Vapor pressure of the "i"th VOC compound at 20°C in mm Hg
18 = Weight of one gram-mole of water

**Part VII. Source/Category Specific Emission Limits for Existing and New Sources**

**Section 3.0 Nonmetallic Mineral Mining and Processing**


**1.0 Applicability**
- **1.1 Prohibitions**
- **1.2 Exemptions**

**2.0 Definitions**

**3.0 Emissions Limitations and Standards**
- **3.1 Limitations: Nonmetallic Mineral Processing Plants and Concrete Batch Plants**
- **3.2 Limitations: Hot Mix Asphalt Plants**
- **3.3 Limitations: Vermiculite and Perlite Processing**

**4.0 Emissions Control Requirements**

**5.0 Administrative Requirements**
- **5.1 Operation and Maintenance (O&M) Requirements for An ECS**

**6.0 Monitoring and Records**
- **6.1 Recordkeeping and Reporting**

**7.0 Compliance Determination**
- **7.1 Compliance with PM Emissions**
- **7.2 Compliance with Opacity Limitations**

## 1.0 APPLICABILITY

The provisions of this Section apply to any commercial and/or industrial nonmetallic mineral mining and/or rock product plant, concrete batch plant, hot mix asphalt plant, and vermiculite and/or perlite processing plant operation. Compliance with the provisions of this Section shall not relieve any person subject to the requirements of this Section from complying with any other standards including the New Source Performance Standards in Part II (Permit Requirements). In such case, the more stringent standard shall apply.

### 1.1 Prohibitions.

**A.** No person shall sell, offer for sale, use or apply the following materials for paving, construction, or maintenance of highways, streets, driveways, parking lots or for any other use to which this Section applies:

**1.** Rapid cure cutback asphalt.

**2.** Any cutback asphalt material, road oils, or tar which contains more than 0.5 percent by volume VOCs which evaporate at 500 degrees Fahrenheit (260 degrees Celsius) or less using ASTM Test Method D 402-02.

**3.** Any emulsified asphalt or emulsified tar containing more than 3.0 percent by volume VOCs which evaporate at 500 degrees Fahrenheit (260 degrees Celsius) or less as determined by ASTM Method D 244-00.

**B.** No person shall burn any “off specification fuel oil” as defined in subsection 2.0 of this Section.

**C.** Any fuel oil combusted must meet the following requirements:

**1.** All used oil combusted must be certified as on-specification.

**2.** Used oil ash content shall not exceed 0.15 percent by weight.

### 1.2 Exemptions. The provisions of this Section shall not apply to:

**A.** Asphalt that is used solely as a penetrating prime coat and which is not a rapid cure cutback asphalt. Penetrating prime coats do not include dust palliatives or tack coats.

**B.** Any asphalt/bituminous material sold for shipment and use outside GRIC if the person claiming such exemption clearly labels each container of materials entitled to such exemption or upon request (during normal business hours) immediately provides the Director with shipping records demonstrating the asphalt material is not for use within GRIC.

**C.** A person may use up to three (3) percent solvent-VOC by volume for batches of asphalt rubber which cannot meet paving specifications by adding heat alone only if request is made to the Director, who shall evaluate such requests on a case-by-case basis. The Director shall not approve such requests unless complete records are kept and full information is supplied including savings realized by using discarded tires. The Director shall not approve such requests when it would cause a person to exceed 1100 lbs (500 kg) usage of solvent-VOC in asphalt rubber in a calendar year.

## 2.0 Definitions.

**"Asphaltic Concrete Plant" or "Asphalt Plant" or "Hot Mix Asphalt Plant"** means any facility used to manufacture asphaltic concrete by mixing graded aggregate and asphaltic cements.

**"Bagging Operation"** means the mechanical process by which bags are filled with nonmetallic minerals.

**"Belt Conveyor"** means a conveying device that transports material from one location to another by means of an endless belt that is carried on a series of idlers and routed around a pulley at each end.

**"Bucket Elevator"** means a conveying device of nonmetallic minerals consisting of a head and foot assembly which supports and drives an endless single or double strand chain or belt to which buckets are attached.

**"Calciner"** means the equipment used to remove combined (chemically bound) water and/or gases from mineral material through direct or indirect heating. This definition includes expansion furnaces.

**"Capture System"** means the equipment (including enclosures, hoods, ducts, fans, dampers, etc.) used to capture and transport particulate matter generated by one or more process operations to a control device.

**"Concrete Plant"** means any facility used to manufacture concrete by mixing water, aggregate, and cement.

**"Control Device"** means the air pollution control equipment used to reduce particulate matter emissions released to the atmosphere from one or more process operations at a nonmetallic mineral processing plant.

**"Conveying System"** means a device for transporting materials from one piece of equipment or location to another location within a plant. Conveying systems include, but are not limited to, the following: feeders, belt conveyors, bucket elevators and pneumatic systems.

**"Crusher"** means a machine used to crush any nonmetallic minerals, and includes, but is not limited to, the following types: jaw, gyratory, cone, roll, rod mill, hammermill, and impactor.

**"Cutback Asphalt"** means an asphalt cement liquified with a VOC-containing solvent.

**"Cutback Tar"** means a tar liquified with a VOC-containing solvent.

**"Dryer"** means the equipment used to remove uncombined (free) water from mineral material through direct of indirect heating.

**"Dry Mix Concrete Plant"** means any facility used to manufacture a mixture of aggregate and cements without the addition of water.

**"ECS":** means emissions control system.

**"Enclosed Truck or Railroad Loading Station"** means that portion of a nonmetallic mineral processing plant where nonmetallic minerals are loaded by an enclosed conveying system into enclosed trucks or railcars.

**"Fugitive Emission(s)"** means any emission which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

**"Grinding Mill"** means a machine used for the wet or dry fine crushing of any nonmetallic mineral. Grinding mills include, but are not limited to, the following types: hammer, roller, rod, pebble and ball, and fluid energy. The grinding mill includes the air conveying system, air separator, or air classifier, where such systems are used.

**"Nonmetallic Mineral"** means any of the following minerals or any mixture of which the majority is any of the following minerals:

**A.** Crushed and Broken Stone, including Limestone, Dolomite, Granite, Traprock, Sandstone, Quartz, Quartzite, Marl, Marble, Slate, Shale, Oil Shale, and Shell.

**B.** Sand and Gravel.

**C.** Clay including Kaolin, Fireclay, Bentonite, Fullers Earth, Ball Clay, and Common Clay.

**D.** Rock Salt.

**E.** Gypsum.

**F.** Sodium Compounds, including Sodium Carbonate, Sodium Chloride, and Sodium Sulfate.

**G.** Pumice.

**H.** Gilsonite.

**I.** Talc and Pyrophyllite.

**J.** Boron, including Borax, Kernite, and Colemanite.

**K.** Barite.

**L.** Fluorospar.

**M.** Feldspar.

**N.** Diatomite.

**O.** Perlite.

**P.** Vermiculite.

**Q.** Mica.

**R.** Kyanite, including Andalusite, Sillimanite, Topaz, and Dumortierite.

**"Nonmetallic Mineral Processing Plant"** means a facility utilizing any combination of equipment or machinery that is used to mine, excavate, separate, combine, crush, or grind any nonmetallic mineral, including, but not limited to: lime plants, coal fired power plants, steel mills, asphalt plants, concrete plants, Portland cement plants, and sand and gravel plants. Rock Product Processing Plants are included in this definition.

**"Non-Specification Used Oil"** means used oil which meets the specifications established in the solid waste rules at 40 C.F.R. Part 279, Standards for the Management of Used Oil. These specifications include:

| Constituent/Property | Allowable Level |
|---|---|
| Arsenic | 5 ppmw maximum |
| Cadmium | 2 ppmw maximum |
| Chromium | 10 ppmw maximum |
| Lead | 100 ppmw maximum |
| Flash point | 100 degrees Fahrenheit minimum |
| Total halogens | 1000 ppmw maximum |

**"Penetrating Prime Coat"** means the low viscosity liquid asphalt or tar applied to a relatively absorbent surface to prepare it for new superimposed construction. Prime coats do not include dust palliatives or tack coats.

**"Rapid Cure Cutback Asphalt"** means a cutback asphalt which falls generally within the specifications of ASTM designation D 2028-97 and which generally cures more quickly than medium cure cutback asphalt.

**"Screening Operation"** means a device for separating material according to size by passing undersize material through one or more mesh surfaces (screens) in series, and retaining oversize material on the mesh surfaces (screens).

**"Stack Emissions"** means the particulate matter emissions that are released to the atmosphere from a capture system from a building vent, stack, or other point source discharge.

**"Storage Bin"** means a facility for storage (including surge bins) or nonmetallic minerals prior to further processing or loading.

**"Transfer Point"** means a point in a conveying operation where the nonmetallic mineral is transferred to or from a belt conveyor except where the nonmetallic mineral is being transferred to a stockpile.

**"Truck Dumping"** means the unloading of nonmetallic minerals from movable vehicles designed to transport nonmetallic minerals from one location to another. Movable vehicles include, but are not limited to: trucks, front-end loaders, skip hoists, and railcars.

**"Vent"** means an opening through which there is mechanically induced air flow for the purpose of exhausting from a building air carrying particulate matter.

## 3.0 EMISSION LIMITATIONS AND STANDARDS

### 3.1 <u>Limitations: Nonmetallic Mineral Processing Plants and Concrete Batch Plants</u>.

**A.** Visible Emissions. No person subject to this Section shall cause, permit or allow to be discharged into the ambient air:

**1.** Visible emissions from any material handling system, conveyance system transfer point, storage silo, surge bin, screening operation, or nonmetallic mineral loading/unloading operation associated with a capture and collection system and vented through a stack exceeding seven (7) percent opacity.

**2.** Visible emissions from any conveying transfer point exceeding seven (7) percent opacity.

**3.** Visible emissions from any crusher or crushing operation without a capture and collection system exceeding fifteen (15) percent opacity.

**B.** Fugitive Emissions. No person subject to this Section shall cause, permit or allow to be discharged into the ambient air:

**1.** Fugitive emissions from any affected operation or process exceeding ten (10) percent opacity, except as provided in this paragraph B.2. and 3. below.

**2.** Fugitive emissions from truck dumping of nonmetallic minerals into a screening operation, feed hopper, or crusher, exceeding twenty (20) percent opacity.

**3.** Fugitive emissions from any other affected operation or process source exceeding twenty (20) percent opacity.

**C.** Particulate Matter Emissions. No person subject to this Section shall cause, permit or allow to be discharged into the ambient air:

**1.** PM emissions from any material handling system, conveyance system transfer point, storage silo, surge bin, screening operation, or nonmetallic mineral loading/unloading operation associated with a

capture and collection system and vented through a stack exceeding 0.02 gr/dscf (0.05 g/dscm).

**2.** PM emissions from any crusher or crushing operation with a capture and collection system exceeding 0.02 gr/dscf (0.05 g/dscm).

**3.2** **Limitations: Hot Mix Asphalt Plants.** No person shall cause, permit or allow to be discharged into the ambient air, emissions in excess of the following limitations:

**A.** Visible emissions from any dryer exceeding twenty (20) percent opacity.

**B.** PM emissions from any dryer exceeding 0.04 gr/dscf (0.09 g/dscm).

**3.3** **Limitations: Vermiculite and Perlite Processing.** Except as to an affected facility subject to conditions under Part II, Section 7.0, no person shall cause, permit or allow to be discharged into the ambient air emissions in excess of the following:

**A.** Visible emissions from any calciner (including exfoliation furnaces and expansion furnaces) or dryer exceeding ten (10) percent opacity.

**B.** PM emissions from any calciner (including exfoliation furnaces and expansion furnaces) exceeding 0.040 gr/dscf (0.092 g/dscm).

**C.** PM emissions from any dryer exceeding 0.025 gr/dscf (0.057 g/dscm).

## 4.0 EMISSIONS CONTROL REQUIREMENTS

Any person subject to this Section shall install and operate a wet dust suppression system (e.g., spray bars on transfer points and sprinklers on stock piles) or other control method approved by the Department in order to minimize fugitive dust emissions from any material handling system, conveyance system transfer point, screening operation or crusher without a capture and collection system, and nonmetallic mineral loading/unloading operation. This requirement does not apply to materials with sufficient moisture content to prevent visible emissions in excess of the limits in subsection 3.0 of this Section.

## 5.0 ADMINISTRATIVE REQUIREMENTS

### 5.1 <u>Operation and Maintenance (O&M) Plan Requirements for an ECS</u>.

**A.** Any owner or operator using an emissions control system to reduce emissions in accordance with this section shall provide to the Department for approval an Operation and Maintenance Plan ("O&M Plan") at the time the initial permit application is submitted to the Department for an operating permit. The owner or operator shall maintain a copy of the O&M Plan on site. The O&M Plan shall describe the ECS monitoring devices and indicate temperatures, rates of flow, and other operating conditions necessary to determine if air pollution control equipment is functioning properly and is properly maintained. The O&M Plan shall also describe the procedures to properly install and maintain these devices in calibration, in good working order and in operation.

**B.** An owner or operator of a facility operating an ECS pursuant to this Section shall install, maintain, and calibrate monitoring devices described in the O&M Plan. The monitoring devices shall measure pressures, rates of flow, and/or other operating conditions necessary to determine if the control devices are functioning properly.

**C.** An owner or operator of a facility subject to the O&M Plan requirements set forth in this Section shall fully comply with each O&M Plan that the owner or operator has submitted for approval, including all actions and schedules identified therein, even if such O&M Plan has not been approved, unless otherwise notified in writing by the Department.

## 6.0 MONITORING AND RECORDS

**6.1** **<u>Recordkeeping and Reporting</u>.** An owner or operator subject to this Section shall comply with the following recordkeeping requirements:

**A.** A daily record of plant operational data shall be kept for each day that a plant is actively operating. Records shall include the following:

**1.** Production Data:

**a.** Hours of operation;

**b.** Type of batch operation(s);

**c.** Throughput per day of basic raw materials including sand, aggregate, cement, vermiculite, perlite (tons/day);

**d.** Volume and weight of final and intermediate products produced per day;

**e.** Weight of aggregate mined per day (cu. yds./day);

**f.** Kind and amount of fuel consumed in any and all combustion sources (cu. ft./day or gals./day) and fuel sulfur content (for liquid and solid fuel - may be vendor supplied);

**g.** Kind and amount of any back-up fuel (if any);

**h.** The number of bags of dry mix produced per day; weight (size) of bags of dry mix produced per day.

**2.** Control And Monitoring Device Data:

**a.** Baghouse records shall include dates of inspection, dates and designation of bag replacement, dates of service or maintenance, related activities, static pressure gauge (manometer) readings once per eight-hour shift.

**b.** Scrubber records shall include dates of service or maintenance related activities; the scrubbing liquid flow rate; the pressure or

head loss; and/or any other operating parameters which need to be monitored to assure that the scrubber is functioning properly and operating within design parameters.

**c.** Records of time, date and cause of all control device failure and down time shall also be maintained.

**3.** ECS O&M Plan Records:

**a.** Maintain a record of the periods of time that an approved ECS is utilized to comply with this Section. Key system parameters, such as flow rates, pressure drops, and other conditions necessary to determine if the control equipment is functioning properly, shall be recorded in accordance with an approved O&M Plan. The records shall account for any periods when the control system was not operating. The owner or operator of a facility shall also maintain results of the visual inspection and, if necessary, shall record any corrective action taken.

**B.** Operational information required by this Section shall be kept in a complete and consistent manner on site and be made available without delay to the Department upon request.

**C.** Records shall be retained for five (5) years and shall be made available to the Department upon request.

## 7.0 COMPLIANCE DETERMINATION

**7.1** **Compliance with PM Emissions.** Compliance with PM emission limitations shall be determined using EPA Methods 1 - 5, 40 C.F.R. Part 60, Appendix A or, alternatively, Method 17 may be used if approved by the Department pursuant to a complete source monitoring/test protocol. Performance testing and monitoring required by this Section shall be performed in accordance with the time frames and methodology contained in 40 C.F.R., Part 60, Appendix A or other applicable federal requirements. For facilities not required to conduct performance testing under federal regulation, the frequency for conducting performance testing shall be, at a minimum, once every five (5) years or at a more frequent interval as determined by the Director. Performance testing requirements shall be established on a case by case basis through the development of an O&M Plan in accordance with subsection 5.1 of this Section.

**7.2** **Compliance with Opacity Limitations.** Compliance with opacity limitations shall be determined using Method 9, 40 C.F.R. Part 60, Appendix A, except the opacity observations for intermittent visible emissions shall require twelve (12) rather than twenty-four (24) consecutive readings at fifteen (15) second intervals. Alternatively, Method 22 may be used if approved by the Department pursuant to a complete source monitoring/test protocol. The frequency of opacity readings shall be determined on a source-by-source basis and listed in the source's permit. Frequencies and locations for conducting visible emissions readings shall be prescribed in each facility permit, but shall be no less frequently than once per month. Each facility shall provide for a certified opacity observer to conduct visible emissions readings at locations and on a schedule specified in each individual facility permit