

EXHIBIT 1

~~SECTION 12.3: PERMIT REQUIREMENTS FOR MAJOR SOURCES IN NONATTAINMENT AREAS~~

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~~12.3 Permit Requirements for Major Sources in Nonattainment Areas~~

~~12.3.1 Applicability Procedures~~

~~12.3.1.1 Preconstruction Review Requirements~~

~~The preconstruction review requirements of Section 12.3 shall apply to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as nonattainment for any National Ambient Air Quality Standard under Section 107(d)(1)(B) of the Act [42 USC § 7407(d)(1)(B)].~~

~~12.3.1.2 Construction of Major Sources or Modifications~~

~~The requirements of Sections 12.3.3 through 12.3.8 apply to the construction of any new major stationary source or the major modification of any existing major stationary source if the stationary source or modification is major for the regulated NSR pollutant for which the area is designated nonattainment under 40 CFR Part 81, except as Section 12.3 otherwise provides.~~

~~12.3.1.3 Authority to Construct Permit Requirement~~

~~No new major stationary source or major modification to which the requirements of Sections 12.3.3 through 12.3.8 apply shall begin actual construction without an Authority to Construct Permit issued pursuant to Section 12.4 that states that the major stationary source or major modification will meet those requirements.~~

~~12.3.1.4 Projects~~

~~The requirements of Section 12.3.1.4 apply to projects at major stationary sources in accordance with the principles set out in paragraphs (a) through (e) of Section 12.3.1.4.~~

~~(a) Except as otherwise provided in Section 12.3.1.5, a project is a major modification for a regulated NSR pollutant if it causes two (2) types of emissions increases: a significant emissions increase and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions~~

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~~increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.~~

~~(b) — The procedure for calculating (before beginning actual construction) whether a significant emissions increase will occur depends upon the type of emissions units being added or modified as part of the project, according to paragraphs (c) through (e) of Section 12.3.1.4. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source is contained in the definition of net emissions increase. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.~~

~~(c) — Actual-to-Projected-Actual Applicability Test for Projects that Only Involve Existing Emissions Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions, for each existing emissions unit, equals or exceeds the significant amount for that pollutant.~~

~~(d) — Actual-to-Potential Test for Projects that Only Involve Construction of a New Emissions Unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the PTE from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.~~

~~(e) — Hybrid Test for Projects that Involve Multiple Types of Emissions Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs (c) or (d) of Section 12.3.1.4, as applicable with respect to each emissions unit, equals or exceeds the significant amount for that pollutant.~~

~~12.3.1.5 — Major Sources with Plantwide Applicability Limitations~~

~~For any major stationary source with a PAL for a regulated NSR pollutant, the major stationary source shall comply with the requirements in Section 12.3.9.~~

~~12.3.1.6 — Existing Emission Unit Projects~~

~~The provisions of this paragraph apply when a project occurs at an existing emissions unit at a major stationary source, other than a source with a PAL; the project is not a part of a major modification; and the owner or operator elects to use the method specified in paragraphs (1)(A) through (1)(D) of the definition of projected actual emissions.~~

~~(a) — Before beginning actual construction of the project, and as a condition of the source's Authority to Construct Permit, the owner or operator shall document and maintain a record of the following information:~~

~~(1) — A description of the project;~~

~~(2) — Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and~~

~~(3) — A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under~~

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~~paragraph (1)(D) of the definition of projected actual emissions and an explanation for why such amount was excluded, and any netting calculations, if applicable.~~

~~(b) — If the emissions unit is an existing emissions unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in paragraph (a) of Section 12.3.1.6 to the Control Officer. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the Control Officer before beginning actual construction, except such owner or operator may still be subject to the requirements of Section 12.1, Section 12.4, or other applicable requirements.~~

~~(c) — The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that are emitted by any emissions unit identified in paragraph (a)(2) of Section 12.3.1.6; and calculate and maintain a record of the annual emissions (in tpy) for a period of five (5) years following resumption of regular operations after the change, or for a period of ten (10) years following resumption of regular operations after the change if the project increases the design capacity of, or potential to emit that regulated NSR pollutant at, any emissions unit.~~

~~(d) — If the emissions unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Control Officer within sixty (60) days after the end of each calendar year during which records must be generated under paragraph (c) of Section 12.3.1.6 setting out the unit's annual emissions during the calendar year that preceded submission of the report.~~

~~(e) — If the emissions unit is an existing emissions unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the Control Officer if the annual emissions, in tpy, from the project identified in paragraph (a) of Section 12.3.1.6 exceed the baseline actual emissions (as documented and maintained pursuant to paragraph (a)(3) of Section 12.3.1.6), by a significant amount for that regulated NSR pollutant, and if such emissions differ from the projected actual emissions (prior to exclusion of the amount of emissions under the definition of projected actual emissions) as documented and maintained pursuant to paragraph (a)(3) of Section 12.3.1.6. Such report shall be submitted to the Control Officer within sixty (60) days after the end of such year. The report shall contain the following:~~

~~(1) — The name, address, and telephone number of the major stationary source;~~

~~(2) — The annual emissions, as calculated pursuant to paragraph (c) of Section 12.3.1.6; and~~

~~(3) — Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).~~

~~12.3.1.7 — Availability of Information~~

~~The owner or operator of the source shall make the information required to be documented and maintained pursuant to Section 12.3.1.6 available for review upon a request for inspection by the Control Officer.~~

~~12.3.1.8 — Secondary Emissions~~

~~Secondary emissions shall not be considered in determining whether a stationary source would qualify as a major stationary source. If a stationary source is subject to~~

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~~Section 12.3 on the basis of the direct emissions from the stationary source, the requirements of Section 12.3.6, but no other provisions of Section 12.3, must also be met for secondary emissions.~~

12.3.2 Definitions

~~Unless the context otherwise requires, the following terms shall have the meanings set forth below for the purposes of Section 12.3. When a term is not defined in these paragraphs, it shall have the meaning given in Section 0, or in the Act, in that order of priority.~~

~~(a) — "Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with this definition.~~

~~(1) — In general, actual emissions as of a particular date shall equal the average rate, in tpy, at which the emissions unit actually emitted the regulated NSR pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Control Officer shall 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.~~

~~(2) — The Control Officer may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.~~

~~(3) — For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the PTE of the unit on that date.~~

~~(4) — This definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Section 12.3.9. Instead, projected actual emissions and baseline actual emissions shall apply for those purposes.~~

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

~~(1) — Any applicable standards set forth in these AQRs and 40 CFR Parts 60, 61, or 63;~~

~~(2) — Any applicable emission limitation in the Nevada SIP, including those with a future compliance date; or~~

~~(3) — The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.~~

~~(c) — "Baseline actual emissions" means the rate of emissions, in tpy, of a regulated NSR pollutant, as determined in accordance with paragraphs (c)(1) through (c)(4) of this definition.~~

~~(1) — For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tpy, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The Control Officer shall allow the use of a different time period upon a de-~~

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~~termination that it is more representative of normal source operation.~~

~~(A) — The average rate shall include fugitive emissions, to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.~~

~~(B) — The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.~~

~~(C) — The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must comply as of the particular date, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. For the purposes of determining baseline actual emissions for contemporaneous changes pursuant to paragraph (1)(B) of the definition of net emissions increase, the particular date is the date on which the particular change occurred. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the state of Nevada has taken credit for such emissions reductions in an attainment demonstration or maintenance plan, consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).~~

~~(D) — For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.~~

~~(E) — The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tpy, and for adjusting this amount if required by this definition.~~

~~(2) — For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tpy, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Control Officer for a permit required under these AQRs, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.~~

~~(A) — The average rate shall include fugitive emissions to the extent quantifiable.~~

~~(B) — The average rate shall include emissions associated with startups, shutdowns, and malfunctions.~~

~~(C) — The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.~~

~~(D) — The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must comply as of a particular date, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. For the purposes of determining baseline actual emissions for contemporaneous changes pursuant to paragraph (1)(B) of the definition of net emissions increase, the particular date is the date on which the particular change occurred. However, if an emission limitation is part~~

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~~of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the State of Nevada has taken credit for such emissions reductions in an attainment demonstration or maintenance plan, consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).~~

~~(E) — For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.~~

~~(F) — The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tpy, and for adjusting this amount if required by paragraphs (2)(B) and (2)(C) of this definition.~~

~~(3) — For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's PTE.~~

~~(4) — For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (1) of this definition; for other existing emissions units, in accordance with the procedures contained in paragraph (2) of this definition; and for a new emissions unit, in accordance with the procedures contained in paragraph (3) of this definition.~~

~~(d) — "Basic design parameter" means:~~

~~(1) — Except as provided in paragraph (3) of this definition, for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on Btu content shall be used for determining the basic design parameter(s) for a coal-fired electric utility steam generating unit.~~

~~(2) — Except as provided in paragraph (3) of this definition, the basic design parameter(s) for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.~~

~~(3) — If the owner or operator believes the basic design parameter(s) in paragraphs (1) and (2) of this definition is not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Control Officer an alternative basic design parameter(s) for the source's process unit(s). If the Control Officer approves of the use of an alternative basic design parameter(s), the Control Officer shall issue a permit that is legally enforceable that records such basic design parameter(s) and requires the owner or operator to comply with such parameter(s).~~

~~(4) — The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering~~

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calculations, in establishing the magnitude of the basic design parameter(s) specified in paragraphs (1) and (2) of this definition.

(5) — If design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameter(s) using the maximum value achieved by the process unit in the 5-year period immediately preceding the planned activity.

(6) — Efficiency of a process unit is not a basic design parameter.

(7) — The replacement activity shall not cause the process unit to exceed any emission limitation, or operational limitation that has the effect of constraining emissions, that applies to the process unit and that is legally enforceable.

(e) — "Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions 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 method of operating, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(f) — "Best Available Control Technology (BACT)" means an emission limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Control Officer, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 or 61. If the Control Officer determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation, and shall provide for compliance by means which achieve equivalent results.

(g) — "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 SIC or NAICS code) as described in either the Standard Industrial Classification (SIC) manual, 1972, as amended by the 1977 supplement or the North American Industry Classification System (NAICS) manual.

(h) — "Categorical stationary source" means any stationary source of air pollutants that belongs to one of the following categories of stationary sources:

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- ~~(1) Fossil fuel-fired steam electric plants of more than 250 million Btu per hour heat input;~~
- ~~(2) Coal cleaning plants (with thermal dryers);~~
- ~~(3) Kraft pulp mills;~~
- ~~(4) Portland cement plants;~~
- ~~(5) Primary zinc smelters;~~
- ~~(6) Iron and steel mills;~~
- ~~(7) Primary aluminum ore reduction plants;~~
- ~~(8) Primary copper smelters;~~
- ~~(9) Municipal incinerators capable of charging more than 50 tons of refuse per day;~~
- ~~(10) Hydrofluoric, sulfuric, or nitric acid plants;~~
- ~~(11) Petroleum refineries;~~
- ~~(12) Lime plants;~~
- ~~(13) Phosphate rock processing plants;~~
- ~~(14) Coke oven batteries;~~
- ~~(15) Sulfur recovery plants;~~
- ~~(16) Carbon black plants (furnace process);~~
- ~~(17) Primary lead smelters;~~
- ~~(18) Fuel conversion plants;~~
- ~~(19) Sintering plants;~~
- ~~(20) Secondary metal production plants;~~
- ~~(21) Chemical process plants;~~
- ~~(22) Fossil-fuel boilers (or combination thereof) totaling more than 250 million Btu per hour heat input;~~
- ~~(23) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;~~
- ~~(24) Taconite ore processing plants;~~
- ~~(25) Glass fiber processing plants; and~~
- ~~(26) Charcoal production plants.~~
- ~~(i) "Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.~~
- ~~(j) "Clean Coal Technology Demonstration Project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2.5 billion for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the EPA. The federal contribution for a qualifying project shall be at least twenty (20) percent of the total cost of the demonstration project.~~
- ~~(k) "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, including an Authority to Construct Permit, and either has:
 - ~~(1) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or~~
 - ~~(2) Entered into binding agreements or contractual obligations, which cannot be~~~~

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~~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.~~

~~(l) — "Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Control Officer from requesting or accepting any additional information.~~

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

~~(n) — "Continuous Emissions Monitoring System (CEMS)" means all of the equipment that may be required to meet the data acquisition and availability requirements of Section 12.3, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.~~

~~(o) — "Continuous Emissions Rate Monitoring System (CERMS)" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).~~

~~(p) — "Continuous Parameter Monitoring System (CPMS)" means all of the equipment necessary to meet the data acquisition and availability requirements of Section 12.3, to monitor process and control device operational parameters and other information and to record average operational parameter value(s) on a continuous basis.~~

~~(q) — "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 25 MW of electrical output, to any utility power distribution system. 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.~~

~~(r) — "Emission Reduction Credit (ERC)" means a unit of emission reduction (in tpy) that has been issued by the Control Officer in accordance with the provisions set forth in Sections 12.3.6 and 12.7.~~

~~(s) — "Emissions Unit" means any part of a stationary source that emits, or would have the potential to emit, any regulated NSR pollutant and includes an electric utility steam generating unit. For purposes of Section 12.3, there are two types of emissions units as described in paragraphs (1) and (2) of this definition:~~

~~(1) — A "new emissions unit" is any emissions unit which is (or will be) newly constructed and which has existed for less than two (2) years from the date such emissions unit first operated. For the purposes of this definition, the date an emissions unit first operated shall not be extended by any shakedown period established pursuant to paragraph (aa)(6) of Section 12.3.2.~~

~~(2) — An "existing emissions unit" is any emissions unit that does not meet the requirements in paragraph (1) of this definition. A replacement unit is an existing emissions unit.~~

~~(t) — "Federally Enforceable" means all limitations and conditions which are enforceable by the Administrator.~~

~~(u) — "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.~~

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~~(v) — "Fugitive Emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.~~

~~(w) — "Lowest Achievable Emission Rate (LAER)" means, for any source, the more stringent rate of emissions based on the following:~~

~~(1) — The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed major stationary source demonstrates that such limitations are not achievable; or~~

~~(2) — The most stringent emission limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a major modification, means the LAER for the new or modified emissions units within the stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.~~

~~For purposes of this definition only, the term "any state" means a state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and includes the Commonwealth of the Northern Mariana Islands.~~

~~(x) — "Major Modification" means any physical change in, or change in the method of operation of, a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source.~~

~~(1) — Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds shall be considered significant for ozone.~~

~~(2) — Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for nitrogen oxides shall be considered significant for ozone unless EPA has granted a waiver for nitrogen oxides emissions under Section 182(f) of the Act and the waiver continues to apply.~~

~~(3) — A physical change or change in the method of operation shall not include:~~

~~(A) — Routine maintenance, repair, and replacement;~~

~~(B) — Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;~~

~~(C) — Use of an alternative fuel by reason of an order or rule under Section 125 of the Act;~~

~~(D) — Use of an alternative fuel at a steam generating unit, to the extent that the fuel is generated from municipal solid waste;~~

~~(E) — Use of an alternative fuel or raw material by a stationary source which:~~

~~(i) — The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976 pursuant to Section 12 or under regulations approved pursuant to 40 CFR Part 51, Subpart I.~~

~~(ii) — The source is approved to use under any permit issued under Section 12.~~

~~(F) — An increase in the hours of operation or in the production rate, unless such~~

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~~change is prohibited under any federal ly enforceable permit condition which was established af ter December 21, 1976;~~

~~(G) — Any change in ownership at a stationary source;~~

~~(H) — The installation, operation, cessation, or removal of a Temporary Clean Coal Technology Demonstration Pro ject, provided that the project complies with:~~

~~(i) — The Nevada SIP; and~~

~~(ii) — Other requirements necessary to attain and main tain the National Ambient Air Quality Standards dur ing the project and after it is terminated.~~

~~(4) — This definition shall not apply with respect to a particular regu lated NSR pollutant when the Major Stationary Source is com plying with the requirements under Section 12.3.9 for a PAL for that regulated NSR pollutant. Instead, the definition of PAL major modification shall apply.~~

~~(5) — The fugitive emissions of a major stationary source shall . be included in determining, for any of the purposes of Section 12.3, whether a particular physical change or change in the method of operation is a major modification.~~

~~(y) — "Major Stationary Source" means:~~

~~(1) — Any stationary source of air pollutants which emits, or has the potential to emit, 100 tpy or more of any regulated NSR pollu tant except:~~

~~(A) — For an area designated nonattainment for PM10 and classified as "serious," a major stationary source is a sta tionary source which emits, or has the potential to emit, seventy (70) tpy or more of PM10.~~

~~(B) — A major stationary source is a stationary source which emits, or has the potential to emit, fifty (50) tpy or more in an area classified as "serious" nonattainment for CO where stationary sources significantly contribute to ambi ent CO levels, as determined under regulations issued by EPA pursuant to the Act.~~

~~(C) — For an area designated nonattainment for ozone, a source with the potential to emit VOC or NOx in the fol lowing amounts shall be considered a major stationary source:~~

~~(i) — ≥ 100 tpy in areas classified as "marginal" or "mod erate";~~

~~(ii) — ≥ 50 tpy in areas classified as "serious";~~

~~(iii) — ≥ 25 tpy in areas classified as "severe"; and~~

~~(iv) — ≥ 10 tpy in areas classified as "extreme."~~

~~(2) — Any physical change that would occur at a stationary source not qualifying as a major stationary source under paragraph (1) of this definition, if the change would constitute a major stationary source by itself under paragraph (1).~~

~~(3) — A major stationary source that is major for volatile organic compounds shall be considered major for ozone.~~

~~(4) — A major stationary source that is major for nitrogen oxides shall be considered major for ozone, unless EPA has granted a waiver for nitrogen oxides emissions under Section 182(f) of the Act and the waiver continues to apply.~~

~~(5) — The fugitive emissions of a stationary source shall not be in cluded in determining for any of the purposes of Section 12.3 whether it is a major stationary source, unless the source is a categorical stationary source or belongs to any other station ary source category which, as of August 7, 1980, was being regulated under Section 111 or 112 of the Act.~~

~~(z) — "Necessary preconstruction approvals or permits" means those per mits or~~

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~~approvals required under air quality control laws and regulations that are part of the Nevada SIP, these AQRs, or federal air quality control laws and regulations, including the Authority to Construct Permits issued pursuant to Section 12.4.~~

~~(aa) — "Net Emissions Increase" means, with respect to any regulated NSR pollutant emitted by a major stationary source, the following:~~

~~(1) — The amount by which the sum of the following exceeds zero:~~

~~(A) — The increase in emissions from a particular physical change, or change in the method of operation, at a stationary source as calculated pursuant to paragraphs (a) through (e) of Section 12.3.1.4; and~~

~~(B) — Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable.~~

~~(i) — For the purposes of calculating increases and decreases under paragraph (1)(B) of this definition, baseline actual emissions prior to the contemporaneous project shall be determined as provided in the definition of baseline actual emissions, except that paragraphs (1)(D) and (2)(E) of that definition shall not apply.~~

~~(2) — An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five (5) years before construction on the particular change commences and the date that the increase from the particular change occurs.~~

~~(3) — An increase or decrease in actual emissions is creditable only if the Control Officer has not relied on it in issuing a permit for the source under Section 12, or any other regulation approved by the Administrator pursuant to 40 CFR Part 51 or 40 CFR Part 52.21, which permit is in effect when the increase in actual emissions from the particular change occurs.~~

~~(4) — An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.~~

~~(5) — A decrease in actual emissions is creditable only to the extent that:~~

~~(A) — The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;~~

~~(B) — It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;~~

~~(C) — The Control Officer has not relied on it in issuing any permit under Section 12 or any other regulations approved pursuant to 40 CFR Part 51, Subpart I, nor has the state of Nevada relied on it in demonstrating attainment or reasonable further progress; and~~

~~(D) — It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.~~

~~(6) — 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 shakedown, or any new emissions unit that replaces an existing emissions unit and that requires shakedown, becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty (180) days.~~

~~(bb) — "Nonattainment Major New Source Review (NSR) Program" means a major source preconstruction permit program that has been approved by the Administrator.~~

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and incorporated into the Nevada SIP, or a program that implements 40 CFR Part 51, Appendix S, Sections I through VI. Any permit issued under such a program is a major NSR permit.

~~(cc) — "Permanent" means an emission reduction which is federally enforceable for the life of a corresponding increase in emissions. For federal Emission Reduction Credits (ERCs), emission reductions for a stationary source are permanent if the reductions are federally enforceable and the reductions occur over the duration of the ERC rule.~~

~~(dd) — "Potential to Emit (PTE)" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the types or amounts 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 PTE of a stationary source.~~

~~(ee) — "Predictive Emissions Monitoring System (PEMS)" means all of the equipment necessary to monitor process and control device operational parameters and other information, and calculate and record the mass emissions rate on a continuous basis.~~

~~(ff) — "Prevention of Significant Deterioration (PSD) Permit" means any permit that is issued under a major source preconstruction permit program that has been approved by the Administrator and incorporated into the Nevada SIP to implement the requirements of Part C, Subchapter I of the Act.~~

~~(gg) — "Project" means a physical change in, or change in the method of operation of, an existing major stationary source.~~

~~(hh) — "Projected Actual Emissions" means the maximum annual rate, in tpy, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the five (5) years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the ten (10) years following that date, if the project involves increasing the design capacity or PTE of any emissions unit for that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.~~

~~(1) — In determining the projected actual emissions (before beginning actual construction), the owner or operator of the major stationary source:~~

~~(A) — Shall consider all relevant information, including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the county, state or federal regulatory authorities, and compliance plans under these AQRs;~~

~~(B) — Shall include fugitive emissions to the extent quantifiable;~~

~~(C) — Shall include emissions associated with startups, shut-downs, and malfunctions; and~~

~~(D) — Shall exclude, only for calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth.~~

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- ~~(2) — In lieu of using the method set out in paragraphs (1)(A) through (1)(D) of this definition, the owner or operator of the major stationary source may elect to use the emissions unit's PTE in tpy.~~
- ~~(ii) — "Regulated NSR Pollutant," for purposes of Section 12.3, means:~~
- ~~(1) — Nitrogen oxides or any volatile organic compounds;~~
- ~~(2) — Any pollutant for which a National Ambient Air Quality Standard has been promulgated;~~
- ~~(3) — Any pollutant that is identified as a constituent or precursor of a general pollutant, provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. The Administrator has identified the following precursors for the purposes of NSR:~~
- ~~(A) — Volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone nonattainment areas.~~
- ~~(B) — Sulfur dioxide is a precursor to PM2.5 in all PM2.5 nonattainment areas.~~
- ~~(C) — Nitrogen oxides are presumed to be precursors to PM2.5 in all PM2.5 nonattainment areas, unless the State or county demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM2.5 concentrations.~~
- ~~(D) — Volatile organic compounds and ammonia are presumed not to be precursors to PM2.5 in any PM2.5 nonattainment area, unless the State or county demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds or ammonia from sources in a specific area are a significant contributor to that area's ambient PM2.5 concentrations.~~
- ~~(4) — PM2.5 emissions and PM10 emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM2.5 and PM10 in PSD permits. Compliance with emissions limitations for PM2.5 and PM10 issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.~~
- ~~(jj) — "Replacement Unit" means an emissions unit for which all the criteria listed in paragraphs (1) through (4) of this definition are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced. The criteria are:—~~
- ~~(1) — The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.~~
- ~~(2) — The emissions unit is identical to, or functionally equivalent to, the replaced emissions unit.~~
- ~~(3) — The replacement does not alter the basic design parameters of the process unit.~~
- ~~(4) — The replaced emissions unit is permanently removed from the major stationary~~

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~~source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.~~

~~(kk) —"Secondary Emissions" means emissions which would 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 purpose of Section 12.3, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or 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 tail pipe of a motor vehicle, from a train, or from a vessel.~~

~~(ll) —"Shutdown" means the cessation of operation of any air pollution control equipment or process equipment for any purpose except routine phasing out of process equipment.~~

~~(mm) —"Significant" means, 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:~~

~~(1) — Carbon monoxide:~~

~~(A) — 100 tpy; or~~

~~(B) — 50 tpy in an area designated nonattainment for CO and classified as "serious," and where stationary sources significantly contribute to ambient CO levels as determined under regulations issued by EPA pursuant to the Act.~~

~~(2) — Nitrogen oxides: 40 tpy;~~

~~(3) — Sulfur dioxide: 40 tpy;~~

~~(4) — Ozone:~~

~~(A) — 40 tpy of VOCs; or~~

~~(B) — 40 tpy of nitrogen oxides, unless EPA has granted a waiver for nitrogen oxides emissions under Section 182(f) of the Act and the waiver continues to apply.~~

~~(5) — PM10: 15 tpy;~~

~~(6) — PM2.5: 10 tpy of direct PM2.5 emissions or 40 tpy of sulfur dioxide emissions or 40 tpy of nitrogen dioxide emissions; and~~

~~(7) — Lead: 0.6 tpy.~~

~~(nn) —"Significant Emissions Increase" means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.~~

~~(oo) —"Startup" means the setting into operation of any air pollution control equipment or process equipment for any purpose except routine phasing in of process equipment.~~

~~(pp) —"Stationary Source" means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.~~

~~(qq) —"Surplus" means an emission reduction that has not been relied on in any air quality program related to any SIP; that is not a Nevada SIP requirement; that is not a requirement of a state air quality program that has been adopted but is not in the Nevada SIP; that is not credited in any federal reasonable further progress or other milestone demonstration; that is not a requirement of a consent decree; that is not a~~

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~~requirement of a federal rule that focuses on reducing criteria air pollutants or their precursors, including any applicable NSPS or an applicable NESHAP, unless the state has not taken credit for emission reductions due to the NESHAP in its attainment demonstration or maintenance plan; and that has not already been credited in any other air quality program. The purpose of requiring that emissions offsets be surplus is to prohibit double-counting of emission reductions.~~

~~(rr) — "Temporary Clean Coal Technology Demonstration Project" means a Clean Coal Technology Demonstration Project that is operated for a period of five (5) years or less, and which complies with the SIP for the state in which the project is located and with other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.~~

~~12.3.3 Statewide Compliance~~

~~Prior to issuance of an Authority to Construct Permit for a new major stationary source or major modification subject to Section 12.3, the applicant shall either demonstrate that each existing major stationary source owned or operated by the applicant in the state of Nevada is in compliance with all applicable emission limitations and standards under the Act or is in compliance with an expeditious schedule which is federally enforceable or contained in a court decree.~~

~~12.3.4 Analysis of Alternatives~~

~~Prior to issuance of an Authority to Construct Permit for a new major stationary source or major modification subject to Section 12.3, the applicant shall submit an analysis of alternative sites, sizes, production processes, and environmental control techniques for the proposed source that demonstrates, to the satisfaction of the Control Officer, that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.~~

~~12.3.5 Lowest Achievable Emission Rate~~

~~12.3.5.1 — Applicable Requirements~~

~~A major stationary source or major modification shall meet each applicable requirement.~~

~~12.3.5.2 — Permit Requirements to Achieve LAER~~

~~An Authority to Construct Permit for a new major stationary source or major modification shall contain terms and conditions sufficient to ensure that the major stationary source or major modification will achieve LAER in accordance with paragraphs (a) and (b) of Section 12.3.5.2:~~

~~(a) — A new major stationary source shall achieve LAER for each regulated NSR pollutant that it would have the potential to emit in significant amounts.~~

~~(b) — A major modification shall achieve LAER for each regulated NSR pollutant for which it would result in a significant net emissions increase at the stationary source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change, or change in the method of operation, in the emissions unit.~~

~~12.3.6 Emissions Offset~~

~~12.3.6.1 — Sufficiency of Reductions~~

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~~Prior to issuance of an Authority to Construct Permit for a new major stationary source or major modification, the Control Officer shall make a determination that, by the time the source is to commence operation, sufficient offsetting emissions reductions will be surrendered prior to commencing operation, such that allowable emissions from existing sources in the nonattainment area, from new or modified sources which are not major stationary sources, and from the proposed source or modification will be sufficiently less than total emissions from existing sources prior to the application for the offset. At a minimum, this determination requires the applicant to satisfy the offset requirements in Section 12.3.6.2.~~

~~12.3.6.2 — Offset Methods~~

~~Pollutant-specific emissions shall be offset with federally enforceable ERCs or with internal emission reductions.~~

~~(a) — ERCs from one or more sources may be used, alone or in combination with internal emission reductions, in order to satisfy offset requirements.~~

~~(b) — Internal emission reductions used to satisfy offset requirements shall be governed by Sections 12.3.6.3 through 12.3.6.8 and Section 12.7.5 as in effect on September 1, 2010, and as incorporated here in by this reference.~~

~~(c) — ERCs used to satisfy offset requirements shall be governed by Sections 12.3.6.3 through 12.3.6.6, Section 12.3.6.8, and Section 12.7.5 as in effect on September 1, 2010, and as incorporated herein by this reference.~~

~~12.3.6.3 — Restrictions on Trading Pollutants~~

~~(a) — Pursuant to the Nevada Revised Statutes, Section 445.B.508 (2)(c), purchasing or selling credits of one type of pollutant is prohibited if such credits would be used subsequently to produce a different type of pollutant.~~

~~(b) — For the purposes of satisfying the offset requirements with respect to ozone, offsetting of VOC emissions increases with NOX emissions decreases, or NOX emissions increases with VOC emissions decreases, shall not be prohibited trading. The Control Officer may approve interpollutant emission offsets for precursor pollutants on a case-by-case basis except for PM2.5, which is subject to Section 12.3.6.3(c). In such cases, the Control Officer shall impose, based on an air quality analysis, emission offset ratios in addition to the requirements of Table 12.3-1. PM10 emissions shall not be allowed to offset nitrogen oxide or volatile organic compound emissions in ozone nonattainment areas. In no case shall the compounds excluded from the definition of volatile organic compounds be used as offsets for volatile organic compounds. Interpollutant emission offsets used at a major stationary source must receive written approval from the U.S. Environmental Protection Agency.~~

~~(c) — For the purposes of satisfying the offset requirements with respect to PM2.5, offsetting of PM2.5 emissions increases with sulfur dioxide or nitrogen oxide emissions decreases, or sulfur dioxide or nitrogen oxide emissions increases with PM2.5 decreases, shall not be prohibited trading. Interpollutant offsets between PM2.5 and PM2.5 precursors are not allowed unless modeling has been used to demonstrate that PM2.5 interpollutant offset ratios are appropriate as approved in a PM2.5 nonattainment plan.~~

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~~12.3.6.4 — Timing~~

~~(a) — Internal emission reductions used to satisfy an offset requirement must be federally enforceable at the time of issuance of the Authority to Construct Permit containing the offset requirements.~~

~~(b) — Except as provided by paragraph (c) of Section 12.3.6.4, the decrease in actual emissions used to generate ERCs or internal emission reductions must occur by no later than the commencement of operation of the new or modified major stationary source.~~

~~(c) — Where the new facility is a replacement for a facility that is being shut down in order to provide the necessary offsets, the Control Officer may allow up to one hundred eighty (180) calendar days for shakedown or commissioning of the new facility before the existing facility is required to cease operation.~~

~~12.3.6.5 — Quantity~~

~~The quantity of ERCs or internal emission reductions required to satisfy offset requirements shall be determined in accordance with the following:~~

~~(a) — The unit of measure for offsets, ERCs, and internal emission reductions shall be tpy. All calculations and transactions shall use emission rate values rounded to the nearest one one-hundredth (0.01) tpy.~~

~~(b) — The quantity of ERCs or internal emission reductions required shall be calculated as the product of the amount of increased emissions, as determined in accordance with paragraph (c) of Section 12.3.6.5, and the offset ratio, as determined in accordance with paragraph (d) of Section 12.3.6.5.~~

~~(c) — The amount of increased emissions shall be determined as follows:~~

~~(1) — The amount of increased emissions includes fugitive emissions in the case of all major stationary sources, including categorical sources.~~

~~(2) — When the offset requirement is triggered by the construction of a new major stationary source, the amount of increased emissions shall be the sum of the PTE of all emissions units.~~

~~(3) — When the offset requirement is triggered by a major modification of an existing major stationary source, the amount of increased emissions shall be the sum of the differences between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.~~

~~(d) — The baseline for determining credit for emissions reductions is the emission limit under the State Implementation Plan (including the demonstration of Reasonable Further Progress) in effect at the time the affected permit application is filed, except that the offset baseline shall be the actual emissions of the source from which the offset credit is obtained where:~~

~~(1) — The demonstration of Reasonable Further Progress and attainment of National Ambient Air Quality Standards is based upon the actual emissions of sources located within a designated area for which the requirements of Sections 12.2 and 12.4 were adopted; or~~

~~(2) — The applicable State Implementation Plan does not contain an emission limitation for the affected source or source category.~~

~~(e) — The offset ratio shall be expressed as a ratio of emissions reductions to emissions increases.~~

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~~(1) The following table contains offset ratios by designated area and pollutant.~~

~~(2) The ratios listed in Table 12.3-1 shall be applied based on the classifications contained in the table for a specific pollutant.~~

~~Table 12.3-1. Federal Offset Ratio Requirements by Area Designation and Pollutant~~

~~Area Designation Pollutant Offset Ratio~~

~~Marginal Ozone Nonattainment Area NOX 1.1:1~~

~~VOC 1.1:1~~

~~Moderate Ozone Nonattainment Area NOX 1.15:1~~

~~VOC 1.15:1~~

~~Serious Nonattainment Area~~

~~PM10 1:1~~

~~(f) The major stationary source shall be given credit for any portion of the NEI that was previously offset. A pre-modification PTE may only include fugitive emissions if the fugitive emissions were included in the emissions inventory prior to the modification.~~

~~12.3.6.6 Emission Reduction Requirements~~

~~Emission reductions used to satisfy an offset requirement shall meet the following requirements:~~

~~(a) Emission reductions used to satisfy offset requirements must be real, surplus, permanent, quantifiable, and federally enforceable.~~

~~(b) Permitted sources whose internal emission reductions are used to satisfy offset requirements must appropriately amend or cancel their Authority to Construct Permit and/or Part 70 Operating Permit to reflect their new reduced PTE, including practicably enforceable conditions to limit their PTE.~~

~~(c) Emission reductions used to satisfy offset requirements must be surplus at the time of issuance of the Authority to Construct Permit containing the offset requirements.~~

~~12.3.6.7 Location of Internal Reductions~~

~~Internal emission reductions used to satisfy offset requirements shall occur at the same major stationary source at which the increase in emissions occurs. Emission reductions not meeting this criterion shall meet the requirements for ERCs prescribed by Section 12.7.~~

~~12.3.6.8 Emission Reduction Credit Requirements~~

~~ERCs used to satisfy an offset requirement shall meet the following requirements:~~

~~(a) Restrictions on offsetting emissions between airshed regions:~~

~~(1) Except as provided by paragraph (a)(2) of Section 12.3.6.8, offsetting emissions from a source located within an airshed region with ERCs from a source located in a different airshed region shall not be allowed.~~

~~(2) The Control Officer may approve the use of NOX and VOC ERCs between airshed regions for the same nonattainment area within the Clark County boundary to satisfy NOX and VOC offset requirements for that nonattainment area.~~

~~(b) The source owner or responsible official utilizing ERCs to satisfy offsets must demonstrate to the satisfaction of the Control Officer that such utilization will not~~

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~~significantly cause or contribute to a violation of a National Ambient Air Quality Standard or an exceedance of a PSD increment identified in Section 12.2.~~

~~(c) — The use of ERCs shall not provide:~~

~~(1) — Authority for, or the recognition of, any pre-existing vested right to emit any regulated NSR pollutant;~~

~~(2) — An exemption to a stationary source for emission limitations established in accordance with New Source Performance Standards pursuant to Section 14;~~

~~(3) — Authority for, or the recognition of, any rights that would be contrary to applicable law; or~~

~~(4) — An exemption to a stationary source from any other air pollution control requirements of federal, state, or county laws, rules, and regulations.~~

—

~~12.3.6.9 — ERC Registry~~

~~(a) — The ERC Registry and its use shall not interfere with the attainment or maintenance of any National Ambient Air Quality Standard.~~

~~(b) — The ERC Registry and its use shall assure that the use of ERCs does not contravene applicable requirements of the Act and Nevada Revised Statutes (NRS) Chapter 445B.~~

~~12.3.7 Source Obligation~~

~~12.3.7.1 — Enforcement~~

~~Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to Section 12.3 or 12.4 and any changes to the application as required by the Control Officer, or with the terms of its Authority to Construct Permit, or any owner or operator of a source or modification subject to Section 12.3 who begins actual construction after the effective date of these AQRs without applying for and receiving an Authority to Construct Permit, shall be subject to enforcement action.~~

~~12.3.7.2 — Termination~~

~~Approval to construct shall terminate if construction is not commenced within eighteen (18) months after receipt of such approval, if construction is discontinued for a period of eighteen (18) months or more, or if construction is not completed within a reasonable time. The Control Officer may extend the 18-month period upon a satisfactory showing of good cause why an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen (18) months of the projected and approved commencement date.~~

~~12.3.7.3 — Compliance~~

~~Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.~~

~~12.3.7.4 — Relaxation in Enforceable Limitations~~

~~At such time that a particular stationary source or modification becomes a major~~

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~~stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the stationary source or modification otherwise to emit a pollutant, then the requirements of Sections 12.3.3 through 12.3.7 shall apply to the stationary source or modification as though construction had not yet commenced on the stationary source or modification.~~

12.3.8 Public Participation

~~Issuance of an Authority to Construct Permit pursuant to Section 12.3 and Section 12.4 shall be subject to the public participation requirements in Section 12.2.16.~~

12.3.9 Plantwide Applicability Limits (PAL)

12.3.9.1 Applicability

~~(a) The Control Officer may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in Sections 12.3.9.1 through 12.3.9.15. The term "PAL" shall mean "actuals PAL" throughout Section 12.3.9.~~

~~(b) Any physical change in, or change in the method of operation of, a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of Sections 12.3.9.1 through 12.3.9.14, and complies with the PAL conditions in its Part 70 Operating Permit:~~

~~(1) Is not a major modification for the PAL pollutant;~~

~~(2) Does not have to be approved through the plan's Nonattainment Major NSR Program; and~~

~~(3) Is not subject to the provisions in Section 12.3.7.4.~~

~~(c) Except as provided under paragraph (b)(3) of Section 12.3.9.1, a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.~~

12.3.9.2 Definitions

~~Unless the context otherwise requires, the following terms shall have the meanings set forth below for the purposes of Section 12.3.9. When a term is not defined in these paragraphs, it shall have the meaning given in Section 0, or in the Act.~~

~~(a) "Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions of all emissions units at the source that emit, or have the potential to emit, the PAL pollutant.~~

~~(b) "Allowable emissions" means allowable emissions as defined in paragraph (b) of Section 12.3.2, except as this definition is modified according to paragraphs (1) and (2) below:~~

~~(1) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's PTE.~~

~~(2) An emissions unit's PTE shall be determined using the definition in paragraph (d)(d) of Section 12.3.2, except that the words "or enforceable as a practical matter" should be added after "Federally Enforceable."~~

~~(c) "Major emissions unit" means:~~

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- ~~(1) — Any emissions unit that emits, or has the potential to emit, 100 tpy or more of the PAL pollutant in an attainment area; or~~
- ~~(2) — Any emissions unit that emits, or has the potential to emit, the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Act for nonattainment areas.~~
- ~~(d) — "PAL" means an emission limitation, expressed in tpy, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with Sections 12.3.9.1 through 12.3.9.15.~~
- ~~(e) — "PAL effective date" generally means the date of issuance of the Part 70 Operating Permit containing the PAL conditions, or the date on which a significant permit revision containing the PAL conditions becomes effective. However, the PAL effective date for an increased PAL is the date any emissions unit which is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.~~
- ~~(f) — "PAL effective period" means the period beginning with the PAL effective date and ending ten (10) years later.~~
- ~~(g) — "PAL major modification" means, notwithstanding the definitions for major modification and net emissions increase, any physical change in, or change in the method of operation of, the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.~~
- ~~(h) — "PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.~~
- ~~(i) — "Project" means a physical change in, or change in the method of operation of, an existing stationary source.~~
- ~~(j) — "Significant emissions unit" means an emissions unit that emits, or has the potential to emit, a PAL pollutant in an amount that is equal to or greater than the significant level as defined in paragraph (m)(m) Section 12.3.2 or in the Act, whichever is lower, for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.~~
- ~~(k) — "Small emissions unit" means an emissions unit that emits, or has the potential to emit, the PAL pollutant in an amount less than the significant level as defined in paragraph (m)(m) Section 12.3.2 or in the Act, whichever is lower, for that PAL pollutant.~~

~~12.3.9.3 — Permit Application Requirements~~

~~As part of an application for a Part 70 Operating Permit requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the Control Officer for approval:~~

- ~~(a) — A list of all emissions units at the source designated as small, significant, or major based on their PTE. In addition, the owner or operator of the source shall indicate which, if any, federal, state or county applicable requirements, emission limitations, or work practices apply to each unit;~~
- ~~(b) — Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction;~~
- ~~(c) — The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual~~

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~~emissions based on a 12-month rolling total for each month, as required by paragraph (a) of Section 12.3.9.13.~~

~~12.3.9.4 — General Requirements for Establishing PALs~~

~~(a) — The Control Officer may establish a PAL at a major stationary source, provided that, at a minimum, the requirements in paragraphs (a)(1) through (a)(7) of Section 12.3.9.4 are met.~~

~~(1) — The PAL shall impose an annual emission limitation, in tpy, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first twelve (12) months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous twelve (12) consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first eleven (11) months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.~~

~~(2) — The PAL shall be established in a Part 70 Operating Permit as a significant permit revision.~~

~~(3) — The Part 70 Operating Permit shall contain all the requirements of Section 12.3.9.7.~~

~~(4) — The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.~~

~~(5) — Each PAL shall regulate emissions of only one pollutant.~~

~~(6) — Each PAL shall have a PAL effective period of ten (10) years.~~

~~(7) — The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Sections 12.3.9.12 through 12.3.9.14 for each emissions unit under the PAL through the PAL effective period.~~

~~(b) — At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of offsets under Section 12.3.6 unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.~~

~~12.3.9.5 — Public Participation Requirements for PALs~~

~~PALs for existing major stationary sources shall be established, renewed, or increased through the public participation procedures in Section 12.2.16.~~

~~12.3.9.6 — Setting the 10-year Actuals PAL Level~~

~~(a) — Except as provided in paragraph (b) of Section 12.3.9.6, the Actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under these AQRs or under the Act, whichever is lower. When establishing the actuals PAL level for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units~~

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~~that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Control Officer shall specify a reduced PAL level(s) (in tons/yr) in the Part 70 Operating Permit to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the Control Officer is aware of prior to issuance of the permit.~~

~~(b) — For newly constructed units (which does not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in paragraph (a) of Section 12.3.9.6, the emissions must be added to the PAL level in an amount equal to the PTE of the units.~~

~~12.3.9.7 — Part 70 Operating Permits with PALs~~

~~Contents of a Part 70 Operating Permit containing a PAL shall include the information in paragraphs (a) through (j) of Section 12.3.9.7:~~

~~(a) — The PAL Pollutant and the applicable source-wide emission limitation in tpy;~~

~~(b) — The effective date and the expiration date of the PAL conditions (PAL effective period).~~

~~(c) — Specification in the permit that if a major stationary source owner or operator applies to renew the PAL conditions in accordance with Section 12.3.9.9 before the end of the PAL effective period, then the PAL conditions shall not expire at the end of the PAL effective period. It shall remain in effect until a revised Part 70 Operating Permit is issued by the Control Officer.~~

~~(d) — A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns, and malfunctions;~~

~~(e) — A requirement that, once the PAL conditions expire, the major stationary source is subject to the requirements of Section 12.3.9.9;~~

~~(f) — The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total, as required by paragraph (a) of Section 12.3.9.13;~~

~~(g) — A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Section 12.3.9.12;~~

~~(h) — A requirement to retain the records required under Section 12.3.9.13 on-site. Such records may be retained in an electronic format;~~

~~(i) — A requirement to submit the reports required under Section 12.3.9.14 by the required deadlines; and~~

~~(j) — Any other requirements that the Control Officer deems necessary to implement and enforce the PAL conditions.~~

~~12.3.9.8 — PAL Effective Period and Reopening of PAL Conditions~~

~~The plan shall require the information in paragraphs (a) and (b) of Section 12.3.9.8.~~

~~(a) — PAL Effective Period. The Control Officer shall specify a PAL effective period of ten (10) years from the date of issuance.~~

~~(b) — Reopening of the PAL conditions in a Part 70 Operating Permit.~~

~~(1) — During the PAL effective period, the plan shall require the Control Officer to reopen the PAL conditions in a Part 70 Operating Permit to:~~

~~(A) — Correct typographical/calculation errors made in setting the PAL, or reflect a~~

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~~more accurate determination of emissions used to establish the PAL;~~

~~(B) — Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Section 12.3.6; or~~

~~(C) — Revise the PAL to reflect an increase in the PAL as provided under Section 12.3.9.11.~~

~~(2) — The Control Officer may reopen the PAL conditions in a Part 70 Operating Permit for the following:~~

~~(A) — Reduce the PAL to reflect newly applicable federal requirements with compliance dates after the PAL effective date.~~

~~(B) — Reduce the PAL consistent with any other requirement that is enforceable as a practical matter, and that the Control Officer may impose on the major stationary source under the Nevada SIP.~~

~~(C) — Reduce the PAL if the Control Officer determines that a reduction is necessary to avoid causing or contributing to a National Ambient Air Quality Standard or PSD increment violation, or to an adverse impact on an air quality related value that has been identified for a federal Class I area by a Federal Land Manager and for which information is available to the general public.~~

~~(3) — Except for the permit reopening in paragraph (b)(1)(A) of Section 12.3.9.8 for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out as significant permit revisions to a Part 70 Operating Permit.~~

~~12.3.9.9 — Expiration of a PAL~~

~~Any PAL which is not renewed in accordance with the procedures in Section 12.3.9.10 shall expire at the end of the PAL effective period, and the requirements in paragraphs (a) through (e) of Section 12.3.9.9 shall apply.~~

~~(a) — Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised Part 70 Operating Permit established according to the procedures in paragraphs (a)(1) and (a)(2) of Section 12.3.9.9.~~

~~(1) — Within the time frame specified for PAL renewals in paragraph (b) of Section 12.3.9.10, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Control Officer) by distributing the PAL allowable emissions for the affected major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph (e) of Section 12.3.9.10, such distribution shall be made as if the PAL had been adjusted.~~

~~(2) — The Control Officer will decide whether and how the PAL allowable emissions will be distributed and issue a revised Part 70 Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Control Officer determines is appropriate.~~

~~(b) — Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Control Officer may approve the use of monitoring systems other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the~~

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~~allowable emission limitation.~~

~~(c) — Until the Control Officer issues the revised Part 70 Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (a)(2) of Section 12.3.9.9, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.~~

~~(d) — Any physical change or change in the method of operation at the major stationary source will be subject to the nonattainment major NSR requirements if such change meets the definition of major modification.~~

~~(e) — The major stationary source owner or operator shall continue to comply with any federal, state or county applicable requirements that may have applied either during the PAL effective period or prior to the PAL effective period except as provided in paragraph (b)(3) of Section 12.3.9.1.~~

~~12.3.9.10 — Renewal of a PAL~~

~~(a) — The Control Officer will follow the procedures specified in Sections 12.3.9.5 and 12.5 in approving any request to renew the PAL conditions in a Part 70 Operating Permit for a major stationary source, and will provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Control Officer.~~

~~(b) — Application deadline. A major stationary source owner or operator shall submit a timely application to the Control Officer to request renewal of the PAL conditions in a Part 70 Operating Permit. A timely application is one that is submitted at least six (6) months prior to, but not earlier than eighteen (18) months prior to, the date of expiration of the Part 70 Operating Permit. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL conditions in a Part 70 Operating Permit within this time period, then the PAL conditions shall continue to be effective until the revised permit with the renewed PAL conditions is issued.~~

~~(c) — Application Requirements. The application to renew PAL conditions shall be incorporated in the application for renewal of the affected Part 70 Operating Permit and shall contain the information required in paragraphs (c)(1) through (c)(4) of Section 12.3.9.10:~~

~~(1) — The information required in paragraphs (a) through (c) of Section 12.3.9.3;~~

~~(2) — A proposed PAL level;~~

~~(3) — The sum of the PTE of all emissions units under the PAL (with supporting documentation); and~~

~~(4) — Any other information the owner or operator wishes the Control Officer to consider in determining the appropriate level for renewing the PAL conditions.~~

~~(d) — PAL Adjustment. In determining whether and how to adjust the PAL, the Control Officer will consider the options outlined in paragraphs (d)(1) and (d)(2) of Section 12.3.9.10. However, in no case may any such adjustment fail to comply with paragraph (d)(3) of Section 12.3.9.10.~~

~~(1) — If the emissions level calculated in accordance with Section 12.3.9.5 is equal to or greater than eighty (80) percent of the PAL level, the Control Officer may renew the PAL at the same level without considering the factors set forth in paragraph (d)(2) of~~

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~~Section 12.3.9.10; or~~

~~(2) — The Control Officer may set the PAL at a level that he determines to be more representative of the source's baseline actual emissions, or that he determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Control Officer in his written rationale.~~

~~(3) — Notwithstanding paragraphs (d)(1) and (d)(2) of Section 12.3.9.10:~~

~~(A) — If the PTE of the major stationary source is less than the PAL, the Control Officer shall adjust the PAL to a level no greater than the PTE of the source; and~~

~~(B) — The Control Officer shall not approve renewed PAL level higher than the current PAL unless the major stationary source has complied with the provisions of Section 12.3.9.11.~~

~~(e) — If the compliance date for a federal or state requirement that applies to the PAL source occurs during the PAL effective period, and if the Control Officer has not already adjusted for such requirement, the PAL shall be adjusted at the time of the affected Part 70 Operating Permit is renewed.~~

~~12.3.9.11 — Increasing a PAL during the PAL Effective Period~~

~~(a) — The Control Officer may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (a)(1) through (a)(4) of Section 12.3.9.11.~~

~~(1) — The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit as a significant revision to the affected Part 70 Operating Permit. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.~~

~~(2) — As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units, assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding ten (10) years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.~~

~~(3) — The owner or operator obtains an Authority to Construct Permit pursuant to Section 12.4 for all emissions unit(s) identified in paragraph (a)(1) of Section 12.3.9.11, regardless of the magnitude of the emissions increase resulting from them. These emissions unit(s) shall comply with any emissions requirements resulting from the nonattainment Authority to Construct Permit issuance process, even though they have also become subject to the PAL or continue to be subject to the PAL.~~

~~(4) — The PAL conditions in a Part 70 Operating Permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL significant permit revision becomes operational and begins to emit the PAL pollutant.~~

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~~(b) — The Control Officer shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT-equivalent controls as determined in accordance with paragraph (a)(2) of Section 12.3.9.11), plus the sum of the baseline actual emissions of the small emissions units.~~

~~(c) — The PAL conditions in a Part 70 Operating Permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of Section 12.3.9.5.~~

~~12.3.9.12 — Monitoring Requirements for PALs~~

~~(a) — General requirements.~~

~~(1) — The PAL conditions in a Part 70 Operating Permit must include enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL conditions must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation.~~

~~Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL conditions.~~

~~(2) — The PAL monitoring system must employ one or more of the four (4) general monitoring approaches meeting the minimum requirements set forth in paragraphs (b)(1) through (b)(4) of Section 12.3.9.12 and must be approved by the Control Officer.~~

~~(3) — Notwithstanding paragraph (a)(2) of Section 12.3.9.12, the PAL monitoring system may also employ an alternative monitoring approach that meets paragraph (a)(1) of Section 12.3.9.12 if approved by the Control Officer.~~

~~(4) — Failure to use a monitoring system that meets the requirements of Section 12.3.9.12 renders the PAL invalid.~~

~~(b) — Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (c) through (i) of Section 12.3.9.12:~~

~~(1) — Mass balance calculations for activities using coatings or solvents;~~

~~(2) — CEMS;~~

~~(3) — CPMS or PEMS; and~~

~~(4) — Emission factors.~~

~~(c) — Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coatings or solvents shall meet the following requirements:~~

~~(1) — Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;~~

~~(2) — Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and~~

~~(3) — Where the vendor of a material or fuel which is used in or at the emissions unit publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Control Officer determines there is site-specific data or a site-specific monitoring program to support another content within the range.~~

~~(d) — CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions~~

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shall meet the following requirements:

(1) ~~— The CEMS must comply with applicable performance specifications found in 40 CFR Part 60, Appendix B; and~~

(2) ~~— The CEMS must sample, analyze, and record data at least every fifteen (15) minutes while the emissions unit is operating.~~

(e) ~~— CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:~~

(1) ~~— The CPMS or PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and~~

(2) ~~— Each CPMS or PEMS must sample, analyze, and record data at least every fifteen (15) minutes, or at another, less frequent interval approved by the Control Officer while the emissions unit is operating.~~

(f) ~~— Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:~~

(1) ~~— All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;~~

(2) ~~— The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and~~

(3) ~~— If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six (6) months of permit issuance unless the Control Officer determines that testing is not required.~~

(g) ~~— A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time whenever there is no monitoring data unless another method for determining emissions during such periods is specified in the Part 70 Operating Permit containing the PAL.~~

(h) ~~— Notwithstanding the requirements in paragraphs (c) through (g) of Section 12.3.9.12, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Control Officer shall, at the time of permit issuance:~~

(1) ~~— Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or~~

(2) ~~— Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.~~

(i) ~~— Revalidation. All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the Control Officer. Such testing must occur at least once every five (5) years after issuance of the Part 70 Operating Permit containing the PAL conditions.~~

12.3.9.13 ~~— Recordkeeping Requirements~~

(a) ~~— The PAL conditions shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of Section 12.3.9 and of the PAL, including a determination of each emissions unit's 12-month rolling total~~

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~~emissions, for five (5) years from the date of such record.~~

~~(b) — The PAL conditions in a Part 70 Operating Permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five (5) years:~~

~~(1) — A copy of the PAL provisions in the Part 70 Operating Permit application and any applications for revisions to the Part 70 Operating Permit; and~~

~~(2) — Each annual certification of compliance pursuant to the conditions in the affected Part 70 Operating Permit and the data relied on in certifying the compliance.~~

~~12.3.9.14 — Reporting and Notification Requirements~~

~~The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the Control Officer, in accordance with the conditions in the affected Part 70 Operating Permit. The reports shall meet the requirements in paragraphs (a) through (c) of Section 12.3.9.14.~~

~~(a) — Semiannual Report. The semiannual report shall be submitted to the Control Officer within thirty (30) days of the end of each reporting period. This report shall contain the information required in paragraphs (a)(1) through (a)(7) of Section 12.3.9.14:~~

~~(1) — The identification of owner and operator and the permit number;~~

~~(2) — Total annual emissions (in tpy) based on a 12-month rolling total for each month in the reporting period.~~

~~(3) — All data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions;~~

~~(4) — A list of any emissions units modified or added to the major stationary source during the preceding 6-month period;~~

~~(5) — The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken;~~

~~(6) — A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by paragraph (g) of Section 12.3.9.12; and~~

~~(7) — A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.~~

~~(b) — Deviation Report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL conditions, including periods where no monitoring is available. A report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the affected Part 70 Operating Permit. The reports shall contain the following information:~~

~~(1) — The identification of owner and operator and the permit number;~~

~~(2) — The PAL requirement that experienced the deviation or that was exceeded;~~

~~(3) — Emissions resulting from the deviation or the exceedance; and~~

~~(4) — A signed statement by the responsible official certifying the truth, accuracy, and~~

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~~completeness of the information provided in the report.~~

~~(c) — Revalidation Results. The owner or operator shall submit to the Control Officer the results of any revalidation test or method within three (3) months after completion of such test or method.~~

~~12.3.9.15 — Transition Requirements~~

~~(a) — The Control Officer may not issue a PAL that does not comply with the requirements in Sections 12.3.9.1 through 12.3.9.15 after the Administrator has approved regulations incorporating these requirements into the Nevada SIP.~~

~~(b) — The Control Officer may supersede any PAL which was established prior to the date of approval of the Nevada SIP by the Administrator with a PAL that complies with the requirements of Sections 12.3.9.1 through 12.3.9.15.~~

~~12.3.10 — Potential Visibility Impacts~~

~~The Control Officer shall consult with the Federal Land Manager on a proposed major stationary source or major modification that may impact visibility in any Class I Area, in accordance with 40 CFR 51.307.~~

~~12.3.11 — Invalidation~~

~~If any provision of Section 12.3, or the application of such provision to any person or circumstance, is held invalid, the remainder of Section 12.3, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.]~~