

1 EXHIBIT A

2 "GUAM AIR POLLUTION CONTROL  
3 STANDARDS AND REGULATIONS.

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7

8 **Section 1101. Definitions.**

9 **Section 1101.1. Definitions.** As used in these Standards and  
10 Regulations:

11 (a) "*Administrator*" means the Administrator of the Guam  
12 Environmental Protection Agency ("GEPA") or an authorized agent, officer  
13 or inspector.

14 (b) "*Agricultural burning*" means the use of open outdoor fires in  
15 agricultural operations, forest management or range improvements.

16 (c) "*Agricultural operation*" means a *bona fide* agricultural activity  
17 with the primary purpose of providing agricultural instruction by an  
18 educational institution, and includes the growing and harvesting of crops  
19 or the raising of fowl or animals.

20 (d) "*Air pollutant*" means any air pollution agent or combination of  
21 such agents, including any physical, chemical, biological, radioactive,  
22 inclusive of source material, special nuclear material and by product  
23 material; substance; or matter which is emitted into or otherwise enters the  
24 ambient air. Such term includes any precursors to the formation of any  
25 pollutant, to the extent that the agent or combination of such agents is

1 identified in any Federal or local rules as precursors.

2 (e) "*Air pollution*" means the presence in the outdoor air of one (1)  
3 or more substances in quantities and for durations which may endanger  
4 human health or welfare, plant or animal life or property or which may  
5 unreasonably interfere with the comfortable enjoyment of life and  
6 property, but excludes all aspects of employer-employee relationships as to  
7 health and safety hazards.

8 (f) "*Air Pollution Control Act*" means Air Pollution Control Act,  
9 Chapter 49, Part 2, Division 2, Part 1 of Title 10 of the Guam Code  
10 Annotated.

11 (g) "*Air pollution control equipment*" means equipment or a  
12 facility of a type intended to eliminate, prevent, reduce, or control the  
13 emissions of any regulated or hazardous air pollutant to the atmosphere.

14 (h) "*Air pollution control permit*" means written authorization  
15 from the Administrator to construct, modify, relocate or operate an air  
16 pollution emission source. A permit authorizes the permittee to cause or  
17 allow the emission of a regulated air pollutant in a specified manner or  
18 amount, or to do any act, not forbidden by these Standards and  
19 Regulations, but requiring review by GEPA.

20 (i) "*Air pollution emission source*" means any piece of equipment  
21 or any activity at a building, structure, facility or installation that emits, or  
22 may emit, any air pollutant. For this definition, "building, structure,  
23 facility, or installation" means all of the air pollutant emitting activities  
24 which belong to the same industrial grouping, are located on one (1) or  
25 more contiguous or adjacent properties, and are under the control of the

1 same person, or persons under common control, *except* the activities of any  
2 vessel. Air pollutant emitting activities shall be considered as part of the  
3 same industrial grouping if they belong to the same major group," i.e.  
4 which have the same first two (2) digit code, as described in the Standard  
5 Industrial Classification Manual, 1987, or approved equivalent standard  
6 industrial classification.

7 (j) "*Allowable emissions*" means the emissions of an air pollution  
8 emission source calculated using the maximum rated capacity of the  
9 source, *unless* the source is subject to Federally enforceable limits which  
10 restrict the operating rate, capacity or hours of operations, or any  
11 combination of these, and the most stringent of the following:

12 (1) the applicable standards set forth in 40 CFR Parts 60, 61  
13 and 63, as amended;

14 (2) any Guam implementation plan emission limitation,  
15 including those with future compliance dates; and

16 (3) the emission rates specified in a Federally enforceable  
17 permit condition, including those with future compliance dates.

18 (k) "*Ambient Air*" means the general outdoor atmosphere to which  
19 the public has access.

20 (l) "*Annual capacity factor*" means the ratio of the actual annual  
21 heat input divided by the potential annual heat input of fuel burning  
22 equipment.

23 (m) "*Applicant*" means any person who submits an application for a  
24 permit.

25 (n) "*Best available control technology*" means an emissions

1 limitation, including a visible emission standard based on the maximum  
2 degree of reduction for each pollutant, subject to regulation approved  
3 pursuant to the Clean Air Act which would be emitted from any proposed  
4 air pollution emission source or modification which the Administrator, on a  
5 case-by-case basis, taking into account energy, environmental, and  
6 economic impacts and other costs, determines is achievable for such source  
7 or modification through application of production processes or available  
8 methods, systems and techniques, including fuel cleaning or treatment, or  
9 innovative fuel combustion techniques for control of such pollutant. In no  
10 event shall application of best available control technology result in  
11 emissions of any pollutant which would exceed the emissions allowed by  
12 any applicable standard promulgated pursuant to 40 CFR Parts 60, 61 and  
13 63, as amended. If the Administrator determines that technological or  
14 economic limitations on the application of measurement methodology to a  
15 particular emissions unit would make the imposition of an emissions  
16 standard infeasible, a design, equipment, work practice, operational  
17 standard, or combination thereof, may be prescribed instead to satisfy the  
18 requirement for the application of best available control technology. Such  
19 standard shall, to the degree possible, set forth the emissions reduction  
20 achievable by implementation of such design, equipment, work practice or  
21 operation, and shall provide for compliance by means which achieve  
22 equivalent results.

23 (o) "*Biomass fuel burning boilers*" means fuel burning equipment  
24 with an annual capacity factor greater than fifty percent (50%) for biomass  
25 fuel.

1 (p) "**Board**" means the GEPA Board of Directors.

2 (q) "**BTU**" means British Thermal Unit.

3 (r) "**CFR**" means the Code of Federal Regulations.

4 (s) "**Clean Air Act**" means the Clean Air Act, as amended, Title 42  
5 United States Code §7401, *et seq.* and all subsequent amendments.

6 (t) "**Commenced**" as applied to construction of or modification to  
7 an air pollution emission source, means that the owner or operator has all  
8 necessary preconstruction approvals or permits and either has:

9 (1) begun, or caused to begin a continuous program of actual  
10 operation or on-site construction of the source; *or*

11 (2) entered into binding agreements or contractual  
12 obligations, which cannot be canceled or modified without  
13 substantial loss to the owner or operator, to undertake a program of  
14 actual operation or construction of the source.

15 (u) "**Complete**" means, in reference to an application for a permit,  
16 that the application contains all of the information necessary for processing  
17 the application.

18 (v) "**Compliance Plan**" means a plan which includes a description  
19 of how an owner or operator proposes to comply with all applicable  
20 requirements of these Standards and Regulations, and includes a schedule  
21 of compliance and a schedule under which the owner or operator will  
22 submit progress reports to GEPA.

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

1 change in actual emissions.

2 (x) "*Day*" unless otherwise specified, means calendar day.

3 (y) "*Director*" means the Director of Department of Customs and  
4 Quarantine or his designee.

5 (z) "*Draft permit*" means the version of a permit for which the  
6 Administrator offers public notice, including the method by which a public  
7 hearing can be requested, and an opportunity for public comment pursuant  
8 to §1104.19.

9 (aa) "*Emergency*" means any situation arising from sudden and  
10 reasonably unforeseeable events beyond the control of the owner or  
11 operator of the source, including acts of God, which situation requires  
12 immediate corrective action to restore normal operation, and that causes  
13 the source to exceed a technology-based emission limitation under the  
14 permit, due to unavoidable increases in emissions attributable to the  
15 emergency. An emergency shall not include noncompliance to the extent  
16 caused by improperly designed equipment, lack of preventive  
17 maintenance, careless or improper operation, or operator error, and shall  
18 not include an exceedance of a health-based emission limitation.

19 (bb) "*Emission*" means the act of releasing or discharging air  
20 pollutants into the ambient air from any source or an air pollutant which is  
21 released or discharged into the ambient air from any source.

22 (cc) "*Emission limitation*" means a requirement established by the  
23 Administrator or USEPA Administrator which limits the quantity, rate, or  
24 concentration of emissions of air pollutants on a continuous basis,  
25 including any requirements which limit the level of opacity, prescribe

1 equipment, set fuel specifications, or prescribe operation or maintenance  
2 procedures for a source to assure continuous emission reduction.

3 (dd) "*Emissions unit*" means any part or activity of an air pollution  
4 emission source that emits or has the potential to emit any regulated or  
5 hazardous air pollutant.

6 (ee) "*Existing air pollution emission source*" means an air pollution  
7 emission source that has received an air pollution control permit,  
8 commenced construction or a modification, or was in operation prior to the  
9 effective date of these Standards and Regulations.

10 (ff) "*Federally enforceable*" means all limitations and conditions  
11 which are enforceable by the USEPA Administrator, including those  
12 requirements developed pursuant to 40 CFR Parts 60, 61 and 63, as  
13 amended; requirements within the Guam implementation plan; or any  
14 permit requirements established pursuant to 40 CFR Part 52.21, as  
15 amended; or all permit terms and conditions in all air pollution control  
16 permit *except* those specifically designated as not Federally enforceable as  
17 described in §1104.14; or regulations approved pursuant to 40 CFR Part 51,  
18 Subpart I, as amended, including operating permits issued under an EPA  
19 approved program that is incorporated into these Standards and  
20 Regulations, and expressly requires adherence to any permit issued under  
21 such program.

22 (gg) "*Forest management*" means wildland vegetation management  
23 using prescribed burning procedures conducted by a public agency or  
24 through a cooperative agreement involving a public agency.

25 (hh) "*Fuel burning equipment*" means a furnace, boiler, apparatus,

1 stack and all appurtenances thereto, used in the process of burning fuel for  
2 the primary purpose of producing heat or power by heat transfer.

3 (ii) "*Fugitive dust*" means the emission of solid airborne particulate  
4 matter from any source other than combustion.

5 (jj) "*Fugitive emissions*" means those emissions which could not  
6 reasonably pass through a stack, chimney, vent or other functionally  
7 equivalent opening.

8 (kk) "*GEPA*" means the Guam Environmental Protection Agency.

9 (ll) "*Hazardous air pollutants*" means those hazardous air  
10 pollutants listed pursuant to §112(b) of the Clean Air Act, and any other  
11 hazardous air pollutants listed in §1107.2.

12 (mm) "*Heavy-duty vehicle*" means any motor vehicle designed  
13 primarily for transportation of property and rated at more than six  
14 thousand (6000) pounds gross vehicle weight or designed primarily for  
15 transportation of persons having a capacity of more than twelve (12)  
16 persons.

17 (nn) "*Light-duty vehicle*" means any motor vehicle designed  
18 primarily for transportation of property and rated at less than six thousand  
19 (6000) pounds gross vehicle weight or designed primarily for  
20 transportation of persons and having a capacity of less than twelve (12)  
21 persons.

22 (oo) "*mg/m<sup>3</sup>*" means milligrams per cubic meter.

23 (pp) "*Mobile source*" means any vehicular air pollutant source,  
24 including, but not limited to, automobiles, trucks, buses, other motor  
25 vehicles, nonroad engines and equipment, aircraft, ships, boats and other

1 waterborne craft.

2 (qq) "*Month*" means a calendar month.

3 (rr) "*Motor vehicle*" means a self-propelled vehicle capable of  
4 transporting a person or any material or any permanently or temporarily  
5 affixed apparatus.

6 (ss) "*Motor vehicle engine*" means engines powered by petroleum-  
7 based fuels used to provide power to motor vehicles.

8 (tt) "*NAAQS*" means the National Ambient Air Quality Standards  
9 contained in 40 CFR Part 50, as amended.

10 (uu) "*National Emission Standards for Hazardous Air Pollutants*"  
11 means the Federal emission standards contained in 40 CFR Parts 61 and 63,  
12 as amended.

13 (vv) "*New air pollution emission source*" means an air pollution  
14 emission source that commenced construction or modification on or after  
15 the effective date of these Standards and Regulations.

16 (ww) "*Opacity*" means a condition which renders material  
17 partially or wholly impervious to rays of visible light and causes  
18 obstruction of an observer's view.

19 (xx) "*Open Burning*" means the burning of trees, brush, grass and  
20 other vegetative matter in such a manner that the products of combustion  
21 resulting from the burning are emitted directly into the ambient air without  
22 passing through an adequate stack or flare.

23 (yy) "*Owner or operator*" means a person who owns, leases,  
24 operates, controls, or supervises an air pollution emission source.

25 (zz) "*Particulate matter*" means any material, except water in

1 uncombined form, that is or has been airborne and exists as a liquid or a  
2 solid at standard conditions.

3 (aaa) "*Permit*" means written authorization from the  
4 Administrator to construct, modify, relocate, or operate any regulated or  
5 hazardous air pollutant source.

6 (bbb) "*Permit renewal*" means the process by which a permit is  
7 reissued at the end of its term.

8 (ccc) "*Person*" means any individual, partnership, firm,  
9 association, municipality, public or private corporation, subdivision, or  
10 agency of Guam, trust, estate or any other legal entity. Legal entity  
11 includes any agency, department or instrumentality of the United States  
12 and any officer, agent, or employee of such entities.

13 (ddd) "*PM<sub>10</sub>*" means particulate matter with an aerodynamic  
14 diameter less than or equal to a nominal ten micrometers.

15 (eee) "*Potential annual heat input*" means the product of the  
16 maximum rated heat input capacity (megawatts or million BTU per hour)  
17 times 8760 hours per year.

18 (fff) "*Potential to emit*" means the maximum capacity of an air  
19 pollution emission source to emit any air pollutant under its physical and  
20 operational design. Any physical or operational limitation on the capacity  
21 of a source to emit an air pollutant, including air pollution control  
22 equipment and restrictions on hours of operation or on the type or amount  
23 of material combusted, stored, or processed, shall be treated as part of its  
24 design if the limitation is enforceable by the Administrator and the USEPA  
25 Administrator.

1 (ggg) "*PSD*" means prevention of significant deterioration.

2 (hhh) "*Range improvement*" means the removal of vegetation for a  
3 wildlife, game or livestock habitat.

4 (iii) "*Reconstruction*" means the replacement of components at  
5 an existing air pollution emission source to such an extent that the fixed  
6 capital cost of the new components exceeds fifty per cent (50%) of the fixed  
7 capital cost that would be required to construct a comparable entirely new  
8 air pollution emission source.

9 (jjj) "*Regulated air pollutant*" means:

10 (1) Nitrogen oxides or any volatile organic compound;

11 (2) Any air pollutant for which a national or Guam ambient  
12 air quality standard has been promulgated;

13 (3) Any air pollutant that is subject to any standard  
14 promulgated under §111 of the Clean Air Act;

15 (4) Any Class I or II substance subject to a standard  
16 promulgated under or established by Title VI of the Clean Air Act;

17 (5) Any pollutant subject to a standard promulgated under  
18 §112 or other requirements established under §112 of the Clean Air  
19 Act, including §§ 112(g), (j), and (r) of the Clean Air Act, including  
20 the following:

21 (A) Any pollutant subject to requirements under §112(j)  
22 of the Clean Air Act. If the USEPA Administrator fails to  
23 promulgate a standard by the date established pursuant to  
24 §112(e) of the Clean Air Act, any pollutant for which a subject  
25 source would be major shall be considered to be regulated on

1 the date eighteen (18) months after the applicable date  
2 established pursuant to §112(e) of the Clean Air Act; and

3 (B) Any pollutant for which the requirements of  
4 §112(g)(2) of the Clean Air Act have been met, but only with  
5 respect to the individual source subject §112(g)(2) requirement;  
6 or

7 (6) Any other pollutant subject to a standard or requirement  
8 in these Standards and Regulations.

9 (kkk) "*Responsible official*" means:

10 (1) **For a corporation:** a president, secretary, treasurer,  
11 or vice-president of the corporation in charge of a principal business  
12 function, or any other person who performs similar policy or  
13 decision-making functions for the corporation, or an authorized  
14 representative of such person if the representative is responsible for  
15 the overall operation of one (1) or more manufacturing, production,  
16 or operating facilities applying for or subject to a permit and either:

17 (A) The facilities employ more than two hundred fifty  
18 (250) persons or have gross annual sales or expenditures  
19 exceeding Twenty Five Million Dollars (\$25,000,000) (in second  
20 quarter 1980 dollars); or

21 (B) The delegation of authority to such representative  
22 is approved in advance by the Administrator;

23 (2) For a partnership or sole proprietorship: a general partner  
24 or the proprietor, respectively; or

25 (3) For a municipality, state, federal, or other public agency:

1 a principal executive officer, ranking elected official, or an authorized  
2 representative as approved by the Administrator. For the purposes  
3 of these Standards and Regulations, a principal executive officer of a  
4 federal agency includes the chief executive officer, commanding  
5 officer, or equivalent rank or position, having responsibility for the  
6 overall operations of a principal geographic unit of the agency.

7 (III) "**Risk assessment**" means the process of determining the  
8 potential adverse health effects of human exposure to environmental  
9 hazards. The process includes hazard identification, dose-response  
10 assessment, exposure assessment and risk characterization by quantifying  
11 the magnitude of the public health problem that results from the hazard.

12 (mmm) "**SICC**" means Standard Industrial Classification Code.

13 (nnn) "**Significant**" means, in reference to a net emissions increase  
14 or the potential of a source to emit:

15 (1) A rate of emissions that would equal or exceed any of the  
16 following pollutant and emission rates:

17 (A) Carbon monoxide: 100 tpy;

18 (B) Nitrogen oxides: 40 tpy;

19 (C) Sulfur dioxide: 40 tpy;

20 (D) Particulate matter: a total of 25 tpy of particulate  
21 matter of all sizes or 15 tpy of PM<sub>10</sub>;

22 (E) Ozone: 40 tpy of volatile organic compounds;

23 (F) Lead: 0.6 tpy;

24 (G) Asbestos: 0.007 tpy;

25 (H) Beryllium: 0.0004 tpy;

- 1 (I) Mercury: 0.1 tpy;
- 2 (J) Vinyl chloride: 1 tpy;
- 3 (K) Fluorides: 3 tpy;
- 4 (L) Sulfuric acid mist: 7 tpy;
- 5 (M) Hydrogen sulfide (H<sub>2</sub>S): 10 tpy;
- 6 (N) Total reduced sulfur (H<sub>2</sub>S): methyl mercaptan,  
7 dimethyl sulfide, and dimethyl disulfide): 10 tpy;
- 8 (O) Reduced sulfur compounds (H<sub>2</sub>S, carbon disulfide  
9 and carbonyl sulfide): 10 tpy;
- 10 (P) Municipal waste combustor organics: 3.2 grams per  
11 year (3.5 X 10<sup>-6</sup> tpy) measured as total tetra- through octa-  
12 chlorinated dibenzo-p-dioxins and dibenzofurans;
- 13 (Q) Municipal waste combustor metals: 14 megagrams  
14 per year (15 tpy) measured as particulate matter; or
- 15 (R) Municipal waste combustor acid gases: 36  
16 megagrams per year (40 tpy) measured as sulfur dioxide and  
17 hydrogen chloride;
- 18 (2) Any net emissions increase of a pollutant or the potential  
19 of a source to emit a pollutant subject to regulation pursuant to the  
20 Clean Air Act that Paragraph (1) does not list; and
- 21 (3) Notwithstanding paragraph (1), any emissions increase  
22 associated with a major air pollution emission source or major  
23 modification, which would be constructed within ten (10) kilometers  
24 of a national park, wilderness area or memorial park designated as a  
25 Class I area by the federal government or GEPA, and will have an

1 impact on such area equal to or greater than one ug/m<sup>3</sup> (twenty-four-  
2 hour average).

3 (ooo) "*Smoke*" means the gaseous products of burning  
4 carbonaceous materials made visible by the presence of small particles of  
5 carbon.

6 (ppp) "*Source*" means property, real or personal, which emits or  
7 may emit any air pollutant.

8 (qqq) "*Stack*" means a point in a source designed to emit solids,  
9 liquids, or gases into the air, including a pipe or duct but not including  
10 flares.

11 (rrr) "*Standard Industrial Classification Code*" means Major  
12 Group Number, Industry Group Number, or Industry Number as  
13 described in the most recent edition, supplements, and appendices of the  
14 Standard Industrial Classification Manual.

15 (sss) "*Standards of Performance for New Stationary Sources*"  
16 means the federal emission standards contained in 40 CFR Part 60, as  
17 amended.

18 (ttt) "Stationary source" means any piece of equipment or any  
19 activity at a building, structure, facility, or installation that emits or may  
20 emit any air pollutant.

21 (uuu) "Submerged fill pipe" means a fill pipe the discharged  
22 opening of which is entirely submerged when the liquid level is six inches  
23 above the bottom of the tank; or when applied to a tank which is loaded  
24 from the side, shall mean a fill pipe that discharge opening of which is  
25 eighteen inches above the bottom of the tank.

- 1           (vvv)    "*Tpy*" means tons per year.
- 2           (www)    "*ug/m<sup>3</sup>*" means micrograms per cubic meter.
- 3           (xxx)    "*Upon program approval*" means the date the Guam air  
4 pollution control permit program is granted full or interim approval by the  
5 USEPA Administrator pursuant to 40 CFR Part 70, as amended, and  
6 thereafter.
- 7           (yyy)    "*USEPA*" means the United States Environmental Protection  
8 Agency.
- 9           (zzz)    "*USEPA Administrator*" means the Administrator of the  
10 USEPA or his or her designee.
- 11          (aaaa)   "*VOC*" means volatile organic compound.
- 12          (bbbb)   "*Volatile organic compound*" means a compound of carbon,  
13 excluding carbon monoxide, carbon dioxide, carbonic acid, metallic  
14 carbides or carbonates, and ammonium carbonate, which participates in  
15 atmospheric photochemical reactions. This includes any such organic  
16 compound other than methane; ethane; methylene chloride  
17 (dichloromethane); 1,1,1 trichloroethane (methyl chloroform); 1,1,1-  
18 trichloro-2,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11);  
19 dichlorodifluoromethane (CFC-12); chlorodifluoromethane (CFC-22);  
20 trifluoromethane (FC-23); 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114);  
21 chloropentafluoroethane (CFC-115); 1,1,1-trifluoro-2,2-dichloroethane  
22 (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro-1-  
23 fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142B); 2-  
24 chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125);  
25 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-

1 difluoroethane (HFC-152a); and perfluorocarbon compounds which fall  
2 into these classes:

3 (1) Cyclic, branched, or linear, completely fluorinated  
4 alkanes;

5 (2) Cyclic, branched, or linear, completely fluorinated ethers  
6 with no unsaturations;

7 (3) Cyclic, branched, or linear, completely fluorinated  
8 tertiary amines with no unsaturations; and

9 (4) Sulfur containing perfluorocarbons with no unsaturations  
10 and with sulfur bonds only to carbon and fluorine.

11 (cccc) **"Volatile organic compound water separator"** means a tank,  
12 box, sump, or other container which is primarily designed to separate and  
13 recover volatile organic compounds from water. Petroleum storage tanks  
14 from which water incidental to the process is periodically removed are not  
15 considered volatile organic compound water separators.

16 **Section 1102 - General Requirements:**

17 **Section 1102.1. Prohibition of air pollution.** No person,  
18 including any public body, shall engage in any activity which causes air  
19 pollution or causes or allows the emission of any regulated or hazardous  
20 air pollutant without first securing an approval in writing from the  
21 Administrator when required by these Standards and Regulations. The  
22 written approval from the Administrator shall not release any person from  
23 compliance with any other applicable statutes, local laws, regulations, or  
24 ordinances.

25 **Section 1102.2. Conflicts in Rules.** In the event any federal or

1 local laws, rules, or regulations are in conflict with the provisions of these  
2 Standards and Regulations, the most stringent requirement shall apply .

3 **Section 1102.3 Certification.** Every application form, report,  
4 compliance plan, or compliance certification submitted pursuant to these  
5 Standards and Regulations shall contain certification by the responsible  
6 official. This certification and any other certification required pursuant to  
7 these Standards and Regulations shall state that, based on information and  
8 belief formed after reasonable inquiry, the statements and information in  
9 the document are true, accurate, and complete.

10 **Section 1102.4 Sampling, Testing and Reporting Methods.**

11 (a) All sampling and testing shall be made and the results  
12 calculated in accordance with the reference methods specified by USEPA, or  
13 by test procedures approved by the Administrator. All tests shall be made  
14 under the direction of persons knowledgeable in the field of air pollution  
15 control.

16 (b) GEPA may conduct tests of emissions of air pollutants from any  
17 source. Upon request of the Administrator, an owner or operator of an air  
18 pollution emission source may be required to conduct tests of emissions of  
19 air pollutants at the owner or operator's expense. The owner or operator of  
20 the air pollution emission source to be tested shall provide necessary ports  
21 in stacks or ducts and such other safe and proper sampling and testing  
22 facilities, exclusive of instruments and sensing devices, as may be necessary  
23 for proper determination of the emissions of air pollutants.

24 (c) The Administrator may require the owner or operator of any air  
25 pollution emission source to maintain files on information concerning

1       pertinent processes, material flow, fuels used, nature and amount and time  
2       periods or durations of emissions, or any other information as may be  
3       deemed necessary by the Administrator to determine whether the air  
4       pollution emission source complies with applicable emission limitations,  
5       NAAQS, Guam ambient air quality standards, or other provisions of these  
6       Standards and Regulations in a permanent form suitable for inspection or  
7       in a manner authorized by the Administrator.

8               (d)    The information recorded shall be summarized and reported to  
9       the Administrator as specified in the permit and in accordance with any  
10      requirement of these Standards and Regulations. Recording periods shall  
11      be January 1 to June 30 and July 1 to December 31, or any other period  
12      specified by the Administrator, except the initial recording period shall  
13      commence on the date the Administrator issues the notification of the  
14      record keeping requirements. The Administrator may require the owner or  
15      operator to submit any reported summary to the USEPA Administrator.

16              (e)    Information recorded by the owner or operator of an air  
17      pollution emission source and copies of the summarizing reports submitted  
18      to the Administrator shall be retained by the owner or operator for a  
19      specified time period from the date on which the information is recorded or  
20      the pertinent report is submitted. The specified time period shall be as  
21      required in §1104.12(7)(H) or identified within an applicable requirement of  
22      the air pollution emission source.

23              (f)    Owners or operators of air pollution emission sources shall  
24      correlate applicable emission limitations and other requirements within the  
25      report.

1           **Section 1102.5. Air Quality Models.** (a) All required estimates  
2 of ambient concentrations shall be based on the applicable air quality  
3 models, data bases, and other requirements specified in 40 CFR Part 51,  
4 Appendix W, as amended.

5           (b) Where an air quality impact model specified in 40 CFR Part 51  
6 Appendix A of Appendix W, as amended, is inappropriate, the model may  
7 be modified or another model substituted on written request to the  
8 Administrator. The Administrator shall provide for publish notice,  
9 including the method by which a public hearing can be requested, and an  
10 opportunity for public comment, on all proposed modifications or  
11 substitutions of an air quality impact model. Written approval from the  
12 Administrator shall be obtained for any modification or substitution.  
13 Methods such as those outlined in the "Workbook for the Comparison of  
14 Air Quality Models" (U.S. Environmental Protection Agency, Office of Air  
15 Quality Planning and Standards, Research Triangle Park, N.C. 27711, May  
16 1978) may be used to determine the comparability of air quality models.

17           **Section 1102.6. Operations of Monitoring Stations.** The  
18 USEPA monitoring requirements of 40 CFR Part 58, as amended, "Ambient  
19 Air Quality Surveillance," shall be met at a minimum during the operation  
20 of any monitoring stations required by the Administrator or these  
21 Standards and Regulations.

22           **Section 1102.7. Public Access to Information.** (a) Except as  
23 provided in Subsection (b), the following information shall be considered  
24 public records and as such shall be available for public inspection pursuant  
25 to §49114 of Chapter 49, Part 2, Division 2, Part 1 of Title 10 of the Guam

1 Code Annotated unless access is restricted or closed by law:

2 (1) All permit applications;

3 (2) All supporting information for permit applications;

4 (3) Compliance plans and schedules;

5 (4) Reports and results associated with performance tests  
6 and continuous emission monitors;

7 (5) Ambient air monitoring data and emissions inventory  
8 data;

9 (6) Certifications;

10 (7) Any other information submitted to GEPA pursuant to  
11 the air pollution control permit program;

12 (8) Permits; and

13 (9) Public comments or testimonies received during any  
14 public comment period or public hearing.

15 (b) Any owner or operator of an existing or proposed air pollution  
16 emission source may request confidential treatment of specific information,  
17 including information concerning secret processes or methods of  
18 manufacture, by submitting a written request to the Administrator at the  
19 time of submission, and clearly identifying the specific information  
20 (requests) that is to be accorded confidential treatment. With respect to  
21 each item of confidential information, the owner or operator requesting  
22 that it be designated as confidential shall provide documentation  
23 concerning:

24 (1) How each item of information concerns secret processes,  
25 secret methods of manufacture, or is determined to be confidential

1           pursuant to §49114 of Chapter 49, Part 2, Division 2, Part 1 of Title 10  
2           of the Guam Code Annotated;

3                   (2)   Who has access to each item of information;

4                   (3)   What steps have been taken to protect the secrecy of each  
5           item of information; and

6                   (4)   Why it is believed each item of information must be  
7           accorded confidential treatment and the anticipated prejudice should  
8           disclosure be made.

9           (c)   Any information submitted to GEPA without a request for  
10          confidentiality in accordance with this section shall be considered a public  
11          record.

12          (d)   Upon a satisfactory showing to the Administrator by any owner  
13          or operator that any records, reports, or information, or particular part  
14          thereof, other than emission data, to which the Administrator has access  
15          pursuant to these Standards and Regulations, contain information of a  
16          confidential nature, including information concerning secret processes or  
17          methods of manufacture, these records, reports, or information shall be  
18          kept confidential except that such records, reports, or information may be  
19          disclosed to other local and federal representatives concerned with carrying  
20          out these Standards and Regulations or when relevant in any proceeding  
21          pursuant to these Standards and Regulations. If required by USEPA, all  
22          records, reports, and information determined by the owner or operator to  
23          be confidential shall be submitted to USEPA. The contents of an air  
24          pollution control permit itself or emissions data shall not be entitled to  
25          confidentiality protection.

1 (e) Any person who has claimed confidentiality for records,  
2 reports, or other information and whose claim was denied by the  
3 Administrator may obtain administrative review and subsequent judicial  
4 review of the denial pursuant to the Administrative Adjudication Law.  
5 Records which are the subject of a judicial review shall not be released until  
6 the judicial review is complete and only if the court authorizes such release.

7 (f) All requests for public records shall be in writing, shall be  
8 addressed to the Administrator, and shall identify or describe the character  
9 of the requested record. Upon approval by the Administrator, the  
10 requested public record shall be available to the requester for inspection  
11 and copying during established office hours. The Administrator shall  
12 charge the requester a reasonable cost for reproduction of any public  
13 record, but not less than Twenty-five Cents (\$.25) per page, sheet or  
14 fraction thereof.

15 **Section 1102.8. Reporting of Equipment Shutdown.** (a) In  
16 the case of shutdown of required air pollution control equipment for  
17 necessary scheduled maintenance, the intent to shut down such equipment  
18 shall be reported to the Administrator at least twenty-four (24) hours prior  
19 to the planned shutdown. The prior notice shall include:

20 (1) Identification of the specific equipment to be taken out of  
21 service as well as its location and permit number;

22 (2) The expected length of time that the air pollution control  
23 equipment will be out of service;

24 (3) The nature and quantity of emissions of air pollutants  
25 likely to be emitted during the shutdown period;

1           (4) Measures such as the use of off-shift labor and equipment  
2 that will be taken to minimize the length of the shutdown period;  
3 and

4           (5) The reasons why it would be impossible or impractical to  
5 shut down the source operation during the maintenance period.

6           (b) The submittal of the notice shall not be a defense to an  
7 enforcement action.

8           **Section 1102.9. Prompt Reporting of Deviations.** (a) Except for  
9 emergencies which result in noncompliance with any technology-based  
10 emission limitation pursuant to §1104.17 for air pollution emission sources,  
11 in the event any emission unit, air pollution control equipment, or related  
12 equipment breaks down in such a manner as to cause the emission of air  
13 pollutants in violation of these Standards and Regulations or a permit, the  
14 owner or operator shall immediately notify GEPA of the failure or  
15 breakdown, unless the protection of personnel or public health or safety  
16 demands immediate attention to the failure or breakdown and makes such  
17 notification infeasible. In the latter case, the notice shall be provided as  
18 soon as practicable.

19           (b) The owner or operator shall provide the following information  
20 in writing within five (5) working days of the notification:

- 21           (1) Identification of emission points;
- 22           (2) Magnitude of the excess emissions;
- 23           (3) Time and duration of the excess emissions;
- 24           (4) Identity of the process or control equipment causing the  
25 excess emissions;

1 (5) Cause and nature of the excess emissions;

2 (6) Description of the steps taken to remedy the situation,  
3 prevent a recurrence, limit the excessive emissions, and assure that  
4 the breakdown does not interfere with the attainment and  
5 maintenance of the NAAQS and Guam ambient air quality standards;

6 (7) Documentation that the equipment or process was at all  
7 times maintained and operated in a manner consistent with good  
8 practice for minimizing emissions; and

9 (8) A statement that the excess emissions are not part of a  
10 recurring pattern indicative of inadequate design, operation, or  
11 maintenance.

12 (c) The submittal of the notice shall not be a defense to an  
13 enforcement action.

14 **Section 1102.10. Prevention of Air Pollution Emergency Episodes.**

15 (a) This section is designed to prevent the excessive buildup of air  
16 pollutants during air pollution episodes, thereby preventing the occurrence  
17 of any emergency due to the effects of these pollutants on the public health.

18 (b) Conditions justifying the proclamation of an air pollution alert,  
19 air pollution warning, or air pollution emergency shall be deemed to exist  
20 whenever the Administrator determines that the accumulation of air  
21 pollutants in any place is attaining or has attained levels which could, if  
22 such levels are sustained or exceeded, lead to a threat to the health of the  
23 public. In making this determination, the Administrator shall be guided by  
24 the criteria set forth in Subsections (c) to (g).

25 (c) If the national weather service issues an atmospheric stagnation

1 advisory or if an equivalent local forecast of stagnant atmospheric  
2 conditions is issued, GEPA shall survey its monitoring stations to  
3 determine whether alert, warning, or emergency levels have occurred or  
4 are likely to occur.

5 (d) The alert level is that concentration of pollutants at which first  
6 stage control action is to begin. An alert shall be declared, health advisories  
7 issued, and source activities curtailed as ordered by the Administrator  
8 when any one of the following levels is reached:

9 (1) SO<sub>2</sub> - 800 ug/m<sup>3</sup> (0.3 ppm), twenty-four (24) hour average;

10 (2) PM<sub>10</sub> - 350 ug/m<sup>3</sup>, twenty-four (24) hour average;

11 (3) SO<sub>2</sub> and particulate matter combined - product of SO<sub>2</sub>, in  
12 ug/m<sup>3</sup>, twenty-four (24) hour average and PM<sub>10</sub>, in ug/m<sup>3</sup>, twenty-  
13 four hour (24) average equal to 65,000;

14 (4) CO - 17 mg/m<sup>3</sup> (15 ppm), eight (8) hour average;

15 (5) Ozone - 400 ug/m<sup>3</sup> (0.2 ppm), one (1) hour average; or

16 (6) NO<sub>2</sub> - 1130 ug/m<sup>3</sup> (0.6 ppm), one (1) hour average; 282  
17 ug/m<sup>3</sup> (0.15 ppm), twenty-four (24) hour average;

18 and meteorological conditions are such that this condition can be  
19 expected to continue for twelve (12) or more hours.

20 (e) The warning level indicates that air quality is continuing to  
21 degrade and that additional abatement actions are necessary. A warning  
22 shall be declared, health advisories issued, and source activities curtailed or  
23 terminated as ordered by the Administrator when any one of the following  
24 levels is reached:

25 (1) SO<sub>2</sub> - 1,600 ug/m<sup>3</sup> (0.6 ppm), twenty-four (24) hour

1 average;

2 (2)  $\text{PM}_{10}$  - 420  $\text{ug}/\text{m}^3$ , twenty-four (24) hour average;

3 (3)  $\text{SO}_2$  and particulate matter combined - product of  $\text{SO}_2$ , in  
4  $\text{ug}/\text{m}^3$ , twenty-four-hour average and  $\text{PM}_{10}$ ,  $\text{ug}/\text{m}^3$ , twenty-four (24)  
5 hour average equal to 261,000;

6 (4) CO - 34  $\text{mg}/\text{m}^3$  (30 ppm), eight (8) hour average;

7 (5) Ozone - 800  $\text{ug}/\text{m}^3$  (0.4 ppm), one (1) hour average; or

8 (6)  $\text{NO}_2$  - 2,260  $\text{ug}/\text{m}^3$  (1.2 ppm), one (1) hour average; 565  
9  $\text{ug}/\text{m}^3$  (0.3 ppm), twenty-four-hour average;

10 and meteorological conditions are such that this condition can be  
11 expected to continue for twelve (12) or more hours.

12 (f) The emergency level indicates that air quality may have an  
13 impact on public health. An emergency shall be declared, health advisories  
14 issued, source activities terminated as ordered by the Administrator, and  
15 the public evacuated from the affected area if so recommended by the  
16 Administrator, civil defense, or the police department when the warning  
17 level for a pollutant has been exceeded and:

18 (1) The concentrations of the pollutant are continuing to  
19 increase;

20 (2) The Administrator determines that, because of  
21 meteorological conditions or other facts, the concentrations will  
22 continue to increase; or

23 (3) When one of the following levels is reached:

24 (A)  $\text{SO}_2$  - 2,100  $\text{ug}/\text{m}^3$  (0.8 ppm), twenty-four-hour  
25 average;

1 (B)  $\text{PM}_{10}$  - 500  $\text{ug}/\text{m}^3$ , twenty-four hour average;

2 (C)  $\text{SO}_2$  and  $\text{PM}_{10}$  combined - product of  $\text{SO}_2$ ,  $\text{ug}/\text{m}^3$ ,  
3 twenty-four-hour average and  $\text{PM}_{10}$ ,  $\text{ug}/\text{m}^3$ , twenty-four-hour  
4 average equal to 393,000;

5 (D) CO - 46  $\text{mg}/\text{m}^3$  (40 ppm), eight-hour average;

6 (E) Ozone - 1,000  $\text{ug}/\text{m}^3$  (0.5 ppm), one-hour average;

7 or

8 (F)  $\text{NO}_2$  - 3,000  $\text{ug}/\text{m}^3$  (1.6 ppm), one-hour average; 750  
9  $\text{ug}/\text{m}^3$  (0.4 ppm), twenty-four-hour average.

10 (g) Once declared, any episode level reached by application of  
11 these criteria shall remain in effect until the criteria for that level are no  
12 longer met. At that time, the next lower episode level shall be assumed.

13 **Section 1102.11. Variances.** (a) Variances and variance  
14 applications shall comply with §49110 of Chapter 49, Part 2, Division 2, Part  
15 1 of Title 10 of the Guam Code Annotated, except that no variance shall  
16 prevent or interfere with the maintenance or attainment of NAAQS. Any  
17 application for a variance shall include a calculation and description of any  
18 change in emissions and the expected ambient air quality concentrations.

19 (b) Under no circumstances shall a variance from any federal  
20 regulations or federally enforceable air pollution control permit terms or  
21 conditions be granted.

22 **Section 1102.12. Penalties and Remedies.** Any person who  
23 violates any provision of these Standards and Regulations, any term or  
24 condition of a permit shall be subject to the penalties and remedies  
25 provided for in §49115 and §49116 of Chapter 49, Part 2, Division 2, Part 1

1 of Title 10 of the Guam Code Annotated

2 **Section 1102.13. Severability.** If any provision of these Standards  
3 and Regulations or their application to any person or circumstance is held  
4 invalid, the application of such provision to other persons or circumstances  
5 and the remainder of these Standards and Regulations shall not be affected  
6 thereby.

7 **Section 1102.14. Hearings.** Any person who received an order from  
8 the Administrator as authorized by the Air Pollution Control Act, or whose  
9 permit application is disapproved or denied by the Administrator, or is  
10 adversely affected by a decision of GEPA may have appeal or judicial  
11 review rights as provided for in §49111 of Chapter 49, Part 2, Division 2,  
12 Part 1 of Title 10 of the Guam Code Annotated.

### 13 **Section 1103 - General Prohibitions and Standards**

14 **Section 1103.1. Applicability.** (a) All owners or operators of  
15 an air pollution emission sources and mobile sources are subject to the  
16 requirements of this Section, whether or not the source is required to obtain  
17 an air pollution control permit.

#### 18 **Section 1103.2. Guam Ambient Air Quality Standards.**

19 (a) The following air quality standards are the maximum desirable  
20 levels of ambient air quality for Guam. The Guam primary ambient air  
21 quality standards define levels of air quality which the Administrators  
22 judges are necessary, with an adequate margin of safety, to protect the  
23 public health. Guam secondary ambient air quality standards define levels  
24 of air quality which the Administrator judges necessary to protect the  
25 public welfare from any known or anticipated adverse effects of a

1 pollutant.

2 **(1) Sulfur dioxide.**

3 (A) The Guam primary ambient air quality standards  
4 for sulfur dioxide are:

5 (i) **80 ug/m<sup>3</sup>** (0.03 ppm) - annual arithmetic  
6 mean; and

7 (ii) **365 ug/m<sup>3</sup>** (0.14 ppm) - maximum twenty-  
8 four (24) hour average concentration not to be exceeded  
9 more than once per year.

10 (B) The Guam secondary ambient air quality standard  
11 for sulfur dioxide is:

12 (i) **1300 ug/m<sup>3</sup>** (0.5 ppm) - maximum three (3)  
13 hour average concentration not to be exceeded more than  
14 once per year.

15 **(2) Particulate Matter.** The Guam primary and secondary  
16 ambient air quality standards for particulate matter, measured as  
17 PM<sub>10</sub> are:

18 (A) **150 ug/m<sup>3</sup>** - maximum twenty four (24) hour  
19 average concentration not to be exceeded more than once per  
20 year; and

21 (B) **50 ug/m<sup>3</sup>** - annual arithmetic mean concentration.

22 **(3) Carbon Monoxide.** The Guam primary ambient air  
23 quality standards for carbon monoxide are:

24 (A) **10 mg/m<sup>3</sup>** (9 ppm) - maximum eight (8) hour  
25 average concentration not to be exceeded more than once per

1 year;

2 (B) **40 mg/m<sup>3</sup>** (35 ppm) - maximum one (1) hour  
3 average concentration not to be exceeded more than once per  
4 year.

5 (4) **Ozone.** The Guam primary and secondary ambient  
6 air quality standards for Ozone is:

7 **235 ug/m<sup>3</sup>** (0.12 ppm) - maximum 1-hour average  
8 concentration not to be exceeded more than once per year.

9 (5) **Nitrogen Dioxide.** The Guam primary and secondary  
10 ambient air quality standard for nitrogen dioxide is:

11 **100 ug/m<sup>3</sup>** (0.053 ppm) - annual arithmetic mean  
12 concentration.

13 (6) **Lead.** The Guam primary and secondary ambient  
14 air quality standard for lead is:

15 **1.5 ug/m<sup>3</sup>** - maximum arithmetic mean averaged over a  
16 calendar quarter.

17 (b) The promulgation of these ambient air quality standards shall  
18 not be considered in any manner to allow significant deterioration of  
19 existing air quality in any portion of Guam.

20 (c) All measurements of air quality are corrected to a reference  
21 temperature of 25 °C and to a reference pressure of 760 millimeters of  
22 mercury (1013.2 millibars).

23 (d) Measurements for Guam ambient air quality standards shall be  
24 determined using methods presented in 40 CFR Part 50, as amended,  
25 including the appropriate appendices, or any other method approved by

1 the Administrator.

2 **Section 1103.3. Visible emissions.** (a) No person shall cause  
3 or permit the continuous emission of visible air pollutants of a density  
4 equal to or darker than twenty (20%) per cent opacity, except as provided  
5 in Subsections (b) and (c).

6 (b) Except as provided in Subsection (c), no person shall cause or  
7 permit the discharge into the atmosphere from any single source of  
8 emission, for a period aggregating not more than three (3) minutes in any  
9 sixty (60) minutes period, air pollutants of a density darker than sixty (60%)  
10 per cent opacity, except for operations specifically authorized by GEPA  
11 through a variance as provided in §1102.11.

12 (c) Emissions of uncombined water, such as water vapor, are  
13 exempt from the provisions of Subsections (a) and (b), and do not  
14 constitute a violation of this Section.

15 **Section 1103.4. Fugitive Dust.** (a) No person shall cause or  
16 permit visible fugitive dust to become airborne without taking reasonable  
17 precautions. Examples of reasonable precautions are:

18 (1) Use of water or suitable chemicals for control of fugitive  
19 dust in the demolition of existing buildings or structures,  
20 construction and retrofitting operations, the grading of roads, or the  
21 clearing of land;

22 (2) Application of asphalt, water, or suitable chemicals on  
23 roads, material stockpiles, and other surfaces which may allow  
24 release of fugitive dust;

25 (3) Installation of appurtenances that provide an enclosure

1 and ventilation for all crushing, aggregate screening, and conveying  
2 of material likely to become airborne;

3 (4) Installation and use of hoods, fans, and fabric filters to  
4 enclose and vent the handling of dusty materials. Reasonable  
5 containment methods shall be employed during sandblasting, spray  
6 painting, or other similar operations;

7 (5) Covering all moving, open-bodied trucks transporting  
8 materials which may release fugitive dust;

9 (6) Conducting agricultural operations, such as tilling of land  
10 and the application of fertilizers, in such manner as to reasonably  
11 minimize fugitive dust;

12 (7) Maintenance and sealing of road-ways and parking lots  
13 so as to prevent the exposure of such surfaces to wind, water, or  
14 vehicular travel erosion; and

15 (8) Prompt removal of earth or other materials from paved  
16 streets which have been transported there by trucking, earth-moving  
17 equipment, erosion, or other means.

18 (b) Except for persons engaged in agricultural operations or  
19 persons who can demonstrate to the Administrator that the best practical  
20 operation or treatment is being implemented, no person shall cause or  
21 permit the discharge of visible fugitive dust beyond the property lot line on  
22 which the fugitive dust originates.

23 **Section 1103.5. Motor Vehicles - Importation.** (a) No person  
24 shall import any motor vehicle or motor vehicle engine into Guam, unless  
25 such motor vehicle or motor vehicle engine is in accordance with the Air

1 Pollution Control Act as amended or is granted an exception under  
2 Subsection (i) or (n).

3 (b) The importer or consignee shall declare to the Director in  
4 duplicate on EPA Form 3520-1, and submit a copy to GEPA and the  
5 Director, the following information:

6 (1) The name and address of the importer and the consignee;

7 (2) The make, model, and model year of the vehicle or  
8 engine;

9 (3) The vehicle identification numbers of such vehicle or the  
10 serial number of such engine (if not chassis mounted);

11 (4) The date of entry, the vessel or carrier of importation, the  
12 port or point of entry, and the entry number (where applicable); and

13 (5) A statement that the motor vehicle belongs to one of the  
14 categories of EPA Form 3520-1 or furnish to the Director a written  
15 exception under Subsections(i) or (n).

16 (c) No person shall import a 1968, 1969, or 1970 model year motor  
17 vehicle or motor vehicle engine without a certificate of conformity issued  
18 by the United States Department of Health, Education and Welfare, or by  
19 the USEPA or be granted an exception under Subsection (i) or (n).

20 (d) No person shall import a 1971 or subsequent year motor vehicle  
21 or motor vehicle engine without a certificate of conformity issued by  
22 USEPA and a certification label or be granted an exception under  
23 Subsection (i) or (n).

24 (e) The Director shall allow the importation of a motor vehicle or  
25 motor vehicle engine not covered by a certificate of conformity, if the motor

1 vehicle or motor vehicle engine is being imported solely for the purpose of  
2 display and will not be sold or operated on Guam public streets or roads.

3 (f) The Director shall allow the importation of a motor vehicle or  
4 motor vehicle engine not covered by a certificate of conformity if the  
5 importer or consignee is a member of the armed forces of a foreign country,  
6 a member of the secretariat of a public international organization or a  
7 member of the personnel of a foreign government on assignment in Guam  
8 who come within a class of persons or whom free entry of motor vehicles  
9 has been authorized by the Department of State and the motor vehicle will  
10 not be sold.

11 (g) The Director shall allow the importation of a motor vehicle or  
12 motor vehicle engine not covered by a certificate of conformity if the  
13 importer or consignee is a nonresident of the United States importing such  
14 motor vehicle or motor vehicle engine for personal use for not more than  
15 one (1) year from date of entry, the motor vehicle or motor vehicle engine  
16 will not be sold and the motor vehicle or motor vehicle engine will be  
17 deported one year from date of entry.

18 (h) The Director shall allow the importation of a motor vehicle or  
19 motor vehicle engine intended solely for export provided the motor vehicle  
20 or motor vehicle engine is not allowed to leave the premises of the Port  
21 Authority of Guam.

22 (i) The following are not subject to the requirements of this  
23 Section:

- 24 (1) Motor vehicles manufactured before 1968;
- 25 (2) Non-chassis mounted engines to be used in light-duty

1 vehicles;

2 (3) The motor vehicles, or motor vehicle engines  
3 manufactured before January 1, 1970 for use in heavy-duty vehicles;

4 (4) Light-duty vehicles not powered by gasoline (if diesel  
5 fueled, only for 1974 and earlier models);

6 (5) Motorcycles manufactured before January 1, 1978;

7 (6) Racing vehicles not to be operated on public streets or  
8 highways;

9 (7) Motor vehicles which exhibit one of these features  
10 conflicting with safe highway use:

11 (i) No reverse gear (except motorcycles);

12 (ii) No differential gear;

13 (iii) Tracks instead of tires;

14 (iv) Of an inordinate size;

15 (v) Cannot exceed a speed of twenty five (25) miles per  
16 hour over level paved surfaces, or

17 (vi) Has armor or weaponry associated with military  
18 combat;

19 (8) Vehicle eligible for one-time personal exemption  
20 provided the vehicle is:

21 (i) The first nonconforming motor vehicle imported by  
22 the individual;

23 (ii) Fully owned by the importer or consignee (not a  
24 business);

25 (iii) Not for resale for two (2) years; and

1 (iv) Five (5) year old or older.

2 Individuals immigrating to Guam are eligible for the one time  
3 personal exemption under the same conditions except no limit on age  
4 of the vehicle.

5 (j) The Administrator shall notify the Department of Revenue and  
6 Taxation in writing of any motor vehicle imported under the one-time  
7 personal exemption. The Department of Revenue and Taxation shall  
8 maintain a listing of vehicles imported under the provision of one-time  
9 personal exemption and not allow transfer of registration for two (2) years.

10 (k) The Director shall conditionally allow the importation of a  
11 motor vehicle or motor vehicle engine under bond for which an application  
12 for certification of conformity is pending before the USEPA Administrator  
13 provided that the importer or consignee submits a written request to the  
14 Administrator, stating:

15 (1) Identification of the test motor vehicle or motor vehicle  
16 engine;

17 (2) Identification of the location such vehicle will be stored  
18 (not on the premises of any dealer), and

19 (3) The name of the person responsible for custody of the  
20 motor vehicle or motor vehicle engine.

21 (l) The Director shall allow the importation of a motor vehicle or  
22 motor vehicle engine, for which a certificate for conformity has been issued  
23 by USEPA, but the certification label is not mounted, provided that the  
24 importer or consignee submits documentation to the Administrator stating  
25 that the motor vehicle or motor vehicle engine year model belongs to a

1 family of motor vehicles certified by USEPA and that the motor vehicle or  
2 motor vehicle engines equipped with the equipment required in the  
3 certification as verified by the Administrator.

4 (m) The Director shall conditionally allow the importation of a  
5 motor vehicle or motor vehicle engine for which a certificate of conformity  
6 has been issued by USEPA, but the motor vehicle is being imported from  
7 areas outside North America, (U.S., Mexico, and Canada) or from a country  
8 where unleaded gasoline is not widely distributed, under bond for the  
9 purpose of replacing the oxygen sensing device and the catalytic converter.

10 (n) The Director shall conditionally allow the importation of a  
11 motor vehicle or motor vehicle engine for which a certificate of conformity  
12 has not been issued by USEPA under bond for the purpose of making  
13 repairs to the motor vehicle or motor vehicle engine.

14 (o) The Director shall conditionally allow the importation of a  
15 motor vehicle or motor vehicle engine under bond, for which a certificate of  
16 conformity has been issued by USEPA but the equipment and certification  
17 label has not yet been installed, for the purpose of retrofitting the  
18 equipment required in certification, if the importer or consignee:

19 (1) Submits a written request to the Administrator stating:

20 (i) Identification of the location such vehicle will be  
21 stored (not on the premises of any dealer); and

22 (ii) The name of the person responsible for custody of  
23 the motor vehicle or motor vehicle engine; and

24 (2) Certifies the person will retrofit the motor vehicle or  
25 motor vehicle engine according to the instructions obtained from the

1 manufacturer's U.S. representative.

2 (p) For conditional entry of motor vehicles under bond, the  
3 importer or consignee shall give a bond equal to but not less than one-half  
4 (1/2) the value of the motor vehicle or motor vehicle engine and that bond  
5 shall not be released to the importer or consignee until such time that the  
6 provisions of this Section are fulfilled and a written recommendation from  
7 the Administrator or his designee is obtained stating that the Director may  
8 release the bond.

9 (q) **Release under bond.** If entry is being make under bond, the  
10 entry shall be accepted only if the importer or consignee gives a bond equal  
11 to not less than one-half the value of the motor vehicle, containing the bond  
12 conditions set forth in this Section, for the production of a declaration from  
13 the Administrator that the vehicle is in conformity with Federal emission  
14 standards. Within ninety (90) days after such entry, or such additional  
15 period as the Director may allow for good cause shown, the importer or  
16 consignee shall deliver to the Director the prescribed declaration. If the  
17 declaration is not delivered within ninety (90) days of the date of entry or  
18 such additional period as may be allowed by the Director, for good cause  
19 shown, the importer or consignee shall deliver or cause to be delivered to  
20 the Director those motor vehicles or motor vehicle engines which were  
21 released in accordance with this paragraph. In the event that any such  
22 motor vehicle or motor vehicle engine is not redelivered within five (5)  
23 working days following the date specified in the preceding sentence,  
24 liquidated damages shall be assessed in the full amount of the bond and the  
25 vehicle will be subject to confiscation by the Director.

1           **(r) Merchandise refused entry.** If a motor vehicle is denied entry  
2 under the provision of this Section, the Director shall refuse to release the  
3 merchandise for entry into Guam and shall give notice of such refusal to  
4 the importer.

5           **(s) Disposition of merchandise refused entry into Guam.**

6           Motor vehicles or motor vehicle engines denied entry under this  
7 Section or which are redelivered in accordance and which are not exported  
8 under supervision of the Director within ninety (90) days from the date of  
9 notice of refusal of admission or date of redelivery shall be disposed of  
10 under the Director, provided that any such disposition shall not result in an  
11 introduction to Guam of a motor vehicle or motor vehicle engine not  
12 covered by a certificate of conformity with Federal motor vehicle emission  
13 standards.

14           **Section 1103.6. Motor vehicles - Emission Requirements.**

15           **(a)** No person shall intentionally remove, alter or otherwise render  
16 ineffective or inoperative, exhaust emission control, crank case ventilation  
17 or any other air pollution control device or system which has been installed  
18 on a motor vehicle or stationary internal combustion engine as a  
19 requirement of any federal law or regulation.

20           **(b)** No person shall operate a motor vehicle or other internal  
21 combustion engine originally equipped with air pollution devices or  
22 systems as required by federal law or regulation, unless such devices or  
23 systems are in place and in operating condition.

24           **(c)** No person shall operate a gasoline-powered motor vehicle  
25 which emits visible smoke for a period of more than five (5) consecutive

1 seconds while upon streets, roads, or highways.

2 (d) No person shall cause or permit the emission of visible air  
3 pollutants for diesel powered light-duty vehicles of a density equal to or  
4 darker than twenty per cent (20%) opacity for longer than five (5)  
5 consecutive seconds.

6 (e) Diesel powered heavy-duty vehicle emission requirements.

7 (1) No 1974 or subsequent model year diesel powered heavy-  
8 duty vehicle with a Federal peak smoke engine certification level of  
9 thirty five percent (35%) peak opacity or less operating on any  
10 roadway on Guam shall exceed forty percent (40%) peak smoke  
11 opacity when tested in accordance with this Section unless its engine  
12 is exempted under Subsections (3) or (4).

13 (2) No other diesel powered heavy duty vehicle operating on  
14 any roadway on Guam, including pre-1974 model-year vehicles shall  
15 exceed fifty five percent (55%) peak smoke opacity when tested in  
16 accordance with this Section unless its engine is exempted under  
17 Subsections (3) or (4).

18 (3) The Administrator shall exempt from the requirements of  
19 Subsections (1) and (2) any engine family that he determines exhibits  
20 idle test results greater than forty percent (40%) under Subsection (1)  
21 or fifty five percent (55%) under Subsection (2) when in good  
22 operating condition and adjusted to manufacturer's specifications.  
23 Such engine family(s) must comply with the technologically  
24 appropriate higher opacity standard determined by the  
25 Administrator from a review of the data obtained from engines in

1 good operating condition and adjusted to manufacturer's  
2 specifications.

3 (4) The Administrator shall exempt from the requirements of  
4 Subsections (1) and (2) any 1991 and earlier model year diesel  
5 powered heavy duty vehicles equipped with carryover add-on after  
6 market turbocharger kits approved by GEPA, that he determines  
7 exhibit snap-idle test results greater than forty percent (40%) under  
8 Subsection (1) or Fifty-five (55%) percent under Subsection (2) when  
9 in good operating condition and adjusted to manufacturer's  
10 specifications. Such vehicles must comply with the technologically  
11 appropriate higher opacity standard determined by the  
12 Administrator from a review of the data obtained from engines in  
13 good operating condition and adjusted to manufacturer's  
14 specifications.

15 (5) In the event that a 1974 or later model-year diesel  
16 powered heavy-duty vehicle engine identification cannot be obtained  
17 by the inspector in order to determine the Federal smoke certification  
18 level, the owner, within thirty (30) days of the inspection, shall  
19 provide GEPA with the engine identification information. If the  
20 owner fails to comply with this requirement, it is conclusively  
21 presumed for the purpose of compliance with this Section that the  
22 vehicle has a Federal peak smoke certification level equal to or less  
23 than thirty five percent (35%) peak smoke opacity and that the peak  
24 smoke opacity standard is forty percent (40%).

25 (6) The test procedures and smoke opacity measurement

1 equipment shall comply with the standards and specifications of the  
2 Society of Automotive Engineers procedure J1667 "Snap-Acceleration  
3 Smoke Test Procedure for Heavy-Duty Diesel Powered Vehicles,"  
4 Issued 1996-02, as updated, which is incorporated herein by  
5 reference.

6 **(f) Responsibilities of drivers during test procedures.**

7 (1) The driver of a diesel powered heavy-duty vehicle  
8 selected to undergo the inspection procedure shall do all of the  
9 following:

10 (A) Drive the vehicle to the inspection site upon  
11 direction of an officer;

12 (B) Perform the test procedure upon request by an  
13 inspector;

14 (C) Open the vehicle door so that the inspector can  
15 observe the driver depress the accelerator pedal;

16 (D) Permit an emission control system inspection upon  
17 the request of the inspector; and

18 (E) Sign the citation to acknowledge its receipt and the  
19 smoke test results to acknowledge performance of the test  
20 procedure.

21 (2) The inspector in performing the inspection procedure  
22 shall do all of the following:

23 (A) If the driver refuses to submit to the inspection  
24 procedure, advise the driver that such refusal is a violation of  
25 these Standards and Regulations;

1 (B) Obtain engine identification information from a  
2 vehicle when tested pursuant to Subsection (e) to determine  
3 which opacity standard specified in Subsections (e)(1) and  
4 (e)(2) would apply;

5 (3) Issue a copy of the citation to the driver of a vehicle that  
6 fails the test procedure or the emission control system inspection; and

7 (4) Issue a warning to the owner of a diesel powered heavy-  
8 duty vehicle missing its emission control label that the engine serial  
9 or identification number must be provided to GEPA within thirty  
10 (30) days or it will be conclusively presumed that the vehicle has a  
11 certification level equal to or less than thirty five percent (35%) peak  
12 smoke opacity.

13 (g) For the purposes of Subsections (e) and (f), "inspector" and  
14 "officer" shall mean any authorized agent of the Administrator, including  
15 representatives of other government of Guam agencies, when an agreement  
16 is established between GEPA and the other agency which allows such  
17 authorizations.

18 (h) No person shall cause or permit the use of any motor vehicle  
19 which becomes mechanically deficient so as to cause the emission of visible  
20 air pollutants greater than allowed in this Section.

21 **(i) Penalties.**

22 (1) Penalties shall not exceed One Thousand Dollars  
23 (\$1,000.00) per day of violation.

24 (2) Failure to comply with this Section shall subject the  
25 owner to suspension or cancellation of the registration and inspection

1 sticker for the vehicle by the Department of Revenue and Taxation.

2 (j) The violator can apply for waiver of prosecution by the  
3 Administrator, not to exceed forty five (45) days in duration. To be  
4 considered for a waiver, the violator shall immediately notify the  
5 Administrator of the deficiency, and provide a statement giving all  
6 pertinent facts, including the reason for the violation, the attempts made to  
7 correct the deficiency, any difficulties encountered when correcting the  
8 situation, and the estimated date of the correction of the deficiency.

9 **Section 1103.7. Incineration.** (a) No person shall cause or  
10 permit the emissions of particulate matter to exceed 0.20 pounds per one  
11 hundred pounds (two grams per kilogram) of refuse charged from any  
12 incinerator.

13 (b) All required emission tests shall be conducted at the maximum  
14 burning capacity of the incinerator or at other capacities, as approved by  
15 the Administrator.

16 (c) The burning capacity of an incinerator shall be the  
17 manufacturer's or designer's guaranteed maximum rate or such other rate  
18 as may be determined by the Administrator.

19 (d) For the purposes of this Section, the total of the capacities of all  
20 furnaces within one system shall be considered as the incineration capacity.

21 **Section 1103.8. Biomass Fuel Burning Boilers.** No person shall  
22 cause or permit the emissions of particulate matter from each biomass  
23 burning boiler and its drier or driers in excess of 0.40 pounds per one  
24 hundred pounds of biomass as burned.

25 **Section 1103.9. Process industries.** (a) No person shall cause

1 or permit the emission of particulate matter in any one hour from any stack  
2 or stacks, except for incinerators and biomass fuel burning boilers, in excess  
3 of the amount determined by the equation  $E = 4.10 p^{0.67}$ , where

4 E = rate of emission in pounds per hour, and

5 p = process weight rate in tons per hour,

6 except that no rate of emissions shall exceed forty pounds per hour  
7 regardless of the process weight rate.

8 (b) Process weight per hour is the total weight of all materials  
9 introduced into any specific process that may cause any emission of  
10 particulate matter through any stack or stacks. Solid fuels charged shall be  
11 considered as part of the process weight, but liquid and gaseous fuels and  
12 combustion air shall not. For a cyclical or batch operation, the process  
13 weight per hour shall be derived by dividing the total process weight by  
14 the number of hours in one complete operation from the beginning of any  
15 given process to the completion thereof, including any time during which  
16 the equipment is idle. For a continuous operation, the process weight per  
17 hour shall be derived for a typical period of time by the number of hours of  
18 the period.

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

23 (d) For purposes of this Section, a process is any method, reaction,  
24 or operation whereby materials introduced into the process undergo  
25 physical or chemical change. A specific process is one which includes all of

1 the equipment and facilities necessary for the completion of the  
2 transformation of the materials to produce a physical or chemical change.  
3 There may be several specific processes in series necessary to the  
4 manufacture of a product. However, where there are parallel series of  
5 specific processes, the similar parallel specific processes shall be considered  
6 as a single specific process.

7 **Section 1103.10. Sulfur Oxides from Fuel Combustion.** (a) No  
8 person shall burn any fossil fuel containing in excess of two (2%) percent  
9 sulfur by weight, except for fuel used in ocean-going vessels.

10 (b) If there is an air quality violation attributable to a source(s) of  
11 sulfur dioxide (SO<sub>2</sub>) in a current or prior SO<sub>2</sub> nonattainment area, the  
12 source(s) must permanently reduce either its/their fuel sulfur content or  
13 output capacity by the same percentage as the violation, (i.e. by the same  
14 percentage as the measured violation is in excess of an applicable federal  
15 SO<sub>2</sub> ambient air quality standard). Accordingly, the reduced fuel, output,  
16 or emission limitation will become part of the modified operating permit.

17 (c) Power Plants within the Cabras/Piti area must comply with the  
18 Cabras/Piti Area Intermittent Control Strategy (CPAICS) as required by  
19 the 69.11 (a)(3)(i) of 40 CFR Part 69 Subpart A, as amended, and any  
20 modification to the CPAICS approved by USEPA as defined in  
21 69.11(a)(3)(ii).

22 (d) If compliance with these standards is to be accomplished by  
23 means of removal of sulfur dioxide from the flue gases, the owner or  
24 operator of the source must provide for the necessary monitoring  
25 equipment, and sample such emissions in accordance with methods

1 specified by the Administrator.

2 **Section 1103.11. Open Burning.** (a) No person shall dispose of  
3 combustible material by open burning, or cause, suffer, allow, or permit  
4 open burning of combustible material within Guam, except as provided in  
5 Subsections (b) through (e).

6 (b) In areas where no public or commercial refuse collection service  
7 is available on the effective date of this regulation, open burning of refuse  
8 on residential premises, or refuse originating from dwelling units on  
9 premises, shall be allowed provided such burning does not violate any  
10 existing laws, standards, or regulations of Guam, until refuse collection  
11 becomes available.

12 (c) Exceptions herein may be allowed upon application and  
13 approval by the Administrator provided the burning is not prohibited by,  
14 or is conducted in compliance with, other applicable laws, Standards and  
15 Regulations. Exception to conduct open burning under the provision of  
16 this regulation does not excuse a person from the consequences, damages,  
17 or injuries which may result therefrom. The following are exceptions for  
18 which application may be made:

19 (1) Fires purposely set for the purpose of prevention of a fire  
20 hazard which cannot be abated by any other means, provided that  
21 the Administrator received notification prior to the commencement  
22 of any burn, that the hazard is so declared by the fire department,  
23 forestry division, or any local or federal agency having jurisdiction,  
24 that a prescribed burning plan, if applicable, has been submitted to  
25 and approved by the jurisdictional agency prior to the

1 commencement of any burn;

2 (2) Fires set for instruction in the method of fighting fires,  
3 provided that prior notice of any building, structure, or simulated  
4 aircraft set afire for training purposes is given to the Administrator;

5 (3) Fires for decorative, ceremonial and recreational  
6 purposes;

7 (4) The burning of hydrocarbons which must be wasted  
8 through the use of atmospheric flares or open burning;

9 (5) Fires for prevention or control of disease or pests;

10 (6) Fires for the disposal of dangerous material, where there  
11 is no alternate method of disposal; and

12 (7) Fires for the burning of leaves, grass, weeds, wood which  
13 has not been painted with lead paint or treated with insecticides or  
14 pesticides, paper, and similar material on one's own premises, not  
15 exceeding four (4) family units and twenty-five (25) pounds per day,  
16 per unit, provided such burning is:

17 (A) Not within fifty (50) feet of any habitable building;

18 (B) Attended or supervised by an adult;

19 (C) Started and completed between 9:00 a.m. and 6:00  
20 p.m. (and hour before sunset);

21 (D) Not in violation of the rules of other fire control  
22 agencies;

23 (E) Oils, rubber or other similar material which  
24 produce unreasonable amount of air pollutants may not be  
25 burned;

1 (F) Meteorological conditions within the vicinity of the  
2 burning will allow good and proper diffusion and dispersion  
3 of air pollutants;

4 (G) The piles of material to be burned shall be of such  
5 size that the burning will be completed within the time  
6 designated in §1103.11(c)(7)(C);

7 (H) The moisture content and composition of the  
8 material to be burned shall be favorable to good burning which  
9 will minimize air pollution; and

10 (I) The starter fuel and materials to be ignited shall not  
11 emit excessive visible emissions when burned.

12 (8) Fires for agricultural operations, forest management,  
13 range improvements. (Not in the violation of Forestry Division of the  
14 Department of Agriculture and any other affected Agencies.)

15 (9) In the event of a declared state of emergency, open  
16 burning of vegetation shall be allowed at an authorized solid waste  
17 processing or disposal facility provided that an air curtain destructor  
18 is utilized.

19 (A) Any person intending to dispose of vegetation by  
20 open burning under Subsection (c) shall file a written request  
21 with the Administrator. The Administrator will evaluate the  
22 request for an air quality impact to determine whether the  
23 request should be granted. The request shall state the  
24 following:

25 (i) The name, address and telephone number of

1 the person submitting the request;

2 (ii) The type of business or activity involved;

3 (iii) A description of the proposed open burning  
4 operations, including type, quantity and composition of  
5 vegetation to be burned;

6 (iv) The schedule of burning operations;

7 (v) The exact location where opening burning  
8 will be conducted to dispose of vegetation;

9 (vi) Reasons why no method other than open  
10 burning can be used for disposal of vegetation; and

11 (vii) Evidence that the proposed open burning has  
12 been approved by the fire department, forestry division,  
13 or any local or federal agency having jurisdiction, that  
14 the prescribed burning plan, if applicable, has been  
15 submitted to and approved by the jurisdictional agency  
16 prior to the commencement of any burning of vegetation.  
17

18 (B) Nothing in this Subsection shall exempt the  
19 applicant from obtaining an air pollution control permit, as  
20 applicable, under Section 1104.

21 (d) Subsection (c) shall not exempt any activity from the  
22 application of any rules or requirements in any other section of this  
23 Chapter.

24 (e) Nothing in this Section shall be construed to prohibit or make  
25 unlawful the construction and use of barbecue pits, grills, or outdoor fire

1 places for the preparation of food for human consumption, nor shall any  
2 permit from the Administrator be required therefore.

3 **Section 1103.12. Control of Odors in Ambient Air.** (a) No  
4 person shall discharge or cause to be discharged into the atmosphere from  
5 any source whatsoever, such quantities of odorous emissions which is  
6 injurious to health, or is indecent or offensive to the senses, which affects at  
7 the same time an entire community or neighborhood, or any considerable  
8 number of persons, so as to unduly interfere with the comfortable  
9 enjoyment of life or property of such community, neighborhood or persons.

10 It is a creation of a condition which causes injury to the public welfare.

11 (b) An odor occurrence shall be deemed a violation when a  
12 complaint is received by the Administrator and the Administrator is able to  
13 detect the odor. This detection must be verified by the Department of  
14 Public Health, Environmental Health Section for a person to be found in  
15 violation of Subsection (a).

16 (c) The odor of growing vegetation, and chemical fertilizers and  
17 insecticides when used properly, or when persons can demonstrate to the  
18 Administrator that the best practical operation or treatment is being  
19 implemented, shall not be considered objectionable for the purposes of  
20 this Section.

21 **Section 1103.13. Asbestos.** (a) The national emission standard for  
22 asbestos, 40 CFR Part 61 Subpart M, as amended, is hereby incorporated by  
23 reference as amended in Subsections (b) through (d).

24 (b) **Word and phrase substitutions:**

25 (i) "*Administrator*" means the Administrator of the Guam

1 Environmental Protection Agency or an authorized agent, officer, or  
2 inspector, except in 40 CFR Part 61 §§ 150(a)(4), 152(b)(3), and 154(d),  
3 as amended.

4 (ii) "*Local, state or EPA Regional Office*" means GEPA.

5 (iii) "*Local, state or EPA Regional Office responsible for*  
6 *administering the asbestos NESHAP program*" means GEPA.

7 (c) 40 CFR §61.145 shall be amended as follows:

8 (1) 40 CFR §61.145(a) shall read: "In a facility being  
9 demolished or renovated on Guam (except for facilities as described  
10 in (a)(3) of this Section, regardless of type (nonfriable or friable) or  
11 quantity of the asbestos containing material, all of the requirements  
12 of paragraphs (b) and (c) of this Section, and as amended, shall  
13 apply."

14 (2) 40 CFR §61.145(a)(4)(v) shall be added and read: "For a  
15 facility being renovated and the total amount of RACM is less than  
16 paragraph (a)(4)(i) through (iv) of this Section, only the notification  
17 requirements of paragraph (b) of §61.145 as amended shall apply."

18 (3) 40 CFR §61.145(a)(4)(vi) shall be added and read: "For any  
19 renovation or demolition of asbestos not defined as RACM, including  
20 any nonfriable asbestos, the Administrator should be notified  
21 informed at least five (5) working days before the start date of the  
22 abatement work, and the notification should be followed by a written  
23 notification which should include all of the requirements of §  
24 61.145(b)(4) and (5), and the estimated amount and type of asbestos  
25 that is determined not to be RACM."

1           (4) 40 CFR §61.145(b)(6) shall be added and read: "An  
2 Asbestos Removal and Control Procedure Plan must be prepared and  
3 submitted to GEPA to show compliance with 40 CFR §61.145(c)."

4           (5) 40 CFR §61.145(b)(7) shall be added and read: "The  
5 Asbestos Notification and Renovation required in paragraph (b)(5)  
6 and the Control Procedure Plan required in paragraph (b)(6) of this  
7 Section must be prepared and submitted to GEPA. A copy of the  
8 Notification and the Control Procedure Plan must also be submitted  
9 concurrently to the Department of Labor, Guam Occupational Safety  
10 and Health Office (Guam OSH) for all asbestos removal projects  
11 involving Government of Guam agencies."

12           (6) 40 CFR §61.145(b)(8) shall be added and read: "GEPA will  
13 not approve any Asbestos Removal or Demolition Notification and  
14 Control Procedure Plan submitted as required in Subsection (b)(7) for  
15 any government of Guam project or building without Guam OSH's  
16 concurrence."

17           (d) 40 CFR §61.150 shall be amended as follows:

18           (1) 40 CFR §61.150(d)(2) shall read "For all off-site disposal,  
19 provide a copy of the ACWM shipment record described in  
20 paragraph (d)(1) of this Section, to the disposal site owner or  
21 operators and to GEPA upon shipment by the contractor to an  
22 USEPA-approved landfill. In addition, a signed waste shipment  
23 record acknowledging receipt of the asbestos waste by the designated  
24 disposal facility must be furnished to GEPA within ten (10) working  
25 days of receipt of acknowledgment."

1                   (2) 40 CFR §61.150(d)(3) shall read "Whenever a copy of the  
2 asbestos waste shipment record, signed by the owner or operator of  
3 the designated disposal facility, is not received by the waste  
4 generator within forty-five (45) days of the date the waste was  
5 accepted by the initial transporter, the asbestos waste generator must  
6 contact the initial transporter and/or the owner or operator of the  
7 designated disposal facility to determine the status of the waste  
8 shipment."

9                   **(e) The Asbestos Hazard Emergency Response Act.** The  
10 regulations for asbestos containing material in schools, 40 CFR §763.80  
11 through §763.99, as amended, and all accompanying appendices and  
12 references are hereby incorporated by reference as amended in this  
13 Subsection (f).

14                   (f) In 40 CFR §763.85, asbestos containing material shall include  
15 friable and nonfriable asbestos containing building material.

16                   **(g) Asbestos Training:**

17                   (1) No person shall conduct any training on Guam under the  
18 Asbestos Hazard Emergency Response Act (AHERA) Model  
19 Accreditation Plan (MAP) unless the training is an approved AHERA  
20 Certified Training Provider in accordance to 40 CFR Part 763, Subpart  
21 E, Appendix C.

22                   (2) Any person proposing to conduct any AHERA training  
23 on Guam must notify GEPA and provide adequate documentation  
24 verifying qualifications to conduct training under the AHERA  
25 program and the MAP Plan.

1           **Section 1104.     Permit Program Regulations.**

2           **Section 1104.1.   Definitions.**       As used in this Section:

3           (a)   "*Administrative Permit Amendment*" is a permit revision that:

4                   (1)   Corrects typographical errors;

5                   (2)   Identifies a change in the name, address, or phone  
6           number of any person identified in the permit, or provides a similar  
7           minor administrative change at the source;

8                   (3)   Requires more frequent monitoring or reporting by the  
9           permittee;

10                  (4)   Consolidates the terms and conditions of two (2) or more  
11           air pollution control permits into one (1) air pollution control permit  
12           for a facility;

13                  (5)   Allows for a change in ownership or operational control  
14           of a source where GEPA determines that no other change in the  
15           permit is necessary, provided that a written agreement containing a  
16           specific date for transfer of permit responsibility, coverage, and  
17           liability between the current and new permittees has been submitted  
18           to the Administrator;

19                  (6)   Incorporates applicable requirements for any  
20           insignificant activity listed in section 1104.2, provided the activity is  
21           not by itself subject to Sections 1105, 1106 or 1107, does not cause a  
22           source to become a major source, and does not cause the source to  
23           become subject to Section 1105, 1106, or 1107.

24           (b)   "*AP-42*" means the most recent edition, supplements, and  
25           appendices of USEPA's **Compilation of Air Pollutant Emission Factors**,

1           **Volume 1: Stationary Point and Area Sources.**

2           (c)    "*Applicable requirement*" is defined as follows.

3           (1)    If an air pollution emission source is a federal oversight source,  
4           "applicable requirement" means all of the following as they apply to  
5           emissions units in the air pollution emission source (including  
6           requirements that have been promulgated or approved by USEPA through  
7           rulemaking at the time of issuance but have future-effective compliance  
8           dates):

9                   (A) Any standard or other requirement provided for in the  
10                   applicable state implementation plan approved or promulgated by  
11                   USEPA, including any revision to that plan promulgated in 40 CFR  
12                   Part 52, as amended;

13                   (B) Any term or conditions of any preconstruction permits  
14                   issued pursuant to regulations approved or promulgated through  
15                   rulemaking under Title I, including Parts C or D, of the Clean Air  
16                   Act;

17                   (C) Any standard or other requirement under §111 of the  
18                   Clean Air Act, including §111(d);

19                   (D) Any standard or other requirement under §112 of the  
20                   Clean Air Act, including any requirement concerning accident  
21                   prevention under §112(r)(7) of the Act;

22                   (E) Any requirements established pursuant to §504(b) or  
23                   §114(a)(3) of the Clean Air Act;

24                   (F) Any standard or other requirement governing solid waste  
25                   incineration, under §129 of the Clean Air Act;

1 (G) Any standard or other requirement for consumer and  
2 commercial products, under §183(e) of the Clean Air Act;

3 (H) Any standard or other requirement for tank vessels under  
4 §183(f) of the Clean Air Act;

5 (I) Any standard or other requirement of the program to  
6 control air pollution from outer continental shelf sources, under §328  
7 of the Clean Air Act;

8 (J) Any standard or other requirement of the regulations  
9 promulgated to protect stratospheric ozone under Title VI of the  
10 Clean Air Act, unless the USEPA Administrator has determined that  
11 such requirements need not be contained in an air pollution control  
12 permit; and

13 (K) Any national ambient air quality standard or increment  
14 or visibility requirement under part C of Title I of the Clean Air Act,  
15 but only as it would apply to temporary sources pursuant to §504(e)  
16 of the Clean Air Act.

17 (2) For all other air pollution emission sources, "applicable  
18 requirement" shall mean all of the following as they apply to emissions  
19 units in the air pollution emission source:

20 (A) Any NAAQS or Guam ambient air quality standard;

21 (B) The application of best available control technology to  
22 control those pollutants subject to any NAAQS or Guam ambient air  
23 quality standard, but only as best available control technology would  
24 apply to new or proposed air pollution emission sources and  
25 modifications to air pollution emission sources that have the

1 potential to emit or increase emissions above significant amounts  
2 considering any limitations, enforceable by the Administrator, on the  
3 air pollution emission source to emit a pollutant; and

4 (C) Any standard or other requirement provided in these  
5 Standards and Regulations.

6 (d) *"Federal oversight source"* means an air pollution emission  
7 source that is:

8 (1) A major source;

9 (2) Subject to standards of performance for air pollution  
10 emission sources as established in §1106; or

11 (3) Subject to an emission standard or other requirement for  
12 hazardous air pollutants pursuant to §112 of the Clean Air Act or  
13 §1107, with the exception of those sources solely subject to  
14 regulations or requirements pursuant to §112(r) of the Clean Air Act.

15 (e) *"Insignificant Activity"* means any air pollution emission  
16 activity or equipment that can be classified as an insignificant activity -  
17 Type I or an insignificant activity - Type II.

18 (f) *"Insignificant Activity- Type I"* means any of the following:

19 (1) Any emission activity or equipment with potential  
20 emissions of less than 2.0 tpy of each air pollutant (excluding HAPs)  
21 and less than 0.5 tpy of each hazardous air pollutant;

22 (2) Any storage tank, reservoir, or other container of capacity  
23 equal to or less than forty (40,000) thousand gallons storing volatile  
24 organic compounds, except those storage tanks, reservoirs, or other  
25 containers subject to any standard or other requirement pursuant to

1 §§111 and 112 of the Clean Air Act;

2 (3) Other than smoke house generators, fuel burning  
3 equipment with a heat input capacity less than one (1,000,000)  
4 million BTU per hour, except where the total heat input capacity of  
5 all individually exempted equipment exceeds five (5,000,000) million  
6 BTU per hour when operated within the facility and controlled by a  
7 single owner or operator;

8 (4) Steam generators, steam superheaters, water boilers, or  
9 water heaters, which have a heat input capacity of less than five  
10 million BTU per hour, and are fired exclusively with natural,  
11 synthetic, or liquefied petroleum gas, or any combination of these;

12 (5) Kilns used for firing ceramic ware heated exclusively by  
13 natural gas, electricity, liquid petroleum gas, or any combination of  
14 these and have a heat input capacity of ten million BTU per hour or  
15 less;

16 (6) Standby generators that are used exclusively to provide  
17 electricity, standby sewage pump drives, and other emergency  
18 equipment all of which are used only during power outages,  
19 emergency equipment maintenance and testing, and are fired  
20 exclusively by natural or synthetic gas; or liquefied petroleum gas; or  
21 fuel oil No. 1 or No. 2; or diesel fuel oil No. 1D or No. 2D, with a heat  
22 input capacity not exceeding 350,000 BTU/hr;

23 (7) Paint spray booths, except for paint spray booths subject  
24 to any standard or other requirement pursuant to Section 112(d) of  
25 the Act;

1                   (8)   Welding booths (if there are more than five (5) at the  
2 facility); and

3                   (9)   Portable diesel or gasoline fired industrial equipment less  
4 than two hundred horsepower in size which are used during power  
5 outages or intermittently for maintenance and repair purposes (if  
6 there are more than five at the facility).

7 (g)   **"Insignificant Activity - Type II"** means any of the following :

8                   (1)   Welding booths (if there are five or less at the facility);

9                   (2)   Portable diesel or gasoline fired industrial equipment less  
10 than two hundred horsepower in size which are used during power  
11 outages or intermittently for maintenance and repair purposes (if  
12 there are five (5) or less at the facility);

13                  (3)   Hand held equipment used for buffing, polishing,  
14 carving, cutting, drilling, machining, routing, sanding, sawing,  
15 surface grinding, or turning of ceramic art work, precision parts,  
16 leather, metals, plastics, fiber board, masonry, carbon, glass, or work,  
17 provided reasonable precautions are taken to prevent particulate  
18 matter from becoming airborne. Reasonable precautions include the  
19 use of dust collection systems, dust barriers, or containment systems;

20                  (4)   Laboratory equipment used exclusively for chemical and  
21 physical analyses;

22                  (5)   Containers, reservoirs, or tanks used exclusively for  
23 dipping operations for coating objects with oils, waxes, or greases  
24 where no organic solvents, diluents, or thinners are used; or dipping  
25 operations for applying coatings of natural or synthetic resins which

1 contain no organic solvents;

2 (6) Closed tumblers used for cleaning or deburring metal  
3 products without abrasive blasting, and pen tumblers with batch  
4 capacity of one thousand pounds or less;

5 (7) Ocean-going vessels, except for ocean-going vessels  
6 subject to any standard or other requirement for the control of air  
7 pollution from outer continental shelf sources pursuant to 40 CFR  
8 Part 55, as amended;

9 (8) Fire water system pumps dedicated for fire-fighting and  
10 to maintain fire water system pressure, and fired exclusively by  
11 natural or synthetic; or liquefied petroleum gas; or fuel oil No. 1 or  
12 No. 2; or diesel fuel No. 1D or No. 2D;

13 (9) Smoke generating systems used exclusively for training  
14 in government or certified fire fighting training facilities;

15 (10) Mobile internal combustion engines;

16 (11) Diesel fired portable ground support equipment  
17 exclusively to start aircraft or provide temporary power to aircraft  
18 prior to start-up;

19 (12) Fuel burning equipment which is used in a private  
20 dwelling or for space heating, other than internal combustion  
21 engines, boilers or hot furnaces;

22 (13) Ovens, stoves, or grills used solely for the purpose of  
23 preparing food for human consumption operated in private  
24 dwellings, restaurants, or stores;

25 (14) Stacks or vents to prevent escape of sewer gasses through

1 plumbing traps into the interiors of structures;

2 (15) Air conditioning or ventilation systems not designed to  
3 remove air pollutants generated by or released from equipment, and  
4 that do not involve the open release or venting of CFC's into the  
5 atmosphere; and

6 (16) Woodworking shops with a sawdust collection system;  
7 and

8 (17) Plant maintenance and upkeep activities (e.g., grounds-  
9 keeping, general repairs, cleaning, painting, welding, plumbing, re-  
10 tarring roofs, installing insulation, and paving parking lots),  
11 including equipment used to conduct these activities, provided these  
12 activities are not conducted as part of a manufacturing process, are  
13 not related to the source's primary business activity, and are not  
14 otherwise subject to applicable requirement triggering a permit  
15 modification.

16 (h) "*Major Source*" means an air pollution emission source, or a  
17 group of air pollution emission sources that are located on one or more  
18 contiguous properties or adjacent properties, and are under common  
19 control or command of the same person or persons under common control,  
20 belonging to a single major industrial grouping (i.e., all have the same two-  
21 digit Standard Industrial Classification Code or other nationally recognized  
22 and approved standard industrial classification code) and that emits or has  
23 the potential to emit, considering enforceable controls:

24 (1) Any hazardous air pollutant, except radionuclides, in the  
25 aggregate of ten tons per year or more including fugitive emissions,

1 or twenty-five tons per year or more of any combination including  
2 fugitive emissions, or such lesser quantity as the USEPA  
3 Administrator may establish by rule;

4 (2) One hundred tons per year or more of any air pollutant  
5 subject to regulation under the Clean Air Act or these Standards and  
6 Regulations. Fugitive emissions from the air pollution emission  
7 source shall be considered in determining whether the source is  
8 major, if it belongs to one of the following categories of air pollution  
9 emission sources:

10 (A) Coal cleaning plants (with thermal dryers);

11 (B) Kraft pulp mills;

12 (C) Portland cement plants;

13 (D) Primary zinc smelters;

14 (E) Iron and steel mills;

15 (F) Primary aluminum ore reduction plants;

16 (G) Primary copper smelters;

17 (H) Municipal incinerators capable of charging more  
18 than 250 tons of refuse per day;

19 (I) Hydrofluoric, sulfuric or nitric acid plants;

20 (J) Petroleum refineries;

21 (K) Lime plants;

22 (L) Phosphate rock processing plants;

23 (M) Coke oven batteries;

24 (N) Sulfur recovery plants;

25 (O) Carbon black plants (furnace process);

- 1 (P) Primary lead smelters;
- 2 (Q) Fuel conversion plants;
- 3 (R) Sintering plants;
- 4 (S) Secondary metal production plants;
- 5 (T) Chemical process plants;
- 6 (U) Fossil fuel boilers (or combination thereof) totaling
- 7 more than 250 million BTU per hour heat input;
- 8 (V) Petroleum storage and transfer units with a total
- 9 storage capacity exceeding 300,000 barrels;
- 10 (W) Taconite ore processing plants;
- 11 (X) Glass fiber processing plants;
- 12 (Y) Charcoal production plants;
- 13 (Z) Fossil fuel fired steam electric plants of more than
- 14 250 million BTU per hour heat input; and
- 15 (AA) All other air pollution emission source categories
- 16 regulated by a standard promulgated pursuant to Section 111
- 17 or 112 of the Clean Air Act, but only with respect to those air
- 18 pollutants that have been regulated for that category; or

19 (3) For radionuclides, major source shall have the meaning

20 specified by the USEPA Administrator by rule.

21 (4) In nonattainment areas, a major stationary source as

22 defined in part D of Title I of the Clean Air Act, including:

23 (A) For ozone nonattainment areas, sources with the

24 potential to emit 100 tpy or more of volatile organic compounds or

25 oxides of nitrogen in areas classified as "marginal" or "moderate," 50

1 tpy or more in areas classified as “serious,” 25 tpy or more in areas  
2 classified as “severe,” and 10 tpy or more in areas classified as  
3 “extreme”; except that the references in this paragraph to 100, 50, 25,  
4 and 10 tpy of nitrogen oxides shall not apply with respect to any  
5 source for which the USEPA Administrator has made a finding,  
6 under section 182(f)(1) or (2) of the Clean Air Act, that requirements  
7 under section 182(f) of the Act do not apply;

8 (B) For ozone transport regions established pursuant to  
9 section 184 of the Clean Air Act, sources with the potential to emit 50  
10 tpy or more of volatile organic compounds;

11 (C) For carbon monoxide nonattainment areas:

12 (i) That are classified as “serious” and

13 (ii) in which stationary sources contribute  
14 significantly to carbon monoxide levels as determined under rules  
15 issued by the Administrator, sources with the potential to emit 50 tpy  
16 or more of carbon monoxide; and

17 (D) For particulate matter (PM-10) nonattainment areas  
18 classified as “serious,” sources with the potential to emit 70 tpy or  
19 more of PM-10.

20 (i) “*Minor Modification*” means a modification that does not  
21 qualify as an Administrative Amendment and also does not qualify as a  
22 Significant Modification, as defined by these regulations.

23 (j) “*Minor Source*” means any air pollution emission source that is  
24 below the threshold for a major source.

25 (k) “*Modification*” means a physical change in or change in the

1 method of operation of an air pollution emission source which requires a  
2 change to a permit. Routine maintenance, repair and replacement shall not  
3 be considered a modification.

4 (l) "*Non-federal oversight source*" means any air pollution  
5 emission source that is not a federal oversight source.

6 (m) "*Pollution prevention*" means the reduction or elimination,  
7 through any measures, of the amount of pollutants produced or created at  
8 the source.

9 (n) "*Significant modification*" means a modification of a federal  
10 oversight source which:

11 (1) Increases the emissions of any air pollutant above the  
12 permitted emission limits;

13 (2) Results in significant increase in emissions of any air  
14 pollutant;

15 (3) Violates an applicable requirement;

16 (4) Involves significant changes to existing monitoring  
17 requirements or a relaxation or significant change to existing  
18 reporting or record keeping requirements in the permit. Any change  
19 to the existing monitoring, reporting, or record keeping requirements  
20 that reduces the enforceability of the permit is considered a  
21 significant change;

22 (5) Requires or changes a case-by-case determination of an  
23 emission limitation or other standard, or a visibility or increment  
24 analysis;

25 (6) Is a modification pursuant to any provision of Title I of

1 the Clean Air Act;

2 (7) Seeks to establish or change a permit term or condition  
3 for which there is no corresponding underlying applicable  
4 requirement and that the source has assumed to avoid an applicable  
5 requirement to which the source would otherwise be subject. Such  
6 terms and conditions include:

7 (A) A federally enforceable emissions cap assumed  
8 to avoid classification as a modification under any provision  
9 of Title I of the Clean Air Act; and

10 (B) An alternative emissions limit approved  
11 pursuant to regulations promulgated under Section 112(i)(5)  
12 of the Clean Air Act.

13 (o) *"Temporary Source"* means a source that is intended to be  
14 operated at multiple locations for a designated period of time at each  
15 location. The operation of the source shall be temporary and involve at  
16 least one change of location during the term of the temporary source  
17 permit. Temporary sources that do not operate within a 12-month period  
18 are not required to be moved.

19 (p) *"Transition period"* means the three years following the  
20 effective date of these Standards and Regulations.

21 **Section 1104.2. Applicability.** (a) Except as provided in  
22 §1104.10, and Subsections (b) and (c) of this Section, no person may begin  
23 or continue construction, reconstruction, modification, relocation, or

1 operation of an air pollution emission source without first obtaining a valid  
2 air pollution control permit from the Administrator.

3 (b) An air pollution emission source which is a non-federal  
4 oversight source is exempt from the requirements of Subsection (a) if it is a  
5 minor source and it is included in at least one of the following categories:

6 (1) Gasoline service stations; or

7 (2) Sources consisting only of Insignificant activities - type I  
8 and Insignificant activities - type II.

9 (c) All sources and source categories that would be required to  
10 obtain an air pollution control permit solely because they are subject to the  
11 "Standards for Demolition and Renovation" pursuant to the "National  
12 Emission Standard for Asbestos," 40 CFR §61.145, as amended, must  
13 comply with the requirements of §1103.13.

14 (d) The air pollution control permit shall remain valid past the  
15 expiration date and the air pollution emission source shall not be in  
16 violation for failing to have an air pollution control permit, until the  
17 Administrator has issued or denied the renewal of the air pollution control  
18 permit, provided:

19 (1) A timely and complete renewal application has been  
20 submitted, and the owner or operator acts consistently with the  
21 permit previously granted, and the application on which it was  
22 based, and all plans, specifications, and other information submitted  
23 as part of the application; and

24 (2) The owner or operator has submitted to the  
25 Administrator within the specified deadlines, all requested

1 additional information deemed necessary to evaluate or take final  
2 action on the renewal application as described in §1104.6.

3 (e) The air pollution control permit shall not constitute, nor be  
4 construed an approval of the design of the air pollution emission source.  
5 The permit shall be issued in accordance with these Standards and  
6 Regulations and it is the responsibility of the applicant to ensure  
7 compliance with all applicable requirements in the construction and  
8 operation of any air pollution emission source.

9 (f) An owner or operator of an air pollution source that is not  
10 subject to the requirements of this Section, and that becomes subject to the  
11 requirements of this Section because of a new or amended regulation in this  
12 Section, or because the source becomes a federal oversight source, shall  
13 submit a complete and timely air pollution control permit application. For  
14 purposes of this Subsection, “timely” means within six months after the  
15 effective date of the new or amended regulation or such other time as  
16 approved by the Administrator. The owner or operator of the source may  
17 continue to construct or operate and shall not be in violation for failing to  
18 have a air pollution control permit only if the owner or operator has  
19 submitted to the Administrator a complete and timely air pollution control  
20 permit application, and any additional information necessary for the  
21 processing of the application, including additional information required  
22 pursuant to section 1104.6.

23 **Section 1104.3. General conditions for considering applications.**

24 (a) The Administrator shall approve an application for an air  
25 pollution control permit if the applicant can show to the satisfaction of the

1 Administrator that all applicable provisions of these Standards and  
2 Regulations will be complied with, including, as applicable:

3 (1) The maintenance and attainment of any NAAQS and any  
4 Guam ambient air quality standard;

5 (2) General prohibitions and standards pursuant to §1103;

6 (3) Requirements for air pollution emission sources pursuant  
7 to §1104;

8 (4) Applicable Standards of Performance for New Stationary  
9 Sources (40 CFR Part 60, as amended), National Emission Standards  
10 for Hazardous Air Pollutants (40 CFR Part 61, as amended), or any  
11 other federal standard or other requirement established pursuant to  
12 the Clean Air Act.

13 (5) Special preconstruction requirements pursuant to §1105;

14 (6) Applicable standards of performance for air pollution  
15 emission sources pursuant to §1106; and

16 (7) Requirements for hazardous air pollutant sources  
17 pursuant to §1107.

18 (b) Any air pollution control permit, including permit renewals,  
19 and permit amendments for modifications may be issued only if all of the  
20 following conditions are met:

21 (1) The owner or operator has submitted a complete air  
22 pollution control permit application and has submitted all additional  
23 information requested by the Administrator;

24 (2) The Administrator has provided an opportunity for all  
25 applicable public participation requirements pursuant to §1104.19;

1                   (3) The permit provides for compliance with all applicable  
2 requirements and contains applicable terms and conditions pursuant  
3 to §1104.12; and

4                   (4) All applicable requirements for transmission of  
5 information to USEPA and USEPA oversight have been satisfied  
6 pursuant to §1104.15 and §1104.16.

7                   **Section 1104.4. Holding and Transfer of Permit.** (a) Each air  
8 pollution control permit, or a copy thereof, shall be maintained at or near  
9 the air pollution emission source for which the permit was issued and shall  
10 be made available for inspection upon the Administrator's request.

11                   (b) No person shall willfully deface, alter, forge, counterfeit, or  
12 falsify an air pollution control permit.

13                   (c) All air pollution control permits issued pursuant to these  
14 Standards and Regulations shall not be transferable, whether by operation  
15 of law or otherwise, either from one location to another or from one piece  
16 of equipment to another.

17                   (d) All air pollution control permits issued pursuant to these  
18 Standards and Regulations shall not be transferable, whether by operation  
19 of law or otherwise, from one person to another without the approval of  
20 the Administrator. A request for transfer from one person to another shall  
21 be made on a permit transfer application form furnished by the  
22 Administrator.

23                   **Section 1104.5. Cancellation of an Air Pollution Control Permit.**

24                   (a) Within thirty (30) days of permanent discontinuance of the  
25 construction, modification, relocation, or operation of any permitted air

1 pollution emission source, the discontinuance shall be reported in writing  
2 to the Administrator by a responsible official of the source.

3 (b) If construction authorized by an air pollution control permit is  
4 not commenced within eighteen (18) months after the air pollution control  
5 permit takes effect, is discontinued for a period of eighteen (18) months or  
6 more, or is not completed within a reasonable time, the air pollution control  
7 permit shall become invalid with respect to the authorized construction.

8 (c) Subsection (b) shall not apply to phased construction projects.  
9 Instead, each phase shall commence construction within eighteen (18)  
10 months of the projected and approved commencement dates in the permit.

11 (d) The Administrator may extend the specified periods upon a  
12 satisfactory showing that an extension is justified.

13 **Section 1104.6. Air Pollution Control Permit Application.**

14 (a) Except as stated in Subsection (b), applications for air pollution  
15 control permits shall be submitted to the Administrator on forms or format  
16 furnished or approved by the Administrator. The applicant shall submit  
17 sufficient information to enable the Administrator to make a decision on  
18 the application and to determine the fee requirements specified in §1104.21  
19 through §1104.24.

20 (b) For air pollution emission sources required to obtain a federal  
21 operating permit under the provisions of 40 CFR Part 71, as amended,  
22 owners and operators may submit a copy of the federal permit application  
23 to the Administrator in place of forms furnished by the Administrator. The  
24 owner or operator must include with the application a form to calculate  
25 annual fees pursuant to §1104.23(l). All signatures required on the

1 application forms must be original signatures.

2 (c) Applications for initial air pollution control permits shall  
3 include the following information:

4 (1) Identifying information about the air pollution emission  
5 source, including name, address, and phone number of:

6 (A) The company (or plant if different than the  
7 company),

8 (B) The owner and owner's agent,

9 (C) The plant site manager or other contact, and

10 (D) The person responsible for record keeping, and the  
11 location where required records will be kept;

12 (2) A description of the nature, location, design capacity,  
13 production capacity, production rates, fuels, fuel use, raw materials,  
14 and typical operating schedules to the extent needed to determine or  
15 regulate emissions; specifications and drawings showing the design  
16 of the source and plant layout; and a description of all processes and  
17 products by Standard Industrial Classification Code, and, if  
18 requested, a detailed description of reasonably anticipated  
19 alternative operating scenarios;

20 (3) Maximum emission rates, including fugitive emissions, of  
21 all regulated and hazardous air pollutants and all air pollutants for  
22 which the source is major from each emissions unit. Emission rates  
23 shall be reported in pounds per hour and tons per year and in such  
24 terms necessary to establish compliance consistent with the  
25 applicable requirements and standard reference test methods. All

1 supporting emission calculations and assumptions shall also be  
2 provided;

3 (4) Identification and description of all points of emissions as  
4 required in (e) of this Section, in sufficient detail to establish the  
5 applicability of requirements of these Standards and Regulations, the  
6 Air Pollution Control Act, and the Clean Air Act. Information on  
7 stack parameters and any stack height limitations developed  
8 pursuant to §123 of the Clean Air Act shall also be provided;

9 (5) Identification and detailed description of air pollution  
10 control equipment and compliance monitoring devices or activities as  
11 planned by the owner or operator of the source, and to the extent of  
12 available information, an estimate of emissions before and after  
13 controls;

14 (6) Current operational limitations or work practices, or for  
15 air pollution emission sources that have not yet begun operations,  
16 such limitations or practices which the owner or operator of the  
17 source plans to implement that affect emissions of any regulated or  
18 hazardous air pollutants at the source;

19 (7) All calculations and assumptions on which the  
20 information in paragraphs (2), (4), (5), and (6) is based;

21 (8) A copy of all current air pollution permits issued by  
22 GEPA or USEPA;

23 (9) A compliance plan pursuant to §1104.8 and compliance  
24 certification in accordance with §1104.9;

25 (10) Citation and description of all applicable requirements, a

1 description of or reference to any applicable test method for  
2 determining compliance with each applicable requirement, and an  
3 explanation of all proposed exemptions from any applicable  
4 requirement;

5 (11) For new air pollution emission sources or significant  
6 modifications subject to the requirements of §1105, all analyses,  
7 assessments, monitoring, and other application requirements of  
8 §1105;

9 (12) For proposed new sources or modifications to existing  
10 sources:

11 (i) A description of the modification, identifying all  
12 proposed changes to the source operations, work practices,  
13 equipment design, source emissions, or any monitoring,  
14 recordkeeping, and reporting procedures;

15 (ii) A description of the nature, location, design  
16 capacity, production capacity, production rates, fuels, fuel use,  
17 raw materials, and typical operating schedules and capacities  
18 to the extent needed to determine or regulate emissions of any  
19 proposed addition or modification of any source or emissions;  
20 specifications and drawings showing the design of the source  
21 and plant layout; a detailed description of all processes and  
22 products by Standard Industrial Classification Code and source  
23 category or categories affected by the proposed modification;  
24 and reasonably anticipated alternative operating scenarios;

25 (iii) Maximum emissions rates, including fugitive

1 emissions, of all regulated and hazardous air pollutants and all  
2 air pollutants from each new or modified emissions unit.  
3 Emission rates shall be reported in pounds per hour and tons  
4 per year and in such terms necessary to establish compliance  
5 consistent with the applicable requirements and standard  
6 reference test methods. All supporting emissions calculations  
7 and assumptions shall also be provided;

8 (iv) Identification and detailed description of air  
9 pollution control equipment and compliance monitoring  
10 devices or activities as planned by the owner or operator of the  
11 source or modification, and to the extent of available  
12 information, an estimate of maximum and expected emissions  
13 before and after controls, technical information on the design,  
14 operation, size, estimated control efficiency , manufacturer's  
15 name, address, contact information, and relevant specifications  
16 and drawings;

17 (v) The identification of any new applicable  
18 requirements that will apply if the minor modification occurs;

19 (vi) The suggested changes to permit terms or  
20 conditions;

21 (vii) The owner or operator may reference information  
22 contained in a previous application submittal, provided such  
23 referenced information has been certified as being current and  
24 still applicable;

25 (viii) A detailed schedule for construction of the source

1 or modification;

2 (ix) For new major sources and significant modifications  
3 which increase the emissions of any air pollutant or result in  
4 the emission of any air pollutant not previously emitted, an  
5 assessment of the ambient air quality impact of the new source  
6 or significant modification, with the inclusion of any available  
7 background air quality data. The assessment shall include all  
8 supporting data, calculations and assumptions, and a  
9 comparison with the NAAQS;

10 (x) An explanation of all proposed exemptions from any  
11 applicable requirement; and

12 (xi) A list of any new insignificant activities- Type I;

13 (13) At the request of the Administrator, the following  
14 information must also be submitted:

15 (i) A risk assessment of the air quality related impacts  
16 caused by the source or significant modification to the  
17 surrounding environment;

18 (ii) Results of source emission testing, ambient air  
19 quality monitoring, or both;

20 (iii) Information on other available control technologies;

21 (iv) Other information deemed necessary to make a  
22 decision on the application or needed to implement and  
23 enforce other applicable requirements of the Clean Air Act or  
24 these Standards and Regulations, or to determine the  
25 applicability of such requirements; and

1 (v) An assessment of the ambient air quality impact of  
2 the air pollution emission source. The assessment shall include  
3 all supporting data, calculations and assumptions, and a  
4 comparison with the NAAQS;

5 and

6 (14) A certification by a responsible official of truth, accuracy,  
7 and completeness of all submitted documents.

8 (d) Applications for renewals of air pollution control permits are  
9 subject to the same requirements as an initial application including all  
10 requirements of Subsection (c). If the source is a federal oversight source,  
11 applications for renewal shall be submitted six (6) to eighteen (18) months  
12 prior to permit expiration. For all other air pollution emission sources,  
13 applications are due sixty (60) days prior to permit expiration. Late  
14 applications shall be subject to penalties pursuant to §1104.25. Applicants  
15 shall submit a statement certifying whether any changes have been made in  
16 the design or operation of the source as proposed in the initial and any  
17 subsequent permit applications. If changes have occurred or are being  
18 proposed, the applicant shall provide a description of those changes such  
19 as work practices, operations, equipment design, and monitoring  
20 procedures, including the affected applicable requirements associated with  
21 the changes and the corresponding information to determine the  
22 applicability of all applicable requirements. If the application for renewal  
23 has not been approved or denied in the time specified in Subsection (j), the  
24 air pollution control permit and all its terms and conditions shall remain in  
25 effect and not expire until the application for renewal has been approved or

1 denied, provided the applicant has submitted any additional information  
2 within the reasonable deadline specified by the Administrator.

3 (e) Insignificant activities at a federal oversight source:

4 (1) Insignificant activities - Type I shall be listed in the air  
5 pollution control permit application. Insignificant activities - Type II  
6 need not be listed at all in the air pollution control permit application.

7 (2) The Administrator may request additional information on  
8 any air pollution emission source or insignificant activity to  
9 determine the applicability of, or to impose any applicable  
10 requirement, or to determine the fee requirements specified in  
11 §1104.24.

12 (f) Applications for modifications of air pollution control permits  
13 are subject to the same requirements as an initial application including all  
14 requirements of Subsection (c). Applicants shall submit a description of the  
15 modification, identifying all proposed changes, including any changes to  
16 the source operations, work practices, equipment design, source emissions,  
17 or any monitoring, record keeping, and reporting procedures. Each change  
18 from the permit application for the existing air pollution control permit  
19 shall be identified on the application for the permit modification.

20 (g) The Administrator shall not continue to act upon or consider an  
21 incomplete application. An application shall be determined to be complete  
22 only when all of the following have been complied with:

23 (1) All information required or requested pursuant to  
24 Subsections (a) through (f) has been submitted;

25 (2) All documents requiring certification have been certified

1           pursuant to §1102.3;

2           (3) All applicable fees pursuant to §1104.21 through §1104.24  
3           have been submitted; and

4           (4) The Administrator has certified that the application is  
5           complete.

6           (h) The Administrator shall notify the applicant in writing whether  
7           the application is complete within sixty (60) days of receipt of the  
8           application. Unless the Administrator requests additional information or  
9           notifies the applicant of incompleteness within sixty (60) days after receipt  
10          of an application, the application shall be deemed complete.

11          (i) During the processing of an application that has been  
12          determined or deemed complete, if the Administrator determines that  
13          additional information is necessary to evaluate or take final action on the  
14          application, the Administrator may request such information in writing  
15          and set a reasonable deadline for a response.

16          (j) Timeline for approval:

17           (1) For federal oversight sources, unless issuance is objected  
18           to by USEPA pursuant to §1104.16, the Administrator shall approve,  
19           or deny an application for an air pollution control permit within  
20           Twelve (12) months after receipt of a complete application for a new  
21           source or significant modification; within six (6) months after receipt  
22           of a complete application for an existing source; and within ninety  
23           (90) days after receipt of a complete application for a non-significant  
24           modification.

25           (2) For all other air pollution emission sources, the

1 Administrator shall approve, conditionally approve, or deny an  
2 application for a air pollution control permit within six (6) months  
3 after receipt of a complete application for a new source, and within  
4 sixty (60) days after receipt of a complete application for an existing  
5 source or modification.

6 (k) An air pollution control permit for a new source or a significant  
7 modification shall be approved only if the Administrator determines that  
8 the construction and operation of the new source or significant  
9 modification will be in compliance with all applicable requirements.

10 (l) Temporary source permit applications:

11 (1) An owner or operator of a temporary source may apply  
12 for a temporary source air pollution control permit. The owner or  
13 operator of the temporary source shall certify its intention to operate  
14 at various locations with the same equipment and similar operational  
15 methods.

16 (2) The application and issuance of a temporary source  
17 permit is subject to the same procedures and requirements for an  
18 initial application and issuance of an air pollution control permit,  
19 including requirements of this Section. The initial location of the  
20 source shall be specified.

21 **Section 1104.7. Duty to Supplement or Correct Permit**  
22 **Applications.** Any applicant for an air pollution control permit who  
23 fails to submit any relevant facts or who has submitted incorrect  
24 information in any permit application shall, upon becoming aware of such  
25 failure or incorrect submittal, promptly submit such supplementary facts or

1 corrected information. In addition, an applicant shall provide additional  
2 information as necessary to address any requirements that become  
3 applicable to the source after the date it filed a complete application but  
4 prior to the release of the draft permit.

5 **Section 1104.8. Compliance Plan.** (a) A compliance plan  
6 shall be submitted with each permit application, temporary source  
7 application, application for renewal, and application for a modification,  
8 and at such other times as requested by the Administrator.

9 (b) The owner or operator of an air pollution emission source shall  
10 submit to the Administrator for approval a compliance plan which includes  
11 at a minimum the following information:

12 (1) A description of the compliance status of the existing air  
13 pollution emission source or proposed source with respect to all the  
14 applicable requirements; and

15 (2) The following statement or description and compliance  
16 schedule, as applicable:

17 (A) For applicable requirements with which the source  
18 is in compliance, a statement that the source is in compliance  
19 and will continue to comply with such requirements;

20 (B) For applicable requirements which become  
21 applicable during the permit term, a statement that the source  
22 on a timely basis will meet all such applicable requirements.  
23 The statement shall include documentation on the proposed  
24 method the owner or operator plans to initiate to obtain  
25 compliance; and a compliance schedule demonstrating that the

1 source will meet such applicable requirement by the date  
2 specified in the applicable requirement. A detailed schedule  
3 shall be provided if required by the applicable requirement; or

4 (C) For applicable requirements with which the source  
5 is not in compliance, a narrative description of how the source  
6 will expeditiously achieve compliance with all such applicable  
7 requirements; and a detailed compliance schedule containing  
8 specific milestones of remedial measures to obtain compliance,  
9 allowing for an enforceable sequence of actions. The schedule  
10 shall supplement and shall not sanction noncompliance with  
11 the applicable requirements on which the schedule is based.

12 (c) A progress report certified pursuant to §1102.3 shall be  
13 submitted to the Administrator no less frequently than annually and shall  
14 include:

15 (1) Dates for achieving the activities, milestones, or  
16 compliance, and dates when such activities, milestones, or  
17 compliance were achieved; and

18 (2) An explanation of why any dates in the schedule of  
19 compliance were not or will not be met, and any preventive or  
20 corrective measures adopted.

21 **Section 1104.9. Compliance Certification of Air Pollution**  
22 **Emission Sources.** (a) A compliance certification shall be submitted  
23 with each initial permit application, and at such other times as requested by  
24 the Administrator. The responsible official of an emissions source shall  
25 submit to the Administrator a compliance certification which includes at a

1 minimum the following information:

2 (1) A detailed description of the methods to be used in  
3 determining compliance with all applicable requirements, including  
4 any monitoring, record keeping, and reporting requirement and test  
5 methods;

6 (2) A schedule for submission of compliance certifications  
7 during the permit term; and

8 (3) A statement indicating the source's compliance status  
9 with any applicable enhanced monitoring and compliance  
10 certification requirements, including the requirements of §114 (a)(3)  
11 of the Clean Air Act or any applicable monitoring and analysis  
12 provisions of §504 (b) of the Clean Air Act.

13 (4) Certified in accordance with §1102.3

14 (5) A compliance plan as described in §1104.8.

15 (b) During the permit term, the responsible official of an air  
16 pollution emission source shall also submit to the Administrator annually,  
17 or more frequently as set by any applicable requirement or permit  
18 condition, a compliance certification which includes at a minimum the  
19 following information:

20 (1) The identification of each term or condition of the permit  
21 that is the basis of the certification;

22 (2) The compliance status;

23 (3) Whether compliance was continuous or intermittent;

24 (4) The methods used for determining the compliance status  
25 of the source currently and over the reporting period;

1           (5) Any additional information indicating the sources's  
2 compliance status with any applicable enhanced monitoring and  
3 compliance certification including the requirements of §114(a)(3) of  
4 the Clean Air Act or any applicable monitoring and analysis  
5 provisions of §504(b) of the Clean Air Act;

6           (6) A revised compliance plan; and

7           (7) Any additional information as required by the  
8 administrator including information to determine compliance.

9           (c) The compliance certification may reference information  
10 contained in a previous compliance certification submittal to the  
11 Administrator, provided such referenced information has been certified as  
12 being current and still applicable.

13           **Section 1104.10. Transition Period and Deadlines to Submit First**  
14 **Applications.** (a) During the transition period, all owners or  
15 operators of existing air pollution emission sources shall submit to the  
16 Administrator a complete initial air pollution control permit application  
17 according to the submission schedule in Appendix A.

18           (1) During the transition period, all existing air pollution  
19 emission sources with air pollution control permits shall remain valid  
20 past the expiration date until a new air pollution control permit is  
21 issued.

22           (2) During the transition period, all owners or operators of  
23 air pollution emission sources who have been operating, or has  
24 begun construction of an air pollution source without a valid air  
25 pollution control permit, shall submit to the Administrator a request

1 to continue construction, modification, relocation, or operation  
2 within One Hundred Twenty (120) days from the effective date of  
3 these Standards and Regulations. The request must include initial  
4 start date of construction, modification, relocation, or operation, and  
5 justification for continuance, and show good faith effort to comply  
6 with (a) of this Section. The request must be submitted and signed by  
7 a Responsible Official and certified in accordance to §1102.3. Such  
8 approval shall not be construed as an approval for an air pollution  
9 control permit.

10 (3) During the transition period, all owners or operators who  
11 have applied for air pollution control permits before the effective  
12 date of these Standards and Regulations, but have not received air  
13 pollution control permits shall submit to the Administrator a request  
14 to continue construction, modification, relocation, or operation  
15 within sixty (60) days from the effective date of these Standards and  
16 Regulations. The request must include initial start date of  
17 construction, modification, relocation, or operation, and justification  
18 for continuance, and show good faith effort to comply with (a) of this  
19 Section. The request must be submitted and signed by a Responsible  
20 Official and certified in accordance to §1102.3. Such approval shall  
21 not be construed as an approval for an air pollution control permit.

22 (4) During the transition period, all owners or operators of  
23 new or proposed air pollution emission sources who have not  
24 previously applied for an air pollution control permit shall submit to  
25 the Administrator a complete and timely air pollution control permit

1 application. An air pollution control permit must be obtained prior  
2 to commencement of construction, modification, relocation, or  
3 operation.

4 (b) The written request for an extension shall be submitted at least  
5 thirty (30) days prior to the required submission date and shall include the  
6 following information:

7 (1) Justification for the extension, including a showing that  
8 reasonable effort and resources have been and are being utilized in  
9 the preparation of the application;

10 (2) Description of the problems being encountered and the  
11 reasons for any delays in meeting the application submittal deadline;

12 (3) The current status of the air pollution control permit  
13 application; and

14 (4) The projected completion date of the air pollution control  
15 permit application.

16 (c) If the Administrator disapproves an extension for initial  
17 application submittal, the owner or operator shall meet the scheduled  
18 submission date. Under no circumstances shall the deadline for submitting  
19 an initial air pollution control permit application be extended twelve  
20 months from the effective date of these Standards and Regulations.

21 (d) All air pollution control permit applications, compliance plans,  
22 compliance certifications, and filing fees shall be submitted in accordance  
23 with §§1104.6, 1104.8, 1104.9 and 1104.21 through 1104.24.

24 **Section 1104.11. Permit Term.** An air pollution control permit  
25 shall be issued or renewed for a fixed term of five years unless the owner or

1 operator of the air pollution emission source requests a shorter term, or the  
2 Administrator determines that a shorter term is warranted.

3 **Section 1104.12. Permit Content.** The Administrator shall consider  
4 and incorporate the following elements in all air pollution control permits,  
5 as applicable:

6 (1) Emission limitations and standards, to include  
7 insignificant activities identified in the permit application (e.g. for an  
8 initial permit, a minor or significant modification, or permit renewal),  
9 including operational requirements and limitations to assure  
10 compliance with all applicable requirements at the time of permit  
11 issuance;

12 (2) Requirements regarding fugitive emissions regardless of  
13 whether the source category in question is included in the list of  
14 sources contained in the definition of "major source";

15 (3) The origin of and authority for each term or condition  
16 and any differences in form as compared to the applicable  
17 requirement upon which the term or condition is based;

18 (4) Permit term pursuant to §1104.11;

19 (5) Requirements for the installation of devices, at the  
20 expense of the owner or operator, for the measurement or analysis of  
21 source emissions or ambient concentration of air pollutants;

22 (6) The requirement for source emissions tests or alternative  
23 methodology to determine compliance with the terms and conditions  
24 of the air pollution control permit, and applicable requirements.  
25 Source emission tests conducted or alternative methodology used

1 shall be at the expense of the owner or operator; and

2 (7) All monitoring and related record keeping and reporting  
3 requirements to assure compliance with all terms and conditions of  
4 the permit. Each air pollution control permit shall address the  
5 following with respect to monitoring, record keeping, and reporting:

6 (A) All reporting, emissions monitoring and analysis  
7 procedures, or test methods, required pursuant to the  
8 applicable requirements, including any procedures or methods  
9 promulgated pursuant to §114(a)(3) or §504(b) of the Clean Air  
10 Act;

11 (B) If the applicable requirement does not require  
12 periodic testing or instrumental or non-instrumental  
13 monitoring, periodic monitoring or record keeping sufficient to  
14 yield reliable data from the relevant time period that is  
15 representative of the source's compliance with the permit. Use  
16 of terms, test methods, units, statistical conventions used for  
17 these requirements shall be consistent with applicable  
18 requirements;

19 (C) Monitoring results expressed in units, averaging  
20 periods, and other statistical conventions consistent with the  
21 applicable requirements;

22 (D) Requirements concerning the use, maintenance,  
23 and installation of monitoring equipment. The installation,  
24 operation, and maintenance of the monitoring equipment shall  
25 be at the expense of the owner or operator;

1 (E) Appropriate monitoring methods;

2 (F) Monitoring records including:

3 (i) Place as defined in the permit, date, and time  
4 of sampling or measurement;

5 (ii) Dates the analyses were performed;

6 (iii) The name and address of the company or  
7 entity that performed the analyses;

8 (iv) Analytical techniques or methods used;

9 (v) Analyses results; and

10 (vi) Operating conditions during the time of  
11 sampling or measurement;

12 (G) Other records including support information, such  
13 as calibration and maintenance record, original strip chart  
14 recordings or computer printouts for continuous monitoring  
15 instrumentation, and all other reports required by the  
16 Administrator;

17 (H) A requirement for the retention of records of all  
18 required monitoring data and support information for a period  
19 of at least five (5) years from the date of the monitoring sample,  
20 measurement, report, or application. Support information  
21 includes all calibration and maintenance records and all  
22 original strip chart recordings for continuous monitoring  
23 instrumentation and copies of all reports required by the  
24 permit;

25 (I) A requirement for submission of reports of any

1 required monitoring at least every six (6) months. Deviations  
2 from the permit requirements shall be clearly identified and  
3 addressed in these reports;

4 (J) A requirement for prompt reporting of deviations  
5 from permit requirements, including those attributable to upset  
6 conditions as defined in the permit, the probable cause of such  
7 deviations, and any corrective actions or preventive measures  
8 taken. The term "prompt" shall be delineated on a permit-by-  
9 permit basis in relation to the degree and type of deviation  
10 likely to occur and the applicable requirements; and

11 (K) Provisions for the owner or operator to annually  
12 report in writing, emissions of hazardous air pollutants;

13 (8) Pollution prevention audits and the implementation of  
14 pollution prevention measures to ensure that emissions are reduced  
15 or eliminated when feasible;

16 (9) General provisions including:

17 (A) A statement that the owner or operator shall  
18 comply with all the terms and conditions of the air pollution  
19 control permit and that any permit noncompliance constitutes  
20 a violation of these Standards and Regulations and, for all  
21 federally enforceable terms or conditions, the Clean Air Act,  
22 and is grounds for enforcement action, permit termination,  
23 suspension, reopening, or amendment, or for denial of a permit  
24 renewal application;

25 (B) A Severability clause to ensure the continued

1 validity of the various permit requirements in the event of a  
2 challenge to any portion of the permit;

3 (C) A statement that it shall not be a defense for a  
4 permittee in an enforcement action that it would have been  
5 necessary to halt or reduce the permitted activity to maintain  
6 compliance with the terms and conditions of the permit;

7 (D) A statement that the permit may be terminated,  
8 suspended, reopened, or amended for cause pursuant to  
9 §1104.18. The filing of a request by the permittee for a permit  
10 termination, suspension, reopening, or amendment, or of a  
11 notification of planned changes or anticipated noncompliance  
12 does not stay any permit condition;

13 (E) A statement that the permit does not convey any  
14 property rights of any sort, or any exclusive privilege;

15 (F) A provision that, if construction is not commenced,  
16 continued or completed in accordance with §1104.5 the air  
17 pollution control permit for the subject emission unit shall  
18 become invalid;

19 (G) A provision that the owner or operator shall notify  
20 the Administrator in writing of the anticipated date of initial  
21 start-up for each emission unit of a new air pollution emission  
22 source or significant modification not more than sixty (60) days  
23 or less than thirty (30) days prior to such date. The  
24 Administrator shall also be notified in writing of the actual  
25 date of construction commencement and start-up within fifteen

1 (15) days after these dates;

2 (H) A statement that the owner or operator shall  
3 furnish in a timely manner any information or record  
4 requested in writing by GEPA to determine whether cause  
5 exists for terminating, suspending, reopening, or amending the  
6 permit, or to determine compliance with the permit. Upon  
7 request, the permittee shall also furnish to the department  
8 copies of records required to be kept by the permit. For  
9 information claimed to be confidential, the Administrator may  
10 require the permittee to furnish such records not only to GEPA  
11 but also directly to USEPA with a claim of confidentiality;

12 (I) A requirement that a copy of applicable  
13 correspondence or records submitted to GEPA be provided to  
14 USEPA pursuant to §1104.15,

15 (J) A provision for the designation of confidentiality of  
16 any records pursuant to §1102.7;

17 (K) A requirement that the owner or operator shall  
18 submit fees in accordance with §1104.21 through §1104.24;

19 (L) Certification requirements pursuant to §1102.3;

20 (M) A requirement that the owner or operator allow the  
21 Administrator or an authorized representative, upon  
22 presentation of credentials or other documents required by  
23 law:

24 (i) To enter the owner or operator's premises  
25 where a source is located or emission-related activity is

1 conducted, or where records must be kept under the  
2 conditions of the permit and inspect at reasonable times  
3 all facilities, equipment, including monitoring and air  
4 pollution control equipment, practices, operations, or  
5 records covered under the terms and conditions of the  
6 permit and request copies of records or copy records  
7 required by the permit; and

8 (ii) To sample or monitor at reasonable times  
9 substances or parameters to assure compliance with the  
10 permit or applicable requirements;

11 (N) A requirement pursuant to Sections 1102.8 and  
12 1102.9 for reporting of equipment shutdown and malfunction;

13 (10) Compliance plan and compliance certification submittal  
14 requirements pursuant to §§1104.8 and 1104.9;

15 (11) Any other provision to assure compliance with all  
16 applicable requirements; and

17 (12) Any other provision the Administrator imposes to further  
18 limit the construction and operation of the source. These conditions  
19 may include restrictions, control requirements, or performance  
20 standards normally reserved for air pollution emission sources with  
21 larger capacities than the air pollution emission source being  
22 permitted. In determining whether to impose more restrictive  
23 conditions, the Administrator shall consider the relevant  
24 circumstances of each individual case, including the availability of a  
25 reasonable control technology, cleaner fuels, or a less polluting

1 operating process; the consideration of the existing air quality and  
2 the resulting degradation; the protection of the public health, welfare  
3 and safety; and any information, assumptions, limitations, or  
4 statements made in conjunction with a permit application;

5 (13) Terms and conditions for reasonably anticipated  
6 alternative operating scenarios identified by the source in the air  
7 pollution control permit application as approved by the  
8 Administrator. Such terms and conditions shall include:

9 (A) A requirement that the owner or operator,  
10 contemporaneously with making a change from one operating  
11 scenario to another, record in a log at the permitted facility the  
12 scenario under which it is operating and, if required by the  
13 Administrator, submit written notification to the  
14 Administrator; and

15 (B) Provisions to ensure that the terms and conditions  
16 under each alternative scenario meet all applicable  
17 requirements.

18 (14) Temporary source permit:

19 (A) Upon issuance of a temporary air pollution control  
20 permit, the owner or operator shall submit in writing all  
21 succeeding location changes to the Administrator for approval  
22 at least thirty (30) days or such lesser time as designated and  
23 approved by the Administrator, prior to the change in location.

24 The owner or operator shall submit sufficient information to  
25 enable the Administrator to assess the air quality impact the

1 temporary source may have at the new location. Information  
2 submitted shall include:

3 (i) Name, address, and phone number of:

4 (a) The company (or plant if different than  
5 the company),

6 (b) The owner and owner's agent,

7 (c) The plant site manager or other contact;

8 (ii) Temporary source permit identification  
9 number and expiration date;

10 (iii) Location map of the new temporary location,  
11 identifying the surrounding commercial, industrial, and  
12 residential developments;

13 (iv) Projected dates of operation at the new  
14 location;

15 (v) Identification of any other air pollution  
16 source at the new location; and

17 (vi) Certification that no modification will be  
18 made to the equipment, and operational methods will  
19 remain similar as permitted under the temporary source  
20 permit at the new location.

21 (B) The Administrator shall not continue to act upon or  
22 consider a location change request, unless the following have  
23 been submitted:

24 (i) All required information as identified in  
25 subsection (A)

1 (ii) Any additional information as requested by  
2 the Administrator; and

3 (iii) Any applicable fee.

4 (C) Prior to any relocation, the Administrator shall  
5 approve, conditionally approve, or deny in writing each  
6 location change. If the Administrator denies a location change,  
7 the applicant may appeal the decision pursuant to Section  
8 49111 of Chapter 49, Part 2, Division 2, Part 1 of Title 10 of the  
9 Guam Code Annotated.

10 (D) With the exception of the initial location, if a source  
11 remains in any one location for longer than twelve (12)  
12 consecutive months, the Administrator may request an ambient  
13 air quality impact assessment of the source.

14 (E) At each of the authorized locations, the owner or  
15 operator shall operate in accordance with the temporary source  
16 permit and all applicable requirements.

17 **Section 1104.13. Inspections.** (a) Every source required to  
18 obtain a permit pursuant to these Standards and Regulations shall be  
19 subject to regular inspections for compliance with all applicable  
20 requirements, these rules, and the terms and conditions of an emissions  
21 permit. Such inspections shall be conducted by any duly authorized  
22 officer, employee or representative of GEPA and shall take place at any  
23 reasonable time. No person shall refuse entry or access to any authorized  
24 representatives of GEPA who requests entry for purposes of inspection,  
25 and who presents appropriate credentials, nor shall any person obstruct,

1 hamper or interfere with any such inspection.

2 (b) Inspections may include emission testing, monitoring, sampling  
3 and on-site inspections of facilities, equipment, practices, operations, or  
4 records required to be maintained according to the terms and conditions of  
5 an owner or operator's permit. Emission sources found to be in violation of  
6 an applicable requirement, these Standards and Regulations, on any terms  
7 and conditions of a stationary air pollution source permit shall immediately  
8 take all appropriate actions to achieve compliance and shall be subject to all  
9 enforcement penalties and remedies provided by these Standards and  
10 Regulations.

11 **Section 1104.14. Federally-Enforceable Permit Terms and**  
12 **Conditions.** Terms and conditions included in an air pollution control  
13 permit, including any provision designed to limit a source's potential to  
14 emit, are federally enforceable unless such terms, conditions, or  
15 requirements are specifically designated as not federally enforceable.  
16 Those terms and conditions left undesignated shall become federally  
17 enforceable upon permit issuance provided the USEPA Administrator does  
18 not object during the forty-five (45) day review pursuant to §1104.16. The  
19 permittee can petition USEPA to consider undesignated terms and  
20 conditions as not federally enforceable.

21 **Section 1104.15. Transmission of Information to the USEPA.**

22 (a) If the air pollution emission source is a federal oversight source:  
23 (1) The Administrator shall submit to the USEPA  
24 Administrator a copy of each proposed air pollution control permit  
25 and each final air pollution control permit, including administrative

1 permit amendments,

2 (2) The owner or operator shall simultaneously submit to the  
3 USEPA Administrator a copy of all air pollution control permit  
4 applications, including any application for renewal and amendments  
5 reflecting modifications submitted to the Administrator,

6 (3) By agreement with the USEPA Administrator or pursuant  
7 to federal regulation, the Administrator may waive the requirements  
8 of this Section, or submit summaries for specific categories of non-  
9 major air pollution emission sources.

10 (b) For all other air pollution emission sources, the Administrator  
11 may at any time require the owner or operator to submit to the USEPA  
12 Administrator a copy of any permit applications, including applications for  
13 permit renewal and permit amendment, compliance plan, compliance  
14 certification, or records required to be kept under the permit.

15 (c) GEPA shall maintain records on all air pollution control permit  
16 applications, compliance plans, proposed and final permits, and other  
17 relevant information for a minimum of five (5) years.

18 **Section 1104.16. USEPA Oversight.** (a) This Section applies if  
19 the air pollution emission source is a federal oversight source;

20 (1) The Administrator shall not issue an air pollution control  
21 permit, permit renewal, or permit amendment for a significant  
22 modification, if the USEPA Administrator objects to its issuance in  
23 writing within forty-five (45) days of receipt of the proposed air  
24 pollution control permit and all necessary supporting information.

25 (2) The Administrator shall submit to the USEPA

1 Administrator an amended proposed air pollution control permit  
2 within one hundred eighty (180) days after receipt of any written  
3 objection from the USEPA Administrator. If objections are not  
4 resolved within the one hundred eighty (180) days, USEPA shall  
5 issue the air pollution control permit under 40 CFR Part 71.

6 **Section 1104.17. Emergency Provision.** (a) An emergency  
7 constitutes an affirmative defense to any action brought for noncompliance  
8 with any technology-based emission limitation, if it can be demonstrated to  
9 the Administrator through properly signed, contemporaneous operating  
10 logs, or other relevant evidence that:

11 (1) An emergency occurred and the owner or operator of the  
12 air pollution emission source can identify the cause or causes of the  
13 emergency;

14 (2) The permitted facility was at the time being properly  
15 operated;

16 (3) During the period of the emergency, the owner or  
17 operator of the air pollution emission source took all reasonable  
18 steps to minimize levels of emission that exceeded the emission  
19 limitations or other requirements in the air pollution control permit;  
20 and

21 (4) The owner or operator of the air pollution emission  
22 source submitted notice of the emergency to the Administrator  
23 within two (2) working days of the time when emission limitations  
24 were exceeded due to the emergency. This notice must contain a  
25 description of the emergency, any steps taken to mitigate emission,

1 and corrective actions taken. Such notice shall satisfy the prompt  
2 reporting of deviations pursuant to §1102.9.

3 (b) In any proceedings for enforcement action, the owner or  
4 operator of the air pollution emission source seeking to establish the  
5 occurrence of an emergency has the burden of proof.

6 (c) This emergency provision is in addition to any emergency or  
7 upset provision in any applicable requirement.

8 **Section 1104.18. Permit Termination, Suspension, Reopening, and**  
9 **Amendment.** (a) The Administrator, on the Administrator's own  
10 motion or on the petition of any person for cause, may terminate, suspend,  
11 reopen, or amend any permit if, after affording the permittee an  
12 opportunity for a hearing in accordance with §1102.14 or §49111 of Chapter  
13 49, Part 2, Division 2, Part 1 of Title 10 of the Guam Code Annotated the  
14 Administrator determines that:

15 (1) The permit contains a material mistake made in  
16 establishing the emissions limitations or other requirements of the  
17 permit;

18 (2) Permit action is required to assure compliance with the  
19 requirements of the Clean Air Act; the Air Pollution Control Act, or  
20 these Standards and Regulations;

21 (3) Permit action is required to address additional  
22 requirements of the Clean Air Act; the Air Pollution Control Act, or  
23 these Standards and Regulations;

24 (4) There is a violation of any condition of the permit;

25 (5) The permit was obtained by misrepresentation or failure

1 to disclose fully all relevant facts;

2 (6) The source is not constructed or operated in accordance  
3 with the application for the air pollution control permit and any  
4 information submitted as part of the application;

5 (7) There is a change in any condition that requires either a  
6 temporary or permanent reduction or elimination of the permitted  
7 discharge;

8 (8) More frequent monitoring or reporting by the permittee  
9 is required; or

10 (9) Such is in the public interest, as determined pursuant to  
11 §49107(d) of Chapter 49, Part 2, Division 2, Part 1 of Title 10 of the  
12 Guam Code Annotated.

13 (b) The Administrator shall reopen and amend an air pollution  
14 control permit if the Administrator determines that any one of the  
15 following circumstances exists:

16 (1) Additional applicable requirements pursuant to the Clean  
17 Air Act or these Standards and Regulations become applicable to a  
18 major air pollution emission source with a remaining permit term of  
19 three (3) or more years. Such permit reopening shall be completed  
20 not later than eighteen (18) months after promulgation or adoption of  
21 the applicable requirement. No such permit reopening is required if  
22 the effective date of the requirement is later than the date on which  
23 the permit is due to expire, unless the expiration date of the original  
24 permit or any of its terms and conditions has been extended pursuant  
25 to §1104.6;

1                   (2) The permit contains a material mistake or that inaccurate  
2 statements were made in establishing the emissions standards or  
3 other terms or conditions of the permit; or

4                   (3) The permit must be terminated, suspended, or amended  
5 to assure compliance with the applicable requirements.

6                   (c) Procedures to reopen and amend an air pollution control  
7 permit shall be the same as procedures which apply to initial permit  
8 issuance in accordance with §1104.6 and shall affect only those parts of the  
9 permit for which cause to reopen exists. Such reopening shall be made as  
10 expeditiously as practicable.

11                   (d) The Administrator shall provide written notification to the  
12 permittee on the reopening of the permit indicating the basis for reopening  
13 at least thirty (30) days prior to the reopening date, except that the  
14 Administrator may provide a shorter time period if it is determined that  
15 immediate action on the reopening of the permit is required to prevent an  
16 imminent peril to public health and safety or the environment.

17                   (e) If requested by the Administrator, the owner or operator of an  
18 air pollution emission source shall submit a permit application or  
19 information related to the basis of the permit reopening or those provisions  
20 affected by the reopening within thirty (30) days of receipt of the permit  
21 reopening notice. An extension for the application submittal may be  
22 granted by the Administrator if the owner or operator can provide  
23 adequate written justification for such an extension.

24                   (f) Upon program approval, if the USEPA Administrator notifies  
25 the Administrator of any cause to terminate, suspend, reopen, or amend a

1 permit issued to a federal oversight source, the Administrator **shall** not  
2 issue an air pollution control permit, permit renewal, or permit amendment  
3 for a significant modification. The administrator shall submit to USEPA  
4 Administrator a proposed determination of termination, suspension,  
5 reopening or an amended proposed air pollution control permit as  
6 appropriate within one hundred eighty (180) days of receipt of such written  
7 notification, or within such other times as required by the USEPA. If  
8 objections are not resolved within the one hundred eighty (180) days,  
9 USEPA shall issue the air pollution control permit under 40 CFR Part 71.

10 **Section 1104.19. Public Participation.** (a) If the air pollution  
11 emission source is a federal oversight source, the Administrator shall  
12 provide for public notice, including an opportunity for public comment  
13 and the method by which a public hearing can be requested, on all draft  
14 initial permits and permits for significant modifications. Any person  
15 requesting a public hearing shall do so during the public comment period.  
16 Any request from a person for a public hearing shall indicate the interest of  
17 the person filing the request and the reasons why a public hearing is  
18 warranted. Such hearings shall be held in accordance with the  
19 Administrative Adjudication Law.

20 (b) Procedures for public notice, public comment periods, and  
21 public hearings shall be as follows:

22 (1) The Administrator shall make available for public  
23 inspection in at least one location:

24 (A) Information on the subject matter;

25 (B) Information submitted by the applicant, except for

1 confidential information pursuant to §1102.7;

2 (C) GEPA's analysis and proposed action; and

3 (D) Other information and documents determined to be  
4 appropriate by GEPA;

5 (2) Notification of a public hearing shall be given at least  
6 thirty (30) days in advance of the hearing date;

7 (3) A public comment period shall be no less than thirty (30)  
8 days following the date of the public notice for federal oversight  
9 sources. During the public comment period, interested persons may  
10 submit to GEPA written comments on:

11 (A) The subject matter;

12 (B) The application;

13 (C) GEPA's analysis

14 (D) The proposed actions; and

15 (E) Other considerations as determined to be  
16 appropriate by GEPA;

17 (4) Notification of a public comment period or a public  
18 hearing shall be made:

19 (A) By publication in a newspaper of general  
20 circulation which is printed and issued at least twice weekly;

21 (B) To persons on a mailing list developed by the  
22 Administrator, including those who request in writing to be on  
23 the list; and

24 (C) If necessary by other means to assure adequate  
25 notice to the affected public;

1                   (5) Notice of public comment and public hearing shall  
2 identify:

3                   (A) The affected facility;

4                   (B) The name and address of the permittee;

5                   (C) The name and address of the agency of the  
6 permitting authority processing the permit;

7                   (D) The activities involved in the permit action;

8                   (E) The emissions change involved in any permit  
9 modification;

10                  (F) The name, address, and telephone number of a  
11 person from whom interested persons may obtain additional  
12 information, including copies of the draft permit, the  
13 application, all relevant supporting materials including any  
14 compliance plan, and monitoring and compliance certification  
15 reports, and all other material available to GEPA that are  
16 relevant to the permit decision, except for information that is  
17 determined to be confidential;

18                  (G) A brief description of the comment procedures;

19                  (H) The time and place of any hearing that may be  
20 held, including a statement of procedures to request a hearing  
21 if one has not already been scheduled; and

22                  (I) The availability of the information listed in  
23 Paragraph (1), and the location and times the information will  
24 be available for inspection; and

25                  (6) The Administrator shall maintain a record of the

1 commentors and the issues raised during the public participation  
2 process and shall provide this information to USEPA upon request.

3 **Section 1104.20. Administrative Permit Amendment.** (a) The  
4 Administrator, on the Administrator's sole motion or upon written request  
5 from the owner or operator of an air pollution emission source, may issue  
6 an administrative permit amendment.

7 (b) Except for a request to consolidate two (2) or more air pollution  
8 control permits into one or to change ownership or operation control, an  
9 owner or operator requesting an administrative permit amendment may  
10 make the requested change immediately upon submittal of the request.

11 (c) Within sixty (60) days of receipt of a written request for an  
12 administrative permit amendment, the Administrator shall take final action  
13 on the request and may amend the permit without providing notice to the  
14 public provided the Administrator designates any such permit  
15 amendments as having been made pursuant to this Section.

16 (d) For federal oversight sources, GEPA shall submit a copy of the  
17 administrative permit amendment to USEPA.

18 **Section 1104.21. General Fee Provisions.** (a) Every applicant  
19 for an air pollution control permit shall pay application fees as set forth in  
20 §1104.23

21 (b) Every owner or operator of an air pollution emission source  
22 shall pay annual fees as set forth in §1104.24.

23 (c) All application and annual fees collected pursuant to these  
24 Standards and Regulations shall be used to supplement the Air Pollution  
25 Control Special Fund pursuant to §1104.22.

1 (d) All application and annual fees for air pollution emission  
2 sources required by this Section shall be submitted by check or money  
3 order made payable to Treasurer of Guam c/o Air Pollution Control  
4 Special Fund, and are not refundable.

5 (e) Checks returned for any reason shall be considered a failure to  
6 pay. Returned checks are subject to an additional Fifty Dollars (\$50.00)  
7 handling charge. If a returned check results in a late payment, the owner  
8 or operator shall be assessed a late payment penalty in accordance with  
9 §1104.25.

10 **Section 1104.22. Air Pollution Control Special Fund.** (a) All  
11 permit application fees, annual emission fees, fines, penalties, bail  
12 forfeitures, and other funds collected or received into the Air Pollution  
13 Control Special Fund shall be used solely for the costs of administration  
14 and implementation of the Act; for providing staff and resources to: assist  
15 permit applicants with the application process, review and act upon permit  
16 applications, write permits, implement and enforce permit conditions  
17 including legal support, prepare guidance and rules, prepare emission  
18 inventories, monitor air quality, inspect facilities to ensure compliance and  
19 offer assistance with pollution prevention alternatives, provide technical  
20 assistance to permittees, administer the fund, and any other duties needed  
21 to administer the Act.

22 (b) The Administrator shall maintain independent records and  
23 accounts of all revenues and expenditures of the Air Pollution Control  
24 Special Fund.

25 (c) By July 1 of each year the Administrator shall determine what

1 base rate shall be used to calculate annual fees for the following calendar  
2 year pursuant to §1104.24(f). The base rate shall be set such that projected  
3 revenues generated from annual fees shall equal the total projected  
4 program cost minus the total projected revenues from all revenue sources  
5 except for annual fees (i.e., application fees, penalties, etc.) for that year.  
6 The base rate shall be calculated in dollars per ton of pollutant and shall be  
7 rounded up to the next whole dollar.

8 (d) If the Administrator determines that the base rate for the  
9 following calendar year must be raised by more than One Dollar (\$1.00) per  
10 ton of pollutant above the current year's base rate, or if the base rate shall  
11 be raised above Eight Dollars (\$8.00) the Administrator shall provide for  
12 public notice, including the method by which a public hearing can be  
13 requested, and an opportunity for public comment. The applicable  
14 procedural requirements of §1104.19 shall be used for public notice, public  
15 comment periods, and public hearings.

16 **Section 1104.23. Application Fees for Air Pollution Emission**  
17 **Sources.** (a) Application fees shall be submitted with the air pollution  
18 control permit application and shall not be refunded or applied to any  
19 subsequent application. No air pollution control permit application shall  
20 be deemed complete unless the application fee is paid in full.

21 (b) If an air pollution emission source can be categorized under  
22 two (2) or more types of sources listed in the fee schedule of Subsection (c),  
23 the owner or operator of that source shall pay the highest application fee  
24 that is applicable to the source.

25 (c) The fee schedule for filing an air pollution control permit

1 application shall be as follows:

- 2 (1) Sources subject to the requirements of §1105:
- 3 (A) Initial permit for an existing Major PSD
- 4 source<sup>1</sup>: \$1,000
- 5 (B) Initial permit for an existing Major NAA
- 6 source<sup>1</sup>: \$1,000
- 7 (C) Initial permit for a new PSD source<sup>1</sup>: \$3,000
- 8 (D) Initial permit for a new NAA source<sup>1</sup>: \$3,750
- 9 (E) Non-Significant Modification \$500
- 10 (F) Significant Modification \$1,000
- 11 (G) Administrative permit amendment \$1,000
- 12 (H) Permit Renewal \$1,000
- 13 (2) Sources subject to the requirements of §1106,
- 14 (A) and are major sources:
- 15 (1) Initial permit for an existing
- 16 air pollution emission source: \$1,000
- 17 (2) Initial permit for a new air
- 18 pollution emission source: \$1,500
- 19 (3) Permit Renewal: \$1,000
- 20 (4) Administrative permit
- 21 amendment: \$100
- 22 (5) Non-Significant Modification: \$500
- 23 (6) Significant Modification: \$1,000

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<sup>1</sup> As defined in Section 5

- 1 (B) and are not major sources:
- 2 (i) Initial permit for an existing
- 3 air pollution emission source: \$500
- 4 (ii) Initial permit for a new air
- 5 pollution emission source \$750
- 6 (iii) Permit Renewal: \$500
- 7 (iv) Administrative permit
- 8 amendment \$100
- 9 (v) Non-Significant Modification \$250
- 10 (vi) Significant Modification \$500
- 11 (3) Sources subject to the requirements of §1107,
- 12 (A) and are major sources of hazardous air pollutants,
- 13 (i) Initial permit for an existing
- 14 air pollution emission source: \$1,000
- 15 (ii) Initial permit for a new air
- 16 pollution emission source \$3,750
- 17 (iii) Permit Renewal: \$1,000
- 18 (iv) Administrative permit
- 19 amendment \$100
- 20 (v) Non-Significant Modification \$750
- 21 (vi) Significant Modification \$3,750
- 22 (B) and are not major sources of hazardous air
- 23 pollutants,
- 24 (i) Initial permit for an existing
- 25 air pollution emission source: \$200

1	(ii)	Initial permit for a new air	
2		pollution emission source	\$300
3	(iii)	Permit Renewal:	\$200
4	(iv)	Administrative permit	
5		amendment	\$25
6	(v)	Non-Significant Modification	\$100
7	(vi)	Significant Modification	\$300
8	(4)	All other major sources:	
9	(A)	Initial permit for an existing air	
10		pollution emission source:	\$1,000
11	(B)	Initial permit for a new air	
12		pollution emission source	\$1,500
13	(C)	Permit Renewal:	\$1,000
14	(D)	Administrative permit amendment	\$100
15	(E)	Non-Significant Modification	\$750
16	(F)	Significant Modification	\$1,000
17	(5)	All other non-major sources:	
18	(A)	Initial permit for an existing	
19		air pollution emission source:	\$100
20	(B)	Initial permit for a new air	
21		pollution emission source	\$150
22	(C)	Permit Renewal:	\$100
23	(D)	Administrative permit amendment	\$50
24	(E)	Modification	\$100
25	(d)	If a modification changes the classification of an air pollution	

1 emission source, the application fee shall equal the higher of the following:

2 (1) The fee for a modification of an air pollution emission  
3 source in the original category of the modified source (i.e. the  
4 category prior to the modification); and

5 (2) The fee for an initial permit for a new air pollution  
6 emission source in the category of the modified source after the  
7 modification.

8 (e) Application fees for an administrative permit amendment shall  
9 be assessed only if the administrative change is requested by the owner or  
10 operator of the air pollution emission source.

11 **Section 1104.24. Annual Fees for Air Pollution Emission Sources.**

12 (a) Annual fees shall be paid in full within sixty (60) days after the  
13 end of each calendar year and within thirty (30) days after the permanent  
14 discontinuance of the air pollution emission source.

15 (b) The Administrator, upon written request from the owner or  
16 operator of an air pollution emission source, may extend the annual fee  
17 submittal deadline if the Administrator determines that reasonable  
18 justification exists for the extension. The written request for an extension  
19 shall be submitted at least fifteen (15) days prior to the required submission  
20 due date, and include the following information:

21 (1) Justification for the extension, including a showing that  
22 reasonable effort and resources have been and are being utilized in  
23 the calculation of annual emissions and the corresponding annual fee  
24 as calculated pursuant to this Section;

25 (2) Description of the problems being encountered and

1 reasons for any delays in meeting the annual fee deadline;

2 (3) The current status of emission calculations; and

3 (4) The projected date of submitting the annual fee.

4 If the Administrator disapproves an extension for the annual fee  
5 submittal, the owner or operator shall pay the required annual fees within  
6 thirty (30) days of receipt of the disapproval notification or the original  
7 submittal deadline, whichever is later. If the Administrator approves an  
8 extension for the annual fee submittal, the owner or operator shall pay the  
9 required annual fees by the extended approved date. Any part of the  
10 annual fee that is not paid within the required time shall at once be  
11 assessed the late penalty fee pursuant to §1104.25.

12 (c) Except as provided in Subsection (m), annual fees due within  
13 sixty (60) days after the end of each calendar year shall be based upon the  
14 calculated tons of regulated air pollutants emitted during the prior  
15 calendar year in which the annual fees are due.

16 (d) Except as provided in Subsection (m), annual fees due within  
17 thirty (30) days after the permanent discontinuance of the air pollution  
18 emission source shall be based upon the calculated tons of regulated air  
19 pollutants emitted after the last calendar year for which annual fees were  
20 paid.

21 (e) Annual fees shall be assessed for each ton of regulated air  
22 pollutant emitted by an air pollution emission source except for:

23 (1) Carbon monoxide emissions;

24 (2) Fugitive emission if fugitive emission is not included in  
25 the applicable requirements;

1                   (3) Emissions from insignificant activities - Type I and  
2 insignificant activities Type II; and

3                   (4) Emissions from sources located on residential premises.

4                   (f) The dollar per ton charge for each regulated air pollutant  
5 emitted by air pollution emission sources shall be as follows:

6                   (1) For hazardous air pollutants the rate per ton shall equal  
7 ten (10) times the base rate;

8                   (2) For the first four thousand (4,000) tons of non-hazardous  
9 air pollutants emitted per year the rate shall equal the base rate; and

10                  (3) For non-hazardous air pollutants emitted in excess of four  
11 thousand (4,000) tons per year the rate shall equal one half of the base  
12 rate.

13                  (g) For the calendar year 1999 the base rate shall be Six Dollars  
14 (\$6.00) per ton. For federal oversight sources, the minimum annual fee  
15 shall be Five Hundred Dollars (\$500.00) for each valid air pollution control  
16 permit held during the prior calendar year, or Forty Two Dollars (\$42.00)  
17 per month for any fraction of the year the permit is valid after the last  
18 calendar year for which annual fees were paid. For non-federal oversight  
19 sources the minimum annual fee shall be One Hundred Dollars (\$100.00)  
20 for each valid air pollution control permit held during the prior calendar  
21 year, or Eight Dollars (\$8.00) per month for any fraction of the year the  
22 permit is valid after the last calendar year for which annual fees were paid.  
23 For years after calendar year 1999, the rate shall be determined by the  
24 Administrator pursuant to §1104.22(c). The submittal of annual fees shall  
25 begin in calendar year 2000 for all regulated air pollutants emitted during

1 calendar year 1999.

2 (h) The calculated emissions in tons per year shall be determined  
3 by using the following parameters:

4 (1) An emission factor derived from the allowable emission  
5 rate;

6 (2) The actual production, operating hours, amount of  
7 materials processed or stored, or fuel usage of the air pollution  
8 emission source during the prior calendar year the annual fees are  
9 due, as applicable; and

10 (3) If not already considered in the allowable emission rate, a  
11 percentage reduction factor based upon the efficiency of the air  
12 pollution control equipment. Other operating parameters of the air  
13 pollution emission source may be used in the fee calculation if  
14 approved by the Administrator.

15 (i) The allowable emission rate referenced in Subsection (h)(1) is  
16 based upon the emission rate specified in an air pollution control permit or  
17 applicable requirement. If the allowable emission rate is not specified in  
18 the air pollution control permit or applicable requirement, the appropriate  
19 AP-42 air pollutant emission factor shall be used to determine the  
20 calculated emissions in tons per year.

21 (j) The parameters referenced in Subsection (h)(2) shall be based  
22 upon verifiable documentation presented by the owner or operator of the  
23 air pollution emission source. If an owner or operator of an air pollution  
24 emission source cannot provide verifiable documentation on the  
25 parameters referenced in Subsection (h)(2), the maximum allowable

1 production, operating hours, amount of material processed or stored, or  
2 fuel usage shall be used in calculating the total annual tonnage of regulated  
3 air pollutants emitted from the air pollution emission source. Any fraction  
4 of a ton calculated shall be rounded up to the next whole ton to obtain the  
5 annual tonnage of each regulated air pollutant subject to annual fees.  
6 Emissions of any pollutant calculated at levels between 0.1 and 1.0 ton shall  
7 be rounded up to one ton. Emissions of any pollutant calculated at less  
8 than 0.1 ton shall not be subject to fees.

9 (k) The percentage reduction factor referenced in Subsection (h)(3)  
10 shall be based upon the percentage reduction provided by AP-42 or an  
11 applicable requirement. The Administrator shall establish the appropriate  
12 percentage reduction factor, and may adjust the reduction factor based on  
13 actual performance of the air pollution control equipment.

14 (l) Annual fees shall be calculated on fee worksheets furnished by  
15 the Administrator. If a fee worksheet is not provided for a particular air  
16 pollution emission source, the owner or operator of an air pollution  
17 emission source shall provide the worksheet, showing the method,  
18 assumptions, emission factors, and calculations used to obtain the  
19 calculated emission in tons per year, for each regulated air pollutant  
20 emitted.

21 (m) The annual fee for air pollution emission sources required by  
22 USEPA to obtain a federal operating permit under the provisions of 40 CFR  
23 Part 71, as amended, shall be reduced by the annual fee amount owed to  
24 the federal government. If the annual amount owed to the federal  
25 government exceeds the annual fee calculated in Subsections (e) through

1 (l), no annual fee shall be due to GEPA.

2 **Section 1104.25. Penalties and Remedies.** (a) Any person who  
3 violates any provision of these Standards and Regulations, or any term or  
4 condition of a permit shall be subject to the penalties and remedies  
5 provided for in §49115 and §49116 of Chapter 49, Part 2, Division 2, Part 1  
6 of Title 10 of the Guam Code Annotated.

7 (b) If any part of the annual fee is not paid within thirty (30) days  
8 after the due date, a late payment penalty of five per cent (5%) of the  
9 amount due shall at once accrue and be added thereto. Thereafter, on the  
10 first day of each calendar month during which any part of the annual fee or  
11 any prior accrued late payment penalty remains unpaid, an additional late  
12 payment penalty of five per cent (5%) of the then unpaid balance shall  
13 accrue and be added thereto.

14 (c) If any annual fee, including the late payment penalty required  
15 by these Standards and Regulations is not paid in full within thirty (30)  
16 days after the due date, the Administrator may terminate or suspend any  
17 or all or the owner or operator's air pollution control permits, after  
18 affording the opportunity for a hearing in accordance with §1104.19 or  
19 §1102.14.

20 (d) If any application for permit renewal is submitted after the due  
21 date, a late penalty of ten per cent (10%) of the permit application fee shall  
22 at once accrue and be added thereto. Thereafter, after every twenty (20)  
23 day period during which any part of the application fee or any prior  
24 accrued late payment penalty remains unpaid, an additional late payment  
25 penalty of ten per cent (10%) of the then unpaid balance shall accrue and be

1 added thereto.

2 (e) If an application for permit renewal is submitted more than  
3 thirty (30) days after the due date, the Administrator may delay issuance of  
4 the permit renewal beyond the expiration date of the existing permit,  
5 thereby suspending permission to the owner or operator of the air  
6 pollution emission source of any rights granted in the air pollution control  
7 permit to emit air pollution.

8 **Section 1104.26. Permit Compliance.** A person shall not violate a  
9 permit condition or term in an operating permit that has been issued under  
10 an EPA approved alternative operating permit program adopted by Guam  
11 pursuant to the exemption authorized in 40 CFR Part 69.13.

12  
13 **Section 1105. - Special Preconstruction Requirements.**

14 **Section 1105.1. Definitions.** For purposes of this Section, the  
15 following definitions apply, unless clearly designated otherwise:

16 (a) "*Actual emissions*" means the actual rate of emissions of a  
17 pollutant from an emissions unit. In general, actual emissions as of a  
18 particular date shall equal the average rate, in tons per year, at which the  
19 unit actually emitted the pollutant during a two-year period which  
20 precedes the particular date and which is representative of normal source  
21 operation. The Administrator shall allow the use of a different time period  
22 upon a determination that it is more representative of normal source  
23 operation. Actual emissions shall be calculated using the unit's actual  
24 operating hours, production rates, and types of materials processed, stored,  
25 or combusted during the selected time period. The Administrator may

1 presume that source specific allowable emissions for the unit are equivalent  
2 to the actual emissions of the unit. For any emissions unit which has not  
3 begun normal operations on the particular date, actual emissions shall  
4 equal the potential to emit of the unit on that date.

5 (b) "*Baseline*" means the total of all emissions from air pollution  
6 emission sources and mobile sources in a non-attainment area, including all  
7 proposed sources which have obtained air pollution control permits. The  
8 baseline is the regulatory emissions limit in effect when a completed air  
9 pollution control permit application subject to this Section is submitted.

10 The emission rate for each source (used to calculate the baseline) shall  
11 be the potential emission rate taking into account all applicable emissions  
12 limitations. When emission limitations for a NAA pollutant allow greater  
13 emission than the potential emission rate of the source, the emission rate  
14 for a source shall be the potential emission rate. When actual emissions for  
15 a NAA pollutant are less than allowable emissions under the Guam  
16 implementation plan or any federally enforceable permit conditions, the  
17 emission rate shall be the actual emission rate.

18 (c) "*Begin actual construction*" means, in general, initiation of  
19 physical on-site construction activities on an emissions unit which are of a  
20 permanent nature. Such activities include installation of building supports  
21 and foundations, laying underground pipework, and construction of  
22 permanent storage structures. With respect to a change in method of  
23 operations, this term refers to those on-site activities other than preparatory  
24 activities which mark the initiation of the change.

25 (d) "*Lowest achievable emission rate*" means, for any source, the

1 more stringent rate of emissions based on the following:

2 (1) The most stringent emissions limitation which is  
3 contained in the implementation plan of any State for such class or  
4 category of the air pollution emission source, unless the owner or  
5 operator of the proposed air pollution emission source demonstrates  
6 that such limitations are not achievable; or

7 (2) The most stringent emission limitation which is achieved  
8 in practice by such class or category of air pollution emission sources.

9 This limitation, when applied to a modification, means the lowest  
10 achievable emission rate for the new or modified emissions units  
11 within an air pollution emission source. In no event shall the  
12 application of the term permit a proposed new or modified air  
13 pollution emission source to emit any pollutant in excess of the  
14 amount allowable under an applicable standard of performance  
15 pursuant to §1106.

16 (e) "*Major NAA modification*" means any physical change in or  
17 change in the method of operation of a major NAA source that would  
18 result in a significant net emissions increase of any pollutant subject to  
19 regulations approved pursuant to the Clean Air Act or these Standards and  
20 Regulations. Any net emissions increase that is significant for volatile  
21 organic compounds shall be considered significant for ozone. A physical  
22 change or change in the method of operation shall not include:

23 (1) Routine maintenance, repair, and replacement;

24 (2) Use of an alternative fuel or raw material by reason of an  
25 order pursuant to §§2(a) and 2(b) of the federal Energy Supply And

1 Environmental Coordination Act of 1974 or any superseding  
2 legislation or by reason of a natural gas curtailment plan pursuant to  
3 the Federal Power Act;

4 (3) Use of an alternative fuel by reason of an order or  
5 regulation pursuant to §125 of the Clean Air Act;

6 (4) Use of an alternative fuel at a steam generating unit to the  
7 extent that the fuel is generated from municipal solid waste;

8 (5) Use of an alternative fuel or raw material by an air  
9 pollution emission source which:

10 (A) The source was capable of accommodating before  
11 July 1, 1979, unless such change would be prohibited pursuant  
12 to any federally enforceable permit condition which was  
13 established after January 1, 1979, pursuant to 40 CFR §52.21, as  
14 amended, or under regulations approved pursuant to 40 CFR  
15 Part 51 Subpart I, as amended, or 40 CFR §51.166, as amended;  
16 or

17 (B) The source is approved to use under any permit  
18 issued under regulations approved pursuant to 40 CFR Part 51  
19 Subpart I, as amended;

20 (6) An increase in the hours of operation or in the production  
21 rate, unless such change would be prohibited under any federally  
22 enforceable permit condition which was established after July 1, 1979,  
23 pursuant to 40 CFR §52.21, as amended, or under regulations  
24 approved pursuant to 40 CFR Part 51 Subpart I, as amended, or 40  
25 CFR §51.166, as amended; or

1                   (7) Any change in ownership of an air pollution emission  
2 source.

3                   (f) "*Major NAA source*" means, with respect to air pollution  
4 emission sources located in nonattainment areas:

5                   (1) Any air pollution emission sources which emits, or has  
6 the potential to emit, one hundred (100) tons per year or more of any  
7 pollutant subject to regulation approved pursuant to the Clean Air  
8 Act or these Standards and Regulations;

9                   (2) Any physical change that would occur at an air pollution  
10 emission source not otherwise qualifying under this definition as a  
11 major NAA source, if the changes would constitute a major NAA  
12 source by itself. A major NAA source that is major for volatile  
13 organic compounds shall be considered major for ozone. The fugitive  
14 emissions of an air pollution emission source shall not be included in  
15 determining whether the source is a major NAA source, unless the  
16 source belongs to one of the following categories of air pollution  
17 emission sources:

18                   (A) Coal cleaning plants (with thermal dryers);

19                   (B) Kraft pulp mills;

20                   (C) Portland cement plants;

21                   (D) Primary zinc smelters;

22                   (E) Iron and steel mills;

23                   (F) Primary aluminum ore reduction plants;

24                   (G) Primary copper smelters;

25                   (H) Municipal incinerators capable of charging more

1 than 250 tons of refuse per day;

2 (I) Hydrofluoric, sulfuric, or nitric acid plants;

3 (J) Petroleum refineries;

4 (K) Lime plants;

5 (L) Phosphate rock processing plants;

6 (M) Coke oven batteries;

7 (N) Sulfur recovery plants;

8 (O) Carbon black plants (furnace process);

9 (P) Primary lead smelters;

10 (Q) Fuel conversion plants;

11 (R) Sintering plants;

12 (S) Secondary metal production plants;

13 (T) Chemical process plants;

14 (U) Fossil fuel boilers (or combination thereof) totaling  
15 more than 250 million BTU per hour heat input;

16 (V) Petroleum storage and transfer units with a total  
17 storage capacity exceeding 300,000 barrels;

18 (W) Taconite ore processing plants;

19 (X) Glass fiber processing plants;

20 (Y) Charcoal production plants;

21 (Z) Fossil fuel fired steam electric plants of more than  
22 250 million BTU per hour heat input; or

23 (AA) Any other air pollution emission source  
24 category which, as of August 7, 1980, is being regulated  
25 pursuant to §§111 or 112 of the Clean Air Act.

1           (g) "*Major PSD modification*" means any physical change in or  
2 change in the method of operation of a major PSD source that would result  
3 in a significant net emissions increase of any pollutant subject to  
4 regulations approved pursuant to the Clean Air Act or these Standards and  
5 Regulations. Any net emissions increase that is significant for volatile  
6 organic compounds shall be considered significant for ozone. A physical  
7 change or change in the method of operation shall not include:

8           (1) Routine maintenance, repair, and replacement;

9           (2) Use of an alternative fuel or raw material by reason of an  
10 order pursuant to §§2(a) and 2(b) of the Federal Energy Supply And  
11 Environmental Coordination Act of 1974 or any superseding  
12 legislation or by reason of a natural gas curtailment plan pursuant to  
13 the Federal Power Act;

14           (3) Use of an alternative fuel by reason of an order or  
15 regulation pursuant to §125 of the Clean Air Act;

16           (4) Use of an alternative fuel at a steam generating unit to the  
17 extent that the fuel is generated from municipal solid waste;

18           (5) Use of an alternative fuel or raw material by an air  
19 pollution emission source which:

20           (A) The source was capable of accommodating before  
21 January 6, 1975, unless such change would be prohibited  
22 pursuant to any federally enforceable permit condition which  
23 was established after January 6, 1975, pursuant to 40 CFR  
24 §52.21, as amended, or to regulations approved pursuant to 40  
25 CFR Part 51 Subpart I, as amended, or 40 CFR §51.166, as

1 amended; or

2 (B) The source is approved to use under any permit  
3 issued pursuant to 40 CFR §52.21, as amended, or regulations  
4 approved pursuant to 40 CFR §51.166, as amended;

5 (6) An increase in the hours of operation or in the production  
6 rate, unless such change would be prohibited under any federally  
7 enforceable permit condition which was established after January 6,  
8 1975, pursuant to 40 CFR §52.21, as amended, or regulations  
9 approved pursuant to 40 CFR Part 51 Subpart I, as amended, or 40  
10 CFR §51.166, as amended; or

11 (7) Any change in ownership of an air pollution emission  
12 source.

13 (h) "*Major PSD source*" means, (a) with respect to air pollution  
14 emission sources which are not located in nonattainment areas:

15 (1) Any of the following air pollution emission sources which  
16 emits, or has the potential to emit, one hundred tons per year or more  
17 of any pollutant subject to regulation approved pursuant to the Clean  
18 Air Act or these Standards and Regulations:

19 (A) Fossil fuel fired steam electric plants of more than  
20 250 million BTU per hour heat input;

21 (B) Coal Cleaning plants (with thermal dryers);

22 (C) Kraft pulp mills;

23 (D) Portland cement plants;

24 (E) Primary zinc smelters;

25 (F) Iron and steel mills;

- 1 (G) Primary aluminum ore reduction plants;  
2 (H) Primary copper smelters;  
3 (I) Municipal incinerators capable of charging more  
4 than 250 tons of refuse per day;  
5 (J) Hydrofluoric, sulfuric, and nitric acid plants;  
6 (K) Petroleum refineries;  
7 (L) Lime plants;  
8 (M) Phosphate rock processing plants;  
9 (N) Coke oven batteries;  
10 (O) Sulfur recovery plants;  
11 (P) Carbon black plants (furnace process);  
12 (Q) Primary lead smelters;  
13 (R) Fuel conversion plants;  
14 (S) Sintering plants;  
15 (T) Secondary metal production plants;  
16 (U) Chemical process plants;  
17 (V) Fossil fuel boilers (or combinations thereof) totaling  
18 more than 250 million BTU per hour heat input;  
19 (W) Petroleum storage and transfer units with a total  
20 storage capacity exceeding 300,000 barrels;  
21 (X) Taconite ore processing plants;  
22 (Y) Glass fiber processing plants; and  
23 (Z) Charcoal production plants;  
24 (2) Notwithstanding the air pollution emission source size  
25 specified in (1) of this definition, any air pollution emission source

1 which emits, or has the potential to emit 250 tons per year or more of  
2 any air pollutant subject to regulation approved pursuant to the  
3 Clean Air Act or these Standards and Regulations; or

4 (3) Any physical change that would occur at an air pollution  
5 emission source not otherwise qualifying under this definition as a  
6 major PSD source, if the changes would constitute a major PSD  
7 source by itself.

8 (b) A major PSD source that is major for volatile organic  
9 compounds shall be considered major for ozone.

10 (c) The fugitive emissions of an air pollution emission source shall  
11 not be included in determining whether the source is a major PSD source,  
12 unless the source belongs to one of the following categories of air pollution  
13 emission sources:

14 (1) Coal cleaning plants (with thermal dryers);

15 (2) Kraft pulp mills;

16 (3) Portland cement plants;

17 (4) Primary zinc smelters;

18 (5) Iron and steel mills;

19 (6) Primary aluminum ore reduction plants;

20 (7) Primary copper smelters;

21 (8) Municipal incinerators capable of charging more than 250  
22 tons of refuse per day;

23 (9) Hydrofluoric, sulfuric, or nitric acid plants;

24 (10) Petroleum refineries;

25 (11) Lime plants;

- 1 (12) Phosphate rock processing plants;
- 2 (13) Coke oven batteries;
- 3 (14) Sulfur recovery plants;
- 4 (15) Carbon black plants (furnace process);
- 5 (16) Primary lead smelters;
- 6 (17) Fuel conversion plants;
- 7 (18) Sintering plants;
- 8 (19) Secondary metal production plants;
- 9 (20) Chemical process plants;
- 10 (21) Fossil fuel boilers (or combination thereof) totaling more
- 11 than 250 BTU per hour heat input;
- 12 (22) Petroleum storage and transfer units with a total storage
- 13 capacity exceeding three hundred thousand (300,000) barrels;
- 14 (23) Taconite ore processing plants;
- 15 (24) Glass fiber processing plants;
- 16 (25) Charcoal production plants;
- 17 (26) Fossil fuel fired steam electric plants of more than 250
- 18 million BTU per hour heat input; and
- 19 (27) Any other air pollution emission source category which,
- 20 as of August 7, 1980, is being regulated pursuant to §§111 or 112 of
- 21 the Clean Air Act.
- 22 (i) "NAA" means nonattainment area.
- 23 (j) "NAA *pollutant*" means the pollutant for which a national
- 24 ambient air quality standard or a Guam ambient air quality standard is
- 25 exceeded.

1           (k) "*NAA source*" means any major NAA source or major NAA  
2 modification.

3           (l) "*Net emissions increase*" means (a) the amount by which the  
4 sum of the following exceeds zero:

5                   (1) Any increase in actual emissions from a particular  
6 physical change or change in method of operation at an air pollution  
7 emission source; and

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

11           (b) An increase or decrease in actual emissions is contemporaneous  
12 with the increase from the particular change only if it occurs between:

13                   (1) The date five (5) years before construction of the  
14 particular change commences; and

15                   (2) The date that the increase from the particular change  
16 occurs.

17           (c) An increase or decrease in actual emissions is creditable only if  
18 the Administrator has not relied on it in issuing a permit for the source  
19 pursuant to these Standards and Regulations, which permit is in effect  
20 when the increase in actual emissions from the particular change occurs.

21           (d) An increase in actual emissions is creditable only to the extent  
22 that the new level of actual emissions exceeds the old level.

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

24                   (1) The old level of actual emissions or the old level of  
25 allowable emissions, whichever is lower, exceeds the new level of

1 actual emissions;

2 (2) It is federally enforceable at and after the time that actual  
3 construction on the particular change begins; and

4 (3) It has approximately the same qualitative significance for  
5 public health and welfare as that attributed to the increase from the  
6 particular change.

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

12 (m) "*Nonattainment Area*" means an area designated in 40 CFR  
13 Part 81, as amended, as exceeding a NAAQS, or an area in which the Guam  
14 ambient air quality standards are exceeded.

15 (n) "*PSD Source*" means any major PSD source or major PSD  
16 modification.

17 (o) "*Reasonable further Progress*" shall mean the annual emission  
18 increment reduction of the applicable air pollutant which is sufficient in the  
19 judgment of the Administrator for attainment of the applicable air quality  
20 standards by the date required under §172 of the Clean Air Act.  
21 Reasonable further progress is based upon the actual emissions of sources  
22 located within the designated non-attainment area and shall be deemed to  
23 have occurred when the construction of a NAA source together with the  
24 offset will result in a net air quality benefit.

25 **Section 1105.2. Source Applicability.** (a) The preconstruction

1 review requirements of this Section are additional requirements for  
2 considering an application for an air pollution control permit required by  
3 §1104.

4 (b) No air pollution emission source or modification to which the  
5 requirements of this Section apply shall begin actual construction without  
6 an air pollution control permit which states that the air pollution emission  
7 source or modification would meet the requirements of this Section.

8 (c) The requirements of §1105.3 shall apply to any PSD source with  
9 respect to each pollutant that it would emit that is subject to regulation  
10 pursuant to the Clean Air Act.

11 (d) The requirements of §§1105.4 and 1105.5 shall apply to any  
12 NAA source with respect to each pollutant that it would emit that is subject  
13 to regulation pursuant to the Clean Air Act.

14 (e) The requirements of §1105.6 shall apply to any air pollution  
15 emission source that emits an NAA pollutant in a nonattainment area and  
16 is not a NAA source.

17 **Section 1105.3. PSD review.** (a) The provisions of 40 CFR  
18 Part §52.21 (b) through (w), as amended, are hereby incorporated into these  
19 Standards and Regulations, unless designated otherwise in this Section, to  
20 ensure the prevention of significant deterioration of air quality in areas not  
21 designated as non-attainment areas.

22 (b) At such times that GEPA is delegated the authority to conduct  
23 source reviews pursuant to 40 CFR §52.21 (u), as amended, all applicable  
24 PSD sources will apply to GEPA to ensure compliance with the source  
25 review requirements of 40 CFR §52.21 (i) through (r), as amended.

1           (c) At such times that GEPA is not delegated the authority to  
2 conduct source reviews pursuant to 40 CFR §52.21 (u), as amended, all  
3 applicable PSD sources shall apply to USEPA in accordance with the  
4 provisions of 40 CFR §52.21 (i) through (r), as amended. A copy of the  
5 application shall be sent concurrently to GEPA. In addition, sources are  
6 also required to obtain a permit in accordance to §1104.

7           **Section 1105.4. NAA Review.** (a) Except as provided in  
8 Subsections (c) through (e), no air pollution control permit shall be issued  
9 to an owner or operator proposing to construct a NAA source unless:

10           (1) The NAA source will meet an emission limitation which  
11 is the lowest achievable emission rate for that source and that NAA  
12 pollutant;

13           (2) The owner or operator of the NAA source certifies that all  
14 existing major sources owned or operated by that person in Guam  
15 are in compliance with all terms and conditions contained in air  
16 pollution control permits of each of the sources;

17           (3) The owner or operator demonstrates that emission  
18 reductions for the NAA pollutant from the existing sources in the  
19 allowable offset area of the NAA source (whether or not under the  
20 same ownership) meet the requirements in §1105.5;

21           (4) The owner or operator demonstrates that emissions will  
22 not cause concentrations of the NAA pollutant to exceed the  
23 applicable increase over the baseline concentration as defined and  
24 established for any attainment area;

25           (5) There are no federal or GEPA rules that would otherwise

1 prohibit construction of the NAA source in nonattainment area.

2 (b) Except as provided in Subsection (e), no air pollution control  
3 permit shall be issued to an owner or operator proposing to construct a  
4 NAA source when the NAA pollutant is a volatile organic compound or  
5 carbon monoxide (or both) unless:

6 (1) The owner or operator performs an analysis of alternative  
7 sites, sizes, production processes and environmental control  
8 techniques for such NAA source; and

9 (2) The Administrator determines that the analysis  
10 demonstrates that the benefits of the NAA source outweigh the  
11 environmental and social costs imposed as a result of its location,  
12 construction or modification.

13 (c) The requirements of Subsection (a)(3) shall not apply to  
14 emissions of a NAA pollutant if the owner or operator can demonstrate  
15 that the emissions from the NAA source are temporary in nature, including  
16 but not limited to, those from a pilot plant, a portable facility, or  
17 construction, and notice is given to the Administrator at least ten (10)  
18 working days prior to relocation of such NAA source identifying the  
19 proposed new location and the probable duration of such operation at such  
20 location.

21 (d) New resource recovery projects burning municipal solid waste  
22 and sources compelled to undergo a major NAA modification by Federal  
23 law shall be exempt from the requirements of Subsection (a)(3), if such  
24 source demonstrates that:

25 (1) The owner or operator made the best efforts to meet the

1 requirements of Subsection (a)(3), and such efforts were unsuccessful;

2 (2) All available emission offsets have been or will be  
3 secured; and

4 (3) The owner or operator will continue to seek offsets and  
5 apply them when they become available.

6 (e) The Administrator, at his sole discretion, may exempt an NAA  
7 source from some or all of the requirements of Subsections (a) and (b), if  
8 there are no federal prohibitions from such action or USEPA has issued a  
9 waiver from all federal requirements that would otherwise prohibit such  
10 action. In such cases the Administrator may determine if the requirements  
11 of §1105.3 should be used in place of the requirements of this Section.

12 **Section 1105.5. NAA Offset Standards.** (a) Increased  
13 emissions from a NAA source subject to this Section must be offset by the  
14 reductions in the emissions of each NAA pollutant for which the air  
15 pollution emission source is classified as a major NAA source. Such offset  
16 may be obtained by reductions in emissions from the NAA source or from  
17 any other air pollution emission source or mobile source in the allowable  
18 offset area. The offsets must be in effect and legally enforceable by the time  
19 the NAA source commences operation.

20 (b) An offset will not be sufficient unless total emissions for the  
21 NAA pollutant in the allowable offset area after the NAA source  
22 commences operation will be less than the baseline of the total emission for  
23 the NAA pollutant and such reductions are sufficient to satisfy the  
24 Administrator that emissions from the NAA source together with the offset  
25 will result in reasonable further progress for the NAA pollutant in the

1 allowable offset area.

2 (c) Only emission offsets for the same NAA pollutant will be  
3 allowed.

4 (d) The emission offsets must be effective for the useful life of the  
5 NAA source.

6 (e) For the purposes of this Section, "net air quality benefit" shall  
7 mean that during similar time periods:

8 (1) A reduction in the number of violations of the applicable  
9 ambient air standard within the allowable offset areas has occurred,  
10 or

11 (2) The average of ambient concentrations within the  
12 allowable offset area following implementation of the offsets will be  
13 less than the average of the ambient concentration within the  
14 allowable offset area without the offsets.

15 (f) For an existing fuel combustion source, offset credit shall be  
16 based on the allowable emissions in accordance with these Standards and  
17 Regulations for the type of fuel being burned at the time the air pollution  
18 control permit is filed. Reduced emissions from an existing source caused  
19 by a change to a cleaner fuel may be used to offset emissions from the NAA  
20 source provided the fuel change will occur prior to commencement of  
21 operation of the NAA source. The air pollution control permit shall require  
22 the installation and use of an alternative control measure which will  
23 achieve the same degree of emission reduction should the source switch  
24 back to a less clean fuel at some later date. In the event a source can  
25 demonstrate that it has secured an adequate long-term supply of the new

1 cleaner fuel, an air pollution control permit pursuant to §1104 shall not  
2 require the installation and use of an alternative control measure.

3 (g) Offsets shall be made on either a pounds per hour, pounds per  
4 day, or tons per year basis, whichever is applicable, when all facilities  
5 involved in the emission offset calculations are operating at maximum  
6 expected or allowed production rate, except as otherwise provided in  
7 Section (f), utilizing the type of fuel burned at the time the air pollution  
8 control permit application is filed.

9 (h) Offsets that exceed the requirements for reasonable further  
10 progress toward attainment may be "banked" (saved to provide offsets for a  
11 source seeking a permit in the future). An existing source that reduces its  
12 own emissions may bank resulting reductions beyond those required by  
13 this Section, even if more of the offsets are applied immediately to an air  
14 pollution control permit. Written verification is necessary for the existing  
15 source to claim credit for the banked reductions.

16 (i) A NAA source may be credited with an emission offset (which  
17 may include banked emissions) by shutting down an existing source or  
18 permanently curtailing production or operating hours below actual  
19 baseline levels provided that the work force to be affected has been notified  
20 of the proposed shutdown or curtailment. Source shutdowns and  
21 curtailments in production or operating hours occurring prior to the date  
22 the air pollution control permit application is filed may generally not be  
23 used for offset credit unless the shutdown or curtailed production occurred  
24 after August 7, 1977, or less than one year prior to the date of application,  
25 whichever is earlier, and the proposed air pollution emission source is a

1 replacement for the shutdown or curtailment.

2 (j) The allowable offset area shall refer to the geographical area  
3 where sources are located in which emissions are sought for purposes of  
4 offsetting emission from NAA sources. For the pollutants sulfur dioxide,  
5 particulate, and carbon monoxide, the allowable offset area shall be any  
6 area where national or Guam ambient air quality standards for these  
7 pollutants are violated and in which significant levels are exceeded due to  
8 emissions from such new major source or major modification. The  
9 allowable offset area shall be determined by atmospheric simulation  
10 modeling. If emission offsets are obtained from a source on the same  
11 premises or in the immediate vicinity of the new major source or major  
12 modification, and the pollutants are emitted from substantially the same  
13 effective stack height, atmospheric simulation modeling shall not be  
14 required. The allowable offset area for all other pollutants shall be non-  
15 attainment areas for those pollutants.

16 (k) An emissions reduction may only be used to offset emissions if  
17 the reduced level of emissions is federally enforceable and legally  
18 enforceable by the Administrator. It will be considered legally enforceable  
19 by the Administrator if it is included as a condition in the air pollution  
20 control permit issued to the air pollution control permit where emission  
21 reductions are used to offset emissions from the proposed NAA source, or  
22 in the case of reductions from sources controlled by the applicant, is  
23 included as a condition of the air pollution control permit, or is adopted as  
24 part of these Standards and Regulations.

25 (l) Credit for an emissions reduction can be claimed to the extent

1 that it has not already been included as a condition in an air pollution  
2 control permit or in demonstrating attainment or reasonable further  
3 progress under this Section.

4 (m) An offset required by this Section may include reductions that  
5 result from Territorial or federal measures to reduce emissions from a  
6 source in existence in amount sufficient to offset emissions from a NAA  
7 source.

8 **Section 1105.6. Other Nonattainment Area Air Pollution Emission**  
9 **Sources.** No air pollution control permit shall be issued to an owner or  
10 operator proposing to construct an air pollution emission source other than  
11 a NAA source that would emit a NAA pollutant in a nonattainment area  
12 unless:

13 (1) There are no federal or GEPA rules that would otherwise  
14 prohibit construction of the air pollution emission source in a  
15 nonattainment area, and

16 (2) The Administrator is satisfied that emissions from the air  
17 pollution emission source will not impede reasonable further  
18 progress toward attainment of the applicable air quality standards by  
19 the date required under §172 of the Clean Air Act.

20 **Section 1106 - Standards of Performance for Air Pollution Emission**  
21 **Sources.**

22 **Section 1106.1. Source Applicability.** (a) The standards of  
23 performance requirements of this Section are additional requirements for  
24 considering an application for an air pollution control permit required by  
25 §1104.

1 (b) No air pollution emission source or modification to which the  
2 requirements of this Section apply shall begin or continue construction,  
3 reconstruction, modification, relocation, or operation without an air  
4 pollution control permit which states that the air pollution emission source  
5 or modification would meet the requirements of this Section.

6 **Section 1106.2. New Source Performance Standards.** (a) Each  
7 owner or operator of an air pollution emission source shall comply with all  
8 applicable requirements of 40 CFR Part 60, as amended, entitled "Standards  
9 of Performance for New Stationary Sources", and is incorporated herein by  
10 reference, unless clearly designated otherwise.

11 (b) At such times that USEPA requires owners and operators of  
12 solid waste incinerators subject to the permitting requirements of §129(e) of  
13 the Clean Air Act to apply for and obtain federal operating permits under  
14 the provisions of 40 CFR Part 71, as amended, a copy of the federal permit  
15 application shall be sent concurrently to GEPA. In addition, sources are  
16 also required to obtain an air pollution control permit in accordance to  
17 §1104.

18 **Section 1107. - Hazardous Air Pollutant Sources.**

19 **Section 1107.1. Definitions.** As used in this Section:

20 (a) "*Area source*" means any air pollution emission source of  
21 hazardous air pollutants that is not a major source but shall not include  
22 motor vehicles or nonroad vehicles subject to regulation approved  
23 pursuant to Title II of the Clean Air Act.

24 (b) "*CAS*" means Chemical Abstract Service.

25 (c) "*Category*" means any category of major sources and area

1 sources of hazardous air pollutants listed pursuant to §112(c) of the Clean  
2 Air Act.

3 (d) "*Major source*" means an air pollution emission source, or a  
4 group of air pollution emission sources that are located on one or more  
5 contiguous properties or adjacent properties, and are under common  
6 control of the same person or command or persons under common control,  
7 belonging to a single major industrial grouping (i.e., all have the same two-  
8 digit Standard Industrial Classification Code) and that emits or has the  
9 potential to emit, considering controls any hazardous air pollutant, except  
10 radionuclides, in the aggregate of ten (10) tons per year or more including  
11 fugitive emissions, or twenty-five (25) tons per year or more of any  
12 combination including fugitive emissions. For radionuclides, major source  
13 shall have the meaning specified by the USEPA Administrator by rule.

14 (e) "*Modification*" means any physical change in, or change in the  
15 method of operation of, a major source of hazardous air pollutants, which  
16 results in an increase of actual emissions of any hazardous air pollutant, or  
17 the emission of any hazardous air pollutant not previously emitted; except  
18 that upon promulgation of any standard or other requirements pursuant to  
19 §112(g) of the Clean Air Act that establishes a *de minimis* amount,  
20 "modification" applies only to:

21 (1) An increase of actual emissions of any hazardous air  
22 pollutant by more than the *de minimis* amount; or

23 (2) The emission of any hazardous air pollutant not  
24 previously emitted by more than the *de minimis* amount.

25 **Section 1107.2 List of Hazardous Air Pollutants.** The following

1 are hazardous air pollutants:

2		<b>CAS Number</b>	<b>Chemical Name</b>
3	(1)	75070	Acetaldehyde
4	(2)	60355	Acetamide
5	(3)	75058	Acetonitrile
6	(4)	98862	Acetophenone
7	(5)	53963	2-Acetylaminofluorene
8	(6)	107028	Acrolein
9	(7)	79061	Acrylamide
10	(8)	79107	Acrylic acid
11	(9)	107131	Acrylonitrile
12	(10)	107051	Allyl chloride
13	(11)	92671	4-Aminobiphenyl
14	(12)	62533	Aniline
15	(13)	90040	o-Anisidine
16	(14)	1332214	Asbestos
17	(15)	71432	Benzene (including benzene from gasoline)
18	(16)	92875	Benzidine
19	(17)	98077	Benzotrichloride
20	(18)	100447	Benzyl chloride
21	(19)	92524	Biphenyl
22	(20)	117817	Bis(2-ethylhexyl)phthalate (DEHP)
23	(21)	542881	Bis(chloromethyl)ether
24	(22)	75252	Bromoform
25	(23)	106990	1,3-Butadiene

1	(24)	156627	Calcium cyanamide
2	(25)	133062	Captan
3	(26)	63252	Carbaryl
4	(27)	75150	Carbon disulfide
5	(28)	56235	Carbon tetrachloride
6	(29)	463581	Carbonyl sulfide
7	(30)	120809	Catechol
8	(31)	133904	Chloramben
9	(32)	57749	Chlordane
10	(33)	7782505	Chlorine
11	(34)	79118	Chloroacetic acid
12	(35)	532274	2-Chloroacetophenone
13	(36)	108907	Chlorobenzene
14	(37)	510156	Chlorobenzilate
15	(38)	67663	Chloroform
16	(39)	107302	Chloromethyl methyl ether
17	(40)	126998	Chloroprene
18	(41)	1319773	Cresols/Cresylic acid (isomers and mixture)
19	(42)	95487	o-Cresol
20	(43)	108394	m-Cresol
21	(44)	106445	p-Cresol
22	(45)	98828	Cumene
23	(46)	94757	2,4-D (2,4-Dichlorophenoxyacetic acid, including
24			salts and esters)
25	(47)	72559	DDE (1,1-dichloro-2,2-bis(p-chlorophenyl)ethylene)

1	(48)	334883	Diazomethane
2	(49)	132649	Dibenzofuran
3	(50)	96128	1,2-Dibromo-3-chloropropane
4	(51)	84742	Dibutylphthalate
5	(52)	106467	1,4-Dichlorobenzene
6	(53)	91941	3,3-Dichlorobenzidine
7	(54)	111444	Dichloroethyl ether (Bis(2-chloroethyl)-ether)
8	(55)	542756	1,3-Dichloropropene
9	(56)	62737	Dichlorvos
10	(57)	111422	Diethanolamine
11	(58)	121697	N,N-Dimethylaniline
12	(59)	64675	Diethyl sulfate
13	(60)	119904	3,3'-Dimethoxybenzidine
14	(61)	60117	Dimethyl aminoazobenzene
15	(62)	119937	3,3'-Dimethylbenzidine
16	(63)	79447	Dimethylcarbamoyl chloride
17	(64)	68122	N,N-Dimethylformamide
18	(65)	57147	1,1-Dimethylhydrazine
19	(66)	131113	Dimethyl phthalate
20	(67)	77781	Dimethyl sulfate
21	(68)	0	4,6-Dinitro-o-cresol, and salts
22	(69)	51285	2,4-Dinitrophenol
23	(70)	121142	2,4-Dinitrotoluene
24	(71)	123911	1,4-Dioxane (1,4-Diethyleneoxide)
25	(72)	122667	1,2-Diphenylhydrazine

1	(73)	106898	Epichlorohydrin (1-Chloro-2,3-epoxypropane)
2	(74)	106887	1,2-Epoxybutane
3	(75)	140885	Ethyl acrylate
4	(76)	100414	Ethylbenzene
5	(77)	51796	Ethyl carbamate (Urethane)
6	(78)	75003	Ethyl chloride (Chloroethane)
7	(79)	106934	Ethylene dibromide (Dibromoethane)
8	(80)	107062	Ethylene dichloride (1,2-Dichloroethane)
9	(81)	107211	Ethylene glycol
10	(82)	151564	Ethyleneimine (Aziridine)
11	(83)	75218	Ethylene oxide
12	(84)	96457	Ethylene thiourea
13	(85)	75343	Ethylidene dichloride (1,1-Dichloroethane)
14	(86)	50000	Formaldehyde
15	(87)	76448	Heptachlor
16	(88)	118741	Hexachlorobenzene
17	(89)	87683	Hexachlorobutadiene
18	(90)	58899	1,2,3,4,5,6-Hexachlorocyclohexane (all stereo
19			isomers, including lindane)
20	(91)	77474	Hexachlorocyclopentadiene
21	(92)	67721	Hexachloroethane
22	(93)	822060	Hexamethylene-1,6-diisocyanate
23	(94)	680319	Hexamethylphosphoramide
24	(95)	110543	Hexane
25	(96)	302012	Hydrazine

1	(97)	7647010	Hydrochloric acid (Hydrogen chloride) (gas only)
2	(98)	7664393	Hydrogen fluoride (Hydrofluoric acid)
3	(99)	7783065	Hydrogen sulfide
4	(100)	123319	Hydroquinone
5	(101)	78591	Isophorone
6	(102)	108316	Maleic anhydride
7	(103)	67561	Methanol
8	(104)	72435	Methoxychlor
9	(105)	74839	Methyl bromide (Bromomethane)
10	(106)	74873	Methyl chloride (Chloromethane)
11	(107)	71556	Methyl chloroform (1,1,1-Trichloroethane)
12	(108)	78933	Methyl ethyl ketone (2-Butanone)
13	(109)	60344	Methylhydrazine
14	(110)	74884	Methyl iodide (Iodomethane)
15	(111)	108101	Methyl isobutyl ketone (Hexone)
16	(112)	624839	Methyl isocyanate
17	(113)	80626	Methyl methacrylate
18	(114)	1634044	Methyl tert-butyl ether
19	(115)	101144	4,4'-Methylene bis(2-chloroaniline)
20	(116)	75092	Methylene chloride (Dichloromethane)
21	(117)	101688	4,4' Methylenediphenyl diisocyanate (MDI)
22	(118)	101779	4,4'-Methylenedianiline
23	(119)	91203	Naphthalene
24	(120)	98953	Nitrobenzene
25	(121)	92933	4-Nitrobiphenyl

1	(122)	100027	4-Nitrophenol
2	(123)	79469	2-Nitropropane
3	(124)	684935	N-Nitroso-N-methylurea
4	(125)	62759	N-Nitrosodimethylamine
5	(126)	59892	N-Nitrosomorpholine
6	(127)	56382	Parathion
7	(128)	82688	Pentachloronitrobenzene (Quintobenzene)
8	(129)	87865	Pentachlorophenol
9	(130)	108952	Phenol
10	(131)	106503	p-Phenylenediamine
11	(132)	75445	Phosgene
12	(133)	7803512	Phosphine
13	(134)	7723140	Phosphorus
14	(135)	85449	Phthalic anhydride
15	(136)	1336363	Polychlorinated biphenyls (Aroclors)
16	(137)	1120714	1,3-Propane sultone
17	(138)	57578	beta-Propiolactone
18	(139)	123386	Propionaldehyde
19	(140)	114261	Propoxur (Baygon)
20	(141)	78875	Propylene dichloride (1,2-Dichloropropane)
21	(142)	75569	Propylene oxide
22	(143)	75558	1,2-Propylenimine (2-Methyl aziridine)
23	(144)	91225	Quinoline
24	(145)	106514	Quinone
25	(146)	100425	Styrene

1	(147)	96093	Styrene oxide
2	(148)	1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin
3	(149)	79345	1,1,2,2-Tetrachloroethane
4	(150)	127184	Tetrachloroethylene
5	(151)	7550450	(Perchloroethylene)
6	(152)	108883	Titanium tetrachloride
7	(153)	95807	Toluene
8	(154)	584849	2,4-Toluenediamine
9	(155)	95534	2,4-Toluene diisocyanate
10	(156)	8001352	o-Toluidine
11	(157)	120821	Toxaphene (chlorinated camphene)
12	(158)	79005	1,2,4-Trichlorobenzene
13	(159)	79016	1,1,2-Trichloroethane
14	(160)	95954	Trichloroethylene
15	(161)	88062	2,4,5-Trichlorophenol
16	(162)	121448	2,4,6-Trichlorophenol
17	(163)	1582098	Triethylamine
18	(164)	540841	Trifluralin
19	(165)	108054	2,2,4-Trimethylpentane
20	(166)	593602	Vinyl acetate
21	(167)	75014	Vinyl bromide
22	(168)	75354	Vinyl chloride
23			Vinylidene chloride (1,1-
24	(169)	1330207	Dichloroethylene)
25	(170)	95476	Xylenes (isomers and mixture)

1	(171)	108383	o-Xylene
2	(172)	106423	m-Xylene
3	(173)	0	p-Xylene
4	(174)	0	Antimony Compounds
5			Arsenic Compounds (inorganic including Arsine)
6	(175)	0	Beryllium Compounds
7	(176)	0	Cadmium Compounds
8	(177)	0	Chromium Compounds
9	(178)	0	Cobalt Compounds
10	(179)	0	Coke Oven Emissions
11	(180)	0	Cyanide Compounds <sup>1</sup>
12	(181)	0	Glycol ethers <sup>2</sup>
13	(182)	0	Lead Compounds
14	(183)	0	Manganese Compounds
15	(184)	0	Mercury Compounds
16	(185)	0	Fine mineral fibers <sup>3</sup>
17	(186)	0	Nickel Compounds
18	(187)	0	Polycyclic Organic Matter <sup>4</sup>
19	(188)	0	Radionuclides (including radon)
20			Selenium Compounds

21       NOTE:       For all listings above which contain the word "compounds" and  
22 for glycol ethers, the following applies: Unless otherwise specified, these listings  
23 are defined as including any unique chemical substance that contains the named  
24 chemical (i.e., Antimony, arsenic, etc.) as part of that chemical's infrastructure.

25                   <sup>1</sup> X'CN where X = H' or any other group where a formal dissociation

1 may occur. For example, KCN or Ca(CN)<sub>2</sub>.

2 <sup>2</sup>Includes moni- and di- ethers of ethylene glycol, diethylene glycol,  
3 and triethylene glycol R-(OCH<sub>2</sub>CH<sub>2</sub>)<sub>n</sub>-OR' where: or

4 n = 1, 2, or 3

5 R = alkyl or aryl groups

6 R' = R, H, or groups which, when removed, yield glycol ethers with  
7 the structure:

8 R-(OCH<sub>2</sub>CH<sub>2</sub>)<sub>n</sub>-OH. Polymers are excluded from the glycol category.

9 <sup>3</sup> Includes mineral fiber emissions from facilities manufacturing or  
10 processing glass, rock, or slag fibers (or other mineral derived fibers) of  
11 average diameter one micrometer or less.

12 <sup>4</sup> Includes organic compounds with more than one benzene ring, and  
13 which have a boiling point greater than or equal to 100° C.

14 <sup>5</sup> A type of atom which spontaneously undergoes radioactive decay.

15 **Section 1107.3. Applicability.** (a) The provisions of this  
16 Section are applicable to any air pollution emission source which emits or  
17 has the potential to emit any hazardous air pollutant. No air pollution  
18 emission source or modification to which the requirements of this Section  
19 apply shall begin or continue construction, reconstruction, modification,  
20 relocation, or operation without an air pollution control permit which states  
21 that the air pollution emission source or modification would meet the  
22 requirements of this Section.

23 (b) Except as provided in Subsection (e), each owner or operator of  
24 an air pollution emission source shall comply with all applicable  
25 requirements of 40 CFR Part 61, as amended, entitled "National Emission

1 Standards for Hazardous Air Pollutants,” and is hereby incorporated by  
2 reference except as amended in Subsection (d).

3 (c) Each owner or operator of an air pollution emission source shall  
4 comply with all applicable requirements of 40 CFR Part 63, as amended,  
5 entitled "National Emission Standards for Hazardous Air Pollutants for  
6 Source Categories.” and is incorporated herein by reference.

7 (d) Word and phrase substitutions for 40 CFR Part 61, as amended:

8 "*Administrator*" means the Administrator of GEPA or an  
9 authorized agent, officer, or inspector, except in 40 CFR Part 61 §§  
10 150(a)(4), 152(b)(3), and 154(d), as amended.

11 "*U.S. Environmental Protection Agency*" means USEPA.

12 (e) The national emission standard for asbestos, 40 CFR Part 61  
13 Subpart M, as amended, is not included in the requirements of this Section.  
14 Asbestos requirements are specified in §1103.13.

15 (f) At such times that USEPA requires owners and operators of  
16 major sources of hazardous air pollutants to apply for and obtain federal  
17 operating permits under the provisions of 40 CFR Part 71, as amended, a  
18 copy of the federal permit application shall be sent concurrently to GEPA.  
19 In addition, sources are also required to obtain an air pollution control  
20 permit in accordance to §1104.

21 **Appendix A to Section 1104.10. Transition Period and Deadlines to**  
22 **Submit First Applications.**

23	<b>Number of Months from the Effective Date of</b>	
24	<b>Permit Type:</b>	<b>these Standards and Regulations</b>

1	Major Sources/	6 months
2	PSD/NAA	10 months
3	NSPS Sources	10 months
4	NESHAP Sources	12 months
5	All others	