[Bracketed and ~~strikethrough~~] material is that portion being deleted
Underlined and italicized material is that portion being added

BILL NO. 12-3-24-1

SUMMARY - An ordinance to amend Clark County Air Quality Regulations Sections 92 and 92 to update applicability, add new requirements, revise existing requirements, and add clarifying language.

ORDINANCE NO. 5205
(of Clark County, Nevada)

AN ORDINANCE TO AMEND CLARK COUNTY AIR QUALITY REGULATIONS SECTION 92, "FUGITIVE DUST CONTROL REQUIREMENTS FOR UNPAVED PARKING LOTS AND STORAGE AREAS," TO UPDATE APPLICABILITY, DEFINITIONS, STABILIZATION STANDARDS, INSTANTANEOUS TEST METHOD, AND ADD CLARIFYING LANGUAGE; AMEND SECTION 94, "PERMITTING AND DUST CONTROL FOR CONSTRUCTION AND TEMPORARY COMMERCIAL ACTIVITIES AND FUGITIVE DUST CONTROL AT STATIONARY SOURCES," TO UPDATE APPLICABILITY, DEFINITIONS, PERMIT REVOCATION PROCEDURES, DUST CONTROL MONITOR REQUIREMENTS, EMISSIONS STANDARDS, STOCKPILE REQUIREMENTS, INSTANTANEOUS TEST METHOD, LONG-TERM STABILIZATION REQUIREMENTS, AND ADD CLARIFYING LANGUAGE; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

NOW, THEREFORE, THE CLARK COUNTY BOARD OF COUNTY COMMISSIONERS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Clark County Air Quality Regulations Section 92, "Fugitive Dust Control Requirements for Unpaved Parking Lots and Storage Areas," is hereby amended as reflected in Exhibit 1, attached hereto.

SECTION 2. Clark County Air Quality Regulation Section 94, "Permitting and Dust Control for Construction and Temporary Commercial Activities and Fugitive Dust Control at Stationary Sources," is hereby amended as reflected in Exhibit 2, attached hereto.

SECTION 3. If any section of this ordinance, or portion thereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION 4. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases, or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION 5. This ordinance shall take effect and be in force from and after its passage and the publication thereof by title only, together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the 3rd day of December, 2024.

PROPOSED BY: Commissioner Tick Segerblom

PASSED on the 17th day of December 2024.

AYES: Tick Segerblom
William McCurdy II
Justin Jones
Marilyn K. Kirkpatrick
Ross Miller
Michael Naft

NAYS: None

ABSTAINING: None

ABSENT: James B. Gibson

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

By: Tick Segerblom (Dec 22, 2024 15:59 PST)
TICK SEGERBLOM, Chair

ATTEST: Lynn Marie Goya
LYNN GOYA, County Clerk

This ordinance shall be in force and effect from and after the 1st day of January, 2025.

EXHIBIT 1

SECTION 92: FUGITIVE DUST [~~FROM~~]*CONTROL REQUIREMENTS FOR* UNPAVED PARKING LOTS AND STORAGE AREAS

EXHIBIT 1

~~[92.0 Fugitive Dust from Unpaved Parking Lots and Storage Areas]~~

92.1 APPLICABILITY

(a) [~~The provisions of this regulation shall apply~~]*Section 92 applies* to *all* [~~U~~]*u*npaved [~~P~~]*p*arking [~~L~~]*l*ots and storage areas[~~ which~~]*, including those with public access at stationary sources, that* are 5,000 square feet or larger and are located in Hydrographic Areas 212 (Las Vegas Valley), 216 or 217 (Apex Valley), or [~~in~~]any other [~~H~~]*h*ydrographic [~~A~~]*a*rea upon it being designated as nonattainment for PM_{10}; or in any other [~~H~~]*h*ydrographic [~~A~~]*a*rea that becomes subject to a PM_{10} maintenance plan as defined under Title 42, Section 7505a of the U.S. Code (42 U.S. Code [~~§~~]7505a), and is not regulated by Section 94[~~ of the Clark County Air Quality Regulations (AQRs)~~]*, "Permitting and Dust Control for Construction and Temporary Commercial Activities and Fugitive Dust Control at Stationary Sources."*

[~~c~~]*(b)* [~~These provisions shall not apply to Stationary Sources as defined in Section 0, except that the Control Measures and stabilization standards in Section 92.3.4 and 92.4 shall apply to the control of Fugitive Dust Emissions, and be enforced by the terms and conditions of ~~]*Section 92 applies to unpaved parking lots and storage areas that do not have public access at stationary sources in Clark County as part of the consideration of a RACT, BACT, or LAER determination pursuant to Sections 12.1-12.4 of the Clark County Air Quality Regulations (AQRs). In accordance with this determination, provisions of Section 92 shall be incorporated into* the [~~S~~]*s*tationary [~~S~~]*s*ource permit.

[~~b~~]*(c)* Unpaved [~~P~~]*p*arking [~~L~~]*l*ots and storage areas include*, but are not limited to,* automobile impound yards, wrecking yards, automobile dismantling yards, salvage yards, material handling yards, equestrian staging areas, and storage yards.

92.2 DEFINITIONS

Unless the context requires otherwise, [~~T~~]*t*he following terms have the meanings set forth below for the purposes of [~~Section 92~~]*this section*. [~~Any~~]*When a* term *is* not defined*,* [~~in these paragraphs shall have the meaning given in Section 0 or the Clean Air Act~~] *it shall have the meaning provided in Section 0 of the AQRs, Chapter 445B of the Nevada Revised Statutes (NRS), the Clean Air Act (the Act), or common usage, in that order of priority*.

"Alternative asphalt paving" means the application of milled recycled asphalt pavement material in accordance with department specifications that are preapproved in writing by the Control Officer.

"Clean gravel" means a mineral or rock aggregate ranging in size from 0.25[~~-inch~~] to 3[~~-~~]

inches on its longest dimension that is either natural or the product of a mineral processing operation and contains [~~no more~~]less than [~~6~~]5% silt (measured by the percent of soil fines that will pass through a 200-mesh sieve)[~~.~~] by weight as determined using "Procedures for Laboratory Analysis of Surface/Bulk Dust Loading Samples" in AP-42 (App. C.2.3, "Silt Analysis").

"Equestrian staging area" means the area(s) used exclusively to load, unload, and saddle horses; organize riders before a ride; and park vehicles used to transport horses.

"Existing unpaved parking lot(s) and(or) storage area(s)" means parking and storage areas that existed prior to January 1, 2003, or parking and storage areas with public access that existed prior to [*insert rule effective date*], at a stationary source, [~~I~~]in Hydrographic Areas 212, 216, or 217; in any other [~~H~~]hydrographic [~~A~~]area upon its being designated as nonattainment for PM_{10}; or in any other [~~H~~]hydrographic [~~A~~]area that becomes subject to a PM_{10} maintenance plan, as defined under 42 U.S.C. [~~§~~]7505a, and is in compliance with all applicable state and local regulations and codes, including those related to land use and zoning.

92.3 REQUIREMENTS

92.3.0 New Parking Lots or Storage Areas

(a) New parking lots constructed after January 1, 2003, or constructed with public access after [*insert rule effective date*], at a stationary source, as applicable, in Hydrographic Areas 212, 216, or 217; in any other [~~H~~]hydrographic [~~A~~]area upon its being designated as nonattainment for PM_{10}; or in any other [~~H~~]hydrographic [~~A~~]area that becomes subject to a PM10 maintenance plan, as defined under 42 U.S.C. [~~§~~]7505a, must be [~~P~~]paved.

(b) New storage areas constructed after January 1, 2003, or constructed with public access after [*insert rule effective date*], at a stationary source, as applicable, in Hydrographic Areas 212, 216, or 217; in any other [~~H~~]hydrographic [~~A~~]area upon its being designated as nonattainment for PM10; or in any other [~~H~~]hydrographic [~~A~~]area that becomes subject to a PM10 maintenance plan, as defined under 42 U.S.C. [~~§~~]7505a, must comply with the control measures described in Sections 92.3.[~~1.~~]4 (a), (b) or (d).

92.3.1 Existing Unpaved Parking Lot(s) or Storage Area(s)

The owner and/or operator of existing [~~U~~]unpaved [~~P~~]parking [~~L~~]lot(s) or storage area(s) shall implement one or more of the control measures in Section 92.3.4 as needed to comply with the stabilization standards in Section 92.4.

EXHIBIT 1

92.3.2 *Paving* Exempt*ions for* New[~~and Existing Unpaved~~] Parking Lot(s) or Storage Area(s)

The following activities shall be exempt from the paving requirement in Section 92.3.1[~~.2 (a)~~], but must comply with one or more of the control measures in Section 92.3.[~~1.2~~]*4*.

(a) Parking lots for rural public facilities, such as trailheads, campgrounds, and similar facilities, where paved parking lots would conflict with the rural nature of these facilities. A rural public facility shall not include any facility located within the *Bureau of Land Management (*BLM*)* Disposal Boundary.

(b) An area [~~is~~]used for storing and handling of landscaping, aggregate, and other similar bulk materials, provided that all access, parking, and loading areas *primarily* used by [~~on-road vehicles~~]*rubber-tired equipment* are paved.

(c) An area used primarily for storage of non-rubber tired vehicles or tracked or heavy equipment that the Control Officer has determined to be of such weight as to damage or destroy pavement (e.g., heavy equipment), provided that all access, parking, and loading areas primarily used by rubber-tired vehicles are paved.

(d) An area used primarily for automobile impound yards, wrecking yards, automobile dismantling yards, and salvage yards, provided that all access, parking, and loading areas are paved.

[~~d~~]*(e)* Equestrian staging areas designed and used exclusively for the loading, unloading, and saddling of horses for equestrian activities. Posted speed limits for vehicles using such designated areas shall not exceed 10 miles per hour.

[~~e~~]*(f)* [~~An~~]Unpaved [~~P~~]*p*arking [~~L~~]*l*ots and*/or* storage areas utilized [~~intermittently, i.e.,~~]for [~~a period of~~]35 days or less [~~during the~~]*per* calendar year *(continuously or intermittently)*.

92.3.3 Control Measures

For the purpose of [~~this regulation~~]*Section 92*, the control measures set forth below shall be considered effectively implemented when the [~~U~~]*u*npaved [~~P~~]*p*arking [~~L~~]*l*ot[~~s~~] or storage area meets the stabilization standards described in Section 92.4.

(a) Pave, as defined in Section 0*, "Definitions."*

(b) Apply *and maintain* alternative asphalt paving *with prior written approval from the Control Officer*.

(c) [~~u~~]*U*niformly apply and maintain clean gravel to a depth of [~~two~~]*2* inches.

(d) Apply and maintain an alternative control measure with prior written approval from the Control Officer.

92.4 STABILIZATION STANDARDS

(a) [~~f~~]*F*ugitive dust emissions from unpaved parking lots or storage areas shall not exceed*:*

(1) 20[~~ percent~~]% opacity based on the [~~o~~]*O*pacity [~~t~~]*T*est [~~m~~]*M*ethod described in Section 92.6.1[~~.1~~]*;* or

(2) [~~50 percent~~]*35%* opacity based on the [~~i~~]*I*nstantaneous [~~m~~]*M*ethod described in Section 92.6.[~~1.~~]2[~~,~~].

(b) Unpaved parking lots or storage areas shall not exceed 0.33 oz/ft^2 silt loading[~~,~~] or 6[~~ percent~~]% silt content, as determined by Section 92.6[~~1~~].3[~~, except in areas on which clean gravel has been applied under the provisions of Section 92.3.4 (c)~~].

[~~b~~]*(c)* No owner and/or operator of an unpaved parking lot or storage area shall [~~permit a dust plume from it~~]*allow fugitive dust emissions* to cross a property line *or a facility boundary of a stationary source*.

92.5 RECORDKEEPING [~~&~~]*AND* REPORTING

(a) Any person subject to the requirements of [~~this regulation~~]*Section 92*shall compile and retain records that provide evidence of control measure application[~~,~~] by indicating (1) type of treatment or control measure, (2) extent of coverage, and (3) date applied. The records and supporting documentation shall be made available to the Control Officer within 24 hours of a written request.

(b) Copies of the records required by Section 92.5(a) shall be retained for at least one year. Facilities subject to Section 12.5 shall maintain records in accordance with the recordkeeping requirements of Title 40, Part 70 of the Code of Federal Regulations.

92.6 TEST METHODS

92.6.0 Opacity Test Method

The purpose of this test method is to estimate the percent opacity of fugitive dust plumes caused by vehicle movement on [~~U~~]*u*npaved [~~P~~]*p*arking [~~L~~]*l*ots and storage areas. This method can only be conducted by an individual who has received certification as a qualified Visible Emissions Evaluator *(e.g., EPA Method 9-certified observer)*.

(a) Position: Stand at least 16.5 feet from the fugitive dust source in order to provide a clear view of the emissions, with the sun oriented in the 140[~~-degree~~]° sector to the back. [~~Following the above requirements,~~

~~m~~]*M*ake opacity observations so that the line of vision is approximately perpendicular to the dust plume and wind direction. If multiple plumes are involved, do not include more than one plume in the line of sight at one time.

(b) Field Records: Record the fugitive dust source location, source type, method of control used (if any), evaluator's name, certification data and affiliation, and a sketch of the observer's position relative to the fugitive dust source. Also, record the time, estimated distance to the fugitive dust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), and color of the plume and type of background on the visible emission observation form when opacity readings are both initiated and completed.

(c) Observations: Make opacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of vision. Make opacity observations approximately 1 meter above the surface from which the plume is generated. Note that the observation is to be made at only one visual point upon generation of a plume, as opposed to visually tracking the entire length of a dust plume as it is created along a surface. Make two observations per vehicle, beginning with the first reading at zero seconds and the second reading at five seconds. The zero-second observation should begin immediately after a plume has been created above the surface involved. Do not look continuously at the plume, but[~~,~~] instead[~~,~~] observe the plume briefly at zero seconds and then again at five seconds.

(d) Record Observations: Record the opacity observations to the nearest 5[~~ percent~~]% on an observational record sheet. Each momentary observation recorded represents the average opacity of emissions for a five-second period. While it is not required by the test method, EPA recommends that the observer estimate the size of vehicles that generate dust plumes for which readings are taken (e.g., mid-size passenger car,[~~ or~~] heavy-duty truck) and the approximate speeds the vehicles are traveling when readings are taken.

(e) Repeat [~~steps~~]*paragraphs* (c) and (d) *of this section* until you have recorded a total of 12 consecutive opacity readings. This will occur once six vehicles have driven on the source in [~~your~~]*the* line of observation for which [~~you are able to take~~]proper readings *can be taken*. The 12 consecutive readings must be taken within the same period of observation, but must not exceed [~~one~~]*1* hour. Observations immediately preceding and following interrupted observations can be considered consecutive.

(f) Average the 12 opacity readings together. If the average opacity reading equals 20[~~ percent~~]% or lower, the source is in compliancewith the opacity standard described in [~~this regulation~~]*Section 92*.

EXHIBIT 1

92.6.1 Instantaneous Method

[~~This is a non-federal procedure for evaluation of Fugitive Dust Emissions:~~]This procedure is for the instantaneous determination of the [~~O~~]*o*pacity of [~~F~~]*f*ugitive [~~D~~]*d*ust [~~E~~]*e*missions by a qualified [~~observer~~]*Visible Emissions Evaluator (e.g., EPA Method 9-certified observer)*. [~~This method is a Clark County local requirement and is not submitted as part of the applicable State Implementation Plan.~~]The qualified observer should do the following:

(a) Position: Stand at a position at least [~~twenty (~~]20[~~)~~] feet from the [~~F~~]*f*ugitive [~~D~~]*d*ust source in order to provide a clear view of the [~~E~~]*e*missions with the sun oriented in the 140° sector to the back. Consistent as much as possible with maintaining the above requirements, make [~~O~~]*o*pacity observations from a position such that the line of sight is approximately perpendicular to the plume and wind direction. The observer may follow the [~~F~~]*f*ugitive [~~D~~]*d*ust plume generated by mobile earthmoving equipment[~~,~~] as long as the sun remains oriented in the 140° sector to the back. As much as possible, do not include more than one plume in the line of sight at one time.

(b) Field Records: Record the name of the site, [~~F~~]*f*ugitive [~~D~~]*d*ust source type (e.g., earthmoving, grading, storage pile, material handling, transfer, loading, sorting), method of control used[~~,~~] *(*if any*)*, observer's name, certification data*,* and affiliation, and a sketch of the observer's position relative to the [~~F~~]*f*ugitive [~~D~~]*d*ust source. Also[~~,~~] record the time, estimated distance to the [~~F~~]*f*ugitive [~~D~~]*d*ust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position relative to the [~~F~~]*f*ugitive [~~D~~]*d*ust source,[~~ and~~] color of the plume*,* and type of background on the visible emission observation *form* when [~~O~~]*o*pacity readings are initiated and completed.

(c) Observations: Make [~~O~~]*o*pacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of sight. Make [~~O~~]*o*pacity observations at a point just beyond where material is no longer being deposited out of the plume (normally [~~three (~~]3[~~)~~] feet above the surface from which the plume is generated). *The initial observation should begin immediately after a plume has been created above the surface involved. Do not look continuously at the plume, but instead observe the plume momentarily at 5-second intervals. For fugitive dust from earthmoving equipment, make opacity observations at a point just beyond where material is not being deposited out of the plume (normally three feet above the mechanical equipment generating the plume).*

(d) Recording Observations: Record the [~~O~~]*o*pacity observations to the nearest 5% *every 5 seconds for 12 consecutive observations on a Clark County DAQ – Visible Emission Evaluation (VEE) Form. The 12 consecutive readings must be taken within 1 minute. Each momentary*

observation recorded represents the average opacity of emissions for a 5-second period.

(e) Data Reduction for Instantaneous [~~Regulations: Evaluate all observations for conformance with the instantaneous regulation.~~]*Method: Sets shall consist of 12 consecutive observations made within 1 minute. For each set, calculate the average opacity. In no case shall two sets overlap, resulting in multiple violations. Calculate the average by summing the opacity of the 12 observations and dividing this sum by 12. If the average opacity of one set is higher than 35%, the source is not in compliance with the opacity standard described in Section 92.*

92.6.2 Silt Content Test Method

The purpose of this test method is to estimate the silt content of the trafficked parts of [~~U~~]*u*npaved [~~P~~]*p*arking [~~L~~]*l*ots and storage areas. The higher the silt content, the greater the amount of fine dust particles that are entrained into the atmosphere when cars and trucks drive on [~~U~~]*u*npaved [~~P~~]*p*arking [~~L~~]*l*ots or storage areas.

(a) Equipment:

(1) Set of sieves with the following openings: 4 millimeters (mm), 2 mm, 1 mm, 0.5 mm, and 0.25 mm; a lid; and *a* collector pan;

(2) Small whiskbroom or paintbrush with stiff bristles and dustpan [~~one~~]*1* foot in width (the broom/brush should preferably have one thin row of bristles no longer than 1.5 inches in length);

(3) Spatula without holes;

(4) Small scale with half-ounce increments (e.g., postal/package scale);

(5) Shallow, lightweight container (e.g., plastic storage container);

(6) Sturdy cardboard box or other rigid object with a level surface;

(7) Basic calculator;

(8) Cloth gloves (optional for handling metal sieves on hot, sunny days);

(9) Sealable plastic bags (if sending samples to a laboratory); and

(10) Pencil/pen and paper.

(b) Look for a routinely traveled surface, as evidenced by tire tracks (only collect samples from surfaces that are not damp due to precipitation or

dew). This statement is not meant to be a standard in itself for dampness where watering is being used as a control measure; it is only intended to ensure that surface testing is done in a representative manner. Use caution when taking samples to ensure personal safety with respect to passing vehicles. Gently press the edge of a dustpan (1 foot in width) into the surface four times to mark an area that is 1 square foot. Collect a sample of loose surface material *by* using a whiskbroom or brush [~~and~~]*to* slowly sweep the material into the dustpan, minimizing escape of dust particles. Use a spatula to lift heavier elements such as gravel. Only collect dirt/gravel to an approximate depth of 3/8 inch [~~or~~]*(*1 cm*)* in the 1 square foot area. If you reach a hard, underlying subsurface that is [~~greater~~]*less* than 3/8 inch in depth, do not continue collecting the sample by digging into the hard surface. [~~In other words, you are o~~]*O*nly collect[~~ing~~] a surface sample of loose material down to 1 cm. In order to confirm that samples are collected to 1 cm in depth, a wooden dowel or other similar narrow object at least [~~one~~]*1* foot in length can be laid horizontally across the survey area while a metric ruler is held perpendicular to the dowel.

(1) At this point, the sample can be collected into a plastic bag or container and taken to an independent laboratory for silt content analysis. Paragraph (k) below references the procedure the laboratory is required to follow.

(c) Place a scale on a level surface. Place a lightweight container on the scale. Zero the scale with the weight of the empty container on it. Transfer the entire sample collected in the dustpan to the container, minimizing escape of [~~D~~]*d*ust particles. Weigh the sample and record its weight.

(d) Stack a set of sieves in order according to the size openings specified above, beginning with the largest size opening (4 mm) at the top. Place a collector pan underneath the bottom (0.25 mm) sieve.

(e) Carefully pour the sample into the sieve stack, minimizing escape of [~~D~~]*d*ust particles by slowly brushing material into the stack with a whiskbroom or brush (on windy days, use the trunk or door of a car as a wind barricade). Cover the stack with a lid. Lift the sieve stack and shake it vigorously up, down, and sideways for at least 1 minute.

(f) Remove the lid from the stack and disassemble each sieve separately, beginning at the top. As each sieve is removed, examine it to make sure that all material has been sifted to the finest sieve through which it can pass: i.e., the material in each sieve (besides the top one, which captures a range of larger elements) should look the same size. If this is not the case, restack the sieves and collector pan, cover the stack with the lid, and shake it again for at least one minute. (Only reassemble the sieve(s) containing material that requires further sifting*.*)[~~.~~]

(g) After disassembling the sieves and collector pan, slowly sweep the material from the collector pan into the empty container originally used to collect and weigh the entire sample. Take care to minimize escape of [~~D~~]*d*ust particles. Do not do anything with material captured in the sieves, only that from the collector pan. Record the weight of the container with the material from the collector pan.

(h) If the source is an unpaved road, multiply the resulting weight by 0.38. If the source is an [~~U~~]*u*npaved [~~P~~]*p*arking [~~L~~]*l*ot or storage area, multiply the resulting weight by 0.55. The resulting number is the estimated silt loading. Divide by the total weight of the sample recorded in [~~step~~]*paragraph* (b) *of this section* and multiply by 100 to estimate the percent silt content.

(i) Select another two routinely traveled portions of the unpaved road or [~~U~~]*u*npaved [~~P~~]*p*arking [~~L~~]*l*ot and repeat this test method. Once you have calculated the silt loading and percent silt content of the three samples collected, average the results.

(j) Examine the results. If the average silt loading is less than 0.33 oz/ ft², the surface is stable. If the average silt loading is greater than or equal to 0.33 oz/ft², examine the average percent silt content. If the source is an [~~U~~]*u*npaved [~~P~~]*p*arking [~~L~~]*l*ot or storage area and the average percent silt content is 8% or less, the surface is stable. If field test results are within 2% of the standard (e.g., 6–10% silt content on an [~~U~~]*u*npaved [~~P~~]*p*arking [~~L~~]*l*ot or storage area), collect three additional samples from the source (see [~~step~~]*paragraph* (b) *of this section*) and take them to an independent laboratory for silt content analysis.

(k) Another option is to collect three samples from the source in accordance with Section 92.6.3(b) and send them to an independent laboratory for silt content analysis. The laboratory is required to use the test process described in Volume 1, Appendix C.2.3 ("Silt Analysis") of *Procedures for Laboratory Analysis of Surface/Bulk Loading Samples* (EPA 1995, 5th edition).

History: Initial adoption: June 22, 2000. Amended: November 16, 2000; November 20, 2001; December 17, 2002; June 3, 2003; July 1, 2004; December 30, 2008; March 17. 2009; August 2, 2011; April 15, 2014; August 3, 2021; Month, DD, YYYY.

EXHIBIT 2

SECTION 94: PERMITTING AND DUST CONTROL FOR CONSTRUCTION AND TEMPORARY COMMERCIAL ACTIVITIES *AND FUGITIVE DUST CONTROL AT STATIONARY SOURCES*

EXHIBIT 2

EXHIBIT 2

LIST OF FIGURES

EXHIBIT 2

94.1 APPLICABILITY

(a) Section 94 applies to*:*

(1) [~~a~~]*A*ll [~~C~~]*c*onstruction [~~and Temporary Commercial A~~]*a*ctivities *located in Clark County, including those at stationary sources,* that disturb*,* or have the potential to disturb*,* soils and*/or* [~~that E~~]*e*mit*,* or have the potential to [~~E~~]*e*mit*,* [~~P~~]*p*articulate [~~M~~]*m*atter into the atmosphere.[~~ It establishes the requirements to obtain and comply with a Dust Control Operating Permit and a Dust Mitigation Plan, and the procedures to maintain Dust Control of these activities.~~]

(2) All temporary commercial activities located in Hydrographic Areas 212 (Las Vegas Valley), 216 (Garnett Valley), and 217 (Hidden Valley North) that disturb, or have the potential to disturb, soils and/or emit, or have the potential to emit, particulate matter into the atmosphere.

(3) All stationary sources located in Clark County as part of the consideration of a RACT, BACT, or LAER determination pursuant to Sections 12.1-12.4 of the Clark County Air Quality Regulations (AQRs). In accordance with this determination, provisions of Section 94 shall be incorporated into the stationary source permit.

(b) Section 94 does not apply to:

[~~94.1.1 Items to Which the Regulation Does Not Apply~~

~~(a) Operation of Emission Units or activities permitted under a Stationary Source Permit, with the specific exception that the Control Measures, Emission standards and soil stabilization standards in Sections 94.12 through 94.14 shall apply to the control of Fugitive Dust Emissions, and enforced by the terms and conditions of the Stationary Source Permit.~~]

[~~(b)~~]*(1)* Normal [~~F~~]*f*arm [~~C~~]*c*ultural [~~P~~]*p*ractices and equestrian facilities [~~that are~~]in compliance with zoning requirements.

[~~(c)~~]*(2)* Emergency activities, as defined in Section 0, *"Definitions,"* that may disturb the soil *but are* performed or ordered under a directive by any utility or government agency [~~in order~~]to prevent public injury or restore *the functionality of* critical [~~utilities to functional status~~]*systems*.

[~~(d) Temporary Commercial Activities outside of Hydrographic~~

EXHIBIT 2

~~Areas 212 (Las Vegas Valley), 216 (Garnet Valley), and 217 (Hidden Valley North).~~]

94.2 DEFINITIONS

Unless the context requires otherwise, the following terms shall have the meanings set forth below for the purposes of [~~Section 94~~]*this section*. When a term is not defined, it shall have the meaning provided in Section 0 of the [~~Clark County Air Quality Regulations (~~]AQRs[~~)~~], Chapter 445B of the Nevada Revised Statutes, the [~~federal~~]Clean Air Act *(the Act) under Title 42, Section 7511a of the U.S. Code* (42 U.S.C. [~~7401 et seq.~~]*7511a*), or common usage, in that order of priority.

"Best [~~A~~]*a*vailable [~~C~~]*c*ontrol [~~M~~]*m*easures" [~~and "~~]*(*BACM*)*[~~"~~] means those [~~C~~]*c*ontrol [~~M~~]*m*easures that are the best available with current technology for reducing or eliminating the release of [~~P~~]*p*articulate [~~M~~]*m*atter into the atmosphere from [~~C~~]*c*onstruction [~~A~~]*a*ctivities. These include, but are not limited to, all measures listed as [~~B~~]*b*est [~~M~~]*m*anagement [~~P~~]*p*ractices and any other [~~C~~]*c*ontrol [~~M~~]*m*easures required by the Control Officer.

"Best management practice" [~~or "~~]*(*BMP*)*[~~"~~] means methods that have been determined to be the most effective and practical means of preventing or reducing [~~E~~]*e*missions of [~~F~~]*f*ugitive [~~D~~]*d*ust [~~as provided~~] in Appendix 1[~~ to this section~~].

"Clean [~~G~~]*g*ravel" means a mineral or rock aggregate ranging in size from 0.25 to 3 inches on its longest dimension that is either natural or the product of a mineral processing operation and contains [~~no more~~]*less* than [~~6~~]*5*% silt *(measured by the percent of soil fines that will pass through a 200-mesh sieve)* by weight *as determined by using "Procedures for Laboratory Analysis of Surface/Bulk Dust Loading Samples" in AP-42 (App. C.2.3, "Silt Analysis")*.

"Common [~~C~~]*c*ontrol" means having power or control, directly or indirectly, of the management decisions of another [~~C~~]*c*onstruction project by ownership, contract, or other means.

"Construction [~~A~~]*a*ctivities" means the following activities: [~~C~~]*c*ommercial and [~~R~~]*r*esidential [~~C~~]*c*onstruction, [~~F~~]*f*lood [~~C~~]*c*ontrol [~~C~~]*c*onstruction, and [~~H~~]*h*ighway [~~C~~]*c*onstruction, as defined in Section 0*, "Definitions."* These activities may include, but are not limited to, the following:

1. Land clearing, [~~M~~]*m*aintenance, change of grade, and land cleanup using machinery;

2. Soil and rock excavation or removal;

3. Soil or rock hauling (import/export);

4. Soil or rock crushing or screening;

5. Filling, compacting, and/or stockpiling;

6. Grading;

7. Explosive blasting;

8. Demolition;

9. Implosion;

10. Handling of building materials capable of entrainment in air (e.g., sand, cement powder);

11. Abrasive blasting;

12. Concrete, block, stone, asphalt, and tile cutting;

13. Mechanized [~~T~~]*t*renching;

14. Initial or replacement landscaping;

15. Driving vehicles on a [~~C~~]*c*onstruction site;

16. Establishing and/or using staging areas, material storage areas, or unpaved parking areas in support of a [~~C~~]*c*onstruction project;

17. Establishing and/or using unpaved access routes to or from a [~~C~~]*c*onstruction project;

18. Paving roadways and alleyways; and

19. Flood control [~~M~~]*m*aintenance.

"Contiguous" means being in actual contact along a boundary or a point. Properties that are separated by [~~P~~]*p*ublic [~~R~~]*r*oadways are considered in actual contact.

"Department" means the Clark County, Nevada, Department of Environment and Sustainability[~~, and "DAQ" means the Department's Division of Air Quality~~].

"Dust [~~C~~]*c*ontrol [~~O~~]*o*perating [~~P~~]*p*ermit" [~~and "Permit"~~]*(DCOP)* mean*s* a single [~~P~~]*p*ermit that authorizes the [~~P~~]*p*ermittee to perform soil-disturbing, [~~C~~]*c*onstruction, demolition, or [~~T~~]*t*emporary [~~C~~]*c*ommercial [~~A~~]*a*ctivities that may result in [~~F~~]*f*ugitive [~~D~~]*d*ust becoming airborne.

"Dust [~~M~~]*m*itigation [~~P~~]*p*lan" means an attachment to a [~~Dust Control Operating Permit~~]*DCOP* that lists all the [~~C~~]*c*onstruction [~~A~~]*a*ctivities that may occur and the BMPs that shall be used to mitigate [~~D~~]*d*ust at a permitted site. Upon approval of the application, the [~~D~~]*d*ust [~~M~~]*m*itigation [~~P~~]*p*lan becomes an enforceable part of the [~~Dust~~

~~Control Operating Permit~~]*DCOP*.

"Grading" means any excavation, filling, rough [~~G~~]*g*rading, and/or stockpiling for the purpose of altering the natural ground surface or its elevation.

"Maintenance" means the upkeep or restoration of property to its intended use.

"Notice of Non[~~-C~~]*c*ompliance" means a document of notification intended to provide the findings that identify deficiencies through inspection where failure to comply with terms and conditions of the [~~Permit~~]*DCOP* or AQRs has been observed.

"Particulate Emission Potential" (PEP) means a soil-type classification determined by soil silt content (measured by the percent of soil fines that will pass through a 200-mesh sieve) by weight as determined by using "Procedures for Laboratory Analysis of Surface/Bulk Dust Loading Samples" in AP-42 (App. C.2.3, "Silt Analysis") and optimum moisture content (measured by the percent of moisture necessary to compact soils). There are five categories: high, moderately high, moderately-low, low, and slight.

"Responsible Official" means the [~~P~~]*p*erson who is authorized by the [~~O~~]*o*wner or [~~O~~]*o*perator to oversee the [~~C~~]*c*onstruction [~~A~~]*a*ctivities related to the project, to sign all documents, and to make all decisions that:

(1) Govern the operation at the [~~C~~]*c*onstruction site;

(2) Initiate and direct measures to assure compliance with air quality laws and regulations; and

(3) Ensure actions are taken to gather complete and accurate information for permitting, recordkeeping, and reporting requirements.

"Surfactant" means a compound or element that reduces the surface tension of a liquid. The term is used to describe wetting and spray adjuvants designed to promote the economical application of water to hydrophobic soils and prevent drifting, decrease runoff, increase the penetrating and wetting properties, and promote even, consistent spray patterns.

"Tackifier" means a substance mixed with water that binds together mulches, small particles, or other dust palliatives without forming a hard crust. Many dust palliatives, in a more dilute concentration, can be used as tackifiers.

"Temporary [~~C~~]*c*ommercial [~~A~~]*a*ctivities" means activities that are limited to less than 90 [~~-~~]days*.* [~~including~~]*such as* special events, holiday activities (e.g., pumpkin patches, Christmas tree lots), and festivals, including associated unpaved parking areas[~~-~~]*,* and *that* have the potential to disturb soils.

"Trackout" means soil, mud, or dirt on [~~P~~]*p*aved surfaces, including curbs, gutters, and sidewalks, that has come from a [~~C~~]*c*onstruction site or an unpaved access route onto

the [~~P~~]*p*aved surface.

94.3 ACTIVITIES EXEMPT FROM *REQUIREMENT FOR DUST CONTROL OPERATING* PERMIT[~~TING~~]

All the following activities are required to control [~~D~~]*d*ust, but are exempt from the requirement to obtain a [~~Dust Control Operating Permit~~]*DCOP*. However, soils shall be kept moist during all activities and crusted at the completion of the project.

(a) Landscaping conducted by an individual(s) at their place of residence.

(b) Emergency, [~~(~~]as defined in Section 0[~~)~~], *"Definitions,"* [~~M~~]*m*aintenance activities conducted by government agencies on publicly maintained roads, road shoulders, rights-of-way, and public flood control facilities.

(c) Weed and trash removal activities and [~~D~~]*d*ust [~~P~~]*p*alliative, [~~C~~]*c*lean [~~G~~]*g*ravel, or recycled asphalt product (for road shoulders only) applications conducted solely for the purpose of compliance with weed and/or trash abatement wherein no grade elevation changes, no soil or rock is imported or exported,[~~ and/or~~] no cut and fill operations occur*, and/or no clearing and grubbing activities occur*.

(d) Application of [~~D~~]*d*ust [~~P~~]*p*alliatives, [~~C~~]*c*lean [~~G~~]*g*ravel, or other approved materials to stabilize soils and prevent [~~F~~]*f*ugitive [~~D~~]*d*ust to comply with Section 90[~~ vacant land regulations~~]*, "Fugitive Dust from Open Areas and Vacant Lots,"* wherein no grade elevation changes, no clearing and grubbing activities, and/or no cut and fill operations occur.

94.4 *DUST CONTROL OPERATING* PERMIT APPLICATIONS

94.4.0 Duty to Apply for a Dust Control Operating Permit

(a) Except as provided in Section 94.3, no [~~P~~]*p*erson shall commence any [~~C~~]*c*onstruction [~~A~~]*a*ctivities or [~~T~~]*t*emporary [~~C~~]*c*ommercial [~~A~~]*a*ctivities except in compliance with a [~~Permit~~]*DCOP* that authorizes such activities.

(b) A [~~Permit~~]*DCOP* shall be required for any of the following:

(1) Construction [~~A~~]*a*ctivities that disturb soils 0.25 acres or greater in overall area.

(2) Mechanized [~~T~~]*t*renching 100 feet or greater in total length.

(3) Mechanical demolition of any structure 1,000 square feet or greater.

(4) Temporary [~~C~~]*c*ommercial [~~A~~]*a*ctivities 0.25 acres or greater in overall area.

94.4.1 Complete Application

(a) Application for issuance, [~~R~~]*r*enewal, or revision of a [~~Permit~~]*DCOP* shall be submitted on a form and in a manner prescribed by the Control Officer.

(b) The Control Officer shall notify the Responsible Official if a [~~Permit~~]*DCOP* application is incomplete, and may request additional information that is needed.

(c) If the Responsible Official fails to comply within 14 calendar days of the notice, the application may be denied and all applicable fees forfeited.

94.4.2 Application Content

(a) All applications for a [~~Dust Control Operating Permit~~]*DCOP* shall include a [~~D~~]*d*ust [~~M~~]*m*itigation [~~P~~]*p*lan with appropriate [~~C~~]*c*ontrol [~~M~~]*m*easures for every [~~C~~]*c*onstruction [~~A~~]*a*ctivity to be conducted. Other [~~C~~]*c*ontrol [~~M~~]*m*easures that are at least as effective as approved [~~C~~]*c*ontrol [~~M~~]*m*easures may be implemented with the approval of the Control Officer.

(b) The application shall include a detailed supplement to the [~~D~~]*d*ust [~~M~~]*m*itigation [~~P~~]*p*lan for a [~~C~~]*c*onstruction project 10 acres or [~~more~~]*greater* in area, [~~T~~]*t*renching activities [~~one~~]*1* mile or greater in length, or structure demolition using implosive or explosive blasting techniques. A [~~Permit~~]*DCOP* for [~~T~~]*t*emporary [~~C~~]*c*ommercial [~~A~~]*a*ctivities is exempt from this requirement.

(1) The supplement shall be a written report and, at minimum, detail the project description, the area and schedule of the phases of land disturbance, the [~~C~~]*c*ontrol [~~M~~]*m*easures, the contingency measures to be used for all [~~C~~]*c*onstruction [~~A~~]*a*ctivities, and a statement of the authority and training of personnel who will ensure compliance on-site.

(2) The supplement shall be signed by the Responsible Official.

(c) An appropriate supplemental form shall be included with the application if the project includes explosive blasting.

(d) The application shall identify the highest [~~particulate emission potential (~~]PEP[~~)~~] for the total project area, identified from the[~~particulate emission potential M~~]*m*aps[~~ provided~~] in [~~Appendix~~]*Figures* 2 *and 3*[~~ to this section~~]. The PEP identified for the project shall be used to determine the BMPs for the [~~D~~]*d*ust [~~M~~]*m*itigation [~~P~~]*p*lan.

(e) The application shall be signed by the Responsible Official.

(f) The application, [~~D~~]*d*ust [~~M~~]*m*itigation [~~P~~]*p*lan, and related maps and forms shall become part of the [~~Permit~~]*DCOP*.

94.5 *DUST CONTROL OPERATING* PERMIT REQUIREMENTS

(a) Any [~~P~~]*p*erson engaging in [~~C~~]*c*onstruction [~~A~~]*a*ctivities on a site having a [~~Permit~~]*DCOP* shall be subject to all conditions set forth in the [~~Permit~~]*DCOP*. Failure to comply with any condition set forth in the [~~Permit~~]*DCOP* shall be a violation of the AQRs.

(b) Issuance or [~~R~~]*r*enewal of each [~~Permit~~]*DCOP* shall require payment of the applicable [~~P~~]*p*ermit fee(s) in accordance with Section 18, *"Permit and Technical Service Fees."* A [~~Permit~~]*DCOP* for [~~T~~]*t*emporary [~~C~~]*c*ommercial [~~A~~]*a*ctivities is exempt from this requirement.

(c) A complete copy of the current [~~Permit~~]*DCOP* must be kept on the project site at all times that [~~C~~]*c*onstruction [~~A~~]*a*ctivities occur and be made available upon request of the Control Officer.

(d) Any additional [~~C~~]*c*ontrol [~~M~~]*m*easure requirements resulting from adjudicated corrective orders by the Control Officer or Hearing Officer shall become a part of the [~~Permit's~~]*DCOP* [~~D~~]*d*ust [~~M~~]*m*itigation [~~P~~]*p*lan.

(e) The Control Officer may waive [~~P~~]*p*ermit fees for public agency [~~M~~]*m*aintenance projects performed by the agency's own employees.

(f) No [~~P~~]*p*erson shall:

(1) Refuse access if the Control Officer requests entry for inspection and presents appropriate credentials.

(2) Obstruct, hamper or interfere with an inspection.

(g) The Responsible Official shall:

(1) Ensure that all contractors, subcontractors, and other [~~P~~]*p*ersons on the [~~C~~]*c*onstruction site abide by the conditions of the [~~Permit~~]*DCOP* and the AQRs.

(2) Supply complete copies of the [~~Permit~~]*DCOP*, including the [~~D~~]*d*ust [~~M~~]*m*itigation [~~P~~]*p*lan, to all project contractors and subcontractors.

(3) Ensure compliance with all [~~Permit~~]*DCOP* conditions until a [~~Permit~~]*DCOP* [~~c~~]*C*losure [~~f~~]*F*orm has been submitted to and approved by the Control Officer.

(h) The Control Officer may determine when [~~C~~]*c*onstruction projects that are under [~~C~~]*c*ommon [~~C~~]*c*ontrol and are [~~C~~]*c*ontiguous may be required to obtain and operate under a single [~~Permit~~]*DCOP*.

(i) The Control Officer may determine when more than one [~~C~~]*c*onstruction [~~A~~]*a*ctivity less than 0.25 acres in area*,* or [~~T~~]*t*renching activities less than 100 feet, can be treated as a single activity and the [~~C~~]*c*onstruction project is required to obtain a [~~Permit~~]*DCOP* [~~due to~~]*because* the properties [~~being~~]*are:*

(1) [~~u~~]*U*nder [~~C~~]*c*ommon [~~C~~]*c*ontrol;

(2) Contiguous[~~;~~] or [~~(3)~~]separated only by a roadway*;* and

(3) [~~c~~]*C*umulatively equal to or [~~exceeding~~]*greater than* 0.25 acres*, or trenching activities equal to or greater than 100 feet*.

(j) A [~~Permit~~]*DCOP* shall be required for routine, public agency road [~~M~~]*m*aintenance, road shoulder [~~M~~]*m*aintenance, flood control facility [~~M~~]*m*aintenance, and [~~M~~]*m*aintenance activities that disturb soil and are capable of causing [~~F~~]*f*ugitive [~~D~~]*d*ust. Such [~~Permit~~]*DCOPs* shall:

(1) Require that records be maintained based upon written annual schedules of work for routine [~~M~~]*m*aintenance activities;

(2) Include a [~~D~~]*d*ust [~~M~~]*m*itigation [~~P~~]*p*lan listing all the activities to be performed that may disturb the soil and BMPs for all these activities; and

(3) Include conditions requiring that miles and acres be quantified for [~~M~~]*m*aintenance activities to be performed.

(k) A [~~Permit~~]*DCOP* shall be valid for up to 365 days from the effective date of the [~~Permit~~]*DCOP*. A [~~Permit~~]*DCOP* issued for [~~T~~]*t*emporary

[~~C~~]*c*ommercial [~~A~~]*a*ctivities shall be valid for up to 90 days from the effective date of the [~~Permit~~]*DCOP*.

(l) A DCOP must be renewed if Sections 94.4.1(b)(1), (2), or (3) still apply, and an application must be submitted before the DCOP expiration date.

[~~(l)~~]*(m)* If a [~~R~~]*r*enewal application is submitted within 30 days prior to the [~~Permit's~~]*DCOP* expiration date, the effective date of the renewed [~~Permit~~]*DCOP* will reflect one day after the expiration date of the current [~~Permit~~]*DCOP*. If a [~~R~~]*r*enewal application is submitted more than 30 days before the [~~Permit's~~]*DCOP* expiration date, the [~~Permit's~~]*DCOP* effective date will change to the new issuance date. If a [~~R~~]renewal application is submitted after the [~~Permit's~~]*DCOP* expiration date, the effective date of the renewed [~~Permit~~]*DCOP* will reflect one day after the expiration date of the current [~~Permit~~]*DCOP*. Applications submitted after the expiration of the [~~Permit~~]*DCOP* will be subject to a late fee.

[~~(m)~~]*(n)* A [~~Permit~~]*DCOP* issued for [~~T~~]*t*emporary [~~C~~]*c*ommercial [~~A~~]*a*ctivities is not renewable.

[~~(n)~~]*(o)* The Responsible Official shall:

(1) Notify the Control Officer in writing within 10 days following the cessation of active operations on all or part of a [~~C~~]construction site when cessation will extend 30 days or longer. Stabilization shall also be implemented within 10 days, in accordance with BMP 11*, "Long-term Stabilization."*

(2) Complete and submit a Dust Control Operating Permit Closure Form for approval to the [~~D~~]*d*epartment within 10 days following the completion of a [~~C~~]construction project and/or expiration of the [~~Dust Control Operating Permit~~]*DCOP if permit renewal is not required per Section 94.5(l)*. Prior to the submittal of the[~~closure~~] form, the Responsible Official shall:

(A) Implement a control method for long-term stabilization, as described in BMP 11*, "Long-term Stabilization,"* on all disturbed areas that are not built out, landscaped, or [~~P~~]*p*aved.

94.6 [~~GENERAL AND ADMINISTRATIVE STANDARDS~~]*DUST CONTROL OPERATING PERMIT REVOCATION AND SUSPENSION*

(a) The Control Officer may revoke or suspend a DCOP for cause.

(1) If suspended, the DCOP may be reinstated upon a demonstration that the circumstances that led to the suspension have been remedied.

(2) If revoked, an application for a new DCOP must be submitted and fees paid in accordance with Section 18, "Permit and Technical Services Fees."

[~~(a)~~]*(b)* [~~N~~]*The Control Officer shall not issue n*ew, renewed, or revised [~~Permits~~]*DCOPs* [~~shall not be issued~~] to a*ny* [~~P~~]*p*erson [~~having outstanding unpaid D~~]*who is delinquent paying d*epartment fees and/or *delinquent paying adjudicated* penalties[~~ that have been adjudicated~~].

[~~(b) As part of the adjudication of the third Notice of Violation by the Hearing Officer, the Control Officer may, within any 180-day period and for the same project for which the Permit was issued, recommend suspension or revocation of the Permit.~~

~~(1) Upon the Hearing Officer issuing such order:~~

~~(A) All activities that are authorized by the Permit shall cease.~~

~~(B) The Hearing Officer Order shall be posted conspicuously on the property involved, stating the reasons and indicating the date of suspension and/or revocation.~~

~~(C) The suspension or revocation shall remain in effect until such time as rescinded by the Hearing Officer.~~

~~(2) Upon Hearing Officer approval:~~

~~(A) If suspended, the Permit may be reinstated.~~

~~(B) If revoked, an application for a new Permit must be submitted and fees paid in accordance with Section 18.~~

~~(3) The Permittee may file a written Notice of Appeal to the Hearing Board within 10 days of the date of the Hearing Officer's order, except as otherwise provided by law.~~]

(c) Any [~~P~~]*p*erson aggrieved by a decision of the Control Officer pursuant to this section may appeal in accordance with Section 7*.5* of the AQRs.

EXHIBIT 2

94.7 NOTICES OF NON[-]COMPLIANCE AND NOTICES OF VIOLATION

(a) Whenever the Control Officer finds that any provision of a [~~Permit~~]*DCOP* or [~~D~~]*d*ust [~~M~~]*m*itigation [~~P~~]*p*lan has been violated, the Control Officer may issue a Notice of Non[~~-C~~]*c*ompliance to the Responsible Official for the alleged violation in accordance with Section 4.3 of the AQRs*, "Alleged Violations."* The notice shall specify:

(1) The [~~Permit~~]*DCOP* and/or plan provision(s) alleged to be violated;

(2) The facts alleged to constitute the violation; and

(3) Direction to correct the observed non[-]compliance.

(b) Regardless of whether a Notice of Non[~~-C~~]*c*ompliance has been issued, the Control Officer may issue a Notice of Violation upon determination that the [~~P~~]*p*ermittee has violated any provision(s) of the [~~Permit~~]*DCOP*, the [~~D~~]*d*ust [~~M~~]*m*itigation [~~P~~]*p*lan, or other [~~A~~]*a*pplicable [~~R~~]*r*equirements. Such Notice of Violation shall be adjudicated in accordance with Section 7.3 of the AQRs*, "Procedures – Hearing Officer."*

(c) Nothing herein prevents the Control Officer from making efforts to obtain voluntary compliance through warning, conference, or other appropriate means.

94.8 DUST CONTROL MONITOR

(a) The Control Officer shall require a Dust Control Monitor for:

(1) Any [~~C~~]*c*onstruction project that has 50 acres or more of disturbed soil at any given time.

(2) Individually permitted projects that have less than 50 acres of disturbed soil at any given time when two or more projects are under [~~C~~]*c*ommon [~~C~~]*c*ontrol, are [~~C~~]*c*ontiguous, and total 50 acres or more.

(b) The Control Officer may require a Dust Control Monitor for any construction project equal to or greater than 10 acres, but less than 50 acres, with documented noncompliance with Section 94.14.

[~~(b)~~]*(c)* The Control Officer may require additional Dust Control Monitors due to the size of a project [~~and/~~]or *documented* non[-]compliance [~~issues~~]*with Section 94*.

EXHIBIT 2

[~~(c)~~]*(d)* The requirement for a Dust Control Monitor shall not apply to a [~~C~~]*c*onstruction project that meets all of the following:

(1) The area of actively disturbed soil becomes less than 50 acres;

(2) The previously disturbed areas have been stabilized as required by BMP 11[~~-and~~]*, "Long-term Stabilization";*

(3) The Control Officer has verified and approved the stabilization[~~-~~]*; and*

(4) Section 94.8(b) does not apply.

[~~(d)~~]*(e)* A Dust Control Monitor cannot be assigned to more than one non[~~C~~]*c*ontiguous permitted [~~C~~]*c*onstruction site unless the Control Officer approves in advance.

[~~(e)~~]*(f)* The Responsible Official shall provide full authority to the Dust Control Monitor to ensure that effective [~~D~~]*d*ust [~~C~~]*c*ontrol [~~M~~]*m*easures are implemented. This [~~P~~]*p*erson's name must be included on the [~~"~~]Construction Site Dust Control Monitor[~~" f~~]*F*orm and submitted with the [~~Dust Control Operating Permit~~]*DCOP* application, as applicable. The authority of the Dust Control Monitor shall include all of the following:

(1) Conduct site inspections and monitor current [~~monitoring~~] activities on site;

(2) Deploy resources to maintain compliance with the [~~Permit~~]*DCOP*; and

(3) Be able to shut down or regulate [~~C~~]*c*onstruction [~~A~~]*a*ctivities to maintain compliance as needed.

[~~(f)~~]*(g)* The Dust Control Monitor shall be present and available at all times [~~C~~]*c*onstruction [~~A~~]*a*ctivities occur on the project site and shall devote the majority of [~~his/her~~]*their* time specifically to managing [~~D~~]*d*ust prevention and control on the site.

[~~(g)~~]*(h)* The Dust Control Monitor may temporarily operate a water truck for monitoring and resolving [~~D~~]*d*ust issues, but may not support [~~C~~]*c*onstruction [~~A~~]*a*ctivities unless approved by the Control Officer.

[~~(h)~~](i) No employee with responsibilities other than ensuring [~~D~~]*d*ust [~~C~~]*c*ontrol [~~M~~]*m*easures are implemented on a [~~C~~]*c*onstruction site (such as a supervisor or foreman) may be assigned as the Dust Control Monitor.

EXHIBIT 2

[~~(i)~~](j) A [~~P~~]*p*erson shall be certified as a Dust Control Monitor upon complying with all of the following:

(1) Successfully completing the Clark County Air Quality Dust Control Monitor Class within the past three years.

(2) Successfully completing a course approved by the Control Officer and becoming certified in Visual Emissions Evaluation (VEE) within the past three years.

94.9 DUST CONTROL MONITOR RECORDKEEPING

(a) On a site having a [~~Dust Control Operating Permit~~]*DCOP*, a written record of self-inspection shall be made at least twice each day on which soil- disturbing work is conducted. The [~~"~~]Record of Daily Dust Control[~~"~~] *for Construction Activities – Dust Monitor Use* [~~f~~]*F*orm, or other written record that provides at a minimum the same information, shall be completed.

(b) Records of [~~C~~]*c*onstruction site self-inspections shall be kept for a minimum of one year or for six months beyond project duration, whichever is longer. Self-inspection records shall include daily inspections for crusted or damp soil, [~~T~~]*t*rackout conditions and cleanup measures, daily water usage, [~~D~~]*d*ust [~~S~~]*s*uppressant application records, etc.

94.10 CLARK COUNTY AIR QUALITY DUST CONTROL CLASS

(a) The following individuals are required to successfully complete the Dust Control Class:

(1) Construction site superintendent and all others designated as on-site representatives of the [~~P~~]*p*ermittee.

(2) All [~~C~~]*c*onstruction supervisors and foremen of on-site contractors and subcontractors.

(3) Water truck and water pull driver(s) for each [~~C~~]*c*onstruction project.

(b) Each of the individuals listed in *paragraph* (a) [~~above~~]*of this section* are required to attend and successfully complete the Dust Control Class at least once every three years.

(c) The Control Officer may require any personnel affiliated with a permitted site to attend a Dust Control Class as a remedial or corrective measure.

(d) A [~~Permit~~]*DCOP* issued for [~~T~~]*t*emporary [~~C~~]*c*ommercial [~~A~~]*a*ctivities is exempt from this requirement.

94.11 SIGNAGE REQUIREMENTS

(a) Projects required to obtain a [~~Dust Control Operating Permit~~]*DCOP* shall install signage prior to commencing [~~C~~]*c*onstruction [~~A~~]*a*ctivities.

(1) Exemptions from this requirement include:

(A) Projects with a duration of 14 calendar days or less.

(B) [~~Permit~~]*DCOP*s issued for [~~T~~]*t*emporary [~~C~~]*c*ommercial [~~A~~]*a*ctivities.

(b) The sign shall:

(1) Measure, at minimum, four feet wide by four feet high.

(2) Conform to the [~~D~~]*d*epartment guidance[~~ on the design and posting of signage, as provided~~] in Appendix [~~3~~]*2*[~~ to this section~~]. The signage must include current [~~Permit~~]*DCOP* information.

(3) Be located near the main entrance to the project, and be visible and legible to the public.

94.12 SOIL STABILIZATION STANDARDS

(a) The Responsible Official shall ensure that all contractors, operators, and other [~~P~~]*p*ersons involved in [~~C~~]*c*onstruction [~~A~~]*a*ctivities *that cause or may cause fugitive dust emissions* employ effective [~~C~~]*c*ontrol [~~M~~]*m*easures.

(b) One or more of the following methods shall be implemented to maintain [~~D~~]*d*ust control on all disturbed soils [~~on~~]*at* [~~C~~]*c*onstruction sites and staging areas to the extent necessary to pass the Drop Ball Test described in Section 94.15.5:

(1) Maintained in a sufficiently damp condition to prevent loose particles of soil from becoming dislodged.

(2) Crusted over by application of water.

(3) Completely covered with [~~C~~]*c*lean [~~G~~]*g*ravel.

(4) Treated with a [~~D~~]*d*ust [~~S~~]*s*uppressant.

(5) Treated using another method approved in advance by the Control Officer.

94.13 BEST AVAILABLE CONTROL MEASURES

(a) Any [~~P~~]*p*erson who engages in a [~~C~~]*c*onstruction [~~A~~]*a*ctivity or [~~T~~]*t*emporary [~~C~~]*c*ommercial [~~A~~]*a*ctivity[~~,~~] with or without a [~~Permit~~]*DCOP that causes or may cause fugitive dust emissions*, shall employ BACM and comply with *the* soil stabilization standards [~~(~~]*in* Section 94.12[~~)~~] and [~~E~~]*e*missions standards [~~(~~]*in* Section 94.14[~~)~~].

(b) Control [~~M~~]*m*easures [~~that are listed~~]in [~~the approved Permit~~]*a DCOP*, and other measures as needed for the purpose of maintaining [~~D~~]*d*ust control, shall be implemented 24 hours a day, [~~seven~~]*7* days a week, until the [~~Permit~~]*DCOP* is closed in accordance with Section 94.5([~~n~~]*o*)(2).

(c) All [~~C~~]*c*onstruction [~~A~~]*a*ctivities that contribute to [~~E~~]*e*missions, even when BACM is implemented, shall immediately cease when wind conditions cause [~~F~~]*f*ugitive [~~D~~]*d*ust:

(1) In excess of 20% [~~O~~]*o*pacity using the:

(A) Time Averaged Method (Section 94.15.2); or

(B) Intermittent Emissions Method (Section 94.15.3).

(2) In excess of [~~50~~]*35*% [~~O~~]*o*pacity using the Instantaneous Method (Section 94.15.4).

(3) Resulting in a [~~D~~]*d*ust plume *extending* 100 yards *or more* in length.

Water trucks and water pulls shall continue to operate under these circumstances until wind conditions are such that the continued operation of this equipment poses a safety hazard.

(d) A control method for long-term stabilization, as described in BMP 11, "Long-term Stabilization," shall be implemented on all disturbed areas that are not built out, landscaped, or paved within 10 days of completion of a construction project and/or expiration of the DCOP if a permit renewal is not required per Sections 94.4.1(b)(1), (2), or (3).

EXHIBIT 2

94.14 EMISSION STANDARDS

(a) [~~No Person conducting~~]*Any person who engages in* [~~C~~]*c*onstruction [~~A~~]*a*ctivities, with or without a [~~Permit~~]*DCOP*, shall *not* cause or allow the handling, transport, or storage of any material in a manner that allows visible [~~E~~]*e*missions of [~~P~~]*p*articulate [~~M~~]*m*atter to:

(1) Exceed 20% [~~O~~]*o*pacity using the Time Averaged Method or the Intermittent Emissions Method.

(2) Exceed [~~50~~]*35*% [~~O~~]*o*pacity using the Instantaneous Method.

(3) [~~Allow a dust plume to e~~]*E*xtend more than 100 feet.

(4) [~~Allow a dust plume to c~~]*C*ross a property line.

(b) The use of blower devices and dry rotary brushes for the removal of deposited mud, dirt, or rock from a [~~P~~]*p*aved surface is prohibited *except when the use of water is not technically feasible and only with prior Control Officer approval*.

(c) Rotary brushes may[~~only~~] be used *for removal of deposited mud, dirt, or rock* when sufficient water is applied to limit the visible [~~E~~]*e*missions consistent with the visible [~~E~~]*e*mission standards in Section*s* 94.14(a)(1), (2), or (3). *Dry rotary brushes may only be used when the use of water is not technically feasible and only with prior Control Officer approval.*

(d) Mud or dirt shall not be allowed to accumulate on a [~~P~~]*p*aved surface where [~~T~~]*t*rackout extends greater than 50 feet in cumulative length or accumulates to a depth greater than 0.25 inches.

(e) Trackout, including [~~T~~]*t*rackout less than 50 feet in length or 0.25 inches in depth, shall be cleaned immediately and maintained to eliminate [~~E~~]*e*missions of [~~F~~]*f*ugitive [~~D~~]*d*ust by removing all accumulations of mud or dirt on curbs, gutters, sidewalks, or [~~P~~]*p*aved surfaces[~~,~~] that cause[~~s~~] one or more of the following:

(1) An exceedance of 20% [~~O~~]*o*pacity using the Time Averaged Method or the Intermittent Emissions Method.

(2) An exceedance of [~~50~~]*35*% [~~O~~]*o*pacity using the Instantaneous Method.

(3) A [~~D~~]*d*ust plume to extend more than 100 feet, horizontally or vertically.

(4) A [~~D~~]*d*ust plume to cross a property line.

(f) Except as required in *Sections* 94.14(d) and (e), all [~~T~~]*t*rackout shall be cleaned up by the end of the workday or evening shift regardless of length or depth.

(g) [~~No s~~]*S*tockpiles *located 100 yards or less from occupied buildings must be less than* [~~over eight~~]*8* feet high [~~shall be located within 100 yards of occupied buildings~~]*unless the permittee occupies the buildings or receives prior Control Officer approval based on feasibility, necessity, or other condition*. Stockpiles [~~over eight feet high~~]located farther than 100 yards from occupied buildings *may be higher than 8 feet.*

(1) Stockpiles higher than 8 feet [~~must~~]*shall* have a road bladed to the top to allow water truck access*,* or *the permittee* must demonstrate *to the Control Officer* another means [~~to provide~~] *of* effective*ly controlling* [~~D~~]*d*ust [~~control at the top of the~~]*from the entire* stockpile.

94.15 TEST METHODS

94.15.0 Visual Determination of Emission Opacity from Sources of Visible Emissions

(a) Applicability: This method is applicable for determining the [~~O~~]*o*pacity of [~~E~~]*e*missions from sources of visible [~~E~~]*e*missions.

(1) The Time Averaged Method requires averaging visible [~~E~~]*e*mission readings over a specific time period to determine the [~~O~~]*o*pacity of the [~~E~~]*e*missions. It is used for continuous [~~E~~]*e*missions sources.

(2) The Intermittent Emissions Method requires averaging a set number of visible [~~E~~]*e*missions readings to determine the [~~O~~]*o*pacity of visible [~~E~~]*e*missions. It is used for intermittent [~~E~~]*e*missions sources.

(3) The Instantaneous Method sets an [~~O~~]*o*pacity limit that shall not be exceeded [~~at any time~~]*when averaging set number of visible emissions readings to determine the opacity of visible emissions*. It can be used with any [~~E~~]*e*missions source[~~ and is a non-federal requirement~~].

(b) Principle: The [~~O~~]*o*pacity of [~~E~~]*e*missions from a source of visible [~~E~~]*e*missions is determined visually by an observer with a current certification, approved by the Control Officer, as a qualified Visible Emissions Evaluator using EPA Method 9.

(c) Procedures: A qualified Visible Emissions Evaluator shall use the procedures set forth in Sections 94.15.2, 94.15.3, and 94.15.4 for visually determining the [~~O~~]*o*pacity of [~~E~~]*e*missions.

94.15.1 Time Averaged Method

The procedure in this section is for evaluating and determining the [~~O~~]*o*pacity of continuous [~~F~~]*f*ugitive [~~D~~]*d*ust [~~E~~]*e*missions by a qualified observer. Sources of these [~~E~~]*e*missions include activities that produce [~~E~~]*e*missions continuously during operations, such as earthmoving, [~~G~~]*g*rading, and [~~T~~]*t*renching. Emissions from these types of activities are considered continuous even though the speed of the activity may vary and [~~E~~]*e*missions may be controlled to 100%, producing no visible [~~E~~]*e*missions, during parts of the operation. The qualified observer should do the following:

(a) Position: Stand at a position at least 20 feet from the [~~F~~]*f*ugitive [~~D~~]*d*ust source to provide a clear view of the [~~E~~]*e*missions, with the sun oriented in the 140° sector to the back. Consistent as much as possible with maintaining this stance, make [~~O~~]*o*pacity observations from a position such that the line of sight is approximately perpendicular to the plume and wind direction. The observer may follow the [~~F~~]*f*ugitive [~~D~~]*d*ust plume generated by mobile earthmoving equipment as long as the sun remains oriented in the 140° sector to the back. As much as possible, do not include more than one plume in the line of sight at one time.

(b) Field Records: Record the site name, [~~F~~]*f*ugitive [~~D~~]*d*ust source type (e.g., earthmoving, [~~G~~]*g*rading, [~~T~~]*t*renching), method of control used (if any), observer's name, certification data and affiliation, and a sketch of the observer's position relative to the [~~F~~]*f*ugitive [~~D~~]*d*ust source. Also, record the time, estimated distance to the [~~F~~]*f*ugitive [~~D~~]*d*ust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position relative to the [~~F~~]*f*ugitive [~~D~~]*d*ust source, color of the plume, and type of background [~~of~~]*on* the *Clark County DAQ –* [~~v~~]*V*isible Emission[~~ observation~~] *Evaluation (VEE) Form* when [~~O~~]*o*pacity readings are initiated and completed.

(c) Observations: Make [~~O~~]*o*pacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of sight. Observe at a point just beyond where material is no longer being deposited out of the plume (normally three feet above the surface from which the plume is generated). The initial observation should begin immediately after a plume has been created above the surface involved. Do not look continuously at the plume, but instead observe the plume momentarily at 15-second intervals. For [~~F~~]fugitive [~~D~~]*d*ust from earthmoving equipment, make [~~O~~]*o*pacity observations at a point just beyond where material is not being

deposited out of the plume (normally three feet above the mechanical equipment generating the plume).

(d) Recording Observations: Record the [~~O~~]*o*pacity observations to the nearest 5% every 15 seconds on a[~~n observational record sheet~~] *Clark County DAQ – Visible Emission Evaluation (VEE) Form*. Each momentary observation recorded represents the average [~~O~~]*o*pacity of [~~E~~]*e*missions for a 15-second period. If multiple plumes exist at the time of an observation, do not record an [~~O~~]*o*pacity reading; mark an "x" for that reading. If the equipment generating the plume travels outside the field of observation, resulting in an inability to maintain sun orientation within the 140° sector, or if the equipment ceases operating, mark an "x" for the 15-second interval reading. Readings identified as "x" shall be considered interrupted readings.

(e) Data Reduction For Time-Averaged Method: For each set of 12 or 24 consecutive readings, calculate the appropriate average [~~O~~]*o*pacity. Sets shall consist of consecutive observations; however, readings immediately preceding and following interrupted readings shall be deemed consecutive. In no case shall two sets overlap, resulting in multiple violations.

94.15.2 Intermittent Emissions Method

The procedure in this section is for evaluating and determining intermittent [~~F~~]*f*ugitive [~~D~~]*d*ust [~~E~~]*e*missions by a qualified observer. Sources of intermittent [~~F~~]*f*ugitive [~~D~~]*d*ust [~~E~~]*e*missions include activities that produce [~~E~~]*e*missions intermittently, such as screening, dumping, and stockpiling, where predominant [~~E~~]*e*missions are produced intermittently. The qualified observer should do the following:

(a) Position: Stand at a position at least 20 feet from the [~~F~~]*f*ugitive [~~D~~]*d*ust source to provide a clear view of the [~~E~~]*e*missions, with the sun oriented in the 140° sector to the back. Consistent as much as possible with maintaining this stance, make [~~O~~]*o*pacity observations from a position such that the line of sight is approximately perpendicular to the plume and wind direction. As much as possible, do not include more than one plume in the line of sight at one time.

(b) Field Records: Record the site name, [~~F~~]*f*ugitive [~~D~~]*d*ust source type (e.g., pile, material handling, transfer, loading, sorting), method of control used (if any), observer's name, certification data and affiliation, and a sketch of the observer's position relative to the [~~F~~]*f*ugitive [~~D~~]*d*ust source. Also, record the time, estimated distance to the [~~F~~]*f*ugitive [~~D~~]*d*ust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position relative to the [~~F~~]*f*ugitive [~~D~~]*d*ust source, color of the plume, and type of background [~~of~~]*on* the *Clark*

County DAQ – [~~v~~]*V*isible Emission[~~ observation~~] *Evaluation (VEE) Form* when [~~O~~]*o*pacity readings are initiated and completed.

(c) Observations: Make [~~O~~]*o*pacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of sight. Observe at a point just beyond where material is no longer being deposited out of the plume (normally [~~three~~]*3* feet above the surface from which the plume is generated). Make two observations per plume at the same point, beginning with the first reading at zero seconds and the second reading at five seconds. The zero-second observation should begin immediately after a plume has been created above the surface involved.

(d) Recording Observations: Record the [~~O~~]*o*pacity observations to the nearest 5% on a[~~n observational record sheet~~] *Clark County DAQ – Visible Emission Evaluation (VEE) Form*. Each momentary observation recorded represents the average [~~O~~]*o*pacity of [~~E~~]*e*missions for a five-second period.

(e) Repeat [~~Sections 94.15.3~~]*paragraphs* (c) and (d) *of this section* until a total of 12 consecutive [~~O~~]*o*pacity readings have been recorded. This will occur once [~~six~~]*6* intermittent plumes on which the observer is able to take proper readings have been observed. The 12 consecutive readings must be taken within the same period of observation, but must not exceed 1 hour. Observations immediately preceding and following interrupted observations can be considered consecutive.

(f) Average the 12 [~~O~~]*o*pacity readings together. If the average [~~O~~]*o*pacity reading equals 20% or lower, the source is in compliance with the averaged method [~~O~~]*o*pacity standard described in this section.

94.15.3 Instantaneous Method

[~~This is a non-federal procedure for evaluation of Fugitive Dust Emissions. It provides a method~~]*This procedure is* for *the* instantaneous determination of the [~~O~~]*o*pacity of [~~F~~]*f*ugitive [~~D~~]*d*ust [~~E~~]*e*missions by a qualified observer. [~~This method is a Clark County local requirement and has not been submitted as part of the Nevada State Implementation Plan.~~] The qualified observer should do the following:

(a) Position: Stand at a position at least 20 feet from the [~~F~~]*f*ugitive [~~D~~]*d*ust source to provide a clear view of the [~~E~~]*e*missions[~~,~~] with the sun oriented in the 140° sector to the back. Consistent as much as possible with maintaining [~~this stance~~]*the above requirements*, make [~~O~~]*o*pacity observations from a position such that the line of sight is approximately perpendicular to the plume and wind direction. The

observer may follow the [~~F~~]*f*ugitive [~~D~~]dust plume generated by mobile earthmoving equipment as long as the sun remains oriented in the 140° sector to the back. As much as possible, do not include more than one plume in the line of sight at one time.

(b) Field Records: Record the site name [~~F~~]*f*ugitive [~~D~~]*d*ust source type (e.g., earthmoving, [~~G~~]*g*rading, storage pile, material handling, transfer, loading, sorting), method of control used (if any), observer's name, certification data, and affiliation, and a sketch of the observer's position relative to the [~~F~~]*f*ugitive [~~D~~]*d*ust source. Also record the time, estimated distance to the [~~F~~]*f*ugitive [~~D~~]*d*ust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position relative to the [~~F~~]*f*ugitive [~~D~~]*d*ust source, color of the plume, and type of background [~~of~~]*on* the visible emission observation *form* when [~~O~~]*o*pacity readings are initiated and completed.

(c) Observations: Make [~~O~~]*o*pacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of sight. [~~Observe~~]*Make opacity observations* at a point just beyond where material is no longer being deposited out of the plume (normally [~~three~~]*3* feet above the surface from which the plume is generated). *The initial observation should begin immediately after a plume has been created above the surface involved. Do not look continuously at the plume, but instead observe the plume momentarily at 5-second intervals. For fugitive dust from earthmoving equipment, make opacity observations at a point just beyond where material is not being deposited out of the plume (normally three feet above the mechanical equipment generating the plume).*

(d) Recording Observations: Record the [~~O~~]*o*pacity observations to the nearest 5% *every 5 seconds for 12 consecutive observations on a Clark County DAQ – Visible Emission Evaluation (VEE) Form. The 12 consecutive readings must be taken within 1 minute. Each momentary observation recorded represents the average opacity of emissions for a 5-second period*.

(e) Data Reduction for Instantaneous Method: Sets shall consist of 12 consecutive observations made within 1 minute. For each set, calculate the average opacity. In no case shall two sets overlap, resulting in multiple violations. Calculate the average by summing the opacity of the 12 observations and dividing this sum by 12. If the average opacity of one set is higher than 35%, the source is not in compliance with the opacity standard described in Section 94.

EXHIBIT 2

94.15.4 Soil Crust Determination (Drop Ball Test)

(a) Drop a steel ball with a diameter of 0.625 (⅝) inches *(15.9 mm)* and a mass ranging from 0.56 to 0.60 ounces *(16–17 g)* from a distance of one foot *(30.5 cm)* directly above the soil surface. If blowsand is present, clear the blowsand from the surfaces on which the [~~soil crust test method~~]*Drop Ball Test* is conducted. ("Blowsand" is defined as thin deposits of loose uncombined grains covering less than 50% of a project site that have not originated from the representative surface being tested.) If material that is not blowsand covers a visible crust, apply the test method in [~~AQR~~]*accordance with* Section 90.4.1.3 *of the AQRs,* [~~(~~]"Determination of Threshold Friction Velocity *(TFV),*"[~~)~~] to the loose material to determine whether the surface is stable.

(b) A sufficient crust is defined under the following conditions: once a ball has been dropped according to [~~AQR Section 90.4.1.1~~]*paragraph (a) of this section,* the ball does not sink into the surface, where it would be partially or fully surrounded by loose grains; and, upon removing the ball, the surface upon which it fell has not been pulverized, where loose grains [~~would be~~]*are* visible.

[~~(b)~~]*(c)* Randomly select each representative disturbed surface for the [~~d~~]*D*rop [~~b~~]*B*all [~~t~~]*T*est by using a blind "over the shoulder" toss of a throwable object (e.g., a metal weight with survey tape attached). Using the point of fall as the lower left hand corner, measure a 1-foot-square area. Drop the ball three times within the 1-foot by 1-foot square, using a consistent pattern across the survey area. The survey area shall be considered to have passed the [~~Soil Crust Determination~~]*Drop Ball* Test if the results meet the criteria of [~~AQR Section 90.4.1.1(a)~~]*paragraph (b) of this section* at least two out of the three times the ball [~~was~~]*is* dropped. Select at least two other survey areas that represent a random portion of the overall disturbed conditions of the site and repeat [~~this~~]*the* procedure. If the results meet the criteria of [~~AQR Section 90.4.1.1(a)~~]*paragraph (b) of this section* in all the survey areas tested, the site shall be considered to have passed the [~~Soil Crust Determination~~]*Drop Ball* Test and shall be considered sufficiently crusted.

[~~(c)~~]*(d)* At any given site, the existence of a sufficient crust covering one portion of the site may not represent the existence or protectiveness of a crust on another portion of the site. Repeat the [~~soil crust t~~]*Drop Ball T*est as often as necessary on each portion of the overall site using the random selection method set forth in [~~AQR Section 90.4.1.1(b)~~]*paragraph (c) of this section* for an accurate assessment.

EXHIBIT 2

Appendix 1: BEST MANAGEMENT PRACTICES (BMPs)

BMPs are site-specific [~~D~~]*d*ust [~~C~~]*c*ontrol [~~M~~]*m*easures that are based on project soil type, specific [~~C~~]*c*onstruction [~~A~~]*a*ctivities, and project phases/stages. These practices are established to reduce particulate [~~E~~]*e*missions from [~~C~~]*c*onstruction sites. Some practices are also designed to reduce the amount of water needed for [~~D~~]*d*ust control.

1. Soil Type Categories

Soil types are classified into five categories—high, moderately high, moderately low, low, and slight—based on their PEP. The fifth category, "slight," was created solely to identify areas of bedrock outcrops. PEP is determined by soil silt content (measured by the percent of soil that will pass through a 200-mesh sieve) and optimum moisture content (measured by the percent of moisture necessary to compact soils).

2. BMPs

The following sections list the current BMPs developed and approved for use in Clark County to mitigate [~~D~~]*d*ust during [~~C~~]*c*onstruction [~~A~~]*a*ctivities. The BMPs are organized alphabetically by [~~C~~]*c*onstruction [~~A~~]*a*ctivity.

The control requirements of each [~~C~~]*c*onstruction [~~A~~]*a*ctivity category to be conducted on the project must be met through implementation of [~~C~~]*c*ontrol [~~M~~]*m*easures. Within most [~~C~~]*c*onstruction [~~A~~]*a*ctivity categories, there are choices of [~~C~~]*c*ontrol [~~M~~]*m*easures to select to meet control requirements. Control requirements are stated for each [~~C~~]*c*onstruction [~~A~~]*a*ctivity.

Table 1 provides the required [~~C~~]*c*ontrol [~~M~~]*m*easures to be implemented for each soil type based on PEP. Some [~~C~~]*c*ontrol [~~M~~]*m*easures apply to [~~C~~]*c*onstruction [~~A~~]*a*ctivities regardless of soil type. The [~~C~~]*c*ontrol [~~M~~]*m*easures implemented must address the PEP for the area in which the [~~C~~]*c*onstruction project is permitted.

Table 1: Soil Types

Particulate Emission Potential (PEP)	Control Measure
Low	Apply water and mix moist soil with dry soil until optimum moisture content is reached *to meet emissions and soil stabilization standards*.
Moderate Low	Apply and mix water into soil and/or material until optimum moisture content is reached *to meet emissions and soil stabilization standards*.
Moderate High	Apply and mix water and [~~tackifier~~]*surfactant* solution into soil and/or material until optimum moisture content is reached *to meet emissions and soil stabilization standards*.
High	Apply and mix water and surfactant solution into soil and/or material until optimum moisture content is reached *to meet emissions and soil stabilization standards*.

EXHIBIT 2

Control measures not currently listed in the BMPs may be proposed in a [~~D~~]*d*ust [~~M~~]*m*itigation [~~P~~]*p*lan. Such unlisted [~~C~~]*c*ontrol [~~M~~]*m*easures will be reviewed by *the Department of Environment and Sustainability, Division of Air Quality (*DAQ*)* [~~staff~~]and may require additional information regarding their effectiveness. Any unlisted [~~C~~]*c*ontrol [~~M~~]*m*easure must clearly meet the control requirements for an activity category.

DAQ will apply the following minimum criteria when evaluating any unlisted [~~C~~]*c*ontrol [~~M~~]*m*easures [~~a Permittee proposes to meet~~]*proposed for meeting* the control requirements for a BMP:

a. The [~~C~~]*c*ontrol [~~M~~]*m*easure technique is a new or alternative technology demonstrated to be equally or more effective in meeting the control requirement than existing [~~C~~]*c*ontrol [~~M~~]*m*easures;

b. Site logistics do not practically allow for implementation of a listed [~~C~~]*c*ontrol [~~M~~]*m*easure as written (e.g., road width prevents truck entry or preexisting barriers limit the size or width of a gravel pad); or

c. [~~The Owner/Operator demonstrates~~]*It is demonstrated* that a listed [~~C~~]*c*ontrol [~~M~~]*m*easure is technically infeasible due to site-specific or material-specific conditions such that implementation of the [~~C~~]*c*ontrol [~~M~~]*m*easure will not provide a benefit in reducing [~~F~~]*f*ugitive [~~D~~]*d*ust (e.g., presoaking screened, washed rock when handling).

BMP 01 BACKFILLING ([~~F~~]*f*illing area previously excavated or [~~T~~]*t*renched)

01 Requirement

(a) Maintain optimum moisture content in backfill material and operate equipment in a manner that limits [~~F~~]fugitive [~~D~~]dust to comply with the AQRs before, during, and after handling of material and during storage until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water surface soils where support equipment and vehicles will operate, and maintain in a stabilized condition.

(2) Dedicate an adequate water source to backfilling equipment and apply water as needed to minimize [~~D~~]dust.

(3) Empty loader bucket slowly and minimize drop height from loader bucket.

(4) Ensure backfill material is moist or crusted at all times.

(5) Apply water[~~,~~] or surfactant[~~, or tackifier~~] to maintain disturbed soils in a stable condition to limit [~~F~~]fugitive [~~D~~]dust.

EXHIBIT 2

Note: The appropriate [~~C~~]*c*ontrol [~~M~~]*m*easure for the project soil type must be selected from Table 1.

BMP 02 BLASTING – Abrasive ([~~S~~]*s*andblasting, abrasive blasting, and/or hydro-blasting)

02 Requirements

(a) Ensure soil moisture is maintained to limit [~~F~~]*f*ugitive [~~D~~]*d*ust where support equipment and vehicles will operate until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water surface soils and maintain in a stabilized condition.

(2) If water is not effective, apply and maintain a surfactant and/or [~~D~~]*d*ust [~~P~~]*p*alliative on surface soils as needed.

(b) Limit visible [~~E~~]*e*missions to no more than an average of 40% [~~O~~]*o*pacity for any period totaling 3 minutes in any 60-minute period, or to no more than [~~50~~]*35*% instantaneous [~~O~~]*o*pacity, pursuant to the AQRs.

(c) Hydro-blasting (using water as the propellant) must be conducted in a manner that maintains visible [~~E~~]*e*missions within [~~O~~]*o*pacity standards.

(d) Stabilize [~~P~~]*p*articulate [~~M~~]*m*atter in the surrounding area following blasting.

(1) Clean [~~P~~]*p*articulate [~~M~~]*m*atter from the surrounding area and water disturbed soils after blasting.

(2) If water is not effective, apply and maintain a surfactant and/or [~~D~~]*d*ust [~~P~~]*p*alliative on the surrounding area following blasting.

Note: Whenever possible, abrasive blasting should be conducted within an enclosed structure to limit the release of visible [~~E~~]*e*missions to the atmosphere.

BMP 03 BLASTING – Soil and Rock ([~~E~~]*e*xplosive blasting of soil and rock)

03 Requirements

(a) Maintain optimum moisture content in soil where drills, support equipment, and vehicles will operate to prevent unstable soil

conditions and limit [~~F~~]*f*ugitive [~~D~~]*d*ust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water surface soils where drills, support equipment, and vehicles will operate, and maintain in a stabilized condition.

(b) If water is not effective, apply and maintain a surfactant and/or [~~D~~]*d*ust [~~P~~]*p*alliative on surface soils as needed.

(c) [~~A Blasting Supplemental form must be filled out, submitted, and approved by DAQ prior to any blasting~~]*Complete and submit a Blasting Supplemental Form; receive DAQ approval before conducting any blasting*.

(d) No blasting may be conducted within 1,500 feet of a residential area, occupied building, or major roadway when the wind direction is toward these structures.

(e) Blasting shall take place between the hours of 8:00 a.m. and 4:30 p.m., excluding Saturdays, Sundays, and holidays, unless prior permission is obtained from the Control Officer.

(f) No blasting is allowed when the National Weather Service forecasts wind gusts above 25 [~~miles per hour (~~]mph[~~)~~].

(g) Before setting explosive charges in holes, document current and predicted weather conditions according to the National Weather Service. If the forecast is for wind gusts of 25 mph or more, do not load explosives or blast holes. If wind conditions are forecasted to be 25 mph or more during a future scheduled blast, do not load explosives or blast holes.

(h) If DAQ issues a Construction Notice or Dust Advisory when a blast has been scheduled, do not load explosives or blast holes during the time period listed on the notice/advisory. If holes were loaded before the notices were issued, call a DAQ Compliance [~~S~~]supervisor or [~~M~~]*m*anager for permission to blast.

(i) Maintain the optimum moisture content in soil before, during, and after blasting activities to limit [~~E~~]*e*missions until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Limit the blast area to what can be stabilized immediately following the blast.

(2) Limit disturbed areas by maintaining natural rock and vegetation.

(3) Presoak surface soils to the depth of caliche or bedrock with water[~~,~~] *or* surfactant[~~, or tackifier~~] to limit [~~F~~]*f*ugitive [~~D~~]*d*ust.

(4) Apply water, surfactant, *tackifier,* and/or [~~D~~]*d*ust [~~P~~]*p*alliative on disturbed soils to form a crust immediately following blasting activities until the long-term stabilization requirements listed in BMP 11 are achieved.

Note: The appropriate [~~C~~]*c*ontrol [~~M~~]*m*easure for the project soil type must be selected from Table 1.

BMP 04 CLEARING AND GRUBBING ([~~Definition: C~~]*c*learing and grubbing for site preparation and vacant land cleanup)

04 Requirement

(a) Maintain optimum moisture content in soil before, during, and after clearing and grubbing activities to prevent unstable soil conditions and limit [~~F~~]*f*ugitive [~~D~~]*d*ust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water surface soils where support equipment and vehicles will operate, and maintain in a stabilized condition.

(2) Apply water[~~,~~] *or* surfactant[~~, or tackifier~~] during clearing and grubbing activities to prevent unstable soil conditions and limit [~~F~~]*f*ugitive [~~D~~]*d*ust.

(3) Apply water, surfactant, *tackifier,* and/or [~~D~~]*d*ust [~~P~~]*p*alliative on disturbed soils to form a crust immediately following clearing and grubbing activities until the long-term stabilization requirements listed in BMP 11 are achieved.

Note: The appropriate [~~C~~]*c*ontrol [~~M~~]*m*easure for the project soil type must be selected from Table 1.

BMP 05 CLEARING FORMS, FOUNDATIONS AND SLABS ([~~C~~]*c*learing and cleaning of forms, foundations and slabs)

05 Requirement

(a) Limit visible [~~E~~]*e*missions before, during, and after the clearing of forms, foundations, and slabs to no more than an average of 20% [~~O~~]*o*pacity for any period totaling 3 minutes in any 60-minute period, or to no more than [~~50~~]*35*% instantaneous [~~O~~]*o*pacity, pursuant to the AQRs.

(1) Avoid the use of high pressure air to blow soil and/or debris from forms, foundations, and slabs.

(b) At least one of the following must be used to clear forms, foundations, and slabs:

(1) Water spray.

(2) Sweeping and water spray.

(3) Industrial vacuum.

BMP 06 CRUSHING ([~~C~~]*c*rushing of [~~C~~]*c*onstruction and demolition debris, rock, and soil)

06 Requirements

(a) Maintain optimum moisture content in soil where support equipment and vehicles will operate to prevent unstable soil conditions and limit [~~F~~]*f*ugitive [~~D~~]*d*ust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water surface soils where support equipment and vehicles will operate, and maintain in a moist condition.

(2) If water is not effective, apply and maintain a surfactant and/or [~~D~~]*d*ust [~~P~~]*p*alliative on surface soils as needed.

(b) Maintain optimum moisture content in material before, during, and after crushing activities to limit [~~E~~]*e*missions.

(1) Pre-water material before loading it into the crusher.

(2) Apply water to material during crushing to ensure compliance with [~~O~~]*o*pacity standards and [~~Permit~~]*DCOP* conditions.

(3) Monitor Emissions Opacity. Make adjustments to ensure compliance with [~~O~~]*o*pacity standards and [~~Permit~~]*DCOP* conditions.

(4) Apply water to crushed material immediately following crushing.

Note: If required, obtain the appropriate [~~Operating P~~]*stationary source p*ermit for powered crushers prior to engaging in crushing activity and comply with [~~Permit~~]*stationary source permit* conditions.

EXHIBIT 2

BMP 07 CUT AND FILL ([~~C~~]*c*ut and/or fill soils for site grade preparation)

07 Requirement

(a) Maintain optimum moisture content in soil where support equipment and vehicles will operate to prevent unstable soil conditions and limit [~~F~~]*f*ugitive [~~D~~]*d*ust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water surface soils where support equipment and vehicles will operate, and maintain in a moist condition.

(2) If water is not effective, apply and maintain a surfactant and/or [~~D~~]*d*ust [~~P~~]*p*alliative on surface soils.

(b) Maintain optimum moisture content in soils before, during, and after cut and fill activities to limit [~~F~~]*f*ugitive [~~D~~]*d*ust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water to cut depth and maintain surface soils in a stabilized condition.

(2) Rip soil and add water and/or surfactant as needed to reach moisture throughout the cut depth.

(3) During cut and fill activities, apply water[~~,~~] *or* surfactant[~~, or tackifier~~] to ensure moisture content is maintained to cut depth.

(4) Immediately following cut and fill activities, apply water, *tackifier,* surfactant, and/or [~~D~~]*d*ust [~~P~~]*p*alliative to disturbed soils to form a crust until the long-term stabilization requirements listed in BMP 11 are achieved.

Note: The appropriate [~~C~~]*c*ontrol [~~M~~]*m*easure for the project soil type must be selected from Table 1.

BMP 08 DEMOLITION – Implosion ([~~I~~]*i*mplosive blasting demolition of structure)

08 Requirements

(a) A [~~Demolition Supplemental Form~~]*supplemental form for demolition* and a [~~S~~]*s*upplement to the [~~D~~]*d*ust [~~M~~]*m*itigation [~~P~~]*p*lan must be filled out, submitted to, and approved by the Control Officer prior to implosion.

EXHIBIT 2

(b) An asbestos survey must be conducted on any facility before demolition can commence.

(c) A separate, complete [~~Clark County NESHAP~~]Demolition Notification Form must be submitted to DAQ for each structure at least 10 working days prior to demolition. The asbestos survey must be attached to this notification.

(d) All friable and non-friable asbestos-containing material must be removed from the facility prior to implosion.

(e) Blasting must be confined to times when the wind direction is away from the closest residential areas, occupied buildings, and major roadways.

(f) Implosion time must be preapproved by the Control Officer.

(g) Current weather conditions and weather predictions from the National Weather Service must be monitored and documented.

(1) Prior to setting explosive charges, obtain and document current and predicted weather conditions from the National Weather Service.

(2) If [~~a wind advisory (over 20 mph gusts or average wind speed of 10 mph) is~~]*average wind speeds of 10 mph or more or gusts over 20 mph are* current or forecasted for the blast period, do not set charges and do not blast.

(3) Maintain a calibrated anemometer and log ambient air velocity and direction within 1,000 feet of the implosion site, beginning at least 1 (one) hour prior to and 15 minutes after the implosion.

(h) Maintain optimum moisture content in soil where support equipment and vehicles will operate to prevent unstable soil conditions and limit [~~F~~]*f*ugitive [~~D~~]*d*ust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Restrict support equipment and vehicles to existing [~~P~~]paved and/or stable areas.

(2) Pre-water surface soils where support equipment and vehicles will operate, and maintain in a moist condition.

(3) If water is not effective, apply and maintain a surfactant and/or [~~D~~]*d*ust [~~P~~]*p*alliative on surface soils as needed.

(i) Maintain optimum moisture content in demolition debris before, during, and after implosion activities to limit [~~E~~]*e*missions.

(1) Apply water to debris immediately following blast and safety clearance, and maintain optimum moisture content in debris throughout cleanup and exporting activities.

(2) If water is not effective, apply and maintain a surfactant to debris immediately following blast and safety clearance.

(3) Clean and stabilize surrounding areas immediately following blast and safety clearance by applying water to all disturbed soil surfaces to establish a crust.

(4) Thoroughly clean blast debris from [~~P~~]*p*aved and other surfaces following blast and safety clearance.

BMP 09 DEMOLITION - Mechanical/Manual ([~~M~~]*m*echanical and manual demolition of walls, stucco, concrete, free-standing structures, buildings, and load-bearing walls)

09 Requirements

(a) An asbestos survey must be conducted on any facility or structure subject to NESHAP requirements before demolition can [~~C~~]*c*ommence.

(b) A separate, complete [~~Clark County NESHAP~~]Demolition Notification Form must be submitted to DAQ for each structure at least 10 working days prior to demolition. The asbestos survey must be attached to this notification.

(c) Maintain optimum moisture content in soil where support equipment and vehicles will operate to prevent unstable soil conditions and limit [~~F~~]*f*ugitive [~~D~~]*d*ust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water surface soils where support equipment and vehicles will operate, and maintain in a moist condition.

(2) If water is not effective, apply and maintain a surfactant and/or [~~D~~]*d*ust [~~P~~]*p*alliative on surface soils as needed.

(d) Maintain optimum moisture content in demolition debris before, during, and after demolition activities to limit [~~E~~]*e*missions.

(1) Apply water to demolition debris during handling.

(2) Apply water to stabilize demolition debris immediately following demolition.

(3) If water is not effective, apply and maintain a [~~D~~]*d*ust [~~P~~]*p*alliative to demolition debris immediately following demolition.

(e) Stabilize surrounding area immediately following demolition by applying water and/or [~~D~~]*d*ust [~~P~~]*p*alliative to all disturbed soil surfaces.

BMP 10 DISTURBED SOIL ([~~D~~]*d*isturbed soil throughout project, including between structures)

10 Requirement

(a) Maintain optimum moisture content in soils before, during, and after all [~~C~~]*c*onstruction [~~A~~]*a*ctivities to prevent unstable soils and limit [~~F~~]*f*ugitive [~~D~~]*d*ust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Limit vehicle traffic and disturbance of soils to areas not being immediately developed using fencing, barriers, and/or barricades.

(2) Pre-water surface soils where support equipment and vehicles will operate, and maintain in a moist condition.

(3) Apply water[~~,~~] *or* surfactant[~~, or tackifier~~] during [~~C~~]*c*onstruction [~~A~~]*a*ctivities to prevent unstable soil conditions and limit [~~F~~]*f*ugitive [~~D~~]*d*ust.

(4) Apply water, surfactant, *tackifier,* and/or [~~D~~]*d*ust [~~P~~]*p*alliative to disturbed soils to form a crust immediately following [~~C~~]*c*onstruction [~~A~~]*a*ctivities until the long-term stabilization requirements listed in BMP 11 are achieved.

(b) If interior block walls are planned, install walls as early as possible in the [~~C~~]*c*onstruction project.

EXHIBIT 2

BMP 11 LONG-TERM STABILIZATION ([~~A~~]*a*pplies to disturbed land that is not built out, landscaped, or [~~P~~]*p*aved at [~~Permit~~]*DCOP* closure)

11 Requirements

(a) Stabilize all disturbed land within 10 days of the completion of a project, or when active operations on all or part of the [~~C~~]*c*onstruction site will cease for 30 days or more. Restrict access to these areas to prevent soil disturbance and maintain long-term stabilization *where feasible*. The Control Officer must approve the control method selected by the [~~P~~]*p*ermittee before its implementation. The [~~P~~]*p*ermittee shall select one or more of the following control methods:

(1) Pave.

(2) Apply [~~C~~]*c*lean [~~G~~]*g*ravel *or dust palliative*.

(3) Install permanent metal or wood fencing and/or a post and cable at least 3 feet high, or other similar barrier approved by the Control Officer, and stabilize soil with one of the following to create adequate crust *to pass the Drop Ball Test*:

(A) Water[~~, or~~]*;*

(B) Tackifier; or

[~~(B)~~]*(C)* Dust [~~P~~]*p*alliative.

(4) Install a dirt berm at least 4 feet high, or a similar barrier approved by the Control Officer, and stabilize soil with one of the following to create adequate crust to pass the Drop Ball Test:

(A) Water[~~, or~~]*;*

(B) Tackifier; or

[~~(B)~~]*(C)* Dust [~~P~~]*p*alliative.

(b) Installation of signs, as described below, is required if [~~a dirt berm or similar barrier is used or if Clean Gravel is applied.~~]*BMPs 11(a)(2) or (4) are implemented unless the permittee obtains prior Control Officer approval based on infeasibility or lack of necessity*.

EXHIBIT 2

(1) Install orange "No Parking/Trespassing" signs with black lettering, at least 24 inches wide by 18 inches high, every 50 feet or as approved by the Control Officer ([~~Table 2~~]*Figure 1*).

(2) Construct the sign(s) from materials capable of withstanding Clark County's harsh environment (e.g., wood, metal, plastic).

(3) Attach the sign(s) to a sturdy post, such as metal or wood, placed securely in the ground, or attach the sign(s) to a fence, barricade, or other stable object that is clearly visible.

(4) Post on or near the property boundary, the property corners, and at all access points; post no further than 50 feet apart.

(c) New [~~C~~]*c*onstruction or modification of [~~P~~]*p*aved roads *or disturbance of road shoulders* must be stabilized [~~consistent with Section 93~~] before the [~~Dust Control Operating Permit~~]*DCOP* is closed.

(1) Roads with vehicular traffic equal to 3,000 vehicles or fewer per day shall have a 4-foot [~~P~~]*p*aved road shoulder or be stabilized with [~~C~~]*c*lean [~~G~~]*g*ravel, recycled asphalt, or traffic-rated [~~D~~]*d*ust [~~P~~]*p*alliative.

(2) Roads with vehicular traffic greater than 3,000 vehicles per day shall have an 8-foot [~~P~~]*p*aved road shoulder or be stabilized with [~~C~~]*c*lean [~~G~~]*g*ravel, recycled asphalt, or traffic-rated [~~D~~]*d*ust [~~P~~]*p*alliative.

(3) All disturbed areas outside the road shoulder boundaries must be treated for long-term stabilization.

(d) New construction or modification of unpaved roads must be stabilized before the DCOP is closed. Control measures shall be considered effectively implemented when:

(1) Fugitive dust emissions do not exceed 20% opacity; and

(2) Silt loading on the unpaved road surface is not equal to or greater than 0.33 oz/ft^2 or the surface does not exceed 6% silt content as determined by Section 91.4.1.2, "Silt Content Test Method," of the AQRs.

***Note:** No unpaved roads or alleys may be constructed in public thoroughfares in areas where Section 91, "Fugitive Dust from Unpaved Roads, Unpaved Alleys, and Unpaved Easement Roads," is applicable.*

(e) Based on site conditions, other control methods that are at least as

effective as approved control methods may be implemented with prior Control Officer approval.

BMP 12 DUST PALLIATIVE – Selection and Use ([S]*s*election and use of chemical and organic dust suppressing agents and other [D]*d*ust [P]*p*alliatives)

12 Requirement

T*he Responsible Official shall ensure t*he selection and use of chemical and organic [D]*d*ust [S]*s*uppressing agents and other [D]*d*ust [P]*p*alliative shall adhere to all local, [S]*s*tate, and federal regulations as well as all manufacturer specifications.

BMP 13 IMPORTING/EXPORTING OF BULK MATERIAL ([I]*i*mporting or exporting of soil, aggregate, decorative rock, debris, Type II, and other bulk material)

13 Requirement

(a) Maintain optimum moisture content in surface soils and bulk material before, during, and after all importing/exporting activities to prevent unstable soils and limit [F]*f*ugitive [D]*d*ust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water surface soils where importing/exporting activities occur, including haul routes, and maintain in a moist condition.

(2) If water is not effective, apply and maintain a surfactant and/or [D]*d*ust [P]*p*alliative, or [C]*c*lean [G]*g*ravel, on surface soils where importing/exporting activities occur, including haul routes.

(3) Limit vehicle speeds to 15 mph on the work site.

(4) Maintain 3–6 inches of freeboard to prevent spillage.

(5) Apply tarps or other suitable enclosures that completely cover the load on haul trucks before they exit the project onto [P]*p*ublic [R]*r*oads, and maintain throughout transport. Tarps must be well-maintained and serviceable at all times.

(b) Clean the wheels and undercarriage of haul trucks before they leave the Construction site.

(c) Check belly/end dump truck seals regularly, and remove trapped rocks to prevent spillage.

EXHIBIT 2

BMP 14 LANDSCAPING ([~~I~~]*i*nstallation of sod, decorative rock, desert or other landscape material)

14 Requirement

(a) Maintain optimum moisture content in soils and landscaping material before, during, and after landscaping activities to limit [~~F~~]*f*ugitive [~~D~~]*d*ust until the long-term stabilization requirements listed in BMP 11 are achieved.

(b) Apply water[~~,~~] *or* surfactant[~~, or tackifier~~] to maintain disturbed soils and landscaping material in a stable condition until the long-term stabilization requirements listed in BMP 11 are achieved.

Note: The appropriate [~~C~~]*c*ontrol [~~M~~]*m*easure for the project soil type must be selected from Table 1.

BMP 15 SUBGRADE PREPARATION FOR PAVING ([~~S~~]*s*ubgrade preparation for paving streets, parking lots, etc.)

15 Requirement

(a) Maintain optimum moisture content in soils before, during, and after all paving/subgrade preparation activities to prevent unstable soils and limit [~~F~~]*f*ugitive [~~D~~]*d*ust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water subgrade surfaces until optimum moisture content is reached.

(2) Maintain optimum moisture content in material while aggregate is being applied.

(3) Place tack coat on aggregate base.

BMP 16 SAWING/CUTTING MATERIALS ([~~S~~]*s*awing or cutting materials such as concrete, asphalt, block or pipe)

16 Requirement

(a) Limit visible [~~E~~]*e*missions to no more than an average of 20% [~~O~~]*o*pacity for any period totaling 3 minutes in any 60-minute period, or to no more than [~~50~~]*35*% instantaneous [~~O~~]*o*pacity, pursuant to the AQRs. One of the following two control methods must be used when sawing/cutting materials:

(1) Use water to control [~~D~~]*d*ust.

(2) Use a vacuum to collect [~~D~~]*d*ust.

BMP 17 SCREENING ([~~S~~]*s*creening of rock, soil, or [~~C~~]*c*onstruction debris)

17 Requirements

(a) Maintain optimum moisture content in soil where support equipment and vehicles will operate to prevent unstable soil conditions and limit [~~F~~]*f*ugitive [~~D~~]*d*ust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water surface soils where support equipment and vehicles will operate, and maintain in a moist condition.

(2) If water is not effective, apply and maintain a surfactant and/or [~~D~~]*d*ust [~~P~~]*p*alliative on surface soils as needed.

(b) Maintain optimum moisture content in material before, during, and after screening activities to limit [~~E~~]*e*missions until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Apply sufficient water or a [~~D~~]*d*ust [~~S~~]*s*uppressant prior to screening.

(2) Drop material through the screen slowly; minimize drop height.

(3) Dedicate an adequate water source to the screening operation, and apply water as needed to minimize [~~D~~]*d*ust.

(4) Monitor visible [~~E~~]*e*missions; make adjustments to [~~C~~]*c*ontrol [~~M~~]*m*easures to ensure compliance with [~~O~~]*o*pacity standards and [~~Permit~~]*DCOP* conditions.

(5) Apply water, surfactant, or [~~D~~]*d*ust [~~P~~]*p*alliative to screened material and surrounding areas following screening activities until long-term stabilization is achieved.

Note: If required, obtain the appropriate [~~Operating~~]*stationary source* [~~P~~]*p*ermit for powered screens before engaging in screening activity and comply with [~~Permit~~]*stationary source permit* conditions.

EXHIBIT 2

BMP 18 STAGING AREAS ([~~S~~]staging areas and equipment/material storage areas)

18 Requirement

(a) Maintain optimum moisture content in soils before, during, and after all staging area activities to prevent unstable soils and limit [~~F~~]fugitive [~~D~~]dust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water surface soils where support equipment and vehicles will operate, and maintain in a moist condition.

(2) If water is not effective, apply and maintain a surfactant and/or [~~D~~]dust [~~P~~]palliative on surface soils as needed.

(3) Limit vehicle speed to 15 mph in staging area(s) and on all unpaved access routes.

(4) Apply water, [~~C~~]clean [~~G~~]gravel, recycled asphalt, or [~~D~~]dust [~~P~~]palliative to staging area soils for the duration of the project.

BMP 19 STOCKPILING ([~~S~~]stockpiling of materials, such as Type II, rock or debris, for future use or export)

19 Requirement

(a) Maintain optimum moisture content in soil where support equipment and vehicles will operate to prevent unstable soil conditions and limit [~~F~~]fugitive [~~D~~]dust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water surface soils where support equipment and vehicles will operate, and maintain in a moist condition.

(2) If water is not effective, apply and maintain a surfactant and/or [~~D~~]dust [~~P~~]palliative on surface soils as needed.

(b) Maintain optimum moisture content in material before, during, and after stockpiling activities to limit [~~F~~]fugitive [~~D~~]dust until long-term stabilization is achieved.

(1) Stockpiles located [~~within~~]100 yards [~~of~~]*or less from* occupied buildings [~~shall not be constructed over~~]*must be less than* 8 feet [~~in height~~]*high* unless [~~otherwise approved by the~~]*the permittee occupies the buildings or receives prior* Control Officer *approval based on feasibility, necessity, or other*

condition. Stockpiles located farther than 100 yards from occupied building may be higher than 8 feet.

[~~(2)~~]*(A)* Stockpiles [~~located farther than 100 yards from any occupied building and constructed over~~]*higher than* 8 feet [~~in height must~~]*shall* have a road bladed to the top to allow water truck access, or [~~shall~~]*the permittee must* demonstrate *to the Control Officer* another means [~~to provide effective Dust control~~]*of effectively controlling dust from the entire stockpile*.

[~~(3)~~]*(2)*Apply water[~~,~~] *or* surfactant[~~, or tackifier~~] during stockpiling activities to prevent unstable soil conditions and limit [~~F~~]*f*ugitive [~~D~~]*d*ust.

[~~(4)~~]*(3)*Apply water, surfactant, *tackifier,* and/or [~~D~~]*d*ust [~~P~~]*p*alliative to material and surface soils to form a crust immediately following stockpiling activities until the long-term stabilization requirements listed in BMP 11 are achieved.

(c) All stockpiles must be removed or leveled prior to project completion unless otherwise approved by the Control Officer. Stockpiles approved to be left in place must be in compliance with the long-term stabilization requirements listed in BMP 11.

Note: The appropriate [~~C~~]*c*ontrol [~~M~~]*m*easure for the project soil type must be selected from Table 1.

BMP 20 TRACKOUT PREVENTION AND CLEANUP ([~~P~~]*p*revention and cleanup of mud, silt, and soil tracked out onto [~~P~~]*p*aved surfaces)

20 Requirements

(a) Install and maintain a [~~T~~]*t*rackout control device in an effective condition at all [~~access points~~]*locations* where [~~P~~]*p*aved and unpaved[~~ access or~~] travel routes intersect.

(1) Install gravel pad(s) consisting of a minimum of 2 inches in rough diameter of [~~C~~]*c*lean [~~G~~]*g*ravel or crushed rock on a well-graded surface (Type II material is not acceptable). Minimum dimensions must be 30 feet wide by 6 inches deep by 50 feet in length or the length of the longest haul truck, whichever is greater. Re-screen, wash, or apply additional rock to gravel pads to maintain effectiveness.

(A) Install wheel shakers if gravel pads are not effective in pre- venting [~~T~~]*t*rackout. Clean wheel shakers regularly to maintain their effectiveness.

(B) Install wheel washers if wheel shakers are not effective in preventing [~~T~~]*t*rackout. Maintain wheel washers regularly to maintain effectiveness.

(C) Alternative [~~T~~]*t*rackout control devices may be used if approved by the Control Officer.

(2) All exiting traffic must be routed over selected [~~T~~]*t*rackout control device(s) by clearly establishing and enforcing traffic patterns on-site.

(b) Maintain [~~D~~]*d*ust control and clean all [~~T~~]*t*rackout from [~~P~~]*p*aved surfaces.

(1) Maintain [~~D~~]*d*ust control during working hours and clean all [~~T~~]*t*rackout from [~~P~~]*p*aved surfaces, including sidewalks and gutters, at the end of each work shift.

(2) Immediately clean up [~~T~~]*t*rackout that extends 50 feet or more, or more than ¼ inch in depth, from [~~P~~]*p*aved surfaces, including sidewalks and gutters, or any amount of [~~T~~]*t*rackout that causes one or more of the following:

(A) A [~~D~~]*d*ust plume that extends more than 100 feet horizontally or vertically.

(B) An average of 20% [~~O~~]*o*pacity for any period totaling 3 minutes in any 60-minute period, pursuant to the AQRs.

(C) [~~50~~]*35*% instantaneous [~~O~~]*o*pacity, pursuant to the AQRs.

(3) Use street sweeper(s) in addition to [~~T~~]*t*rackout control devices to ensure the cleanup of [~~T~~]*t*rackout is maintained. If one street sweeper is not effective in controlling [~~T~~]*t*rackout [~~to Air Quality Standards~~]*pursuant to the AQRs*, bring in additional street sweepers.

(4) The use of blower devices to remove deposited mud/dirt [~~T~~]*t*rackout from a [~~P~~]*p*aved road is prohibited *except when the use of water is not technically feasible and only with prior Control Officer approval*.

(5) The use of rotary brushes without water is prohibited. *Dry rotary brushes may only be used when the use of water is not technically feasible and only with prior Control Officer approval.*

(6) The use of soil to create a ramp for vehicle access over a curb is prohibited.

BMP 21 TRAFFIC—Unpaved Routes and Parking Areas ([C]*c*onstruction-related traffic on unpaved roads and parking areas)

21 Requirement

(a) Limit visible [D]*d*ust [E]*e*missions from vehicle operations and stabilize all unpaved routes, including unpaved parking areas.

(1) Limit vehicle speeds to 15 mph on all unpaved routes and parking areas.

(2) Apply water to unpaved haul routes and off-road traffic areas, including parking areas, and maintain in a stabilized condition.

(3) If water is not effective, apply and maintain a surfactant and/or [D]*d*ust [P]*p*alliative on unpaved routes, off-road traffic areas, and parking areas.

(4) If water, surfactant, and/or [D]*d*ust [P]*p*alliative is not effective, apply and maintain [C]*c*lean [G]*g*ravel (or other suitable material approved by the Control Officer) on unpaved routes, off-road traffic areas, and parking areas.

(5) If a preexisting unpaved road or haul route is being used but is not permitted, it must be maintained in a stabilized condition. These unpaved roads or haul routes must not be changed in any way unless permitted or as approved by the Control Officer.

BMP 22 TRENCHING ([T]*t*renching with track- or wheel-mounted excavator, shovel, backhoe, or trencher)

22 Requirement

(a) Maintain optimum moisture content in soil where support equipment and vehicles will operate to prevent unstable soil conditions and limit [F]*f*ugitive [D]*d*ust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water surface soils where support equipment and vehicles will operate, and maintain in a moist condition.

(2) If water is not effective, apply and maintain a surfactant and/or [~~D~~]*d*ust [~~P~~]*p*alliative on surface soils as needed.

(b) Maintain optimum moisture content in soils before, during, and after [~~T~~]*t*renching activities to limit [~~F~~]*f*ugitive [~~D~~]*d*ust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water surface soils before [~~T~~]*t*renching.

(2) Apply water[~~,~~] *or* surfactant[~~, or tackifier~~] during [~~T~~]*t*renching activities to prevent unstable soil conditions, and limit [~~F~~]*f*ugitive [~~D~~]*d*ust by dedicating a water truck or large hose.

(3) Apply water, surfactant, *tackifier,* and/or [~~D~~]*d*ust [~~P~~]*p*alliative to excavated soils to form a crust immediately following [~~T~~]*t*renching activities until the long-term stabilization requirements listed in BMP 11 are achieved.

Note: The appropriate [~~C~~]*c*ontrol [~~M~~]*m*easure for the project soil type must be selected from Table 1.

BMP 23 TRUCK LOADING ([~~L~~]*l*oading trucks with materials including [~~C~~]*c*onstruction and demolition debris, rock, and soil)

23 Requirement

(a) Maintain optimum moisture content in soil where support equipment and vehicles will operate to prevent unstable soil conditions and limit [~~F~~]*f*ugitive [~~D~~]*d*ust until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Pre-water surface soils where support equipment and vehicles will operate, and maintain in a moist condition.

(2) If water is not effective, apply and maintain a surfactant and/or [~~D~~]*d*ust [~~P~~]*p*alliative on surface soils as needed.

(b) Maintain optimum moisture content in material before, during, and after truck loading activities to limit [~~F~~]*f*ugitive [~~D~~]*d*ust.

(1) Mix material with water[~~,~~] *or* surfactant[~~, or tackifier~~] prior to truck loading activities to limit Fugitive Dust.

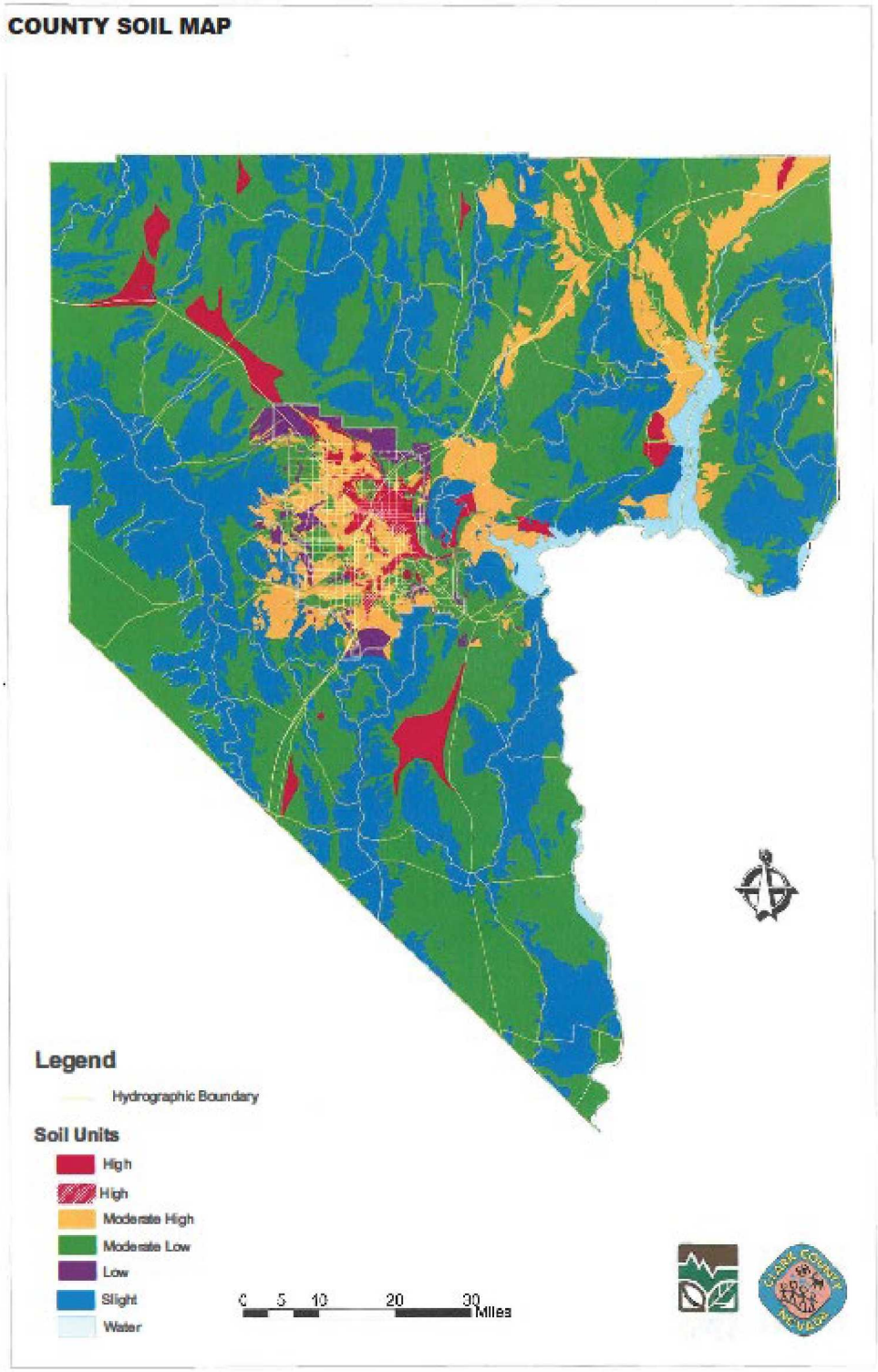
(2) Empty loader bucket slowly and minimize the drop height while dumping.

EXHIBIT 2

Note: The appropriate [~~C~~]*c*ontrol [~~M~~]*m*easure for the project soil type must be selected from Table 1.

Figure 1: Examples of Signage.

EXHIBIT 2



[~~Appendix~~]*Figure* 2: Particulate Emission Potential Map[~~s~~]*—Clark County.*

EXHIBIT 2

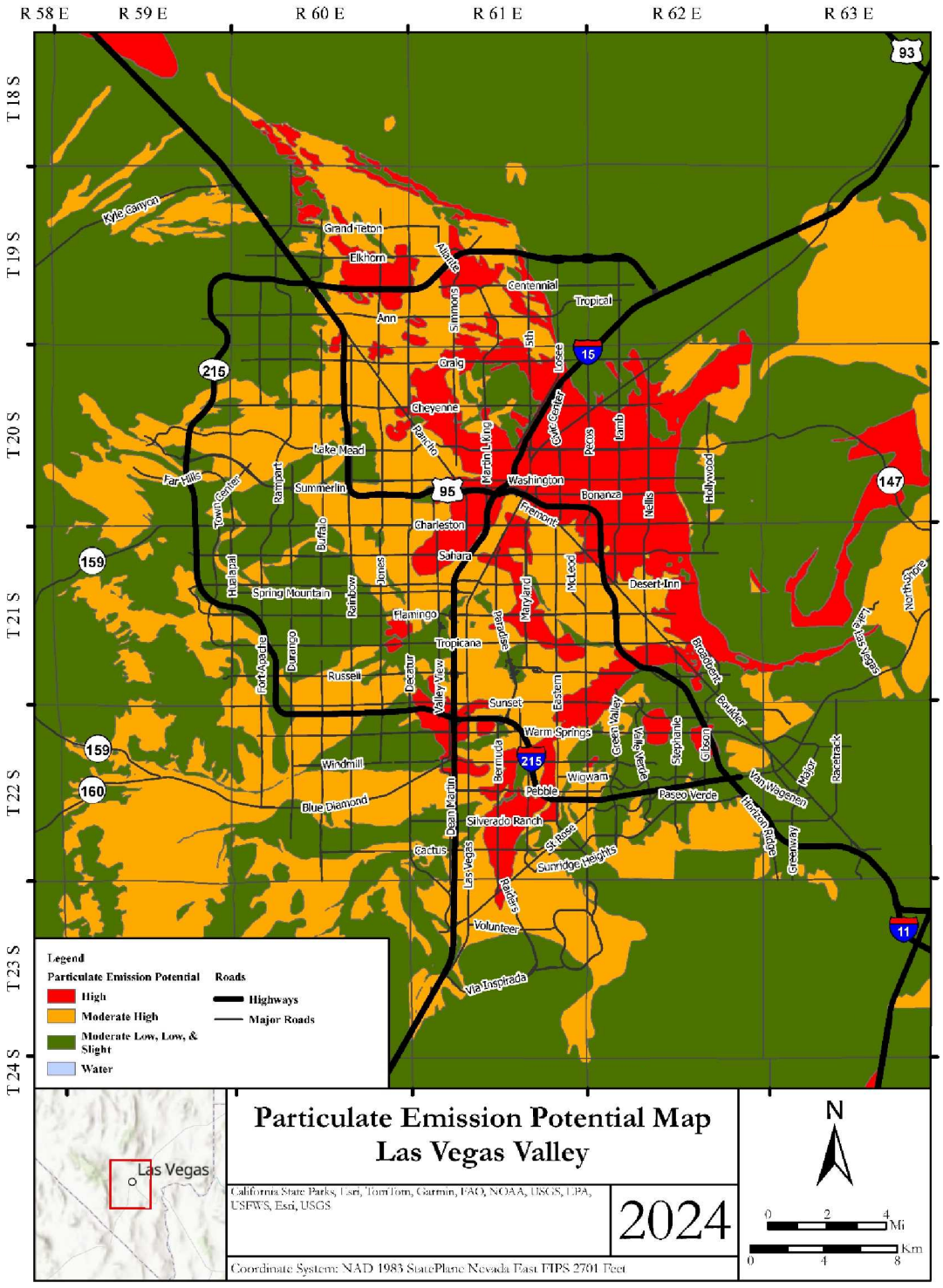


Figure 3: Particulate Emission Potential Map—Las Vegas Valley.

EXHIBIT 2

Appendix [~~3~~]2: Guidance on Design and Posting of Dust Control Operating Permit Signage

1. The signboard shall be constructed with materials capable of withstanding the harsh environment (e.g., strong winds, intense sunlight) of Clark County, have a minimum dimension of 4 feet by 4 feet, and be constructed with the following materials:

   (a) ¾ inch AC laminated plywood board;

   (b) Two 4-inch x 4-inch posts;

   (c) Posts should be attached to the edges of the plywood board with a minimum of two carriage bolts on each post; and

   (d) The front surface of the signboard should be painted in the contrasting colors of a white background with black lettering.

2. The signboard shall be installed and maintained in a condition such that members of the public can easily view, access, and read the sign at all times.

   For all signs, DAQ recommends the following measures:

   (a) The lower edge of the sign board should be mounted at a minimum of 2 feet above the existing ground surface to facilitate ease of viewing;

   (b) Posts should be set in a hole a minimum of 3 feet deep with concrete footings to prevent downing by high winds;

   (c) On the construction site, the sign should be positioned so that it is not obstructed from public view from the primary street access point; and

   (d) For construction projects that are developed in phases, the sign should be relocated to the area that is under active construction.

3. The signboard shall contain the following information:

   (a) Project [~~N~~]*n*ame.

   (b) Permittee [~~N~~]*n*ame.

   (c) Phone [~~N~~]*n*umber of [~~P~~]*p*erson [~~R~~]*r*esponsible for [~~D~~]*d*ust [~~C~~]*c*ontrol [~~M~~]*m*atters.

   (d) DAQ [~~D~~]*d*ust [~~H~~]*h*otline [~~P~~]*p*hone [~~N~~]*n*umber.

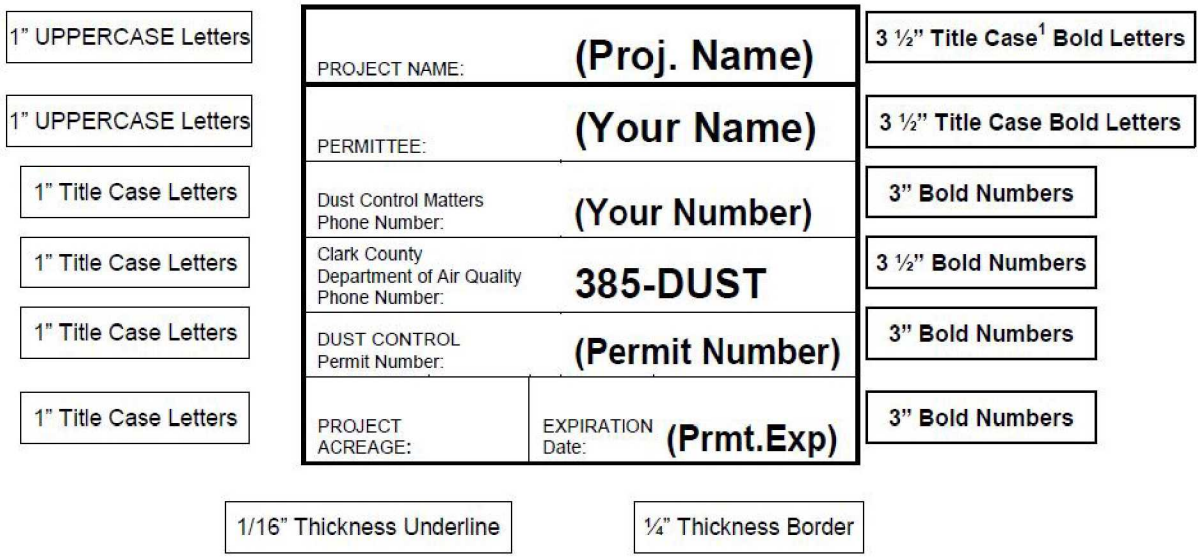
   (e) [~~Dust Control Operating Permit~~]*DCOP* [~~N~~]*n*umber.

EXHIBIT 2

(f) Project [~~A~~]*a*creage.

(g) [~~Dust Control Operating Permit~~]*DCOP* [~~E~~]*e*xpiration [~~D~~]*d*ate.

4. The signboard shall be designed to the following alpha and numeric text dimensions (sign boards written in longhand are unacceptable).



[1] "Title Case" means the first letter of a word is capitalized and subsequent letters are lowercased.

Figure 4: Example of DCOP Signage.

History: Initial Adoption: June 22, 2000
Amended: November 16, 2000; March 18, 2003; June 3, 2003; July 1, 2004; January 21, 2020; August 3, 2021; Month DD, YYYY.

TECHNICAL SUPPORT DOCUMENT FOR AMENDMENTS TO CLARK COUNTY AIR QUALITY REGULATIONS SECTIONS 92 AND 94

Background

On August 3, 2021, the Board of County Commissioners approved amendments to Air Quality Regulations (AQRs) Section 92, "Fugitive Dust Control Requirements for Unpaved Parking Lots and Storage Areas," and Section 94, "Permitting and Dust Control for Construction and Temporary Commercial Activities and Fugitive Dust Control at Stationary Sources." After implementing the regulations and receiving feedback from industry, the Clark County Department of Environment and Sustainability, Division of Air Quality (DAQ) is proposing additional amendments to update the applicability sections, update the Instantaneous Test Methods and emissions standards, standardize terms, and add clarifying language to both AQRs.

Excluded from SIP Submittal

AQR 94.4.2, "Complete Application," will be excluded from this submittal to the Nevada Division of Environmental Protection for U.S. Environmental Protection Agency approval into the Nevada State Implementation Plan.

Amendments to AQRs 92 and 94

AQRs 92 and 94 include similar fugitive dust control requirements; for consistency, comparable revisions were made in both AQRs to the applicability section, the definition of "clean gravel," the Instantaneous Test Method, and instantaneous opacity standards, as outlined below.

Applicability

Clark County's 2012 *Redesignation Request and Maintenance Plan for Particulate Matter (PM_{10})* states: "In June 2001, Clark County submitted a PM_{10} State Implementation Plan (SIP) that met federal requirements for serious PM_{10} nonattainment areas. The SIP demonstrated that the adoption and implementation of Best Available Control Measures for fugitive dust sources and continuation of controls for stationary sources would result in attainment of the 24-hour National Ambient Air Quality Standards (NAAQS) by December 31, 2006." The applicability sections of AQRs 92 and 94 have been amended to state that they apply to all stationary sources in Clark County as part of the consideration of a Reasonably Available Control Technology (RACT), Best Available Control Technology (BACT), or Lowest Achievable Emissions Rate (LAER) determination pursuant to AQRs 12.1–12.4 and, in accordance with that determination, provisions of AQRs 92 and 94 shall be incorporated into stationary source operating permits.

AQR 92 further states that unpaved parking lots and storage areas (areas) with public access at stationary sources must comply with all its requirements. For areas with no public access at stationary sources, AQR 92 requirements shall be incorporated into operating permits in accordance with RACT, BACT, or LAER determinations, as stated previously.

AQR 94 applicability further states that it applies to construction activities at stationary sources. "Construction activities" is defined in AQRs 0 and 94; the intent is to include any construction activities that are not associated with normal operation or production at a stationary source, including maintenance or new construction.

Definition of "Clean Gravel"

The defined term "gravel" was updated to "clean gravel" in 2021, but the percent of silt content was kept at 6%. This caused confusion since, per the Unified Soil Classification Chart, "gravel" can have up to 12% soil fines and "clean gravel" has less than 5% fines. DAQ has updated the definition to make the silt content 5%, which is consistent with the industry definition, and added the AP-42 test method to be consistent with the Silt Content Test Method in AQR 91, "Fugitive Dust from Unpaved Roads, Unpaved Alleys, and Unpaved Easement Roads."

Instantaneous Test Method and Opacity Standard

The Instantaneous Test Method was amended to averaging 12 opacity readings made within 1 minute instead of using one reading to determine compliance with the standard. This update is based on EPA Test Method 203C, "Visual Determination of Opacity of Emissions from Stationary Sources for Instantaneous Limitation Regulations." The instantaneous opacity standard was then reduced from 50% to 35% to take into account the averaging of multiple readings instead of only one. Every reference to instantaneous opacity standards was updated from 50% to 35%.

AQR 92, "Fugitive Dust Control Requirements for Unpaved Parking Lots and Storage Areas"

DAQ updated citations in the regulation and added clarifying language and updates to ensure consistency in references and terminology.

AQRs 92.2 and 92.3.1

Updated the definition of "existing unpaved parking lot(s) and(or) storage area(s)" and the "Requirements" section to include the effective date of the regulation for areas with public access at a stationary source. This is consistent with the revised applicability, which is now different for areas with and without public access at a stationary source. Stationary sources previously included AQR 92 requirements as part of a BACT analysis; now the effective date must be specified to differentiate previous BACT determinations for existing areas from RACT, BACT, or LAER determinations for new areas.

AQR 92.3.4

If owners or operators implement alternative asphalt paving as a control measure, they must obtain prior written approval from the Control Officer. They must also maintain the surface after initial application.

AQR 92.4(b)

The stabilization standard remains 6% silt content. This standard must be met throughout the life of the area which is not the same as the 5% silt content requirement in the definition of clean gravel. The exemption under AQR 92.3.4(c) was removed as that test method allows 8% silt content and the intent was never to exempt clean gravel from the stabilization standard.

AQR 94, "Permitting and Dust Control for Construction and Temporary Commercial Activities and Fugitive Dust Control at Stationary Sources"

DAQ updated citations and added clarifying language and updates to ensure consistency in references and terminology.

AQR 94.2

Moved the definitions for "particulate emission potential," "surfactant," and "tackifier" from Appendix 1 to the "Definitions" section.

AQR 94.5(l)

Added a requirement to submit a renewal application before the current Dust Control Operating Permit (DCOP) expires (if one is still required).

AQR 94.6

Retitled this section to more accurately reflect the information within. Updated the section to reflect current processes and align with language in AQR 4 that allows the Control Officer to revoke or suspend a DCOP for cause.

AQR 94.8(b)

Added Control Officer authority to require a Dust Control Monitor for construction projects of less than 50 acres when there is documented noncompliance with emissions standards. Based on observations in the field, a full-time, certified Dust Control Monitor in place as a corrective action has proved helpful with future compliance when there are repeated violations of emissions standards at the site.

AQR 94.8(f) – DAQ interpretation

A DCOP application must list a Dust Control Monitor. However, permittees may use another certified Dust Control Monitor if the listed individual is not available on a particular day.

AQRs 94.12–94.14

Removed all specific references to stationary source requirements in Sections 94.12–94.14 throughout AQR 94, since those will be incorporated into stationary source permits in accordance with RACT, BACT, or LAER determinations.

AQR 94.13(d)

Added an explicit requirement for implementing long-term stabilization within 10 days of the completion of a construction project and/or expiration of a DCOP if permit renewal is required.

AQRs 94.14(b) and (c)

Added an exemption to prohibitions against blower devices and dry rotary brushes in cases of technical infeasibility, but only with prior Control Officer approval.

AQR 94.14(g)

Updated requirements on stockpile height, distance from occupied buildings, and demonstration of effective dust control to provide more clarity, and provided exemptions based on feasibility, necessity, or other conditions.

Appendix 1, Table 1

Changed the control measure for moderate high soil Particulate Emission Potential (PEP) to add "surfactant" and remove "tackifier" during construction activities because tackifier is a glue-type substance that is only appropriate when soil disturbance is not ongoing or for long-term stabilization. It is not appropriate for temporary stabilization.

Appendix 1, Best Management Practices (BMP) 11

Added equivalent options (in terms of cost and effectiveness) for long-term stabilization. The additional options also take into consideration potential safety issues (depending on circumstances) and provide exemptions based on infeasibility or lack of necessity. Additional options to stabilize, where permissible, paved road shoulders and new, unpaved roads will provide industry with more flexibility to comply with requirements.

Appendix 1, BMP 19

Updated BMP 19 in conjunction with the new language in AQR 94.14(g).

Appendix 1, BMP 20

Updated BMP 20 in conjunction with the new language in Sections 94.14(b) and (c).

Exhibit 2

Expanded the PEP map of the Las Vegas Valley to include outlying areas and roads for ease of identifying project soil PEP throughout the valley.

Comments Received and DAQ Responses

DAQ conducted three public notice periods (5/23–6/7/2024, 6/25–7/19/2024, 9/20–10/11/2024) and two public workshops (7/1/2024, 10/3/2024).

Comment Received: 5/24/2024, via email
Commentor: Jay Francis
Jf1@cox.net

COMMENT: There's no need to implement any additional rules we have enough to deal with thank you.

RESPONSE: No changes proposed.

Comment Received: 5/24/2024 via Public Input
Commentor: anonymous

COMMENT:

1) The proposed changes to 94.14 (B) & (C) require prior approval from a Control Officer for blower devices and dry rotary brushes when water use is not technically feasible. This is also shown in the BMP 20. I do not understand the point of the prior approval from a Control Officer, if water use is not technically feasible it will not be technically feasible with or without the Control Officer's approval. As such, I don't see any functional benefit to the proposed language. Further, I'm concerned that adding this layer of approval will give opportunity for citations regardless of compliance with the stated regulation.

2) Section 94.14 (g) requires prior approval for a stockpile over 8' tall regardless of compliance with the stated regulations. This is also shown in BMP 19. Prior authorization would not improve the functionality of the required road and dust control measures for the stockpile. Any stockpile over 8' would still be inspected at normal intervals by Clark County and the roadways and dust control measures would be demonstrated at that time. My concern here is the same, adding in a layer of unnecessary approval will give opportunity for citations regardless of compliance with the stated regulation.

RESPONSE: Pre-approval from the Control Officer is required for alternative control measures to ensure that any methods used meet the necessary standards and requirements.

Comment Received: 6/7/2024, via email with attached letter
Commentor: Dedra Williams, Environmental Coordinator, Corporate, J.R. Simplot Company
dedra.williams@simplot.com
Phone: 208-780-7360

COMMENT: Opportunity for Discussion and Clarification: For this specific rulemaking, DAQ has offered no background information on the rulemaking website identifying the purpose or need for the current proposed rulemaking. With DAQ's comment period being limited to 14 days, there was limited opportunity for regulated sources to review the proposed rules, determine applicability to activities and meaningfully engage with DAQ on context or clarification. Although Simplot has prepared these comments, the ability to review the proposed changes, evaluate impacts, prepare comments, and circulate comments internally was limited. For these reasons,

Simplot requests DAQ hold a second comment period after holding a public meeting to ensure the regulated community understands the objective of the proposed changes and can participate in discussions to ensure the rule is clear and implementable.

RESPONSE: DAQ held two virtual workshops, on 7/1/2024 and 10/3/2024, and two additional comment periods, from 6/25–7/19/2024 and 9/20–10/11/2024.

COMMENT: Section 92, General Comments: DAQ has proposed to update the rule language for unpaved parking and storage areas at stationary sources in an overly prescriptive way. Specifically, DAQ has proposed that alternatives to asphalt paving must now receive written approval as a control measure. If accepted, the proposed revisions to Section 92 would limit the allowable means to control emissions and further require the DAQ Control Officer to approve any control measure other than paving or two inches of clean gravel (see proposed rule, Section 92.3.4).

Stationary source permits already include conditions to assure appropriate management of fugitive dust from open and disturbed areas as well as provide opacity limits. For example, Simplot's current operating permit already includes the following conditions:

"The permittee shall control fugitive dust emissions from any accessible disturbed open area or disturbed vacant lot that is owned or operated by the permittee, with the exception of areas undergoing active mining activities, by paving, applying gravel, applying a dust palliative, or applying water to form a crust." (Source 138, Permit Condition 2.2.14)

"The permittee shall not discharge into the atmosphere, from any emission unit, any air contaminant in excess of an average of 20% opacity for more than six consecutive minutes." (Source 138, Permit Condition 3.2.5)

Compliance with stationary source permit conditions is confirmed with inspections by the DAQ Compliance Department. Incorporation and explicit rules governing how to control fugitive dust of unpaved areas at stationary sources is unnecessary since it is already managed based on site-specific conditions and on a case-by-case basis in the permitting processes.

These examples demonstrate why it is unnecessary for the DAQ to apply Section 92 to stationary sources.

RESPONSE: The applicability of AQR 92 was updated so it now applies to areas that do not have public access at stationary sources in Clark County as part of the consideration of a RACT, BACT, or LAER determination pursuant to AQRs 12.1–12.4. In accordance with this determination, provisions of Section 92 shall be incorporated into the stationary source permit. This allows sources to propose alternative stabilization methods that are at least as stringent, but take cost and technical feasibility into consideration. If areas at stationary sources have public access, AQR 92 applicability is no different than for any other area subject to air quality regulations.

COMMENT: Section 94, Applicability: DAQ's proposed draft rule states: "Section 94 applies to: …. (b) All stationary sources that disturb or have the potential to disturb soils and/or emit or have the potential to emit particulate matter into the atmosphere. Sections 94.12–94.14 shall apply

to the control of fugitive dust emissions. Applicable control measures, emissions standards, and soil stabilization standards shall be incorporated into the terms and conditions of the stationary source permit."

In DAQ's previous rule-making proposals, it was stated their intent was that only sub-sections 94.12–94.14 would apply to stationary sources. However, with a plain reading of the language as proposed, it could be interpreted that DAQ has proposed stationary sources are subject to all of Section 94. With the ambiguity in previous proposed updates to Section 94 regarding stationary sources, Simplot suggests that DAQ more clearly identify which portions of Section 94 are intended to apply to stationary sources and explicitly identify the portions in which stationary sources are exempt.

Additionally, for reasons detailed below, Simplot does not support newly proposed language in 94.1(a)(1) that states, "Applicable control measures, emissions standards, and soil stabilization standards shall be incorporated into the terms and conditions of the stationary source permit." As discussed in the comments provided below, a "one-size-fits-all" approach to standards and control measures of unique stationary sources is inappropriate and will create additional layers of bureaucracy that is unnecessary in the stationary source permitting process.

DAQ has proposed the ability for the "Control Officer" to approve other scenarios or conditions, however, the process to achieve that approval is not clear in the proposed rule, nor is it ideal. If this review and approval is handled within the permitting process of stationary sources, then it begs the question of what has been gained with applying this rule to stationary sources in the first place. If DAQ permitting staff must include blanket Section 94 requirements and cannot use their experience and expertise to evaluate and apply appropriate controls, then the department will likely find itself needing a process to review and document exceptions to Section 94. DAQ's current process that requires the permitting department to identify appropriate controls and standards for stationary sources allows DAQ staff to consider appropriateness of inclusion of controls and standards based on the processes present at the stationary source and the site-specific conditions of the stationary source.

The permitting program is equipped to handle the differences and nuances of different types of emission sources to assure the site-specific conditions are considered and evaluated on a case-by-case basis to assure proper levels of control and monitoring are incorporated into permits. For this reason, Section 94 should not be incorporated into stationary source permits.

> *RESPONSE:* The applicability of AQR 94 was updated so it now applies to stationary sources in Clark County as part of the consideration of a RACT, BACT, or LAER determination pursuant to AQRs 12.1–12.4. In accordance with this determination, provisions of Section 94 shall be incorporated into the stationary source permit. This allows sources to propose alternative stabilization methods that are at least as stringent, but take cost and technical feasibility into consideration. Section 94 always has and continues to apply to construction activities at stationary sources that are not part of normal operations or production activities.

COMMENT: Definition Inconsistency and Uncertainty: The applicability section of the rule 94.1 identifies Construction Activities separate from stationary sources. Further, the definitions of Construction Activity and Stationary Source in Section 00 of the DAQ rules clearly differentiate

the two types of sources. Simplot agrees these are two very distinct and separate types of sources of fugitive dust. However, Construction Activities have been defined in Rule 94 and the definition includes various examples of activities such as rock crushing, screening, hauling, rock excavation or removal, and explosive blasting. Simplot believes there is likely to be confusion with these terms in the proposed rule changes if some of those types of activities occur at stationary sources as part of the stationary source's manufacturing process. For stationary sources, these activities are incorporated and controlled by the operating permit and should not be considered a Construction Activity for purposes of this rule or permitting rules. Simplot requests DAQ provide appropriate clarification to the proposed language to assure standards, controls and other requirements for Construction Activities are not applicable to manufacturing processes at Stationary Sources.

The term "Responsible Official" has a different and substantially relaxed meaning in Section 94 when compared to Section 00. Simplot does not believe DAQ intended for stationary sources to employ a different meaning to the term Responsible Official when managing fugitive dust, however, assuring the two different rule sections provide the same definition for the term would ensure clarity for the regulated community.

> *RESPONSE:* AQR 94.2 provides a framework for interpreting terms. The order of authority begins with the definition provided in the specific AQR, followed by the definition in AQR 0, Chapter 445B of the Nevada Revised Statues (NRS), the Clean Air Act, and common usage. Every effort is made to keep definitions for the same term consistent but, depending on the AQR, differences may be unavoidable.

COMMENT: Section 94, Titles and Term Inconsistencies: The titles for Section 94.3, 94.4, 94.5 all include the term "Permit," but that term has been mostly removed from the text of the rule, seemingly to eliminate confusion between stationary source permits and Dust Control Operating Permits (DCOP). Simplot suggests eliminating the stand-alone term "Permit" from the titles and anywhere else in the Section 94 and replacing it with "Dust Control Operating Permit" or "DCOP."

It is Simplot's understanding that DAQ does not intend for stationary sources to secure a DCOP for manufacturing processes at the stationary source. As such, Simplot suggests including a sub-section in 94.3, Activities Exempt from Permitting, that states: "Stationary Sources with fugitive particulate emissions and dust that result from the manufacturing process are exempt from the requirement to obtain a DCOP. If a Stationary Source initiates a Construction Activity, as defined in Section 00, the Construction Activity alone is subject to the DCOP as defined in Section 94.4.1."

Simplot does not believe a Dust Control Monitor (DCM) is necessary for stationary sources, nor does Simplot believe DAQ intends for stationary sources to identify a DCM for manufacturing processes at stationary sources. Although Simplot does not believe DAQ intended for Section 94.8, or for a Dust Control Monitor to apply to stationary sources, it is imperative to confirm that intent and update the language in the proposed regulation to assure consistent interpretation. Given the text proposed in Section 94.1 and proposed text Section 94.8, this intent is not clear.

Simplot recommends DAQ add a subsection to Section 94.8 stating, "Stationary Sources are not required to assign a Dust Control Monitor for manufacturing processes at a stationary source and the Control Officer shall not require a Dust Control Monitor for stationary source activities."

RESPONSE: Section 94 was updated to ensure consistency when referring to DCOPs versus stationary source operating permits. The requirement for a Dust Control Monitor only applies to DCOP permittees. With the update to the applicability section, there is no longer a need to clarify whether a particular requirement is applicable to stationary sources; AQR 94 requirements are included in stationary source permits based on a RACT, BACT, or LAER determination pursuant to AQRs 12.1–12.4.

COMMENT: Section 94.12: DAQ has proposed to insert language requiring that each stationary source to employ effective control measures related to soil stabilization standards. DAQ has intentionally removed the capitalization of the terms "control" and "measure," seemingly to intend a common definition rather than a defined term in the regulation. As such, Simplot interprets this statement that the control measures to be employed by a stationary source are general in nature and final determination of what control measure to be used shall be based upon its effectiveness rather than a prescriptive methodology required by the DAQ Control Officer. However, this interpretation appears to run contrary to text in Section 94.12(b) since DAQ has proposed to include prescriptive control measures for stationary sources.

For similar reasons already identified above, Simplot does not believe prescriptive measures for managing fugitive dust from stationary sources is appropriate in a rule. Stationary sources and the fugitive dust sources are evaluated in the stationary permitting process where appropriate emission control, monitoring and recordkeeping requirements are established based on site-specific conditions. Different activities, different geology, and different processes dictate that different controls are required and should be evaluated on a case-by-case basis.

Simplot's permit already contains requirements to manage dust on disturbed soils at the facility.[2] The current DAQ practice of using "permitting templates" to assure as much consistency as possible among stationary sources when similar sources of emissions exist, while still allowing for case-by-case circumstances to govern appropriateness of the control identified in the permits, has been an effective management approach. Given the existing permit conditions for stationary sources and history of the permitting department, there is no need to add stationary sources to the "Soil Stabilization Standards" of Section 94.

[2] "The permittee shall control fugitive dust emissions from any accessible disturbed open area or disturbed vacant lot that is owned or operated by the permittee, with the exception of areas undergoing active mining activities, by paving, applying gravel, applying a dust palliative, or applying water to form a crust." (Source 138, Permit Condition 2.2.14)

RESPONSE: The removal of the capitalization of defined terms was solely a formatting decision, with no other intent. If a term is defined in the AQR, that definition takes precedence, regardless of whether the term is capitalized. With the update to the applicability section, there is no longer a need to clarify whether a particular requirement is applicable to stationary sources; AQR 94 requirements are included in stationary source permits based on a RACT, BACT, or LAER determination pursuant to AQRs 12.1–12.4.

COMMENT: Section 94.13: Section 94.13(d) states, "A control method for long-term stabilization, as described in BMP 11, "Long-term Stabilization," shall be implemented on all disturbed areas that are not built out, landscaped, or paved within 10 days of completion of a construction project and/or expiration of the DCOP if a permit renewal is not required per Sections

94.4.1(b)(1), (2), or (3)." The phrase "built out, landscaped, or paved within 10 days of completion of a construction project and/or expiration of the DCOP" only applies to Construction Activities and not manufacturing processes at stationary sources, therefore, Simplot has interpreted that this requirement would not apply to a stationary source process. To assure clarity, Simplot recommends DAQ include language in Section 94.13 explicitly stating these "Long-Term Stabilization" requirements do not apply to stationary source activities. Simplot also recommends removal of the term "permit" in this section to avoid confusion between DCOPs and stationary source permits.

RESPONSE: With the update to the applicability section, there is no longer a need to clarify whether a particular requirement is applicable to stationary sources; AQR 94 requirements are included in stationary source permits based on a RACT, BACT, or LAER determination pursuant to AQRs 12.1–12.4.

COMMENT: Section 94.14: Section 94.14 seems to apply a new and more restrictive emission standard to stationary sources. Currently, stationary source permits already limit opacity and visible emissions from handling, transport and storage of materials. As previously mentioned, stationary sources such as Simplot already have permit conditions with emission standards. Examples of these existing permit conditions are provided below:

"The permittee shall sweep and/or rinse as necessary all paved roads accessing or located on the site to remove all observable deposits. *[AQR 12.5.2.6(a)]*" (Source 138, Permit Condition 2.2.11)

"The permittee shall control fugitive dust emissions from unpaved roads located on the site by paving, applying a dust palliative, or watering as necessary or by an alternative method preapproved by the Control Officer so as to exhibit an average opacity greater than 20 percent. *[AQR 12.5.2.6(a) and 26.1]*" (Source 138, Permit Condition 2.2.12)

"The permittee shall curtail operations (except the operation of water trucks) if dust control measures are ineffective at maintaining emissions at or below an average of 20% opacity when viewed in accordance with EPA Method 9. *[AQR 12.5.2.6(a) and 26.1]*" (Source 138, Permit Condition 2.2.13)

"The permittee shall control fugitive dust emissions from any accessible disturbed open area or disturbed vacant lot that is owned or operated by the permittee, with the exception of areas undergoing active mining activities, by paving, applying gravel, applying a dust palliative, or applying water to form a crust. *[AQR 12.5.2.6(a)]*" (Source 138, Permit Condition 2.2.14)

The prescriptive nature of Section 94.14 runs contrary to the mechanisms and processes involved in stationary source permitting. The DAQ permitting department should be allowed to use their experience and expertise to identify appropriate fugitive dust control for stationary sources where site-specific parameters can be evaluated on a case-by-case basis. The entirety of Section 94.14 should not be applied to stationary sources. Simplot requests DAQ provide clarifying text stating that Section 94.14 applies only to Construction Activities and not stationary source manufacturing processes.

RESPONSE: With the update to the applicability section, there is no longer a need to clarify whether a particular requirement is applicable to stationary sources; AQR 94 requirements are

included in stationary source permits based on a RACT, BACT, or LAER determination pursuant to AQRs 12.1–12.4.

COMMENT: Section 94.15: It is assumed that DAQ did not intend for Section 94.15 to replace the test methods that already exist for opacity and visible emission determinations in stationary source permits. Simplot requests DAQ provide clarifying text stating that Section 94.15 applies only to Construction Activities and not stationary source manufacturing processes.

RESPONSE: With the update to the applicability section, there is no longer a need to clarify whether a particular requirement is applicable to stationary sources; AQR 94 requirements are included in stationary source permits based on a RACT, BACT, or LAER determination pursuant to AQRs 12.1–12.4.

COMMENT: Appendix 1, Best Management Practices: In Simplot's review of Appendix 1, it is clear the BMPs were intended to apply to construction-type projects and intended to address concerns with Construction Activities and would not apply to stationary sources. Simplot suggests DAQ insert language clarifying that the recommended BMPs are for Construction Activities and not for Stationary Sources. If DAQ does intend to apply the BMPs to stationary sources, Simplot is concerned about the potential for confusion on how BMPs should be used in relation with operating permit requirements. The following paragraphs describe areas of potential misunderstanding between the BMP requirements, what can be implemented at Simplot's operations, and with controls specified in Simplot's existing permit.

BMP 3 is specific to explosive blasting of soil and rock. Simplot has worked extensively with the DAQ permitting department on appropriate controls for drilling and blasting as it relates to mining activities at the Simplot mine. Specific conditions for blasting activities were incorporated into Simplot's most recently issued operating permit. If DAQ intends for stationary sources to comply with this BMP in the future, there are components that would be impossible to achieve; additionally, there would be requirements that severely inhibit the ability for the facility to operate efficiently. Specifically, BMP 03(i)(3) requires "presoak surface soils to the depth of caliche or bedrock with water or surfactant to limit fugitive dust." In a mining operation, this is impossible to achieve. The BMP also requires application of "water, surfactant, tackifier and/or dust palliative on disturbed soils to form a crust ***immediately*** *[emphasis added]* following blasting activities until the long-term stabilization requirements listed in BMP 11 are achieved." It is impossible to achieve these requirements in a mining environment. Final reclamation requirements are identified in mining permits and long-term stabilization cannot occur safely until reclamation activities have begun. Additionally, after a blast at a mining operation, it can take time to assure safety and build equipment access to the areas recently blasted.

BMP 17 is specific to screening of rock, soil, or construction debris. If this BMP were to be applied to stationary sources, it would run contrary to existing permits. Screens are already considered emission units at stationary sources and are subject to opacity limits, and other requirements. The opacity limits, monitoring requirements and record-keeping are driven by the type of screening activity conducted, considering for site-specific conditions to influence appropriate controls on a case-by-case basis. A "one-size-fits-all" rule is not appropriate to stationary source permits.

BMP 23 is specific to truck loading. Simplot loads silica sand in trucks via an overhead spout system. The BMP requires mixing material with water or surfactant prior to truck loading activities. Water cannot be applied to the finished silica sand for loadout and surfactants would contaminate the product. This illustrates again that a "one-size-fits-all" approach, if it were applied to stationary sources, does not serve the best interest of the DAQ or the businesses.

RESPONSE: With the update to the applicability section, there is no longer a need to clarify whether a particular requirement is applicable to stationary sources; AQR 94 requirements are included in stationary source permits based on a RACT, BACT, or LAER determination pursuant to AQRs 12.1–12.4.

Comment Received: 7/19/2024, via email with letter attached
Commentor: Krista Kinsey, P.E., Sr. Environmental Engr. Mgr., Environmental & Regulatory Affairs, J.R. Simplot Company
Krista.Kinsey@simplot.com
Phone: 202-780-7241

COMMENT: Simplot submitted several pages of their interpretation of proposed sections.

Simplot appreciates that DAQ reconsidered the first proposed updates to Section 92 and 94 by placing the consideration and incorporation of appropriate emission controls into the permitting process. Simplot agrees that permitting is the appropriate time to evaluate new emission controls.

However, Simplot is still concerned there is ambiguity in the proposed rules which is why Simplot has provided comments that state our understanding of how the proposed rules, if adopted, would be implemented. If Simplot has misunderstood the applicability of the rules and it is apparent there is a misunderstanding based on Simplot's comments, we request DAQ provide clarification. This would afford Simplot the opportunity to consider any rule clarification and determine if additional comment is appropriate prior to adoption by the Board of County Commissioners.

RESPONSE: A complete application must be submitted in order for DAQ to have all the information necessary to make a formal decision on a particular scenario. The RACT, BACT, or LAER process is implemented pursuant to AQRs 12.1–12.4 (permitting regulations). There is not a separate approach for RACT, BACT, or LAER for fugitive dust, as opposed to other regulated pollutants.

Comments Received: 6/7/2024, 7/18/2024, and 10/10/2024, via email with letters attached
Commentor: John Hewson, West Regional Environmental Manager, Lhoist
John.HEWSON@lhoist.com
Phone: 725-309-3723

The comments below were included in letters dated 6/7/2024, 7/18/2024, and 10/10/2024. If the comments for the same topic were not identical, the latest comment submitted is listed.

COMMENT: Overall Effect of Added Water Consumption: LNA understands the purpose of AQR's 92 and 94 is to reduce fugitive emissions in Clark County. In many cases, to achieve this,

DAQ is requiring that operators use water, surfactants, tackifiers, and/or dust palliatives to achieve these standards. It is expected that the use of water will become the preferred resource as many of these other chemicals can contribute to product contamination in addition to the fact that the cost of these chemicals is increasing. In some cases, DAQ's Best Management Practices may require operators use more water than is necessary to achieve these particulate matter standards. This includes multiple water sprays for a single operation (e.g. crushers), dedicated water sources (e.g. crushers, screens, etc.), and a general overuse of water (e.g. blasting). LNA has two primary concerns. Firstly, in our crushers and other processes overly damp material causes buildup which can lead to equipment shutdowns and even contribute to excess emission events. Secondly, this extra water use contributes to the water shortages in our region.

For these reasons, LNA believes it would be prudent to specifically state that the Best Management Practices in these regulations are only one of possibly several options required to be included in the RACT/BACT/LAER top-down technology review. LNA appreciates that DAQ staff made that clarification about the top-down technology review during the October 3, 2024 workshop and believes that including a similar statement in the regulations will be helpful.

RESPONSE: The revisions do not include any additional requirements for water application. DAQ does not require that operators use more water than is necessary. The need to clarify whether a particular requirement is applicable to stationary sources is no longer necessary with the update to the applicability section; AQR 92 and/or 94 requirements are included in stationary source permits based on a RACT, BACT, or LAER determination pursuant to AQRs 12.1–12.4.

COMMENT: AQR 92.1, Applicability: Proposed AQR 92.1(b) states:

Section 92 applies to unpaved parking lots and storage areas that do not have public access at stationary sources in Clark County as part of the consideration of RACT, BACT, or LAER determination. In accordance with this determination, provisions of Section 92 will be incorporated into the stationary source permit.

AQR 92 should be clarified to state that the "In accordance with this determination, the most stringent dust controls deemed to be technically feasible and economical as determined through a RACT, BACT, or LAER technology review shall be incorporated into the stationary source permit." Note that during the October 3, 2004 DAQ workshop, it was clarified that the basis for the new permit conditions would be the RACT/BACT/LAER, not the provisions of Section 92 as stated here. This applicability section should reflect that.

Secondly, there is no benefit to pave or cover the area under the storage pile as long as the area remains covered by the pile. This requirement should be updated accordingly.

RESPONSE: DAQ cannot include the proposed language because a LAER determination does not consider cost. Whether there is a benefit to any individual requirement will be addressed in the RACT, BACT, or LAER determination pursuant to AQRs 12.1–12.4. Neither AQR 92 nor AQR 94 is intended to address the criteria for a RACT, BACT, or LAER determination, since those criteria are already included in AQRs 12.1–12.4.

COMMENT: AQR 92.3.2, Existing Unpaved Parking Lot(s) or Storage Area(s): Proposed AQR 92.3.2 states:

The owner and/or operator of existing unpaved parking lot(s) or storage area(s) shall implement one or more of the control measures in Section 92.3.4 as needed to comply with the stabilization standards in Section 92.4

Note that Section 93.3.4 is accidently printed as 93.3.2. In other words, the regulation goes from Section 93.3.2 to 93.3.3 to 93.3.2 because of a typo.

RESPONSE: The formatting error has been corrected.

COMMENT: AQR 92.6.2, Instantaneous Method: Proposed AQR 92.6.2a last sentence states:

As much as possible, do not include more than one plume in the line of sight at one time.

LNA does not see how it is acceptable to have an opacity reading that could include a plume from more than one dust source or a plume that has double backed on itself. For instance, it is not acceptable to read a 30% plume that has double backed on itself as 60%. The last sentence of paragraph AQR 92.6.1a provides an elegant solution by stating, "If multiple plumes are involved, do not include more than one plume in the line of sight at one time." That sentence would be appropriate here.

RESPONSE: Construction sites are dynamic, as opposed to stationary sources, where stacks with emissions are not moving. The Compliance Section would provide evidence (which may include photographs and video) in Notices of Violation to show that multiple plumes were not in the line of sight. The language has been included in test methods since the adoption of the AQR, and an issue with the regulated community has never arisen in an enforcement situation.

COMMENT: AQR 94.1, Applicability: Proposed AQR 94.1(a)(1) states:

Section 94 applies to: All construction activities located in Clark County, including those located at stationary sources, that disturb, or have the potential to disturb soils and/or emit, or have the potential to emit, particulate matter into the atmosphere.

All construction activities have the potential to emit particulate matter into the atmosphere. Consider narrowing the applicability so that it is for construction over 0.25 acres or other criteria contained later in the rule. Also, by including stationary sources in paragraph 1, it implies that stationary sources are subject to the entire rule including Best Management Practices (BMPs). Someone could make the argument that stationary sources are subject to the BMPs through paragraph 1 even if paragraph 3 does not apply. LNA recommends that DAQ clarify that stationary sources' applicability to the BMPs is only through paragraph 3.

RESPONSE: Section 94 applies to all construction activities, regardless of whether the activity meets the threshold that requires an operator to obtain a DCOP. There has never been an exemption from maintaining dust control while performing construction activities based on acreage. Stationary sources are, and have always been, required to obtain a DCOP if they are doing construction activities not associated with normal production or operation. Any relaxing

of this requirement may be considered backsliding and therefore unallowable per Section 110(l) of the Clean Air Act.

COMMENT: AQR 94.2, Definitions: Proposed AQR 94.2 defines construction as activities that includes land clearing, soil and rock excavation, soil and rock hauling, soil and rock crushing, etc. This section should specifically exclude all normal, operating activities at a stationary source. Otherwise, normal stationary source activities could be confused as construction activities.

Proposed AQR 94.2 defines trackout as:

"Trackout" means soil, mud, or dirt on paved surfaces, including curbs, gutters, and sidewalks, that has come from a construction site or an unpaved access route onto the paved surface.

DAQ should revise the definition to indicate that trackout occurs when soil, mud, dirt, etc. comes from the construction site or stationary source, onto a paved surface of public domain. Without this clarification, the proposed rules related to trackout could be enforced at a construction site or stationary source where an unpaved road transitions into a paved section within a permitted facility.

RESPONSE: Activities associated with normal production or operation are subject to the requirements of the stationary source permit. PM_{10} being entrained into the ambient air from trackout is an issue whether the road is private or public. Additionally, stationary sources with paved roads must include a 98% control efficiency when calculating PM_{10} emissions. If trackout is an issue, the source is not in compliance with its permit whether or not the road is public.

COMMENT: AQR 94.13, Best Available Control Measures: Proposed AQR 94.13(b) states:

Control measure incorporated into a stationary source permit shall be implemented 24 hours a day, 7 days a week, until the DCOP is closed in accordance with Section 94.5(o)(2).

DAQ should revise the language to require that control measures be implemented while construction activities are happening. The dust monitor and other personnel are not required to be on site 24 hours a day, 7 days a week if no construction activity is happening.

Proposed AQR 94.13(c) states that construction activities that contribute to emissions must stop when wind causes fugitive dust. Recommend that this statement be clarified by saying that construction activities that contributes to excess emissions, as outlined in the subparagraphs below, must stop when wind causes fugitive dust. As it is currently worded, it could be interpreted that all construction activities must stop, even if the construction activities are not contributing to excess emissions.

Proposed AQR 94.13(c)(3) includes dust extending over 100 feet as a criterion for shutting down construction activities. LNA is not sure what the regulatory reasoning is of not allowing visible emissions to extend more than 100 feet. If the opacity standard is being achieved and the particulate matter has not crossed a property boundary, what is the reasoning for limiting visible emissions to 100 feet? And how could this reasonably be measured?

RESPONSE: The requirement to implement control measures 24 hours a day, 7 days a week has been in AQR 94 since its adoption on 6/22/2000. The 100-foot standard has been in AQR 94 since 3/18/2003. Compliance staff use two points of reference—GPS and Google Earth—to measure plume length. Any relaxing of these requirements may be considered backsliding and therefore unallowable per Section 110(l) of the Clean Air Act.

COMMENT: AQR 94.14 Emission Standards: Proposed AQR 94.14(a)(3) states:

Any person who engages in construction activities, with or without a DCOP, or operates a stationary source, shall not cause or allow the handling, transport, or storage of any material in a manner that allows visible emissions of particulate matter to: (3) Extend more than 100 feet.

Same comment as the one for AQR 94.13(c)(3).

Proposed AQR 94.14(e)(3) states:

Trackout, including trackout less than 50 feet in length or 0.25 inches in depth, shall be cleaned immediately and maintained to eliminate emissions of fugitive dust by removing all accumulations of mud or dirt on curbs, gutters, sidewalks, or paved surfaces that cause one or more of the following: (3) A dust plume to extend more than 100 feet, horizontally or vertically.

Same comment as the one for AQR 94.13(c)(3).

Proposed AQR 94.14(f) states:

Except as required in Sections 94.14(d) and(e), all trackout shall be cleaned up by the end of the workday or evening shift regardless of length or depth.

LNA has serious concerns about being able to safely clean trackout from Las Vegas Blvd, especially if there are no violations of air quality standards. The speed limit along Las Vegas Blvd. is 55 mph, with vehicles, including semis, dump trucks, etc. regularly exceeding this speed limit. The road is narrow and winding at times, which limits visibility. There are numerous accidents along this road every year, this includes people being struck by vehicles. LNA believes this requirement could lead to unsafe practices and strongly urges DAQ to remove this language from the proposed rule.

RESPONSE: The requirement to clean trackout has been in AQR 94 since its adoption on 6/22/2000. Highway projects have consistently been able to operate street sweepers and comply with the requirements while maintaining employee safety since then. Any relaxing of this requirement may be considered backsliding and therefore unallowable per Section 110(l) of the Clean Air Act.

COMMENT: AQR 94.15, Test Methods: Proposed AQR 94.15.2(a) and 94.15.3a state:

As much as possible, do not include more than one plume in the line of sight at one time.

Please see comment included above for AQR 92.7. AQR text provides a simple solution to this problematic text. If there are more than one plume in the line of sight, meaning that the observer

is reading through two plumes or the plume is doubling back on itself, the reading cannot be valid. With this statement in the regulation, it means that a DAQ inspector can record a 20% opacity, if two 10% opacity plumes are in the same line of sight. If something different is meant by this statement, then it should be clarified.

RESPONSE: Construction sites are dynamic, as opposed to stationary sources, where stacks with emissions are not moving. The Compliance Section would provide evidence (which may include photographs and video) in Notices of Violation to show that multiple plumes were not in the line of sight. With the update to the applicability section, there is no longer a need to clarify whether a particular requirement is applicable to stationary sources; AQR 94 requirements are included in stationary source permits based on a RACT, BACT, or LAER determination pursuant to AQRs 12.1–12.4.

COMMENT: AQR 94, Best Management Practices: LNA appreciates that DAQ changed this rule so that dust control at stationary sources will be required through the RACT, BACT, and LAER permitting process. LNA also appreciates that during the October 3 Workshop, DAQ stated that these BMPs will be one of the control technologies to be considered in the top-down approach for determining dust controls. LNA recommends that DAQ add language to this section of the rule stating the above clarifications. These proposed additions are very important because of the specific, technical requirements of the operating equipment. In some cases, DAQs suggested BMP may not be technically feasible, practical, or effective. In general, LNA wants to emphasize that all the pieces of equipment are connected, so the equipment both upstream and downstream are also affected by these rules.

LNA has provided the following examples, as it did in the last set of comments, to explain why it is problematic to implement these BMPs at LNA's operations, and likely many others.

BMP 01 – Backfilling (Filling area previously excavated or trenched)

- Proposed AQR 94 Appendix 1, Section 01(a)(2)

  Maintain optimum moisture content in backfill material and operate equipment in a manner that limits fugitive dust to comply with the AQRs before, during, and after handling of material and during storage until the long-term stabilization requirements listed in BMP 11 are achieved.

  (2) Dedicate an adequate water source to backfilling equipment and apply water as needed to minimize dust.

  (3) Empty loader bucket slowly and minimize drop height from loader bucket.

  (4) Ensure backfill material is moist or crusted at all times.

  (5) Apply water or surfactant to maintain disturbed soils in a stable condition to limit fugitive dust.

LNA has several concerns with how these management practices could be written into a permit.

2) LNA has many different operational areas throughput its operations. Dedicating a single water truck would be a waste of resources, both in equipment and manpower.

Water trucks are assigned to an operational area to ensure sufficient moisture is added to areas being worked to avoid excessive fugitive emissions.

3) LNA is unsure how DAQ will practically enforce the speed at which a loader bucket is emptied. Equipment is operated within its design capabilities.

4) It would be nearly impossible to ensure that all backfill material is always moist or crusted, nor does it need to be. Backfill material needs to have sufficient moisture to meet the applicable opacity standard.

5) It wouldn't make sense to apply surfactant to materials being backfilled. This material is being buried and won't be at the surface. Surfactant should be applied at the surface to control particulate matter from becoming airborne and to ensure the final grade meets stabilization standards.

BMP 03 – Blasting – Soil and Rock (explosive blasting of soil and rock)

- Proposed AQR 94 Appendix 1, Section 03

(c) Complete and submit a Blasting Supplemental Form; receive DAQ approval before conducting any blasting.

(d) No blasting may be conducted within 1,500 feet of a residential area, occupied building, or major roadway when the wind direction is towards these structures.

(f) No blasting is allowed when the National Weather Service forecasts wind gusts above 25 mph.

(i) Maintain the optimum moisture content in soil before, during, and after blasting activities to limit emissions until the long-term stabilization requirements listed in BMP 11 are achieved.

(1) Limit the blast area to what can be stabilized immediately following the blast

(3) Presoak surface soils to the depth of caliche or bedrock with water or surfactant to limit fugitive dust.

(4) Apply water, surfactant, tackifier, and/or dust palliative on disturbed soils to form a crust immediately following blasting activities until the long-term stabilization requirements in BMP 11 are achieved.

LNA has several concerns with how these management practices could be written into a permit.

c) LNA conducts blasting as a routine part of the business. Blasting can occur almost daily. Requiring LNA to complete a Blasting Supplemental Form and gaining DAQ approval prior to each blast would be overly burdensome and would negatively impact LNA operations. It is clear that DAQ intends this requirement for smaller operations, like construction activities, that are conducting blasting at infrequent periods.

d) LNA implements the highest safety standards while conducting blasting activities. This includes considering the location of structures such as buildings and roadways. Each blast is planned for accordingly. LNA suggests that this condition be modified to account for these structures during a Construction Notice period. The way the condition is currently written, even a wind speed of 1 mph would prevent a business from blasting in these conditions which is not reasonable.

f) DAQ needs to be clearer in the blasting requirements during construction notices. This condition states that blasting cannot occur when wind gusts are greater than 25 mph; however, in Condition (h) of this same condition allows for blasting to occur under certain circumstances when wind speeds are greater than 25 mph. Furthermore, LNA suggests that DAQ make Construction Notices clearer by putting in an exact time that blasting conditions cannot occur, instead of being subjective by saying "afternoon" or "morning"

i) (3) When wetting the area to be blasted, it is not clear how one is to know if the area has been soaked to the depth of caliche or bedrock? These are presumably below the surface level and out of site.

i) (4) LNA cannot apply surfactant, tackifier, and/or dust palliative on disturbed soils to form a crust immediately following a blast for many reasons. First, the material being blasted is pure limestone. It is not practicable to achieve a crust on limestone. Second, many of LNA's products are used in human and animal consumption products. LNA cannot add additional chemicals to the limestone being used to supply these product categories.

BMP 6 – Crushing (crushing of construction and demolition debris, rock, and soil)

- Proposed AQR 94 Appendix 1, Section 06

  (b) Maintain optimum moisture content in material before, during, and after crushing activities to limit emissions.

LNA has several concerns with how these management practices could be written into a permit.

a) DAQ should be aware that in LNA's case, adding too much water can be detrimental to emissions. The more moisture that enters the kiln, the less efficient LNA's kiln operations will be. This will include increases in NOx, SO2, CO, GHG's, PM, and other combustion emissions.

   Adding too much water can also lead to equipment plugging. This also leads to in inefficient operation by having to shut down equipment to remove the blockage. Stop the equipment increases emissions during startup and shutdown.

The condition also refers to those facilities that have DCOP conditions. This is clear that these requirements are meant to be applied to construction activities and not to stationary sources without construction activities.

BMP 11 – Long-Term Stabilization (Applies to disturbed land that is not built out, landscaped, or paved at DCOP closure)

- Proposed AQR 94 Appendix 1, Section 11

  a) Stabilize all disturbed land within 10 days of the completion of a project, or when active operations on all or part of the construction site will cease for 30 days or more. Restrict access to these areas to prevent soil disturbance and maintain long-term stabilization where feasible. The Control Officer must approve the control method selected by the permittee before its implementation. The permittee shall select one or more of the following control methods: (1) Pave. (2) Apply clean gravel or dust palliative (3) Install permanent metal or wood fencing and/or a post and cable at least 3 feet high, or other similar barrier approved by the Control Officer, and stabilize one of the following to create adequate crust

to pass the Drop Ball Test…(4) Install a dirt berm at least 4 feet high, or similar barrier approved by the Control Officer, and stabilize soil with one of the following to create adequate crust to pass the Drop Ball Test… .

b) Installation of signs, as described below, is required if BMPs 11(a)(2) or (4) are implemented unless the permittee obtain prior Control Officer approval based on infeasibility or lack of necessity. (1) Install orange "No Parking / Trespassing" signs with black lettering, at least 24 inches wide by 18 inches high, every 50 feet or as approved by the Control Officer….(4) Post on or near the property boundary, the property corners, and at all access points; post no further than 50 feet apart.

d) New construction or modification of unpaved roads must be stabilized before the DCOP is closed…

LNA has several concerns with how these management practices could be written into a permit.

(a) The requirement to pave, apply gravel, install a permanent metal or wood fence, and/or install a dirt berm at least 4 feet high is not practical at a mine operation. There are areas of the mine that will not be disturbed for periods of 30 days or more. Some of these areas may be many acres in size. To try to isolate them with any of the previously mentioned options would be nearly impossible. In addition, access would be necessary to continue to allow for inspection, addition of dust suppression methods (as needed), and to allow for safety observations by MSHA.

(b) The addition of adding signs outside of these isolated areas does not make sense either as these isolated areas are within the mine boundary. No one is allowed on the mine site until they have checked in and visitors are always escorted. The language on the sign is supposed to state "No Parking / Trespassing" and be posted on the property boundary and placed no more than 50 feet apart. These isolated areas are all within the mine property, likely where there is no direct access, and may not be located at the property boundary.

This BMP is clearly intended for soil stabilization standards at construction sites that have a DCOP. This is emphasized again in condition (a) and (d). The management practices identified are not practical to be implemented at stationary sources that are not undergoing construction, like a mine site.

BMP 13 – Importing / Exporting of Bulk Material (Importing or exporting of soil, aggregate, decorative rock, debris, Type II, and other bulk material).

- Proposed AQR 94 Appendix 1, Section 13

a) Maintain optimum moisture content in surface soils and bulk material before, during, and after all importing/exporting activities to prevent unstable soils and limit fugitive dust until the long-term stabilization requirements listed in BMP 11 are achieved.

3) Limit vehicle speeds to 15 mph on the work site

4) Maintain 3 – 6 inches of freeboard to prevent spillage.

5) Apply tarps or other suitable enclosures that completely cover the load on haul trucks before they exit the project onto public roads, and maintain throughput transport. Tarps must be well-maintained and serviceable at all times.

b) Clean the wheels and undercarriage of haul trucks before they leave the Construction site.

LNA has several concerns with how these management practices could be written into a permit.

(a)(3) LNA maintains speed limits within the lime manufacturing plant to 15 mph or less. However, in the mine site, speed limits may be greater than 15 mph as conditions allow. LNA contends that these speed limit restrictions should not apply to transfers of material within the plant operations.

(a)(4) The majority of the trucks loaded at LNA are closed top tankers. Bulk loaders use a weigh scale to determine the correct amount of material to be loaded in each truck. It is not necessary to maintain 3 – 6 inches of freeboard in a bulk tanker. If applied, it may be very difficult to determine this as the loaded material tends to "cone" while loading and is not evenly distributed throughout the tanker until the truck is moved. DAQ should remove this requirement from closed tanker trucks.

(a)(5) LNA works with contract trucking companies to deliver materials from LNA sites to customers. LNA can require that all trucks leaving the site are tarped; however, LNA has no control over if the trucking contractor keeps the tarp on throughout transport and if the tarp is well maintained and serviceable.

(b) LNA can require that contract truck drivers clean the wheels and undercarriage of haul trucks; however, LNA is not sure how this would be implemented.

This BMP is clearly intended for the movement of bulk materials at construction sites, not at stationary sources. This is stated again in condition 13(b).

BMP 17 – Screening (Screening of rock, soil, or construction debris)

- Proposed AQR 94 Appendix 1, Section 17(b)

Maintain optimum moisture content in material before, during, and after screening activities to limit emissions until the long-term stabilization requirements listed in BMP 11 are achieved.

2) Drop material through the screen slowly; minimize drop height.

3) Dedicate an adequate water source to the screening operation, and apply water as needed to minimize dust.

5) Apply water, surfactant, or dust palliative to screened material and surrounding areas following screening activities until long-term stabilization is achieved.

LNA has several concerns with how these management practices could be written into a permit.

2) LNA will operate screening operations to their designed and permitted capabilities. If any fugitive dust emission concerns are observed, LNA will take the necessary corrective actions to reduce emissions below permitted levels. This could include slowing down the screening operation but could also include several other corrective measures.

3) LNA maintains and operates water supply systems throughout the facility. Limestone screening operations have a water suppression system; however, the water supply system is not solely dedicated to limestone screening operations, nor does it need to be to maintain an effective operation.

LNA would also like to note that LNA is not capable of applying water to limestone screening systems. LNA operates screening systems with the lime handling operations; however, it would not be possible to add water to these screens due to the exothermic reaction that will occur when water is added to lime.

BMP 20 – Trackout Prevention and Cleanup (Prevention and cleanup of mud, silt, and soil tracked out onto paved surfaces)

- Proposed AQR 94 Appendix 1, Section 20

  (a) Install and maintain trackout control device in an effective condition at all locations where paved and unpaved travel routes intersect.

  (b) Maintain dust control and clean all trackout from paved surfaces

LNA has several concerns with how these management practices could be written into a permit. DAQ should make sure that the regulation is clear that trackout requirements are required from unpaved surfaces to paved surfaces with public access. When interactions of unpaved surfaces to paved surfaces occur within a facility, the trackout standards do not apply. While LNA will continue to manage and sweep paved surfaces on a regular basis, these management practices should not be included within a BMP

BMP 21 – Traffic – Unpaved Routes and Parking Areas (construction-related traffic on unpaved roads and parking areas)

- Proposed AQR 94, Appendix 1, Section 21(a)

Limit vehicle speeds to 15 mph on all unpaved routes and parking areas.

LNA has limited vehicle speeds to 15 mph within the plant operating areas. However, vehicle speed in the mine may exceed 15 mph, as conditions allow. Plant operations (equipment size, manpower, etc.) have been established by determining cycle times between the mine and the plant. Reducing the speed limit in the mine would disrupt these cycle times and may cause distinct disruptions in the LNA's operations. DAQ should not restrict the speed limit with the mining areas.

RESPONSE: The need to clarify whether a particular requirement is applicable to stationary sources is no longer necessary with the update to the applicability section; AQR 94 requirements are included in stationary source permits based on a RACT, BACT, or LAER determination pursuant to AQRs 12.1–12.4.

The comments below were included in letters dated 6/7/2024 and 7/18/2024. If the comments were not identical for the same topic, the latest comment is listed.

COMMENT: AQR 92.6.1 Opacity Test Method: Proposed AQR 92.6.1 states:

The purpose of this test method is to estimate the percent opacity of fugitive dust plumes caused by vehicle movement on unpaved parking lots and storage areas. This method can only be conducted by an individual who has received certification as a qualified Visible Emissions Evaluator.

Request that DAQ better define the certification to become a qualified Visible Emissions Evaluator. For instance, is this someone that has a valid Method 9 certification? Or is DAQ referencing another standard that needs to be obtained?

RESPONSE: Clarifying language added to AQR 92.6.1 now states, "This method can only be conducted by an individual who has received certification as a qualified Visible Emissions Evaluator (e.g., EPA Method 9-certified observer)."

The comments below were included in letters dated 7/18/2024 and 10/10/2024. If the comments were not identical for the same topic, the latest comment is listed.

COMMENT: AQR 94.4.1, Duty to Apply for a Dust Control Operating Permit: Proposed AQR 94.4.1b states that a DCOP will be required for construction that disturbs soil that is more than 0.25 acres in overall area. Recommend that the overall area be increased to at least an acre, given all the regulatory burdens associated with the rule. It is recommended that the mechanized trenching threshold be increased to 1000 feet.

RESPONSE: Any relaxing of the applicability thresholds may be considered backsliding and therefore unallowable per Section 110(l) of the Clean Air Act.

COMMENT: AQR 94.4.2, Complete Application: Proposed AQR 94.4.2c states that if the Responsible Official fails to respond within 14 days the application will be denied. Recommend that the time period be extended to at least 21 days. Note there are several reasons why a Responsible Official will not immediately realize he has received a notice that the application is incomplete including: holiday weeks, vacation, and business travel.

RESPONSE: The average processing time for DCOP applications is 7–10 business days. When DAQ staff gets an out-of-office response to an email, they will wait until the return date specified. DAQ staff make multiple attempts to contact the Responsible Official listed on a DCOP application before it is denied.

COMMENT: AQR 94.8, Dust Control Monitor: Proposed AQR 94.8(f) states that the dust control monitor's name must be on the form and submitted with the application. Recommend that this requirement be removed. As long as there is a person on site who is designated as the dust control monitor; they have all the proper training; and dust control is one of their primary duties; then the environment should be protected. As it is written now, a company must stop construction if the dust control monitors listed on the application are not available. For instance, if the application has two dust control monitors listed and both happen to be sick on the same day, then construction must stop. If the regulation did not require the names be listed in the application, then the company would have the option of hiring a dust control monitor from a different company the same day and keep construction moving.

RESPONSE: A Dust Control Monitor must be listed in the application. Permittees have always been able to employ another certified Dust Control Monitor in the event the listed individual is not available on a particular day.

COMMENT: AQR 94.8, Dust Control Monitor: Proposed AQR 94.8(i) states that the dust control monitor cannot have other duties besides dust control at the site, and they cannot be a

foreman or supervisor. Recommend that this restriction be removed. The needed authorities of the dust control monitor to minimize dust are to conduct inspections, deploy resources, and shut down activities as needed. The best person to conduct these activities is the supervisor or foreman. They have the actual and moral authority to allocate resources and manage personnel. As this rule is written now, it is requiring companies to hire at least one extra person per construction site which adds to the cost of the project. If the Best Management Practices in this rule are properly implemented, there may be no dust on site for days or weeks, and the dust control monitor will not have anything to do other than observe/inspect. Companies need to minimize their costs to stay competitive in the marketplace, so the dust monitor being hired may be more junior and may not have significant construction experience. This more junior person would be given the authority on paper to allocate resources and manage the activities of more senior construction workers, but in reality, they are not going to have the moral authority to properly do their job. The best person to do this job is a foreman or supervisor who is not normally conducting construction activities, but is conducting inspections, directing personnel, and responding to abnormal activities such as excessive dust.

RESPONSE: AQR 94 has consistently included the following language: "The Dust Control Monitor shall be present at all times construction activities occur on the project site and shall devote the majority of his/her time specifically to managing dust prevention and control on the site." Superintendents and supervisors have many responsibilities on a job site, including safety, inspections, occupational safety and health requirements, and subcontractor management. With all these duties, they do not meet the requirement of "the *majority* of their time." Any relaxing of this requirement may be considered backsliding and therefore unallowable per Section 110(l) of the Clean Air Act. Employing a Dust Control Monitor should not affect a company's competitive advantage because every company is required to hire one.

The comments below were only included in the letter dated 6/7/2024.

COMMENT: Deadline for Comments: The proposed changes to these regulations and the potential impact to affected sources is significant. They have the potential to impact our operations and change the way we manage many of our processes. LNA is requesting an additional 16 days (making the comment period a total of 30 days) so that the proposed regulations can be evaluated further.

RESPONSE: DAQ held two virtual workshops, on 7/1/2024 and 10/3/2024, and two additional comment periods, from 6/25–7/19/2024 and 9/20–10/11/2024.

COMMENT: AQR 92.3.2, Existing Unpaved Parking Lot(s) or Storage Area(s): Proposed AQR 92.3.2 states:

The owner and/or operator of existing unpaved parking lot(s) or storage area(s) shall implement one or more of the control measures in Section 92.3.4 as needed to *comply with the stabilization standards in Section 92.4*

As stated above, it would be unreasonable for DAQ to require LNA to implement one of the control measures listed in Section 92.3.4 underneath large, outdoor storage piles (e.g. limestone, solid fuel, etc.). The current Title V Permit for Apex allows for approximately 48 acres of storage for

limestone and 9.5 acres for solid fuels. These piles are located throughout the plant, strategically located [to] improve efficiency of plant operations. The piles are already covering the subsurface, meaning fugitive dust cannot be produced from the ground level. LNA believes a more effective solution to minimizing fugitive dust at storage areas for stationary sources is through the permitting process.

RESPONSE: The applicability of AQR 92 was updated so it now applies to areas without public access at stationary sources in Clark County as part of the consideration of a RACT, BACT, or LAER determination pursuant to AQRs 12.1–12.4. In accordance with this determination, provisions of Section 92 shall be incorporated into the stationary source permit. This allows sources to propose alternative stabilization methods that are at least as stringent, but take cost and technical feasibility into consideration. If areas at stationary sources have public access, AQR 92 applicability is no different than for any other area subject to air quality regulations.

The comments below were only included in the letter dated 7/18/2024.

COMMENT: Deadline for Comments: The proposed changes to these regulations and the potential impact to affected sources is significant. They have the potential to impact our operations and change the way we manage many of our processes. LNA is requesting a workshop so DAQ and the regulated community can have a robust dialogue prior to the regulations being finalized.

RESPONSE: DAQ held two virtual workshops, on 7/1/2024 and 10/3/2024, and two additional comment periods, from 6/25–7/19/2024 and 9/20–10/11/2024.

COMMENT: AQR 94.6, General and Administrative Standards: Proposed AQR 94.6a should be clarified by adding the word "unpaid" in front of the word "penalties." Currently, the text could be interpreted as saying that a permit with adjudicated penalties, which could mean all processed penalties, will not be issued a DCOP.

RESPONSE: Clarifying language was added to AQR 94.6, which now states, "The Control Officer shall not issue new, renewed, or revised DCOPs to any person who is delinquent paying department fees and/or delinquent paying adjudicated penalties."

COMMENT: AQR 94.6, General and Administrative Standards: Proposed AQR 94.6b should put the phrases "within a 180-day period" and "for the same project for which the DCOP was issued" immediately after its object, "the third notice of violation." This change will clarify that notices of violation that are not related to the DCOP or are not in a 180-day period would not jeopardize the DCOP under this paragraph.

RESPONSE: The section was updated to reflect the current processes, aligns with language in AQR 4, and allows the Control Officer to revoke or suspend a DCOP for cause.

The comments below were only included in the letter dated 10/10/2024.

COMMENT: AQR 92.6.3: Proposed AQR 92.6.3b states:

Only collect dirt/gravel to an approximate depth of 3/8 of an inch (1 cm) in the 1 square foot area. If you reach a hard underlying subsurface that is greater than 3/8 of an inch in depth, do not continue digging into the hard surface.

LNA believes this paragraph would be clearer if it stated, "If you reach a hard underlying subsurface at a depth less than 3/8 of an inch, do not continue digging into the hard surface." In this scenario, the wooden dowel will confirm that the sample was not taken to the required depth of 1 cm. LNA requests that a statement be added to the regulations making it clear that if the required depth is not reached, then the sample is not valid according to the method.

RESPONSE: The EPA test method referenced included the symbol "<" and it was transcribed incorrectly. The error has been corrected and AQR 92.6.3(b) now states, "If you reach a hard, underlying subsurface that is less than 3/8 inch in depth, do not continue collecting the sample by digging into the hard surface."

COMMENT: Clark County Air Quality Dust Control Class: Proposed AQR 94.10a(1) states, "Construction site superintendent and all others designated as representatives of the permittee" are required to complete the dust control class. Who are the "others designated as representatives of the permittee"? LNA recommends that this group be defined. Is it all contractors? Is it all operators?

RESPONSE: The designated representative of the permittee is whomever the permittee chooses as an on-site contact in the DCOP application. There is no need to define the term, since there are no restrictions on who can be listed.

COMMENT: AQR 94.14, Emission Standards: Proposed AQR 94.14(g)(1) states:

Stockpiles greater than 8 feet shall have a road bladed to the top to allow water trucks access.

It is not possible to blade a road to the top of a stockpile due to safety concerns. LNA recommends that this paragraph be revised to state that roads be bladed to the top of stockpile if feasible.

RESPONSE: AQR 94.14(g)(1) already provides for other means of dust control, stating, "Stockpiles higher than 8 feet shall have a road bladed to the top to allow water truck access, or the permittee must demonstrate to the Control Officer another means of effectively controlling dust from the entire stockpile."

Comments Received: 12/1/2024, via email with letters attached
Commentor: John Hewson, West Regional Environmental Manager, Lhoist
John.HEWSON@lhoist.com
Phone: 725-309-3723

These were a word-for-word subset of the comments in Lhoist's email dated 10/10/2024, which are addressed above in this TSD.

END

BCC 12/17/2024 #55 Approved item for signature

Final Audit Report 2024-12-23

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LAS VEGAS REVIEW-JOURNAL
LAS VEGAS SUN

Las Vegas Review-Journal
1111 W. Bonanza Road
Las Vegas, NV 89106

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CC CLERK
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RM 6037
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Account # 104095
Order ID 327489

IMAGE ON NEXT PAGE(S)

Leslie McCormick, being 1st duty sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal/Las Vegas Sun, daily newspaper regularly issued, published and circulated in the Clark County, Las Vegas, Nevada and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal/Las Vegas Sun, in 2 edition(s) of said newspaper issued from 12/24/2024 to 12/31/2024, on the following day(s):

12/24/2024, 12/31/2024

Leslie McCormick

LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this December 31, 2024

Notary Linda Espinoza

LINDA ESPINOZA
Notary Public, State of Nevada
My Appointment No. 24-9178-01
Expires: July 14, 2028

ORDINANCE NO. 5205

AN ORDINANCE TO AMEND CLARK COUNTY AIR QUALITY REGULATIONS SECTION 92, FUGITIVE DUST CONTROL REQUIREMENTS FOR UNPAVED PARKING LOTS AND STORAGEAREAS TO UPDATE APPLICABILITY, DEFINITIONS, STABILIZATION STANDARDS, INSTANTANEOUS TEST METHOD, AND ADD CLARIFYING LANGUAGE; AMEND SECTION 94, PERMITTING AND DUST CONTROL FOR CONSTRUCTION AND TEMPORARY COMMERCIAL ACTIVITIES AND FUGITIVE DUST CONTROL AT STATIONARY SOURCES TO UPDATE APPLICABILITY, DEFINITIONS, PERMIT REVOCATION PROCEDURES, DUST CONTROL MONITOR REQUIREMENTS, EMISSIONS STANDARDS, STOCKPILE REQUIREMENTS,INSTANTANE OUS TEST METHOD, LONG-TERM STABILIZATION REQUIREMENTS, AND ADD CLARIFYING LANGUAGE; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATEDTHERETO.

NOTICE IS HEREBY GIVEN that typewritten copies of the above numbered and entitled Ordinance are available for inspection by all interested parties at the Office of the County Clerk of Clark County, Nevada, at her Commission Division Office on the first floor of the Clark County Government Center, 500 South Grand Central Parkway, Las Vegas, Nevada, and that said Ordinance was proposed by Commissioner Tick Segerblom on the 3rd day of December 2024 and passed on the 17th day of December 2024, by the following vote of the Board of County Commissioners:

Aye:
Tick Segerblom
William McCurdy II
Justin Jones
Marilyn K. Kirkpatrick
Ross Miller
Michael Naft

Nay: None

Abstaining: None

Absent: James B. Gibson

This Ordinance shall be in full force and effect from and after the 1st day of January 2025.

(SEAL) LYNN MARIE GOYA,
COUNTY CLERKand Ex-Officio
Clerk of the
Board of County
Commissioners

Dated this 17th day of
December 2024.

PUB: Dec. 24, 31, 2024
LV Review-Journal