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BILL NO. _____

SUMMARY - An ordinance to create Clark County Air Quality Regulation Section 120 to regulate major sources that may cause or contribute to VOC or NO_x emissions within the ozone nonattainment boundary by implementing requirements to submit major source reasonably available control technology demonstrations.

ORDINANCE NO. _____
(of Clark County, Nevada)

AN ORDINANCE TO CREATE CLARK COUNTY AIR QUALITY REGULATION SECTION 120, "REASONABLY AVAILABLE CONTROL TECHNOLOGY DEMONSTRATION AND DETERMINATION REQUIREMENTS FOR MAJOR STATIONARY SOURCES OF OZONE IN NONATTAINMENT AREAS," TO REGULATE MAJOR SOURCES THAT MAY CAUSE OR CONTRIBUTE TO EMISSIONS OF VOLATILE ORGANIC COMPOUNDS OR NITROGEN OXIDES WITHIN THE 2015 OZONE NONATTAINMENT BOUNDARY BY IMPLEMENTING REQUIREMENTS TO SUBMIT MAJOR SOURCE REASONABLY AVAILABLE CONTROL TECHNOLOGY DEMONSTRATIONS; 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 Regulation Section 120, "Reasonably Available Control Technology Demonstration and Determination Requirements for Major Stationary Sources of Ozone in Nonattainment Areas," is hereby created as reflected in Exhibit 1, attached hereto.

SECTION 2. 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 3. 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subsections, clauses, phrases, or sentences contained in the Clark County Code in conflict herewith are hereby repealed.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 4. 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 _____ day of _____, 2024.

PROPOSED BY: Commissioner _____

PASSED on the _____ day of _____, 2024.

AYES: _____

NAYS: _____

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ABSTAINING: _____

ABSENT: _____

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

By: _____
TICK SEGERBLOM, Chair

ATTEST:

LYNN GOYA, County Clerk

This ordinance shall be in force and effect from and
after the _____ day of _____, 2024.

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**SECTION 120: REASONABLY AVAILABLE CONTROL TECHNOLOGY
DEMONSTRATION AND DETERMINATION REQUIREMENTS FOR MAJOR
STATIONARY SOURCES IN OZONE NONATTAINMENT AREAS**

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120.1 **PURPOSE**

Section 120 establishes and implements Reasonably Available Control Technology (RACT) demonstration and determination requirements for major stationary sources of nitrogen oxide (NO_x) and/or volatile organic compounds (VOC) as required by Section 182(b)(2) of the Clean Air Act (Act) under Title 42, Section 7511a of the U.S. Code (42 U.S.C. 7511a).

120.2 **APPLICABILITY**

- (a) Section 120 applies to owners and operators of existing stationary sources defined in Section 12.3.2 as major sources for NO_x and/or VOC that are located in an ozone nonattainment area within Clark County, Nevada, when the Administrator:
- (1) Designates the area as nonattainment for ozone for the first time and classifies the area as moderate, serious, severe, or extreme; or
 - (2) Reclassifies an ozone nonattainment area that is already designated as moderate, serious, or severe to a higher classification (e.g., from moderate to serious).
- (b) The owner or operator of an affected source is subject to the major source RACT requirements of Section 120 when the nonattainment area is designated or reclassified as specified in paragraph (a) of this section, regardless of whether the affected source was previously subject to a RACT determination.
- (c) A requirement to apply major source RACT under Section 120 does not exempt a stationary source from any other control technology requirements, including any preconstruction review RACT requirements under Sections 12.1, "Permit Requirements for Minor Sources," and 12.4, "Authority to Construct Application and Permit Requirements for Part 70 Sources," as well as any CTG RACT requirements in other Clark County Air Quality Regulations (AQRs).

120.3 **DEFINITIONS**

Unless the context requires otherwise, the following terms shall have the meanings set forth below for the purposes of this section. When a term is not defined, it shall have the meaning provided in Sections 0, 12.0–12.5, or 12.11 of the AQRs; Chapter 445B of the Nevada Revised Statutes (NRS); the Act; or common usage, in that order of priority.

"Affected source" means a stationary source required to comply with major source RACT for NO_x and/or VOC under Section 120.

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“Affected unit” means any emission unit at an affected source, as defined in Section 120, to which major source RACT applies.

1. If the exhaust emissions from separate units are combined into a single duct or stack, those emission units (and their combined emissions) shall be treated as a single affected unit.
2. For purposes of Section 120, insignificant activities, as determined in Section 12.5, shall not be considered affected units. Also for the purposes of Section 120, no activities with a potential to emit (PTE) greater than 2 tons per year of NOx or VOC individually, with no threshold for a combination of pollutants, shall be eligible to be determined insignificant activities.
3. The notification required by Section 120.4 may include additional criteria for identifying an affected unit.

“Control Technique Guideline Reasonably Available Control Technology” (CTG RACT) means an AQR that implements RACT (including emissions limitations, and work practice standards if applicable) for stationary sources in accordance with CTGs issued by the Administrator under Section 108 of the Act (42 U.S.C. 7408), as required by Section 182(b)(2)(A) of the Act (42 U.S.C. 7511a).

“Cost-effectiveness” means a measure of the economic feasibility of reducing emissions from a specific emission unit, reported in terms of dollars per ton of emissions reduced. Both annual and incremental cost-effectiveness may be calculated; for RACT purposes, annual cost-effectiveness is the primary measure of economic feasibility, where:

1. Annual cost-effectiveness is the annualized cost of the proposed control technology, including any retrofit costs, divided by the reduction in potential emissions that would occur as a result of that control.
2. Incremental cost-effectiveness is the difference in annual control costs, including any retrofit costs, divided by the difference in emission reductions between two potential control technologies that achieve the same or substantially similar emission reductions.

“Existing major stationary source” or “existing major source” means a stationary source:

1. That is located in an ozone nonattainment area within Clark County;
2. That qualified as a major source (as defined in Section 12.3.2) for the applicable ozone NAAQS classification (i.e., marginal, moderate, serious, severe, or extreme); and
3. That began actual construction before any of the Administrator actions listed in Section 120.2(a).

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“Major source RACT” means the RACT required by Section 182(b)(1)(A)(ii)(II) of the Act (42 U.S.C. 7511a) for existing major sources of NO_x and/or VOC in ozone nonattainment areas classified as moderate or higher.

1. Major source RACT differs from CTG RACT in that CTG RACT is set only for VOC emissions from specific types of emission units and activities for which EPA has published a CTG document.
2. Major source RACT differs from RACT for preconstruction review for a new emission unit in that preconstruction review RACT generally applies to new sources and modifications to existing sources, per Sections 12.1 and 12.4.

“Reasonably Available Control Technology” (RACT) means the lowest emissions limitation an affected unit is capable of meeting by applying control technology that is reasonably available, considering technological and economic feasibility. In determining RACT, the following factors shall be considered on a case-by-case basis:

1. Energy and environmental impacts and costs;
2. Cost-effectiveness;
3. Control technology in use by similar sources;
4. Technical feasibility;
5. Relevant findings and determinations in EPA’s RACT/BACT/LAER Clearinghouse website; and
6. Relevant control technique guidelines and documents.

120.4 MAJOR SOURCE RACT NOTIFICATION AND APPLICATION SUBMITTAL DEADLINE

- (a) Owners or operators of an affected source shall submit to the Control Officer a major source RACT demonstration for all affected units no later than 120 days after the Control Officer provides written notice theirs is an affected source under Section 120.2(a).
- (b) Owners or operators shall include the major source RACT demonstration as part of an application for a new stationary source permit or permit revision, in compliance with the application submittal requirements in Sections 12.4 and/or 12.5. An application shall be submitted to the Control Officer even if the proposed demonstration does not result in additional control requirements for the affected source.

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120.5 MAJOR SOURCE RACT DEMONSTRATION REQUIREMENTS

(a) Except as provided in paragraphs (c) and (d) of this section, the major source RACT demonstration shall:

(1) Identify all available control technologies pertaining to the affected unit, including the information the owner or operator relied on to identify the technologies;

(2) Determine the technical feasibility of the available control technologies, including their control effectiveness;

(3) Determine the annual and incremental cost-effectiveness of technically feasible control technologies. Incremental cost-effectiveness should only be included if the owner or operator is proposing a control technology for major source RACT that is marginally less effective and considerably less costly than the primary control technology. The owner or operator shall use the following metrics in determining cost-effectiveness:

(A) A 6% interest rate; and

(B) A 30-year life expectancy of either the affected unit (if the control is part of the unit itself) or the control technology (if the control device is separate from the affected unit).

The owner or operator may submit different metrics for those in paragraphs (3)(A) and/or (3)(B) of this section with accompanying rationale and, if the Control Officer approves, use those metrics.

(4) Identify other pollutants that will be emitted when using control technologies proposed as major source RACT;

(5) Discuss the environmental, energy, and other impacts (benefits and disbenefits) of the technically feasible control technologies;

(6) Identify a control technology that is proposed as major source RACT for each affected unit;

(7) Propose a numeric emissions limitation that the affected unit can achieve using the proposed major source RACT. Where it is infeasible or impracticable to meet a numeric emissions limitation, the owner or operator may propose a control technology design standard, work practice requirements, or other non-numeric control strategies as major source RACT;

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- (8) Identify a proposed schedule either for installing and operating any proposed major source RACT and complying with the corresponding emissions limitation, or for permanently shutting down the affected unit in lieu of implementing major source RACT; and
- (9) Propose testing, monitoring, recordkeeping, and reporting that meet periodic or compliance assurance monitoring (CAM) requirements, including during periods of startup, shutdown, and malfunction.
- (b) When determining cost-effectiveness and discussing environmental, energy, and other impacts, as required in paragraph (a) of this section, the owner or operator shall:
- (1) Rank the control efficiency of technically feasible control technologies from most to least effective, addressing only control technologies that are proposed as major source RACT and that are equally or more effective in controlling emissions; and
- (2) Compute the NO_x and VOC emissions reduction achievable in tons per year by comparing the PTE of the affected unit with and without application of the technically feasible control technology being evaluated.
- (c) If an owner or operator was subject to a major source RACT determination that meets the requirements of Section 120 within the past 36 months and the basis of that determination is still relevant, the owner or operator may provide a copy of that prior determination, along with a sworn certification that it continues to be RACT because there are no changes to the available control technologies, technical feasibility, control effectiveness, cost-effectiveness, or environmental, energy, and other impacts since that determination was initially performed.
- (d) In lieu of determining major source RACT, the owner or operator may agree to permanently shut down the affected unit within a specified time period. The owner or operator shall identify and support a proposed interim NO_x and/or VOC emissions limitation that will apply to the affected unit until it is shut down.

120.6 MAJOR SOURCE RACT DETERMINATIONS AND PERMIT CONTENT

- (a) After receiving a permit application from the affected source that includes a major source RACT demonstration—or a proposal to shut down one or more affected units—the Control Officer shall:

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- (1) Process the application in accordance with Sections 12.4 and/or 12.5 as applicable: following regulatory timelines, determining application completeness, and issuing the permit.
 - (2) Determine major source RACT for the affected units at the affected source, taking into consideration the major source RACT demonstration submitted by the owner or operator.
 - (3) Include terms and conditions in the permit that incorporate major source RACT requirements and/or the shutdown of affected units, including equipment operation and maintenance requirements, emission control standards, and performance testing, monitoring, recordkeeping, and reporting requirements.
 - (4) Include a condition specifying that the major source RACT requirements do not expire for the life of the affected unit even if the Part 70 operating permit expires.
 - (5) Cite Section 120.2 as the authority for the terms and conditions related to the major source RACT requirements.
- (b) When an owner or operator proposes to permanently shut down an affected unit rather than provide a major source RACT demonstration, the Control Officer shall review the proposed interim limit and length of time the unit would continue to operate and:
- (1) Issue a permit that establishes the interim emissions limitation and/or shutdown date proposed by the owner or operator;
 - (2) Issue a permit that establishes a different interim emissions limitation and/or shutdown date; or
 - (3) Deem the permit application incomplete and require the source to submit a major source RACT demonstration that complies with Section 120.5(a).
- (c) The RACT determination and all associated monitoring, reporting, and recordkeeping requirements to ensure compliance with RACT shall be made enforceable by incorporation into the appropriate permit and the Nevada State Implementation Plan.

120.7 MAJOR SOURCE RACT INSTALLATION AND OPERATION

The owner or operator shall comply with the terms and conditions of the major source permit, which will include major source RACT requirements, issued pursuant to Sections 12.4 and/or 12.5 and in compliance with Section 120.