

SECTION 12.5: PART 70 OPERATING PERMIT REQUIREMENTS

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12.5 PART 70 OPERATING PERMIT REQUIREMENTS

12.5.1 Definitions

The following definitions apply to defined terms used in Section 12.5. Unless the context requires otherwise, the following terms shall have the meanings set forth for the purposes of Section 12.5. When a term is not defined, it shall have the meaning provided in Section 0, Section 12.4, 40 CFR 70.2, the Act, or common usage, in that order of priority.

- (a) “Deviation” means a variation from any permit terms, including terms that establish emission limitations, operating conditions, or work practice standards, and those terms intended to show compliance with those limitations, conditions, or standards, including monitoring, recordkeeping, and reporting requirements. A deviation is not necessarily a violation.
- (b) “Exempt Source” means that the following source categories are exempted from the obligation to obtain a Part 70 Operating Permit:
 - (1) Any source that has obtained a voluntarily accepted emission limit, pursuant to Section 12.1.7, to avoid having to obtain a Part 70 Operating Permit, unless a Part 70 Operating Permit is required by some other provision or requirement of the Act;
 - (2) Any source that would be required to obtain a permit solely because it is subject to Section 14.1(b)(62) of these AQRs, “Standards of Performance for New Residential Wood Heaters” (40 CFR 60.530, Subpart AAA); or
 - (3) Any source that would be required to obtain a permit solely because it is subject to Section 13.1(b)(8) of these AQRs, “Emission Standard for Asbestos” (40 CFR 61.145, Subpart M).
- (c) “Existing Part 70 source” means a Part 70 source that either has a valid Part 70 Operating Permit issued prior to the effective date of Section 12.5 or has an application for a Part 70 Operating Permit deemed complete prior to the effective date of Section 12.5.
- (d) “Minor NSR significant levels” means an increase in the potential to emit that would equal or exceed the following rates for the pollutants listed:

Type of Air Pollutant	Potential to Emit (tpy)
PM _{2.5} , directly emitted	5.0
PM ₁₀	7.5
CO	50

VOC	20
NO _x	20
SO ₂	20
Lead (Pb)	0.6
H ₂ S	5
Total Reduced Sulfur (including H ₂ S)	5

- (e) "Modification" or "Modify" means a project which meets any of the preconstruction review applicability criteria in paragraph (g) of Section 12.5.1 or that requires a minor or significant permit revision pursuant to Section 12.5.2.14.
- (f) "New Part 70 source" means a Part 70 source that is not an existing Part 70 source.
- (g) "Preconstruction review applicability criteria" means any of the following:
 - (1) At an existing major stationary source, a project that will result in a major modification as defined in Section 12.2 or 12.3;
 - (2) A new Part 70 source or a modification to an existing Part 70 source that is subject to Section 12.4.3.2;
 - (3) Any project that is subject to a standard, limitation, or other requirement under 40 CFR Part 60;
 - (4) Any project that is subject to a standard under 40 CFR Part 63, including, but not limited to, construction or reconstruction that requires preconstruction review under 40 CFR 63.5; or
 - (5) For a solid waste incineration unit, a project that will result in a modification for purposes of Section 129(g)(3) of the Act.
- (h) "Project" means a physical change in, or change in the method of operation of, a major stationary source.

For purposes of this definition, a physical change or change in the method of operation shall not include:

- (1) Routine maintenance, repair and replacement.
- (2) Use of an alternative fuel or raw material by reason of any order under Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.

- (3) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act.
- (4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.
- (5) Use of an alternative fuel or raw material by a stationary source which:
 - (A) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51 Subpart I; or
 - (B) The source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51 Subpart I.
- (6) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I.
- (7) Any change in ownership at a stationary source.
- (8) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:
 - (A) The Nevada State Implementation Plan and;
 - (B) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.
- (9) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.
- (10) The reactivation of a very clean coal-fired electric utility steam generating unit.

- (i) “Responsible official” means one of the following:
 - (1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - (A) The operating facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million in second quarter 1980 dollars; or
 - (B) The delegation of authority to such representative is approved in advance by the Control Officer.
 - (2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
 - (3) For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this definition, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency; or
 - (4) For Title IV affected sources:
 - (A) The designated representative, as defined in 40 CFR 72.2, insofar as actions, standards, requirements, or prohibitions under Title IV of the Act, “Acid Deposition Control,” or the regulations promulgated there under are concerned; or
 - (B) The responsible official as defined above for any other purposes under Section 12.5.

12.5.2 Part 70 Operating Permit Requirements

12.5.2.1 Permit Applications: Timely and Complete Applications

For each Part 70 source, the owner or operator shall submit a timely and complete permit application. A pre-application conference may be held at the request of the owner or operator of the Part 70 source to assist a source in submitting a complete permit application.

- (a) Timely application.

- (1) A timely application for a source applying for a Part 70 Operating Permit for the first time is one that is submitted within twelve (12) months after the source becomes subject to the permit program. If a source submits a timely application under this provision, it may continue operating under its Authority to Construct Permit until final action is taken on its application for a new Part 70 Operating Permit.
 - (2) For purposes of permit renewal, a timely application is a complete application that is submitted at least six (6) months and not greater than eighteen (18) months prior to the date of permit expiration. If a source submits a timely application under this provision, it may continue operating under its current Part 70 Operating Permit until final action is taken on its application for a renewed Part 70 Operating Permit.
 - (3) A timely application for an existing Part 70 source that has obtained an Authority to Construct Permit is one that is submitted within twelve (12) months after commencing operation of the modification or reconstruction authorized by the permit, or on or before such earlier date that the Control Officer may establish. However, where an existing Part 70 Operating Permit would prohibit such construction or change in operation, the source must obtain a Part 70 permit revision pursuant to Section 12.5.2.14 before commencing operation.
 - (4) In order to be deemed a timely application, the application must also meet the complete application provisions listed in paragraph (b) of Section 12.5.2.1.
- (b) Complete application.
- (1) To be deemed complete, an application must provide all information necessary to evaluate the subject source and its application and to determine all applicable requirements, including the emission rates information required by paragraph (a)(3) of Section 12.4.3.1. Applications for permit revisions need supply only such information as is related to the proposed change. A responsible official shall certify the submitted information consistent with Section 12.5.2.4.
 - (2) Unless the Control Officer notifies the source in writing within sixty (60) days of receipt of the application that an application is not complete, such application shall be deemed to be complete.
 - (3) A completeness determination shall not be required for a minor permit revision.

- (4) If, while processing an application that has been determined or deemed to be complete, the Control Officer determines that additional information is necessary to evaluate or take final action on that application, the Control Officer may request such information in writing and set a reasonable deadline for a response. Failure to provide the information requested in a timely manner may result in a determination that the application is incomplete.
 - (5) The submittal of a complete application shall not affect the requirement that any source shall have an Authority to Construct Permit issued pursuant to Section 12.4.3 prior to construction.
- (c) Area source-specific requirements.
- (1) If a regulation promulgated by the administrator under Section 111 or 112 of the Act (42 U.S.C. 7411 or 7412) requires area sources to submit an application for a Part 70 Operating Permit, each area source covered by the requirement must submit an application in accordance with that regulation.
- (d) Confidential Information. Claims of confidentiality as to information submitted to EPA shall be made pursuant to applicable federal requirements in 40 CFR Part 2. Claims of confidentiality as to information submitted to the department shall be made pursuant to Section 12.6. In the case where a source has submitted information to the Control Officer under a claim of confidentiality that also must be submitted to EPA, the Control Officer shall either submit the information to EPA or require the source to submit a copy of such information directly to EPA.
- (e) Late applications. An application submitted after the deadlines established for timeliness shall be accepted for processing, but shall not be considered a timely application. Submitting an application shall not relieve a source of any enforcement actions resulting from submitting a late application.

12.5.2.2 Permit Applications: Duty to Supplement or Correct Application

Any applicant who fails to submit any relevant facts, or who has submitted incorrect information in a permit application, shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit. A responsible official shall certify the additional information consistent with the requirements of Section 12.5.2.4.

12.5.2.3 Permit Applications: Standard Requirements

Information as described below for each emissions unit at a Part 70 source shall be included in the application, except for insignificant activities. The application shall be submitted on a form provided by the Control Officer.

- (a) Identifying information, including company name, company address, plant name and address if different from company name and address, owner's name and agent, and telephone number and name of the responsible official, plant site manager, or contact;
- (b) A description of the source's processes and products by Standard Industrial Classification Code (SIC) or the North American Industry Classification System (NAICS), including any associated with each alternate scenario identified by the source;
- (c) The following emissions-related information:
 - (1) The potential to emit of all air pollutants for which the source is major, and the potential to emit of all regulated air pollutants, including HAPs, from any emissions unit, except for insignificant activities;
 - (2) Identification and description of all points of emissions described in paragraph (c)(1) of Section 12.5.2.3 in sufficient detail to establish the basis for an air impact analysis and applicability of applicable requirements;
 - (3) Emissions rates in tons per year, including fugitive emission rates, and in such terms as are necessary to establish compliance with applicable requirements, consistent with the results of performance tests conducted pursuant to the source's Part 70 Operating Permit or the source's Authority to Construct Permit, whichever is more current;
 - (4) The following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules;
 - (5) Identification and description of air pollution control equipment and compliance monitoring devices or activities; and
 - (6) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated air pollutants and HAPs at the Part 70 source.
- (d) Other information required by any applicable requirement, including:

- (1) Information related to stack height limitations developed pursuant to Section 12.2.7.3; and
 - (2) The calculations on which the information in paragraphs (c)(1) through (c)(6) of Section 12.5.2.3 is based.
- (e) The following air pollution control requirements:
- (1) Citation and description of all applicable requirements, and
 - (2) Description of or reference to any applicable test method for determining compliance with each applicable requirement.
- (f) Other specific information that may be necessary to implement and enforce applicable requirements or to determine the applicability of such requirements;
- (g) An explanation of any proposed exemptions from otherwise applicable requirements;
- (h) If alternative operating scenarios are to be identified in the permit pursuant to paragraph (j) of Section 12.5.2.6, such information as is necessary for the Control Officer to define those scenarios and determine the applicable requirements for each proposed scenario;
- (i) If emissions trading is proposed, the legal authority for the trading and a description of the proposed conditions for determining compliance with the trading requirements, including replicable procedures that ensure that the emissions trades are quantifiable and enforceable.
- (j) A compliance plan that contains all of the following:
- (1) A description of the compliance status of the source with respect to all applicable requirements;
 - (2) A compliance statement and compliance schedule, as follows:
 - (A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;
 - (B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet, in a timely manner, applicable requirements that become effective during the permit term shall

satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement; and

- (C) A schedule of compliance for any emissions unit at the source that will not be in compliance with any applicable requirement at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with the applicable requirements. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.
- (3) A schedule for submission of certified progress reports no less than every six (6) months for sources required to have a schedule of compliance to remedy a violation.
- (4) The compliance plan content requirements specified in paragraphs (j)(1) through (j)(3) of Section 12.5.2.3 shall apply and be included in the “acid rain” portion of a compliance plan for a Title IV affected source, except as specifically superseded by regulations promulgated under Title IV of the Act, “Acid Deposition Control,” with regard to the schedule and methods the source will use to achieve compliance with the acid rain emission limitations.
- (k) Requirements for compliance certification, including all of the following:
 - (1) A certification of compliance with all applicable requirements by a responsible official consistent with Section 12.5.2.4 of the AQRs and Section 114(a)(3) of the Act, “Enhanced Monitoring and Compliance Certification”;
 - (2) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test method; and
 - (3) A statement indicating the source’s compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.
- (l) For acid rain portions of permit applications and compliance plans, submit a current EPA Acid Rain Permit Application or New Unit Exemption form, as applicable.

- (m) If a PAL is requested, the information required by Section 12.2.19 for establishing a PAL.

12.5.2.4 Permit Applications: Certification

Any application form, report, or compliance certification submitted pursuant to Section 12.5 shall contain certification by a responsible official of truth, accuracy, and completeness. This certification, and any other certification required under Section 12.5, shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

12.5.2.5 Permit Applications: Insignificant Activities and Emissions

An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement.

- (a) The following types of activities and emissions units may be presumptively omitted from a permit application for a Part 70 Operating Permit. Certain of these listed activities include qualifying statements intended to exclude many similar activities:
 - (1) Combustion emissions from propulsion of mobile sources;
 - (2) Air-conditioning units used for human comfort that do not have applicable requirements under Title VI of the Act;
 - (3) Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing/industrial or commercial process;
 - (4) Noncommercial food preparation;
 - (5) Consumer use of office equipment and products, not including printing establishments or businesses primarily involved in photographic reproduction;
 - (6) Janitorial services and consumer use of janitorial products;
 - (7) Internal combustion engines used for landscaping purposes;
 - (8) Laundry activities, except for dry-cleaning and steam boilers;
 - (9) Bathroom/toilet vent emissions;
 - (10) Emergency (backup) electrical generators at residential locations;

- (11) Tobacco smoking rooms and areas;
- (12) Blacksmith forges;
- (13) Plant maintenance and upkeep activities (e.g., groundskeeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots), provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and not otherwise triggering a permit revision. Cleaning and painting activities qualify as insignificant activities if they are not subject to VOC or HAP control requirements. Asphalt batch plant owners/operators must still get a permit if otherwise required.
- (14) Repair or maintenance shop activities not related to the source's primary business activity, not including emissions from surface coating or degreasing (solvent metal cleaning) activities, and not otherwise triggering a permit revision;
- (15) Portable electrical generators that can be moved by hand from one location to another;
- (16) Hand-held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning, or machining wood, metal, or plastic;
- (17) Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that do not result in emission of HAP metals;
- (18) Air compressors and pneumatically operated equipment, including hand tools;
- (19) Batteries and battery charging stations, except at battery manufacturing plants;
- (20) Storage tanks, vessels, and containers holding or storing liquid substances that will not emit any VOCs or HAPs;
- (21) Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized;
- (22) Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized;

- (23) Drop hammers or hydraulic presses for forging or metalworking;
- (24) Equipment used exclusively to slaughter animals, but not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment;
- (25) Vents from continuous emissions monitors and other analyzers;
- (26) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities;
- (27) Hand-held applicator equipment for hot melt adhesives with no VOCs in the adhesive formulation;
- (28) Equipment used for surface coating, painting, dipping, or spraying operations, except those that will emit VOCs or HAPs;
- (29) CO₂ lasers, used only on metals and other materials which do not emit HAPs in the process;
- (30) Consumer use of paper trimmers/binders;
- (31) Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam;
- (32) Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants;
- (33) Laser trimmers using dust collection to prevent fugitive emissions;
- (34) Bench-scale laboratory equipment used for physical or chemical analysis, but not lab fume hoods or vents;
- (35) Routine calibration and maintenance of laboratory equipment or other analytical instruments;
- (36) Equipment used for quality control/assurance or inspection purposes, including sampling equipment used to withdraw materials for analysis;
- (37) Hydraulic and hydrostatic testing equipment;
- (38) Environmental chambers not using HAP gases;
- (39) Shock chambers;

- (40) Humidity chambers;
 - (41) Solar simulators;
 - (42) Fugitive emissions related to movement of passenger vehicles, provided the emissions are not counted for applicability purposes and any required fugitive dust control plan or its equivalent is submitted;
 - (43) Process water filtration systems and demineralizers;
 - (44) Demineralized water tanks and demineralizer vents;
 - (45) Boiler water treatment operations, not including cooling towers;
 - (46) Oxygen scavenging (deaeration) of water;
 - (47) Ozone generators;
 - (48) Fire suppression systems;
 - (49) Emergency road flares;
 - (50) Steam vents and safety relief valves;
 - (51) Steam leaks;
 - (52) Steam cleaning operations; and
 - (53) Steam sterilizers.
- (b) Any person may petition the Control Officer for a rule to be adopted under the procedures in Section 2 to add an activity or emission unit to this list of insignificant activities and emissions which may be excluded from a Part 70 Operating Permit application. The petition shall include the following information:
- (1) A complete description of the activity or emission to be added to the list;
 - (2) A complete description of all air contaminants that may be emitted by the activity or emission, including emission rate, air pollution control equipment, and calculations used to determine emissions; and
 - (3) An explanation of why the activity or emission should be exempted from the application requirements for an operating permit.

- (c) The Control Officer shall review, on a case-by-case basis, insignificant activities for an individual Part 70 source that are listed in the application but do not require a detailed description. No activity with the potential to emit greater than two (2) tpy of any criteria pollutant, five (5) tpy of a combination of criteria pollutants, five hundred (500) pounds per year of any HAP, or one (1) tpy of a combination of HAPs shall be eligible to be determined an insignificant activity under Section 12.5.2.5.

12.5.2.6 Permit Content: Standard Requirements

Each Part 70 Operating Permit shall include the following elements:

- (a) Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance or that become effective within the term of the permit:
 - (1) The permit shall specify, and reference the origin of and authority for, each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.
 - (2) Where an applicable requirement is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, "Acid Deposition Control," both provisions shall be incorporated into the permit.
 - (3) If the Nevada SIP allows a determination of an alternative emissions limit at a Part 70 source, equivalent to that contained in the SIP, to be made during the permit issuance, renewal, or significant revision process, and the Control Officer elects to use such process, any permit containing such equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.
- (b) All terms and conditions of any Authority to Construct Permit, to the extent that such terms and conditions apply to operations. The permit shall identify those terms and conditions and the authority upon which they are based, and shall contain a statement that any changes to any such terms and conditions must be processed in accordance with the applicable permit revision procedures in Section 12.4, 12.5.2.13 or 12.5.2.14 and applicable SIP requirements;

- (c) Permit duration.
 - (1) The Control Officer shall issue permits for a fixed term of five (5) years in the case of “acid rain” sources, and for a term not to exceed five (5) years in the case of all other sources.
 - (2) Notwithstanding paragraph (c)(1) of Section 12.5.2.6, the Control Officer shall issue permits for solid waste incineration units combusting municipal waste and subject to a standard under Section 129(e) of the Act shall be issued for a period not to exceed twelve (12) years and shall review such permits at least every five (5) years.
 - (3) A condition or requirement in a Part 70 Operating Permit that incorporates conditions from an Authority to Construct Permit derived from Sections 12.2 or 12.3 requirements shall remain in effect and enforceable after expiration or termination of the Part 70 Operating Permit in which they are contained;
- (d) Monitoring and related recordkeeping and reporting requirements.
 - (1) Each permit shall contain the following requirements with respect to monitoring:
 - (A) All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including 40 CFR Part 64, and any other procedures and methods that may be promulgated pursuant to Sections 114(a)(3) or 504(b) of the Act. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as a result of such streamlining;
 - (B) Where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring, compliance monitoring may consist of recordkeeping designed to serve as monitoring or periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source’s compliance with the permit. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph; and

- (C) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.
- (2) With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:
 - (A) Records of required monitoring information that include the following:
 - (i) The date, place as defined in the permit, and time of sampling or measurements;
 - (ii) The dates analyses were performed;
 - (iii) The company or entity that performed the analyses;
 - (iv) The analytical techniques or methods used;
 - (v) The results of such analyses; and
 - (vi) The operating conditions as existing at the time of sampling or measurement.
 - (B) Retention of records of all required monitoring data and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.
- (3) For sources that contain emissions units subject to 40 CFR Part 64 (Compliance Assurance Monitoring, or CAM), the following general terms and conditions shall become terms and conditions of the permit:
 - (A) The permittee shall install, calibrate, maintain, and operate a monitoring system according to the manufacturer's specifications or other written procedures that provide adequate assurance that the system would reasonably be expected to function in accordance with the requirements in 40 CFR 64.7.
 - (B) At all times, the permittee shall properly maintain the monitoring system, including, but not limited to, maintaining

parts if necessary for routine repairs of the monitoring system.

- (C) The permittee shall collect data at all required intervals during emissions unit operation, except for, as applicable, monitoring malfunctions, repairs associated with monitoring malfunctions, and required quality assurance or control activities, as follows:
 - (i) Data recorded during monitoring malfunctions, repairs associated with malfunctions, and required quality assurance or control activities shall not be used for purposes of CAM.
 - (ii) The permittee shall maintain records of the beginning date and time, ending date and time, and cause (including unknown cause, if applicable) for monitoring downtime incidents (other than downtime associated with zero and span or other daily calibration checks, if applicable).
 - (iii) The permittee shall use all data collected during all periods other than those identified in paragraph (d)(3)(C)(i) of Section 12.5.2.6 in assessing the operation of the control device and associated control system.
 - (iv) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring to provide valid data. Monitoring failures caused in part by poor maintenance or careless operation are not malfunctions and shall be considered deviations.
 - (D) All incidents of monitoring downtime recorded under paragraph (d)(3)(C)(i) of Section 12.5.2.6 shall be reported pursuant to paragraph (d)(4) of Section 12.5.2.6.
 - (E) The permittee shall comply with the requirements of an approved CAM quality improvement plan, if required by the Control Officer.
- (4) With respect to reporting, the permit shall incorporate all applicable reporting requirements, including those in 40 CFR 64.9(a), if applicable, and require all of the following:
- (A) Submittal of reports of any required monitoring every six (6) months, or more frequently if specified by an applicable requirement or by the Control Officer. All instances of devi-

ations from permit requirements, including monitoring downtime, must be clearly identified in such reports. All required monitoring reports submitted must be certified by a responsible official pursuant to section 12.5.2.4;

(B) Reporting of deviations from permit requirements, including those attributable to malfunction, startup, or shut-down. Deviations shall be reported promptly. All reports of deviations shall identify the probable cause of the deviations and any corrective actions or preventative measures taken. "Promptly," for purposes of reporting, shall mean as follows:

(i) A deviation caused by excess emissions shall be reported according to the requirements of Section 25.6.1.

(ii) A deviation from a permit requirement that poses a potential imminent and substantial danger to public health, safety, or the environment, if violated, shall be reported according to the requirements of Section 25.6.2; and

(iii) All other deviations shall be reported within six (6) months of the date the permittee first learns of the deviation.

(C) **Written Report of Deviations.** A written report must be submitted at the time specified in paragraph (d)(4)(B) of Section 12.5.2.6. This form does not provide an exemption from reporting all malfunctions or emergencies, which shall be reported according to Section 25.6. All deviation reports submitted must be certified by a responsible official.

(5) Claims of confidentiality shall be governed by Section 12.6.

(e) **Acid Rain Allowances.** For Title IV affected sources, a permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder:

(1) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the Acid Rain Program, provided that such increases do not require a permit revision under any other applicable requirement.

(2) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a

defense to noncompliance with any other applicable requirement.

- (3) Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act.
- (f) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit;
- (g) Standard provisions stating the following:
- (1) The permittee must comply with all conditions of the Part 70 Operating Permit. Any permit noncompliance may constitute a violation of these AQRs, Nevada law, and the Act, and is grounds for any of the following: enforcement action; permit termination; revocation and re-issuance; revision; or denial of a permit renewal application.
 - (2) The need to halt or reduce activity is not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
 - (3) The permit may be revised, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit revision, revocation and re-issuance, or termination, or of a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
 - (4) The permit does not convey any property rights of any sort, or any exclusive privilege.
 - (5) The permittee shall furnish to the Control Officer, within a reasonable time, any information that the Control Officer may request in writing to determine whether cause exists for revising, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Control Officer copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the Administrator along with a claim of confidentiality.
 - (6) On a timely basis, the permittee shall meet all applicable requirements that become effective during the permit term

- (h) **Emission Fee.** A provision to ensure that the source pays fees consistent with Section 18;
- (i) **Emissions Programs.** A provision stating that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading, and other similar programs or processes, for changes that are provided for in the permit;
- (j) **Alternative Operating Scenarios.** Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Control Officer. Such terms and conditions:
 - (1) Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;
 - (2) Shall extend the permit shield to all terms and conditions under each such operating scenario; and
 - (3) Must ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of Section 12.5.
- (k) **Emissions Trading.** Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements and the Nevada SIP provide for trading such increases and decreases without a case-by-case approval by the Control Officer and the trading is necessary solely for the purpose of complying with a federally enforceable emissions cap that is established in the permit independent of any otherwise applicable requirements. Such terms and conditions:
 - (1) Shall include all terms required to determine compliance, including replicable procedures and permit terms that ensure that emissions trades are quantifiable and enforceable;
 - (2) Shall extend the permit shield to all terms and conditions that allow such increases and decreases in emissions; and
 - (3) Shall ensure that the terms and conditions meet all applicable requirements and that the permitting of affected sources occurs in accordance with the deadlines in Title IV of the Act and the regulations promulgated thereunder.

- (l) Any application form, report, or compliance certification submitted pursuant to these AQRs shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete; and
- (m) The permit shall specify that any person who has been issued a permit under Section 12.5 shall post such permit in a location which is clearly visible and accessible to the facility's employees and representatives of the department.

12.5.2.7 Permit Content: Federally Enforceable Requirements

- (a) Except as provided in paragraph (b) of Section 12.5.2.7, all terms and conditions in a Part 70 Operating Permit, including any provisions designed to limit a source's PTE, are enforceable by EPA and by citizens pursuant to a citizen's suit filed under the Act.
- (b) Notwithstanding paragraph (a) of Section 12.5.2.7, applicable requirements that are not required by the Act or implementing federal regulations shall be included in the permit, but shall be specifically designated as being not federally enforceable and not enforceable by a citizen's suit pursuant to the Act and shall be designated as "county-only requirements." Terms and conditions so designated are not subject to the requirements that apply to permit review by EPA and affected states.
- (c) The Control Officer shall determine which conditions are "county-only requirements" in each Part 70 Operating Permit.

12.5.2.8 Permit Content: Compliance Requirements

All Part 70 Operating Permits shall contain all of the following elements with respect to compliance:

- (a) Compliance certification, testing, monitoring, reporting, and record-keeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document, including any report, required to be submitted pursuant to Section 12.5.2 shall contain a certification by a responsible official that meets the requirements of Section 12.5.2.4;
- (b) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Control Officer or an authorized repre-

sentative to enter the permittee's premises where a Part 70 source is located or emissions related activity is conducted and to:

- (1) Have access to and copy any records that must be kept under the conditions of the permit;
 - (2) Inspect any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;
 - (3) Sample or monitor substances or parameters for the purpose of assuring compliance with the permit or applicable requirements; and
 - (4) Document alleged violations using devices such as cameras or video equipment.
- (c) A schedule of compliance consistent with paragraph (j) of Section 12.5.2.3 and 40 CFR 70.5(c)(8);
- (d) Progress reports consistent with an applicable schedule of compliance to be submitted semiannually, or at a more frequent period if specified in the applicable requirement or by the Control Officer. Such progress reports shall contain all of the following:
- (1) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones, or compliance were achieved; and
 - (2) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.
- (e) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include all of the following:
- (1) Annual submission of compliance certification, or more frequently if specified in the applicable requirement or by the Control Officer;
 - (2) In accordance with paragraph (d) of Section 12.5.2.6, a means for monitoring the compliance of the source with its emission limitations, standards, and work practices;
 - (3) A requirement that the compliance certification include all of the following (provided that the identification of applicable informa-

tion may reference the permit or previous reports, as applicable):

- (A) The identification of each term or condition of the permit that is the basis of the certification;
 - (B) The identification of the methods or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. The methods and means shall include, at a minimum, the monitoring and related recordkeeping and reporting requirements described in 40 CFR 70.6(a)(3). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with Section 113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information;
 - (C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in paragraph (e)(3)(B) of Section 12.5.2.8. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify, as possible exceptions to compliance, any periods during which compliance is required and in which an excursion or exceedance (as defined under 40 CFR Part 64) occurred; and
 - (D) Such other facts as the Control Officer may require to determine the compliance status of the source.
- (4) A requirement that all compliance certifications be submitted to EPA as well as to the Control Officer.
- (f) Such additional requirements as may be specified pursuant to Section 114(a)(3) of the Act, "Enhanced Monitoring and Compliance Certification," and Section 504(b) of the Act, "Monitoring and Analysis."

12.5.2.9 Permit Content: Permit Shield

- (a) Except as otherwise provided in Section 12.5.2.9, the Control Officer may include in each Part 70 Operating Permit a permit shield provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

- (1) Such applicable requirements are included and are specifically identified in the permit; or
 - (2) The Control Officer, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.
- (b) A Part 70 Operating Permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.
- (c) Nothing in this paragraph or in any operating permit shall alter or affect any of the following:
- (1) The provisions of Section 303 of the Act, "Emergency Orders," including the authority of the Administrator under that section;
 - (2) The applicable requirements of the Acid Rain Program, consistent with Section 408(a) of the Act;
 - (3) The ability of the Control Officer to obtain information from a source, and the ability of EPA to obtain information from a source, under Section 114 of the Act, "Inspection, Monitoring, and Entry"; and
 - (4) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance.

12.5.2.10 Permit Issuance: Action on Application

- (a) A permit, permit revision, or renewal may be approved only if all of the following conditions have been met:
- (1) The Control Officer has received a complete application for a permit, permit revision, or permit renewal, except that a complete application need not be received before a Part 70 general permit is issued pursuant to Section 12.5.2.20;
 - (2) Except for revisions qualifying as administrative or minor permit revisions under Section 12.5.2.13 or paragraphs (a) and (b) of Section 12.5.2.14, the Control Officer has complied with the applicable requirements for public participation in Section 12.5.2.17;
 - (3) The Control Officer has complied with the requirements for notifying and responding to EPA and affected states under paragraph (b) of Section 12.5.2.18;

- (4) The conditions of the permit provide for compliance with all applicable requirements and the requirements of Section 12.5; and
 - (5) EPA has received a copy of the proposed permit or permit revision and any notices required under paragraphs (a) and (b) of Section 12.5.2.18, and has not objected to issuance of the permit under paragraph (c) of Section 12.5.2.18 within the time period specified therein.
- (b) Except as provided under regulations promulgated under Title IV of the Act for the permitting of Title IV affected sources under the Acid Rain Program, the Control Officer shall take final action on each permit application, including a request for permit revision or renewal, within eighteen (18) months after receiving a complete application.
 - (c) The Control Officer shall provide a statement that sets forth the legal and factual basis for the draft permit conditions, including references to the applicable statutory or regulatory provisions or conditions in an applicable Authority to Construct Permit. The Control Officer shall send this statement to EPA along with each proposed Part 70 Operating Permit and to any other person who requests it.
 - (d) Upon issuance of a Part 70 Operating Permit or revision to that permit, any Authority to Construct Permit issued for an emissions unit subject to that permit or revision is terminated for that emissions unit. However, the terms and conditions of the Authority to Construct Permit remain in effect, in accordance with paragraph (b) of Section 12.5.2.6.
 - (e) The submittal of a complete application shall not affect the requirement that any source have a preconstruction permit under Title I of the Act.

12.5.2.11 Permit Renewal and Expiration

- (a) Permits being renewed are subject to the same procedural requirements, including those for public participation and affected state and EPA review, that apply to initial permit issuance.
- (b) Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted.
- (c) If a timely and complete renewal application is submitted and the Control Officer fails to issue or deny the renewal permit before the end of the term of the current permit, then all of the terms and conditions of the current permit, including the permit shield, shall remain in effect until renewal or denial.

- (d) Except as provided in paragraph (b) of Section 12.5.2.12 and paragraphs (a) and (b) of Section 12.5.2.14, no Part 70 source may operate after the time that it is required to submit a timely and complete application under Section 12.5.2 except in compliance with a permit issued thereunder. If a Part 70 source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have a Part 70 Operating Permit is not a violation of Section 12.5 until the Control Officer takes final action on the permit application. This protection shall cease to apply if, subsequent to the completeness determination, the applicant fails to submit, by the deadline specified in writing by the Control Officer, any additional information identified as being needed to process the application.

12.5.2.12 Permit Revision: Changes that Do Not Require a Permit Revision

- (a) A Part 70 source may make changes that are not addressed or prohibited by the permit without a permit revision, unless such changes are subject to any requirements under Title IV of the Act or are modifications under any provisions of Title I of the Act.
 - (1) Each such change shall meet all applicable requirements and shall not violate any existing permit term or condition.
 - (2) Sources must provide at least seven (7) days' written notice to the Control Officer and EPA of each such change, except for changes that qualify as insignificant under Section 12.5.2.5. Such written notice shall describe each such change, including the date, any change in emissions, pollutants emitted, and any applicable requirements that would apply as a result of the change.
 - (3) The change shall not qualify for a permit shield.
 - (4) The permittee shall keep a record describing changes made at the source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes.
- (b) A Part 70 source may make changes without requiring a permit revision if the changes are defined as Section 502(b)(10) changes under the Act, are not modifications under any provisions of Title I of the Act, and do not exceed the emissions allowable under the permit (whether expressed in the permit as a rate of emissions or in terms of total emissions). For each such change, the written notification required by paragraph (a)(2) of Section 12.5.2.12 shall apply. The change shall not qualify for a permit shield.

12.5.2.13 Permit Revision: Administrative Permit Revision

- (a) An administrative permit revision is a permit revision that:
 - (1) Corrects typographical errors;
 - (2) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;
 - (3) Requires more frequent monitoring or reporting by the permittee;
 - (4) Allows for a change in ownership or operational control of a source if the Control Officer determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Control Officer and the permit transfer procedures in Section 12.12 have been complied with;
 - (5) Incorporates into the permit the terms and conditions of an Authority to Construct Permit for a modification if the terms and conditions were subject to the procedures prescribed by Section 12.2.16.6; or
 - (6) Incorporates into the permit the terms and conditions in an Authority to Construct Permit issued pursuant to Sections 12.4.3.3 or 12.4.3.4 if the terms and conditions were adopted under the procedures prescribed by Section 12.2.16.6.
- (b) Administrative permit revisions for purposes of the “acid rain” portion of the permit shall be governed by regulations promulgated under Title IV of the Act.
- (c) **Administrative Permit Revisions Procedures.** An administrative permit revision may be made by the Control Officer consistent with the following:
 - (1) The Control Officer shall take no more than sixty (60) days from receipt of a request for an administrative permit revision to take final action on such request, and may incorporate such changes without providing notice to the public or affected states, provided that the Control Officer designates any such permit revisions as having been made pursuant to an administrative permit revision.
 - (2) The Control Officer shall submit a copy of the revised permit to EPA.

- (d) The source may implement the changes addressed in the request for an administrative revision immediately upon submittal of the request.
- (e) The Control Officer shall, upon taking final action for an administrative permit revision, allow coverage by the permit shield for administrative permit revisions made pursuant to paragraph (a)(5) of Section 12.5.2.13 which meet the relevant requirements of paragraph (c) of Section 12.5.2.13 and paragraph (c) of Section 12.5.2.14 for significant permit revisions.

12.5.2.14 Permit Revisions: Minor and Significant

A significant permit revision is any revision to a Part 70 Operating Permit that cannot be accomplished under the Section 12.5.2.14 provisions for minor or administrative permit revisions. Any permit revision for purposes of the “acid rain” portion of the permit shall be governed by regulations promulgated by the Administrator under Title IV of the Act and shall require a significant permit revision.

(a) Minor Permit Revision Procedures.

- (1) **Criteria.** Minor permit revision procedures may be used only for those permit revisions that:
 - (A) Do not violate any applicable requirement, including any provision of the Nevada SIP (including specific control strategies);
 - (B) Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
 - (C) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;
 - (D) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such term or condition would include a federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Act, or an alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the Act, “Early Reduction”;

- (E) Are not modifications under any provision of Title I of the Act; and
 - (F) Are not modifications subject to paragraph (a)(8) of Section 12.4.3.1.
- (2) **Emissions Trading.** Minor permit revision procedures may be used for permit revisions involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor Part 70 Operating Permit revision procedures are explicitly provided for in the Nevada SIP or an applicable requirement.
- (3) **Application.** A permittee shall submit a standard application form provided by the department requesting a minor permit revision. The form shall include all of the following:
- (A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;
 - (B) The source's suggested draft minor permit revision language;
 - (C) Certification by a responsible official that the proposed revision meets the criteria for a minor permit revision; and
 - (D) The information the Control Officer needs in order to notify EPA and affected states.
- (4) **EPA and Affected State Notification.** Within five (5) working days of receipt of a complete minor permit revision application, the Control Officer shall notify EPA and affected states of the requested permit revision.
- (5) **Timetable for Approval.** The Control Officer may not issue a final permit revision approval until after EPA's 45-day review period or until EPA has notified the Control Officer that EPA will not object to issuance of the permit revision, whichever is first. Within ninety (90) days of the Control Officer's receipt of a complete application under minor permit revision procedures or fifteen (15) days after the end of EPA's 45-day review period under this paragraph, whichever is later, the Control Officer shall:
- (A) Issue the permit revision as proposed;
 - (B) Deny the permit revision;

- (C) Determine that the requested revision does not meet the minor permit revision criteria and should be reviewed under the significant revision procedures; or
 - (D) Revise the draft minor permit revision and transmit to EPA the new proposed revision. Transmittal to EPA initiates the approval process described in paragraph (a) of Section 12.5.2.18.
- (6) **Source's Ability to Make a Change.** A Part 70 source may make the change proposed in its minor permit revision application thirty (30) days after it files such application. After the source makes the change allowed by the preceding sentence, and until the Control Officer takes any of the actions specified in paragraphs (a)(5)(A) through (a)(5)(D) of Section 12.5.2.14, the source must comply with both the applicable requirements promulgated by EPA governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.
- (7) **Permit Shield.** A permit shield shall not extend to minor permit revisions.
- (b) **Group Processing of Minor Permit Revisions.** Consistent with this paragraph, the Control Officer may modify the procedure outlined in paragraph (a) of Section 12.5.2.14 to process groups of a source's applications for certain modifications eligible for minor permit revision processing.
- (1) **Criteria.** Group processing of modifications may be used only for those permit revisions:
 - (A) That are minor permit revisions; and
 - (B) That collectively are below the following threshold levels: ten (10) percent of the emissions allowed by the permit for the emissions unit for which the change is requested, twenty (20) percent of the applicable definition of major stationary source in Sections 12.2, 12.3, and 12.5, or five (5) tpy, whichever is less.
 - (2) **Application.** An application requesting the use of group processing procedures shall include the following:

- (A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;
 - (B) The source's suggested draft permit revision language;
 - (C) Certification by a responsible official that the proposed revision meets the criteria for use of group processing procedures, and a request that such procedures be used;
 - (D) A list of the source's other pending applications awaiting group processing, and a determination of whether the requested revision, aggregated with these other applications, equals or exceeds the threshold set under paragraph (b)(1)(B) of Section 12.5.2.14;
 - (E) Certification that the source has notified EPA of the proposed revision. Such notification need only contain a brief description of the requested revision; and
 - (F) Completed forms for the Control Officer to use to notify EPA and affected states of the revisions for which group processing is sought.
- (3) **EPA and Affected State Notification.** On a quarterly basis or within five (5) business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level set under paragraph (b)(1)(B) of Section 12.5.2.14, whichever is earlier, the Control Officer shall notify EPA and affected states of the requested permit revisions.
- (4) **Timetable for Issuance.** The provisions of paragraph (a)(5) of Section 12.5.2.14 shall apply to modifications eligible for group processing, except that the Control Officer shall take one of the specified actions within one hundred eighty (180) days of receipt of the application or fifteen (15) days after the end of EPA's 45-day review period under paragraph (c) of Section 12.5.2.18, whichever is later.
- (5) **Source's Ability to Make a Change.** The provisions of paragraph (a)(6) of Section 12.5.2.14 shall apply to modifications eligible for group processing.
- (6) **Permit Shield.** Revisions eligible for group processing shall not be entitled to the permit shield.

(c) **Significant Permit Revision Procedures.**

- (1) **Criteria.** Significant permit revision procedures shall be used for applications requesting permit modifications that do not qualify as minor permit revisions or as administrative permit revisions, including the creation of a PAL pursuant to Section 12.2.19. At a minimum, every significant change in existing monitoring permit terms or conditions, and every relaxation of reporting or record-keeping permit terms or conditions, shall be considered significant. Nothing herein shall be construed to preclude the permittee from making changes consistent with this part that would render existing permit compliance terms and conditions irrelevant.
- (2) Significant permit revisions shall meet all requirements for issuance and renewal of a Part 70 Operating Permit under Sections 12.5.2.10 and 12.5.2.11, including those for applications, public participation, review by affected states, and review by EPA, as they apply to permit issuance and permit renewal. The Control Officer shall complete review on the majority of significant permit revisions within nine (9) months after receipt of a complete application.

12.5.2.15 Permit Revision: Reopening for Cause

- (a) Each Part 70 Operating Permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:
 - (1) New applicable requirements become applicable to a Part 70 source that is a major stationary source under Section 12.2, Section 12.3, or 40 CFR 70.3(a)(1) with a remaining permit term of three (3) or more years. Such a reopening shall be completed not later than eighteen (18) months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire unless the original permit or its terms and conditions has been extended pursuant to paragraph (c) of Section 12.5.2.11;
 - (2) Additional requirements (including excess emissions requirements) become applicable to an affected source under the Acid Rain Program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit;

- (3) The Control Officer or EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit; or
 - (4) The Administrator or the Control Officer determines that the permit must be revised or revoked to assure compliance with the applicable requirements.
- (b) PAL conditions are to be revised under Section 12.3.9.8 or paragraph (b) of Section 12.2.19.8
 - (c) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance, and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.
 - (d) Reopenings under paragraph (a)(1) of Section 12.5.2.15 shall not be initiated before a notice of such intent is provided to the source by the Control Officer at least thirty (30) days in advance of the date that the permit is to be reopened, except that the Control Officer may provide a shorter time period in the case of an emergency.

12.5.2.16 Permit Revision: Reopenings for Cause by EPA

- (a) The Control Officer shall, within ninety (90) days after receipt of notification that EPA finds that cause exists to terminate, revise, or revoke and reissue a permit, forward to EPA a proposed determination of termination, revision, or revocation and reissuance, as appropriate. The Control Officer may request a 90-day extension if a new or revised permit application is necessary or if the Control Officer determines that the permittee must submit additional information.
- (b) The Administrator will review the proposed determination from the permitting authority within ninety (90) days of receipt.
- (c) The Control Officer shall have ninety (90) days from receipt of an EPA objection to resolve the objection and to terminate, revise, or revoke and reissue the permit in accordance with the Administrator's objection.
- (d) If the Control Officer fails to submit a proposed determination pursuant to paragraph (a) of Section 12.5.2.16, or fails to resolve the Administrator's objection pursuant to paragraph (b) of Section 12.5.2.16, the Administrator will terminate, modify, or revoke and reissue the permit after taking the following actions:

- (1) Providing at least thirty (30) days' notice to the permittee in writing of the reasons for any such action. This notice may be given during the procedures in paragraphs (a) through (c) of Section 12.5.2.16; and
- (2) Providing the permittee an opportunity for comment on the Administrator's proposed action and an opportunity for a hearing.

12.5.2.17 Public Participation

The Control Officer shall provide for public notice, comment, and an opportunity for a hearing on initial permit issuance, significant revisions, reopenings for cause, and renewals in accordance with the following procedures.

- (a) Notice shall be given by publication in a newspaper of general circulation in the area where the source is located; to persons on a mailing list developed by the Control Officer, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public.
- (b) The notice shall identify the Part 70 source; the name and address of the permittee; the activity or activities involved in the permit action; the emissions change involved in any permit revision; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials (including any compliance plan or compliance and monitoring certifications), and all other materials available to the Control Officer that are relevant to the permit decision; a brief description of the comment procedures; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing, unless a hearing has already been scheduled.
- (c) The Control Officer shall provide such notice and opportunity for participation by affected states as provided for by Section 12.5.2.18.
- (d) **Timing.** The Control Officer shall provide at least thirty (30) days for public comment and shall give notice of any public hearing at least thirty (30) days in advance of the hearing.
- (e) The Control Officer shall keep a record of the commenters and also of the issues raised during the public participation process, and such records shall be available to the public and to EPA.

12.5.2.18 Permit Review by EPA and Affected States

(a) **Transmission of Information to EPA.**

- (1) The Control Officer shall provide to EPA a copy of each permit application, including any application for permit revision, each proposed permit, and each final operating permit, unless the Administrator has waived this requirement for a category of sources, including any class, type, or size within such category. The applicant may be required by the Control Officer to provide a copy of the permit application, including the compliance plan, directly to EPA. Upon agreement with EPA, the Control Officer may submit to EPA a permit application summary form and any relevant portion of the permit application and compliance plan, in place of the complete permit application and compliance plan. To the extent practicable, the preceding information shall be provided in a computer-readable format compatible with EPA's national database management system.
- (2) The Control Officer shall keep for five (5) years such records and submit to EPA such information as EPA may reasonably require to ascertain whether the Operating Permit Program complies with the requirements of the Act or of 40 CFR Part 70.

(b) **Review by Affected States**

- (1) The Control Officer shall give notice of each draft permit to any affected state on or before the time that the Control Officer provides this notice to the public under paragraph (a) of Section 12.5.2.17, except to the extent that paragraphs (a) or (b) of Section 12.5.2.14 requires the timing of the notice to be different.
- (2) The Control Officer, as part of the submittal of the proposed permit to EPA, or as soon as possible after the submittal for minor permit revision application, shall notify EPA and any affected state in writing of any refusal by the Control Officer to accept all recommendations for the proposed permit that the affected state submitted during the public or affected state review period. The notice shall include the Control Officer's reasons for not accepting any such recommendation. The Control Officer is not required to accept recommendations that are not based on applicable requirements or the provisions of Section 12.5.2.

(c) **EPA Objection**

- (1) If EPA objects to the issuance of a permit in writing within forty-five (45) days of receipt of the proposed permit and all neces-

sary supporting information, then the Control Officer shall not issue the permit.

- (2) Failure of the Control Officer to do any of the following shall constitute grounds for an objection by EPA:
 - (A) Comply with paragraph (a) or (b) of Section 12.5.2.18;
 - (B) Submit any information necessary to adequately review the proposed permit; or
 - (C) Process the permit under the procedures in Section 12.5.2.17.
 - (3) If the Control Officer fails, within ninety (90) days after the date of an objection by EPA, to revise and submit a proposed permit in response to the objection, EPA may issue or deny the permit in accordance with the requirements of the federal program promulgated under 40 CFR Part 71.
- (d) **Public Petitions to EPA.** If EPA does not object in writing under paragraph (c) of Section 12.5.2.18, any person may petition EPA under the provisions of 40 CFR 70.8(d) within sixty (60) days after the expiration of EPA's 45-day review period to make such objection. If EPA objects to the permit as a result of a petition, the Control Officer shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in Section 12.5.2.17, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Control Officer has issued a permit prior to receipt of an EPA objection under this paragraph, EPA may modify, terminate, or revoke such permit consistent with the procedures in 40 CFR 70.7(g), except in unusual circumstances, and the Control Officer may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.
- (e) **Prohibition on Default Issuance.** The Control Officer shall not issue an operating permit, including a permit renewal or revision, until affected states and EPA have had an opportunity to review the proposed permit as required under Section 12.5.2.18.

12.5.2.19 Temporary Sources

- (a) The Control Officer may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one (1) change of location during the term of the permit. No acid rain source or a source subject to the provisions of Section 112 of the Act shall be permitted as a temporary source. Permits for temporary sources shall include the following:
 - (1) Conditions that will assure compliance with all applicable requirements at all authorized locations;
 - (2) Requirements that the owner or operator notify the Control Officer at least ten (10) days in advance of each change in location; and
 - (3) Conditions that assure compliance with all other provisions of Section 12.

12.5.2.20 Part 70 General Permit

- (a) The Control Officer may, after notice and opportunity for public participation provided under 40 CFR Part 70.7(h), issue a Part 70 general permit covering numerous similar Part 70 sources.
- (b) Any general permit shall comply with all requirements applicable to other Part 70 Operating Permits and shall identify criteria by which sources may qualify for the general permit. To sources that qualify, the Control Officer shall grant the conditions and terms of the general permit. Notwithstanding the shield provisions of Section 12.5.2.9, the source shall be subject to enforcement action for operation without a Part 70 Operating Permit if the source is later determined not to qualify for the conditions and terms of the general permit. General permits shall not be authorized for affected sources under the Acid Rain Program unless otherwise provided in regulations under Title IV of the Act.
- (c) Part 70 sources that would qualify for a general permit must apply to the Control Officer for coverage under the terms of the general permit, or must apply for an individual Part 70 Operating Permit. The Control Officer may, in the general permit, provide for applications which deviate from the requirements of Section 12.5.2.3, provided that such applications meet the requirements of Section 12.5.2.20 and include all information necessary to determine qualification of, and to assure compliance with, the general permit. Without repeating the public participation procedures required under Section 12.5.2.17, the Control Officer may grant a source's request for authorization to

operate under a general permit, but such a grant shall not be a final permit action for purposes of judicial review.

- (d) If the Administrator does not object within forty-five (45) days after receiving a proposed Part 70 general permit which covers stationary Sources that would otherwise be required to apply for individual Part 70 Operating Permits, the general permit becomes effective at the end of the 45-day period. If the Administrator objects to the general permit, the Part 70 general permit becomes effective only when the objection is resolved.
- (e) After the effective date of a Part 70 general permit, the owner or operator of any stationary source that meets the criteria set forth in the Part 70 general permit may request authority to operate under the Part 70 general permit. The request must be in writing and must include all information required by the Part 70 general permit.

History: Adopted May 18, 2010