ADOPTED REGULATIONS

TITLE 63
PUBLIC HEALTH, SAFETY AND WELFARE

CHAPTER 13
AIR, LAND AND WATER POLLUTION

SUBCHAPTER VIII
TRUST TERRITORY AIR POLLUTION CONTROL STANDARDS & REGULATIONS

PART 1 GENERAL PROVISIONS

1.1 Authority. Under and by virtue of the provisions of Section 5 of Public Law 4C-78 (63 TTC 501 et seq.) the Trust Territory Environmental Quality Protection Act, as amended, as it applies to the Trust Territory of the Pacific Islands, and to the control of air pollution are hereby promulgated by the Trust Territory Environmental Protection Board with the approval of the High Commissioner.

1.2 Purpose.

WHEREAS, it is recognized that there has been and may further be a growth in the amount and complexity of air pollution brought about by increasing population and industrial development resulting in dangers to the public health and welfare, including injury to agricultural crops and livestock, damage to and deterioration of property, and hazards to air and ground transportation; and

WHEREAS, it is the responsibility of the Trust Territory Environmental Protection Board to control the quality of air for the purpose of maintaining and protecting human health, safety and welfare of the people of the Trust Territory of the Pacific Islands; and

WHEREAS, in order to accomplish air quality control, it is necessary to prevent or control the emission of air contaminants at their source; and

WHEREAS, it is the purpose of these Standards and Regulations to control air quality of the Trust Territory of the Pacific Islands to the extent that it is feasible and consistent with the growth of the area; and

WHEREAS, in 1972 the Board was empowered by the former Congress of Micronesia to control air pollution within the Trust Territory of the Pacific Islands;

NOW, THEREFORE, the Board does hereby order compliance with the following Regulations to be known as "Trust Territory Air Pollution Control Standards and Regulations".

PART 2 DEFINITIONS

2.1 Applicability. The following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

a. "Chairman" shall mean the Chairman of the Trust Territory Environmental Protection Board or his designee (TTEPB Executive Officer, State/Entity EPA Board Chairman or Administrative Officer).

b. "Board" shall mean the Trust Territory Environmental Protection Board or designated agent thereof.

c. "Air Contaminant" shall mean dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

d. "Air Pollution" shall mean the presence in the clean air of one or more contaminants in such amounts and length of time as is or tends to be harmful to human health or welfare, animal or plant life, property, or interferes with the enjoyment of life or property.

e. "Clean Air" shall mean the outdoor air or atmosphere, outside to buildings, stacks, or exterior ducts, which surrounds the earth.

f. "Applicant" shall mean owner or designated representative.

g. "Buffer Zone" shall mean the area surrounding a stationary source, access to which is effectively prohibited to persons other than employees of the stationary source. The boundaries and areas outside the buffer zone shall be used for clean air quality sampling.

h. "Complex Sources" shall mean any stationary source, including buildings, structures, or installations, which affect air quality by indirect means, primarily by means of mobile source activity associated with them. For the purpose of these Regulations "Complex Sources" shall be defined as, but not limited to, the following:

(1) Projects requiring Environmental Impact Statements or Assessments such as roads and airports;

(2) Parking facilities with a capacity of 10-50 vehicles or one half (1/2) acre of surface area;

(3) Drive-in facilities;

(4) Commercial buildings with over ten thousand (10,000) square feet of floor space;

(5) Sports complexes with a capacity of over fifty (50) persons;

(6) Amusement parks and other recreational facilities with a capacity of over fifty (50) persons;

(7) Commercial, industrial, institutional or public buildings employing and accommodating a total of more than fifty (50) persons in any eight (8) hour period;

(8) Hotels, motels, and multi-family dwellings with accommodations for more than twenty-five (25) persons;

(9) Residential subdivisions consisting of over eight (8) dwelling units.

i. "Existing Source" shall mean those point and complex sources which emit air contaminants from equipment, machines, devices, or installations which are in existence on the effective date of these Regulations; except, any point and complex source or their existing equipment, machines, devices, or installations which are modified after the effective date of these Regulations.

j. "Fuel-Burning Equipment" shall mean any furnace, boiler, apparatus, stack, and all attachments thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer.

k. "Fugitive Dust" shall mean any air-borne solid matter emitted from any source other than a stack or chimney.

l. "Garbage" shall mean animal or vegetable matter originating in homes, restaurants, and food service and processing establishments.

m. "Mobile Source" shall mean any vehicle air contaminant source, including but not limited to, automobiles, trucks, buses, other motor vehicles, aircraft, ships, boats, and other water craft, but not including any source attached to a vehicle whether such attachment is permanent or temporary, when this source is not used to supply power to the vehicle.

n. "Modify" shall mean any physical change in, or change in method or hours of operation of an existing facility which changes the amount of any air pollutant emitted by such sources or which results in the emission of any air pollutant not previously emitted, including the installation, alteration, or removal of air pollution control devices, except that routine maintenance, repair and replacement shall not be considered physical changes.

o. "Multiple-Chamber Incinerator" shall mean any machine, equipment, structure or part of a structure, used to dispose of burnable waste, such as hazardous hospital waste, by burning and consisting of three or more refractory

lined combustion furnaces in series which are physically separated by refractory walls and inter-connected by gas passage openings or ducts and employing adequate design features necessary for maximum combustion of the material to be burned.

p. "New Source" shall mean those point and complex sources including their equipment, machines, devices, or installations built or installed or for which a legal agreement to construct or modify is entered into after the date on which these Regulations become effective, and any point or complex source moved to another site, or which is purchased and is to be operated by a new owner, or which is to be operated by a new lessee after the effective date of these Regulations.

q. "Nuisance" shall mean anything which is dangerous to life, harmful to health, or makes soil, air, water or food impure or unwholesome.

r. "Odor" shall mean those amounts of matter which make it noticeable to the smelling senses of man.

s. "Opacity" shall mean a condition which makes material partly or totally block out the rays of light or causes obstruction of an observer's view.

t. "Owner or Operator" shall mean any person who owns, leases, operates, controls, or supervises a facility, machine, equipment, or other source of air contaminant. With sources where a legal agreement to construct or modify is entered into, the contractor is also liable for violation of these Regulations during construction of the facility.

u. "Open Burning" shall mean the burning of any matter in such a manner that the remaining material resulting from the burning are emitted directly into the clean air without passing through a stack, duct, or chimney determined to be adequate by the Chairman.

v. "Particulate Matter" shall mean any material, except water in pure form, that is or has become airborne and exists as a liquid or as solid at normal conditions.

w. "Person" shall mean any individual, corporation, partnership, association, Trust Territory, or political subdivision thereof, Trust Territory Agency, municipality, commission, foundation or other institution or entity.

x. "Point Source" shall mean any source which emits air contaminants through a stack or chimney or from processing, handling, or storage of materials.

y. "Refuse" shall mean any burnable waste material, commercial waste, or animal or vegetable garbage.

z. "Ringlemann Chart" shall mean the chart, published and described in the U.S. Bureau of Mines Information Circular No. 8333.

aa. "Road" shall mean any public or private access or easement used for motor vehicle travel.

bb. "Seal" shall mean to protect a surface so that it is secure from erosion.

cc. "Soiling Index" shall mean a measure of the soiling properties of suspended particles in air determined by drawing a measured volume of air through a known area of Whatman No. 4 filter paper for a measured period of time, expressed as COH's/1,000 linear feet. "COH" shall mean coefficient of haze, a unit of measurement of visibility interference.

dd. "Source" shall mean any property, public or private, real or personal, or person contributing to air pollution.

ee. "Stack or Chimney" shall mean any flue, conduit, or duct arranged to conduct emissions.

ff. "Standard and Regulations" shall mean the Trust Territory Air Pollution Control Standards and Regulations or related Federal Standards and Regulations.

gg. "Stationary Source" shall mean all air contaminant sources, except mobile sources, and shall include both complex and point sources.

hh. "Excess Emission" shall mean an emission rate which exceeds any applicable emission limitation prescribed by Parts 10, 11, 12, 13, and 14 of the Standards and Regulations.

ii. "Malfunction" shall mean any sudden and unavoidable failure of air pollution control equipment or process equipment, or a process, or a unit operation, to operate in a normal and usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any preventable condition or preventable equipment breakdown shall not be considered malfunctions.

jj. "Start-Up" shall mean the setting into operation of any stationary source, air pollution control equipment or process equipment for any purpose, except routine phasing in of process equipment.

kk. "Shutdown" shall mean the stopping of operation of any stationary source, air pollution control equipment or process equipment for any purpose, except routine phasing out of process equipment.

ll. "Annual Average Capacity Factor" shall mean the ratio of the average load on a machine or equipment for a period of one (1) year (8760 hours) to the capacity rating of the machine or equipment.

mm. "CFR" shall mean the Code of Federal Regulations.

nn. "Process Industries" shall mean industries which involve physical and chemical changes of the material as it passes through the different process units or operation stages, as a result of which, air contaminants may be emitted to the atmosphere. Process industries include but are not limited to rock processing industries, portland cement plants, concrete batching plants, asphaltic concrete batching plants, and concrete block plants.

oo. "New Motor Vehicle" shall mean any self-propelled vehicle manufactured on the current calendar or model year to be used on public roads and highways for the purpose of transportation or conveyance of material.

pp. "New Motor Vehicle Engines" shall mean engines manufactured on the current calendar or model year to be used for providing power to motor vehicles.

PART 3 CLEAN AIR QUALITY STANDARDS

3.1 The following air quality standards are the desirable levels of clean air quality for the Trust Territory. Based on present knowledge, these levels are not expected to produce health hazards or impairment, injury to agricultural crops and livestock, damage to or deterioration of property, and hazards to air and ground transportation, or in any manner, interfere with the protection of the public welfare.

3.2 Clean Air Quality Standards*

Pollutant	Levels Not to Exceed	****Remarks
Sulfur Oxides	60 micrograms/m^3(0.02ppm)	a
	**365 micrograms/m^3(0.12ppm)	b
	1,300 micrograms/m^3(0.5ppm)	e
	650 micrograms/m^3(0.25ppm)	g
Particulate Matter	60 micrograms/m^3	c
	150 micrograms/m^3	b
	**360 micrograms/m^3	d
Carbon Monoxide	10 milligrams/m^3(9ppm)	d
	40 milligrams/m^3(35ppm)	e
Photochemical Oxidants	160 micrograms/m^3(0.08ppm)	e
Hydrocarbons	160 micrograms/m^3(0.24ppm)	f
Nitrogen Oxides	160 micrograms/m^3(0.05ppm)	a

* These Standards are the same as the existing National Secondary Ambient Air Quality Standards except as otherwise noted.

** National Primary Standard.

*** Extrapolated Standard from 150 micrograms/m^3 (b).

**** Remarks

a. Annual arithmetic mean.

b. Maximum 24-hour concentration not to be exceeded more than once a year.

c. Annual geometric mean.

d. Maximum 8-hour concentration not to be exceeded more than once a year.

e. Maximum 1-hour concentration not to be exceeded more than once a year.

f. Maximum 3-hour concentration not to be exceeded more than once a year.

g. Maximum 4-hour concentration not to be exceeded more than once a year.

3.3 All measurements of air quality are corrected to a standard temperature of 25°C (77°F) and to a standard pressure of 760 millimeters of mercury (1,013.2 millibar).

3.4 The promulgation of these clean air quality standards shall not be considered in any manner to allow significant deterioration of existing air quality of any portion of the Trust Territory.

PART 4 PERMITS

4.1 Permits Required.

a. Permit to Construct. No person shall cause or allow the construction or modification of any stationary source without first obtaining a Permit to Construct from the TTEPB Chairman as to the location and design of such stationary source to comply with applicable Regulations and Clean Air Quality Standards. This Permit is for construction or modification only and shall be terminated upon start up of operation of the source.

b. Permit to Operate.

(1) No person shall cause or allow the operation of a new stationary source without obtaining a Permit to Operate from the TTEPB Chairman. Application shall be made to the Chairman at least thirty (30) days prior to the anticipated date of operation.

(2) No person shall cause or allow the use or operation of any existing stationary source without obtaining a Permit to Operate from the Chairman.

(3) No owner or operator shall cause or allow the operation of a new or existing stationary source if the Chairman denies or revokes a Permit to Operate.

(4) The Permit to Operate shall be valid for 365 days or for such shorter periods as the Board may specify in the operating permit as is necessary to accomplish the purpose of the Standards and Regulations. Application for renewal of a Permit to Operate shall be submitted to the Board at least sixty (60) days prior to the expiration of the Permit.

4.2 Exemptions. Permits to construct and to operate shall not be required for:

a. The installation or alteration of an air contaminant detector, air contaminant recorder, combustion controller, or combustion shutoff.

b. Air conditioning or ventilating systems not designed to remove air contaminants generated by or released from equipment.

c. Mobile internal combustion engines.

d. Laboratory equipment used exclusively for chemical or physical analyses.

e. Other sources of minor significance specified by the Board.

4.3 Application.

a. Application for Permit to Construct or Permit to Operate shall be made by the source owner, operator, or other responsible person on forms furnished by the Chairman, and shall be accompanied by two copies of complete data, citing information including vicinity maps and plot plans, the dimensions and boundaries of the buffer zone, plan descriptions, and specifications, drawings and other detailed information necessary to determine how the new source or existing source is designed and in what manner it will be operated and controlled.

b. A separate application is required for each source. To aid in evaluating a source, supplemental applications may be required by the Board Chairman.

(d) Any other sampling and testing facilities specified by the Chairman.

(2) Require performance testing as outline in Part 4.6.

(3) Make any necessary inspections, samples or tests.

(4) Specify conditions to be met which will bring the operation of any source within the approval requirements.

c. Denial.

(1) The Chairman shall deny an application for a Permit to Construct or for a Permit to Operate if the information submitted shows that the source described in the application cannot meet the requirements of Part 4.4(a) or (b).

(2) The Chairman shall deny an application for a Permit to Operate if the source has not been constructed or modified in accordance with the approved application, plans, or other limiting conditions of the Permit to Construct.

4.5 Action on Applications.

a. Before acting on an application for a Permit to Construct or for a Permit to Operate the Chairman may require the applicant to furnish additional information, plans or specifications.

b. All complex sources require official notice of an application for a Permit to Construct to afford opportunity for public comment. In addition, a public hearing may be held on any application for a Permit to Construct a complex or point source if requested by the Chairman. Notices shall be by prominent advertisement and shall specify a location at which information submitted by the applicant, and the Board's analysis and proposed approval or disapproval is available for public inspection. The notice shall allow at least a thirty (30) day period for submittal of public comment. The Chairman shall forward a copy of all notices, all public comments and the transcript of all hearings on complex or point sources to the Region IX Office of the United States Environmental Protection Agency.

c. The Chairman shall act within ninety (90) days on an application for a Permit to Construct and within sixty (60) days on an application for a Permit to Operate and shall notify the applicant in writing of his approval, conditional approval or denial of the application. Should additional information, plans or specifications be requested, the ninety (90) or sixty (60) day limitation will begin on the latest date of receipt of requested data.

d. If an application is conditionally approved or denied, the Chairman shall set forth his reasons for conditional approval or denial in a written notice to the applicant.

e. The Chairman shall not further consider the application unless the applicant has complied with the objections or requirements specified by the Chairman as his reasons for conditional approval or denial of the permit application.

f. The applicant may reapply if the facility is redesigned to attain compliance with the Standards and Regulations.

g. The applicant may request the Chairman to reconsider the application by submitting written evidence or information (in duplicate), within thirty (30) days of the conditional approval or denial of the application, which shows the source will comply with the Standards and Regulations.

h. The applicant may appeal the Chairman's decision to the Trust Territory Environmental Protection Board within thirty (30) days after the conditional approval or denial of the permit application.

i. If the Chairman issues to the applicant a conditional approval of the application, commencing work under a Permit to Construct, or operating under a Permit to Operate shall be deemed acceptance by the applicant of all conditions so specified.

j. Any Permit to Construct or to Operate shall be subject to revision in response to changes in the applicable law, regulations, or other factors affecting the compliance of the source or control facility with the standards or conditions of the original permit.

4.6 Performance Testing.

a. If required by the Chairman, the source owner or operator shall conduct performance tests in order to determine compliance with applicable Standards and Regulations in accordance with test methods approved by the Chairman, the tests being made at the expense of the applicant. The Chairman may monitor performance tests conducted by the applicant and may conduct additional performance tests.

b. Within sixty (60) days after achieving the maximum production rate at which the affected facility will be operated, but not later than one hundred and eighty (180) days after the initial start up of such facility the owner or operator of such facility shall conduct performance test(s) and submit to the Chairman a written report of the results of such performance test(s), within thirty (30) days.

4.7 Revoking of Permits.

a. A Permit to Construct is revoked if the construction or modification is not begun within one (1) year of the date of issuance, or if the work involved in the construction or modification is suspended for one (1) year or more after the date of issuance, unless the applicant secures an

extension of the expiration date by written request to the Chairman stating the reasons for the request. Extensions may be granted in writing for a period of not more than six (6) months.

b. The Chairman shall revoke a Permit to Construct if the construction or modification is not in compliance with the approved application, plans, or limiting conditions of the permit.

c. The Chairman shall revoke a Permit to Operate for willful or continued violation of the Standards and Regulations or permit conditions.

d. Revocation of a Permit to Construct or of a Permit to Operate shall become final ten (10) days after service of Notice on the holder of the Permit.

e. A Permit to Operate which has been revoked pursuant to these Regulations shall be surrendered forthwith to the Chairman.

4.8 Transfer of Permit. A Permit to Construct or a Permit to Operate shall not be transferable, whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another.

4.9 Reporting Information. No owner or operator shall cause or permit the operation of any source without furnishing such performance test results, information, and records as may be required by the Chairman in the applicable Regulations.

4.10 Responsibility of the Permit Holder. Possession of a Permit to Construct or a Permit to Operate shall not relieve any person of the responsibility to comply with the applicable emission limitations, permit conditions, Air Quality Standards, or other Regulations.

4.11 Reporting Discontinuance or Dismantlement. It shall be required of that person to which a Permit to Operate was issued to report to the Chairman within thirty (30) days of the discontinuance or dismantlement of that machine, equipment, or other article for which the Permit to Operate had been issued. The Permit to Operate shall then be surrendered forthwith to the Chairman.

4.12 Posting of Permits. Upon granting an approval for a Permit to Construct or for a Permit to Operate, the Chairman shall issue to the applicant a certificate referred to as a Permit to Construct or as a Permit to Operate which shall be posted in a conspicuous place at or near the machine, equipment, or other article for which the permit was issued.

4.13 Falsifying or Altering Permits. No person shall deface, alter, forge, counterfeit, or falsify a Permit to Construct or a Permit to Operate.

PART 5 MONITORING, RECORDS, AND REPORTING

5.1 The Chairman may require the owner or operator of any air contaminant source to install, use and maintain such monitoring equipment, sample such emissions in accordance with methods as the Chairman shall prescribe, establish and maintain such records, and make such periodic emission reports as required in Part 5.2.

5.2 Stationary Source Emission Report Procedures

a. The owner or operator of any stationary source shall, upon notification from the Chairman, maintain records of the nature and amounts of emissions from such source and/or any other information as may be deemed necessary by the Chairman to determine whether such source is in compliance with applicable emission limitations or other requirements.

b. The information recorded shall be summarized each month and be submitted within fifteen (15) days after the end of the month, except that the initial reporting period shall start on the date the Chairman issues notification of the record-keeping requirements.

c. Information recorded by the owner or operator and copies of the summarizing reports submitted to the Chairman shall be retained by the owner or operator for two years after the date on which the pertinent report is submitted.

d. Emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other requirements and will be made available to the public during normal business hours at the TTEPB Office.

5.3 In the case of shutdown of air pollution control equipment for necessary scheduled maintenance, the intent to shutdown such equipment shall be received by the Chairman in writing at least twenty-four (24) hours prior to the planned shutdown. Such prior notice shall include, but is not limited to the following:

a. Identification of the specific facility to be taken out of service as well as its location and permit number.

b. The expected length of time that the air pollution control equipment will be out of service.

c. The type and amount of emissions of air contaminants likely to occur during the shutdown period.

d. Measures such as the use of off-shift labor and equipment that will be taken to minimize the length of the shutdown period.

e. The reasons that it would be impossible or impractical to shut-down the source operation during the maintenance period.

5.4 In the event that any emission source, air pollution control equipment or related facility malfunctions, breaks down or will be shutdown in such a manner as to cause excess emission of air contaminants, it is in violation of these Regulations and subject to prosecution. In order to enable the Chairman to carry out his statutory duties, the owner or operator of the stationary source is required to furnish the Board with the following information within ten (10) days:

a. Identification of emission points.

b. The magnitude of the excess emissions.

c. The identity of the process or control equipment causing excess emissions.

d. A description of the steps taken by the owner or operator of the subject stationary source to remedy the situation causing the emissions, prevent a recurrence and limit the excess emissions.

5.5 Nothing in the Regulations relieves the source of its obligation to attain and maintain the National Ambient Air Quality Standards nor precludes the Chairman from initiating any appropriate actions under Sections 507 and 509 of Title 63 of the Trust Territory Code (Public Law 4C-78 and its amendments thereof).

PART 6 SAMPLING AND TESTING METHODS

6.1 All sampling and testing shall be made and the results calculated in accordance with procedures approved by the Chairman.

6.2 The Chairman may conduct tests of emissions of air contaminants from any source. Upon request of the Chairman, the person responsible for the source to be tested shall provide assistance as necessary, including personnel, holes in stacks or ducts and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices, as may be necessary for proper determination of the emission of air contaminants.

6.3 Clean air quality sampling shall be conducted at the boundaries of a buffer zone. The boundaries and dimensions of this buffer zone shall be submitted by the owner or operator on an accurate plot plan of the property and approved by the Chairman. The owner or operator of an existing stationary source must submit this information within forty-five (45) days of the effective date of these Standards and Regulations.

PART 7 CONTROL OF FUGITIVE DUST

7.1 No person shall cause, allow, or permit the emission of fugitive dust from any source, which violates the Standards and Regulations.

7.2 No person shall cause or permit the discharge of visible emissions beyond the lot line of the property, or the boundaries of the buffer zone if applicable, on which the emissions originate.

7.3 a. The Chairman may approve alternate controls other than those specified within this Part taken to control any source of fugitive dust upon the written application by the operator, and upon a determination of the adequacy of any such alternate controls.

b. Applications shall describe the proposed alternate controls and demonstrate that applicable Regulations and Standards will not be violated.

7.4 Processing, Handling, Transportation, and Storage.

a. When dust, noxious gas or vapor, odor or any combination thereof escape from the processing, handling or storage of any material in an amount as to cause a nuisance or to cause or contribute to a violation of any applicable Regulation or Clean Air Quality Standard, the Chairman may order that the source of these emissions be tightly enclosed and that the venting of such enclosure be controlled to the extent necessary to meet the Standards and Regulations. Alternate control measures submitted to the Chairman, in compliance with such orders, shall comply with Part 7.3.

b. All crushing, aggregate screening and conveying operations of material likely to become airborne shall be enclosed and the venting of such enclosure shall be controlled to the extent necessary to prevent visible emissions or the violation of any Standard or Regulation.

c. Stockpiles of materials which are likely to become airborne shall be enclosed or the surface of such stockpile stabilized through compacting, sprinkling with water, chemical, or asphalt sealing.

d. All loads carried by motor vehicles shall be adjusted, secured, covered, contained or otherwise treated so as to prevent loss or spillage of such material and/or the generation of airborne dust.

7.5 Construction and Sandblasting Operations.

a. All construction operations including but not limited to the clearing, grading or leveling of land, earthmoving, excavation, demolition, or the movement of trucks or construction equipment over cleared land or temporary access or haul roads shall water all vehicle travel areas or roads at the site for dust suppression a minimum of the beginning of every two (2) operating hours with a minimum watering rate for each application of 0.5 gallons per square yard, or by other equivalent methods approved by the Chairman as needed to prevent visible emissions or contribute to the violation of applicable Standards or Regulations.

b. All sandblasting operations which can be conducted within an enclosed area shall be done so and the venting of such enclosure shall be

controlled to the extent necessary to prevent visible emission as prohibited by these Standards and Regulations.

c. All sandblasting which cannot be done within an enclosure shall be conducted using wet sand.

7.6 Grading and Clearing.

a. Use of vegetation, including planting, mulch or selective retention of natural vegetation, as ground cover, providing windbreaks, sprinkling with water, and covering or compacting the ground surface shall be used to prevent visible emissions or the violation of any Clean Air Quality Standard or Regulation where topsoil has been disturbed during the clearing of land.

b. No owner, operator, or lessee of any real property in the Trust Territory shall allow disturbed topsoil to remain undeveloped, unplanted, untreated, or otherwise uncovered for a period exceeding two (2) months.

7.7 Roads and Parking Lots.

a. All roads, road shoulders, and areas used for parking specified in this Part, shall be sealed and maintained so as to prevent the exposure of such surfaces to wind, water or vehicular travel erosion:

(1) All public and private roads within the Trust Territory which average a vehicular load of one hundred (100) or more vehicle-trips per day.

(2) The road shoulders of all public and private roads within the Trust Territory which average a vehicle load of one hundred (100) or more vehicle-trips per day.

b. Earth and other erodable material which has been deposited on a sealed vehicular travel surface by trucking, earthmoving equipment, erosion, or landslide shall be promptly removed.

7.8 The following compliance schedule shall apply to those sources not in compliance with Part 7.4(a), (b); 7.5(b), (c) of these Regulations on the date they become effective:

a. No later than December 31, 1980 all necessary contracts and/or purchase orders required to attain compliance shall be awarded.

b. No later than March 31, 1981 construction of all facilities necessary for attaining compliance shall be started.

c. No later than March 31, 1982 construction of all facilities necessary for attaining compliance shall be completed.

d. No later than June 30, 1982 compliance with the aforementioned Parts of these Regulations shall be achieved.

7.9 Not later than five (5) working days after the passing of the date for achieving each incremental milestone noted above, each source subject to this schedule shall report to the Chairman regarding the status of compliance with the schedule. Failure to achieve any portion of this schedule or to report on the status of compliance shall make the source liable to enforcement action immediately.

PART 8 CONTROL OF OPEN BURNING

8.1 No person shall dispose of burnable refuse by open burning, or cause, allow, or permit open burning of refuse including grass, weeds, wire, twigs, branches, insulation, vehicle bodies and their contents, paper, garbage, tires, waste materials, tar products, rubber products, oil, and similar smoke producing materials, within the territorial limits of the Trust Territory. In areas where no public or commercial refuse collection service is available on the effective date of this Regulation, open burning of refuse on residential property, or refuse originating from dwelling units on such property, shall be allowed provided such burning does not violate any existing laws of the Trust Territory, until such refuse collection becomes available.

8.2 Exceptions herefrom may be allowed upon application and approval by the Chairman provided the burning is not prohibited by, or is conducted in compliance with, other applicable laws, ordinances, and regulations. Exceptions to conduct open burning under the provision of this Regulation does not excuse a person from the consequences, damages, or injuries which may result therefrom. The following are exceptions for which application may be made:

a. Fires purposely set for the purpose of prevention of a fire hazard which cannot be abated by any other means.

b. Fires set for instruction in the method of fighting fires.

c. Fires for ceremonial and recreational purposes.

d. The burning of hydrocarbons which must be wasted through the use of atmospheric flares or open burning.

e. Fires for prevention or control of disease or pests.

f. Fires for the disposal of dangerous materials, where there is no alternate method of disposal.

g. The burning of trees, brush, grass and other vegetable matter in the clearing of land, right-of-way maintenance operations and agricultural crop burning is permitted under the following conditions:

(1) The location of burning must not be within 500 feet of an occupied residence other than those located on the property on which the burning is conducted.

(2) The burning must not be conducted within 500 feet of any road, except those privately owned and used, and in any event must be controlled so that a traffic hazard is not created.

(3) Oils, rubber or other similar material which produce unreasonable amounts of air contaminants may not be burned.

(4) The burning shall be performed between 9:00 AM and one hour before sunset.

(5) Weather conditions within the vicinity of the burning will allow good and proper diffusion and dispersion of air pollutants.

(6) The piles of materials to be burned shall be of such size that the burning will be completed within the designated times given in Part 8.2(g)(4).

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

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

8.3 Nothing in this Part shall be interpreted to prohibit or make unlawful the construction and use of barbecue pits, grills, or outdoor fire places for the preparation of food for consumption by individuals, nor shall any permit from the Chairman be required therefore.

PART 9 STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

9.1 General.

a. The U.S. Environmental Protection Agency Regulations on Standards of Performance for New Stationary Sources (40 CFR, Part 60) designated in Part 9.2 are incorporated by reference as they exist on the date of promulgation by the TTEPB into those Regulations as amended by the word or phrase substitutions given in Part 9.3.

b. In the event of any conflict between the Regulations contained in this Part and Regulations contained in other Parts, the Regulations of Part 9 will take precedence for standards of performance for new stationary sources, unless the existing Regulations are more stringent.

c. Definition. For purposes of this Part, the definitions listed in Section 60.2 Subpart A, Part 60, Title 40 of the Code of Federal Regulations will apply.

9.2 Designated Standards of Performance.

a. Subpart I - Asphalt Concrete Plants (drying; systems for screening, handling, storing, and weighing hot aggregate; systems for loading, transferring and storing mineral filler; systems for mixing asphalt concrete; and the loading, transfer and storage systems associated with emission control systems).

b. Subpart K - Storage vessels for Petroleum Liquids (storage vessels with a capacity greater than 40,000 gallons).

9.3 Word or Phrase Substitutions in all the standards designated in Part 9.2 substitute:.

a. TTEPB Chairman for Federal EPA Administrator.

b. TTEPB for US Environmental Protection Agency.

PART 10 CONTROL OF PARTICULATE EMISSION

10.1 Process Industries.

a. No person shall cause, allow, or permit the emission of particulate matter in any one hour from any process industry in excess of the amount shown in Table I for the process weight rate allocated to such source.

b. Process weight per hour is the total weight of all materials introduced into any specific process that may cause any discharge of particulate matter. Solid fuel charges will be considered as part of the process weight; but liquid and gaseous fuels and combustion air will not. For a periodic or batch operation, the process weight per hour will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle. For a continuous operation, the process weight per hour will be derived by dividing the process weight for a typical period of time.

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

d. For purposes of this Regulation, the total process weight from all similar process units at a plant or premises shall be used for determining the maximum allowable emission of particulate matter that passes through a stack or stacks.

TABLE I

Particulate Emission Allowable Based on Process Weight:

Process Weight Rate (lbs/hr)	Emission Rate (lbs/hr)
50	0.36
100	0.55
500	1.53
1,000	2.25
5,000	6.34
10,000	9.73
20,000	14.99
60,000	29.60
80,000	31.19
120,000	33.28
160,000	34.85
200,000	36.11
400,000	40.35
1,000,000	46.72

Interpolation of the data in Table I for the process weight rates up to 60,000 lbs/hr. shall be accomplished by the use of the equation:

$$E=3.59\ P^{0.62} \quad P < 30 \text{ tons/hr.}$$

and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lbs/hr. shall be accomplished by use of the equation:

$$E=17.31\ P^{0.16} \quad P > 30 \text{ tons/hr.}$$

Where E= Emissions in pounds per hour.
P= Process weight rate in tons per hour.

10.2 Fuel Burning Installations. No source shall cause, allow, or permit the emission of particulate matter resulting from the combustion of fuel in excess of the quantity set forth in the following table:

Operating Rate in Million BTU's per hour	Maximum allowable emissions of particulate in pounds per million BTU's heat input
5	0.70
10	0.60
100	0.35
250	0.28
500	0.24
1,000	0.21

For heat input greater than 1 million BTU per hour but less than 1000 million BTU per hour, the allowable emissions shall be calculated using the following equation:

Y = 1.02X - 0.231
X = Operating rate in million BTU's per hour.
Y = Allowable rate of emission in pounds per million BTU's.

PART 11 CONTROL OF PARTICULATE EMISSION FROM INCINERATOR: DESIGN AND OPERATION

11.1 This Regulation applies to any incinerator used to dispose of refuse by burning or the processing of reclaimable material by burning. Notwithsdanding definitions in other Regulations, as used in this Regulation, the word "refuse" includes garbage, rubbish, commercial waste, hospital waste, leaves, reclaimable material, and agricultural wastes. The word "incinerator", as used in this Regulation, includes incinerator, and other devices or structures used to burn refuse or to process refuse by burning.

11.2 No person shall cause or permit to be emitted into the open air from any incinerator, particulate matter in the exhaust gases to exceed 0.20 pounds per 100 pounds of refuse burned.

11.3 Emission tests shall be conducted at maximum burning capacity of the incinerator.

11.4 The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the Chairman in accordance with good engineering practices. In cases of conflict, the determination made by the Chairman shall govern.

11.5 For the purposes of this Regulation, the total of the capacities of all furnaces within one system shall be considered as the incinerator capacity.

11.6 No residential or commercial single-chamber incinerator shall be used for the burning of refuse for a period in excess of eighteen (18) months after the adopted date of this Regulation.

11.7 All new incinerators and all existing incinerators within eighteen (18) months after the adopted date of this Regulation shall be multiple-chamber incinerators, provided that the Chairman may approve any other type of incinerator if it is demonstrated such design provides equivalent performance.

11.8 Incinerators shall be designed and operated in such manner as is necessary to prevent the emission of objectionable odors.

11.9 No person shall burn or permit the burning of refuse in any installation which was designed for the sole purpose of burning fuel.

PART 12 CONTROL OF VISIBLE EMISSION OF PARTICULATES FOR STATIONARY SOURCES

Visible emission restriction for stationary sources:

a. No person shall continuously discharge into the atmosphere from any single source of emission whatsoever any air contaminant of a shade of density equal to or darker than that designated as No. 1 on the Ringlemann Chart or 20 percent opacity.

b. No person may discharge into the atmosphere from any single source of emission, for a period or periods adding up to more than 3 minutes in any 60 minutes, air contaminants of a shade of density darker than No. 3 on the Ringlemann Chart, or 60 percent opacity.

PART 13 CONTROL OF ODORS IN CLEAN AIR

13.1 No person shall discharge into the atmosphere, or cause to be discharged into the atmosphere, from any source whatsoever any amount of odorous or gaseous emission, material, or air contaminant of any kind or description, which is injurious or detrimental to health or safety, or which in any way unduly interferes with or prevents the comfortable enjoyment of life or property.

13.2 An odor occurrence shall be deemed in violation when a complaint is received and verified by the Chairman. The Chairman shall deem the odor occurrence a violation if he is able to make two odor measurements within one period, these measurements being separated by at least fifteen (15) minutes. An odor measurement shall consist of a detectable odor after the odorous air has been diluted with seven (7) volumes of odorfree air as determined by a scentometer as manufactured by the Barneby-Cheney Company or any other instrument, device, or technique designated by the Chairman as producing equivalent results.

13.3 The odor of growing vegetation, chemical fertilizers and insecticides, shall not be considered objectionable within the meaning of this Regulation.

PART 14 CONTROL OF SULFUR DIOXIDE EMISSIONS

14.1 No person shall cause or permit the burning of fuel with a sulfur content greater than 3.14% at any time and in no event shall the average over the immediate past twelve month period, including the latest month reading, exceed 2.84% by weight provided the stacks are of sufficient height, as determined by modelling techniques approved by the Chairman, to prevent aerodynamic downwash and provide for good dispersion of emissions.

14.2 An intermittent control strategy shall be required of any stationary source when winds blow to populated areas.

14.3 If compliance with these Standards is to be accomplished by means of removal of sulfur dioxide from the stack gases, the owner or operator of the source must provide for the necessary monitoring equipment, and sample such emissions in accordance with methods approved by the Chairman.

PART 15 MOTOR VEHICLE POLLUTION CONTROL

15.1 No person shall import, operate, lease or sell, any new motor vehicle or new motor vehicle engine in the Trust Territory, unless such new motor vehicle or new motor vehicle engine complies with US EPA Regulations on Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines.

15.2 No person shall intentionally remove, alter or otherwise render ineffective or inoperative, exhaust emission control, crank case ventilation or any other air pollution control device or system which has been installed on a motor vehicle or stationary internal combustion engine as a requirement of any Federal Law or Regulation.

15.3 No person shall operate a motor vehicle or other internal combustion engine orginally equipped with air pollution devices or systems as required by any Federal Law or Regulation, unless such devices or systems are in place and in operating condition.

15.4 No person shall cause or permit the emission of visible air contaminants from gasoline-powered motor vehicles for longer than five (5) consecutive seconds.

15.5 No person shall cause or permit the emission of visible air contaminants from diesel-powered motor vehicles of a shade of density equal to or darker than that designated as No. 1 on the Ringlemann Chart, or 20 percent opacity, for longer than five (5) consecutive seconds.

15.6 No person shall cause or permit the use of any motor vehicle which becomes mechanically deficient so as to cause the emission of visible air contaminants.

15.7 Penalties:

a. The owner of any motor vehicle in violation of this Part shall be subject to prosecution.

b. Penalties shall not exceed $50.00 per day of violation.

c. Failure to comply with this Part shall subject the owner to suspension or cancellation of the registration and inspection sticker for the vehicle.

15.8 Waiver. The violator can apply for waiver of prosecution by the Chairman, not to exceed forty-five (45) days in duration. To be considered for a waiver, the violator shall immediately notify the Chairman of the deficiency, and provide a statement giving all pertinent facts, including the reasons for the violation, the attempts made to correct the deficiency, any difficulties encountered correcting the situation, and the estimated date of the correction of the deficiency.

PART 16 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

16.1 General.

a. The US Environmental Protection Agency Regulations on National Emission Standards for Hazardous Air Pollutants (40 CFR, Part 61) designated in Part 16.2 are incorporated by reference as they exist on the date of adoption by the Board into these Regulations as amended by the word or phrase substitutions given in Part 16.3.

b. In the event of any conflict between the Regulations contained in this Part and Regulations contained in other Parts, the Regulations of Part 16 will take precedence for National Emission Standards for Hazardous Air Pollutants, unless existing Regulations are more stringent.

c. Definitions. For purposes of this Part, the definitions listed in Section 61.02 Subpart A, Part 61, Title 40, of the Code of Federal Regulations will apply.

16.2 Designated Emission Standards.

a. Subpart B - Asbestos.

b. Subpart C - Berryllium.

c. Subpart E - Mercury.

d. Subpart F - Vinyl Chloride.

16.3 Word or Phrase Substitutions. In all of the standards designated in Part 16.2, substitute:

a. TTEPB Chairman for Federal EPA Administrator.

b. TTEPB for US Environmental Protection Board.

PART 17 AIR POLLUTION EMERGENCIES

17.1 Notwithstanding any other provision of the Air Pollution Control Regulations, this episode Regulation is designated to prevent the excessive

build-up of air contaminants during air pollution episodes, thereby preventing the occurrence of an emergency due to the effects of these contaminants on the health of the public.

17.2 Episode Criteria. Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the Chairman determines that the accumulation of air contaminants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a threat to the health of the public. In making this determination the Chairman will be guided by the following criteria:

a. Appropriate agency forecast predicting or indicating wind direction, speed, or other weather condition which may result in the attainment of episode level concentrations of air contaminants in any human access area.

b. "Alert". The Alert level is that concentration of pollutants at which first stage control action is to begin. An Alert will be declared when any one of the following levels is reached at any monitoring site:

SO_2 - 800 ug/m^3(0.3ppm), 24-hour average.

Particulate - 3.0COHs or 375ug/m^3, 24-hour average.

SO_2 and particulate combined - product of SO_2 ppm, 24-hour average, and COHs equal to 0.2 or product of SO_2 ug/m^3, 24-hour average, and particulate ug/m^3, 24-hour average equal to 65 x 10^3.

CO - 17 mg/m^3(15ppm), 8-hour average.

Oxidant (O_3) - 200 ug/m^3(0.1ppm), 1-hour average.

NO_2 - 1130 ug/m^3(0.6ppm), 1-hour average; 282 ug/m^3(0.15ppm), 24-hour average.

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

c. "Warning". The Warning level indicates that air quality is continuing to degrade and that additional abatement actions are necessary. A Warning will be declared when any one of the following levels is reached at any monitoring site:

SO_2 - 1,600 ug/m^3(0.6ppm), 24-hour average.

Particulate - 5.0 COHs or 625 ug/^{3}, 24-hour average.

SO_2 and particulate combined - product of SO_2 ppm, 24-hour average and COHs equal to 0.8 or product of SO_2 ug/m^3, 24-hour average and particulate ug/m^3, 24-hour average equal to 261×10^3.

CO - 34 mg/m^3(30ppm), 8-hour average.

Oxidant (O_3) - 800 ug/m^3(0.4ppm), 1-hour average.

NO_2 - 2,260 ug/m^3(0.4ppm), 24-hour average.

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

d. "Emergency". The Emergency level indicates that air quality is continuing to degrade to a level that should never be reached and that the most stringent actions are necessary. An Emergency will be declared when any one of the following levels is reached at any monitoring site:

SO_2 - 2,100 ug/m^3(0.8ppm), 24-hour average.

Particulate - 7.0 COHs or 875 ug/m^3, 24-hour average.

SO_2 and particulate combined - product of SO_2 ppm, 24-hour average and COHs equal to 1.2 or product of SO_2 ug/m^3, 24-hour average and particulate ug/m^3, 24-hour average equal to 393×10^3.

CO - 46 mg/m^3(40ppm), 8-hour average.

Oxidant (O_3) - 1,200 ug/m^3(0.6ppm), 1-hour average.

NO_2 - 3,000 ug/m^3(1.6ppm), 1-hour average; 750 ug/m^3(0.4ppm), 24-hour average.

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

e. "Termination". Episodes will be terminated when weather conditions are such that clean air concentrations of air contaminants in affected human access areas fall below episode levels and the appropriate agency forecast predicts these non-episode conditions will continue for twenty-four (24) or more hours.

17.3 Nothing in this Part shall be interpreted to prevent or invalidate the extrapolation of a pollutant concentration based on a shorter sampling period to an equivalent concentration for the time period specified in the Standard when existing atmospheric and wind conditions are not expected to change as to lessen pollution levels. This extrapolation shall be used to forecast the possibility of an episode to initiate corrective action.

17.4 Emission Reduction Plan. After the issuance of an episode forecast or at any episode level, the Chairman shall take any of the actions listed below and any others he deems necessary to reduce air pollution below episode levels and to protect the public health and welfare.

a. Prohibit or limit the emission of any air contaminant contributing to the episode condition.

b. Notify sources having contingency plans approved by the Board, to follow the provisions of their plans.

PART 18 APPEAL PROCEDURES, CIRCUMVENTION, SEVERABILITY, AND EFFECTIVE DATE

18.1 Appeal. Any person aggrieved by a decision of the Chairman, may appeal to the TTEPB within thirty (30) days after notification.

18.2 Circumvention. No person shall cause or permit the installation or use of any device or any means which, without resulting in reduction in the total amount of air contaminant emitted, conceals or dilutes an emission of air contaminant which would otherwise violate these Regulations. This provision does not prohibit recycling, burning as fuel or otherwise further processing a material which would violate an emission Regulation if released to the atmosphere, so long as the facility in which the material is used does not violate applicable emission Regulations.

18.3 Severability. If any provision of these Regulations, or the application thereof to any person, or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of any Part of these Regulations which can be given effect, without the invalid provisions or applications, and to this end the provisions of these Regulations and the various applications thereof are declared to be severable.

18.4 Effective Date. These Regulations shall become effective at one (1) minute past midnight on June 25, 1980.