

- (2) The emission occurring or proposed to occur does not substantially endanger human health or safety; and
- (3) Compliance with the rules, regulations, or standards from which variance is sought would produce serious hardship without equal or greater benefits to the public.
- (d) Any variance or renewal thereof shall be granted within the requirements of this section and for time periods and under conditions consistent with the reasons therefor, and within the following limitation:
- (1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, control or abatement of the emission involved, it shall be only until the necessary means for prevention, control, or abatement become practicable and subject to the taking of any substitute or alternate measures that the Department may prescribe. No renewal of variance granted under this subsection shall be allowed without a thorough review of known and available means of preventing, controlling, or abating the emission involved.
- (2) The Director may issue a variance for a period not exceeding ten years.
- (3) Every variance granted under this section shall include conditions requiring the grantee to perform air sampling and report the results of such sampling to the Department.
- (e) Any variance granted pursuant to this section may be renewed from time to time on terms and conditions and for periods not exceeding ten years which would be appropriate on initial granting of a variance; provided that the applicant for renewal has met all of the conditions specified in the immediately preceding variance; and provided, further, that the renewal, and the variance issued in pursuance thereof, shall provide for emission not greater than that attained pursuant to the terms of the immediately preceding variance at its expiration. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty days prior to the expiration of the variance.
- (f) No variance shall be granted unless the Department finds that human health and safety will not be endangered thereby and that the attainment or maintenance of a National Ambient Air Quality Standard will not be prevented or interfered with.
- (g) No variance granted pursuant to this part shall be construed to prevent or limit the application of any emergency provisions and procedures provided by law.

SECTION 21. PENALTIES:, shall be amended to read as follows:

Any person who violates the provisions of this Chapter shall be liable for a penalty in a manner and amount as provided in Act 100, Session Laws of Hawaii, 1972.

SECTION 22. HEARINGS AND APPEALS:, shall be amended to read as follows:

Hearings before the Department shall be held and appeals from any of its decisions for any violation of these regulations shall be made in accordance with Act 100, Session Laws of Hawaii, 1972.

Section 23. Application:

The provisions of this Chapter shall apply to the State of Hawaii,
except where designated.

~~Section 24. Unconstitutionality Clause:~~

~~Should any section, paragraph, sentence, clause, phrase or application
of this Chapter be declared unconstitutional or invalid for any reason
by competent authority, the remainder or any other application of said
Chapter shall not be affected thereby.~~

~~Section 25. Date of Effect:~~

~~This Chapter shall be effective 60 days from the date of its adoption
by the Department of Health, State of Hawaii.~~

§11-60-18 Control of open burning. (a) Except as provided in §11-60-18(b) and §11-60-19 of this chapter, no person shall ignite, cause to be ignited, permit to be ignited, or maintain any open fire.

(b) §11-60-18(a) shall not apply to:

- (1) Open fires for the cooking of food.
- (2) Fires for recreational, decorative, or ceremonial purposes.
- (3) Fires to abate a fire hazard, providing hazard is so declared by the fire department or district forester having jurisdiction.
- (4) Fires for prevention or control of disease or pests.
- (5) Fires for training personnel in the methods of fighting fires.
- (6) Fires for the disposal of dangerous materials, where there is no alternate method of disposal and burning is approved in advance by the director.
- (7) Fires for the burning of leaves, grass, weeds, wood, paper, and similar materials on one's own premises, not exceeding four family units and 25 pounds per day, per unit, provided such burning is not within 50 feet of any habitable building, is attended or supervised by an adult person and is completed within daylight hours (9 a.m. to 6 p.m.) and provided further that such burning shall not be in violation of the regulations of other fire control agencies. This exception shall not apply to the City and County of Honolulu after June 1, 1973.

(8) Fires for residential bathing purposes.

[Eff. Nov. 29, 1982] (Auth: HRS §§342-3, 342-4, 342-6, 342-22; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51) (Imp: HRS §§342-3, 342-4, 342-6, 342-22; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51)

§11-60-21 Agricultural burning, "no-burn" days.

(a) Agricultural burning shall be prohibited under the following conditions:

- (1) On any island when meteorological conditions have resulted in widespread haze on that island and where the national weather service predicts a continuation or deterioration of existing meteorological conditions for the next 24 hours.

For the purposes of this section, widespread haze shall be considered to exist when all visible ridges within 5 to 10 miles have a "smoky" or bluish appearance and colors are subdued. Ridges beyond 10 miles that are visible have a blurred appearance.

- (2) On the island of Oahu either when the condition specified in §11-60-21(a)(1) occurs or when meteorological conditions have resulted in a rise of carbon monoxide level exceeding 5 mg/m³ for an 8-hour average or particulate matter level exceeding 100 ug/m³ for 24 hours and where the national weather service predicts a continuation or deterioration of existing meteorological conditions for the next 24

(b) Notices of "no-burn" days for the specified island(s) will be provided on or before 4:00 p.m. by radio broadcast through the national weather service and will be applicable for the succeeding day.

[Eff. Nov. 29, 1982] (Auth: HRS §§342-3, 342-4, 342-6, 342-22; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51) (Imp: HRS §§342-3, 342-4, 342-6, 342-22; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51)

§11-60-23 Agricultural burning, action on application. (a) The director shall act on an application within a reasonable time, but not to exceed 90 calendar days from the date the application is received and shall notify the applicant in writing of its approval or denial of the application. If the director has not acted within the 90-calendar day period, the application shall be deemed to have been approved, provided that the director may request additional information from the applicant and the 90-calendar day period shall commence on the day the supplementary information is received.

(b) All applications shall be submitted to the Department of Health, 1250 Punchbowl Street, Honolulu, HI 96813.

(c) If an application is denied, the applicant may request a hearing in accordance with chapter 91, HRS.

(d) The permit may be granted for a period of up to one year from the date of approval.

(e) The director may, on the director's own motion or the application of any person, modify, suspend, or revoke a permit if, after affording the applicant a hearing in accordance with chapter 91, HRS, it determines that any condition of the permit has been violated, or any rule or regulation of the department has been violated, or any provision of chapter 342, HRS, has been violated, or the maintenance or attainment of a national ambient air quality standard will be interfered with, or that such is in the public interest.

(f) The permit shall not be transferable, whether by operation of law or otherwise or from one person to another.

(g) Fees.

(1) Every applicant for a permit shall pay a filing fee according to the following schedule:

(A) Up to and including 10 acres - \$5.00

(B) 10 to 100 acres \$20.00

(C) Greater than 100 acres - \$50.00

The acreage will be the total acreage designated to be burned as specified in the permit.

(2) This filing fee shall be submitted with the application and shall not be refunded or applied to any subsequent application.

(3) Fees shall be made payable to the State of Hawaii.

(4) Exemptions. Any federal, state, or county government agency shall be exempt from paying all fees as prescribed herein.

[Eff. Nov. 29, 1982] (Auth: HRS §§342-3, 342-4, 342-6, 342-22; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51) (Imp: HRS §§342-3, 342-4, 342-6, 342-22; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51)

§11-60-26 Fugitive dust. (a) No person shall cause or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be constructed, altered, repaired, or demolished without taking reasonable precautions, as approved by the director, to prevent particulate matter from becoming airborne. Examples of some reasonable precautions are:

- (1) Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land;
- (2) Application of asphalt, oil, water, or suitable chemicals on roads, materials stockpiles, and other surfaces which can give rise to airborne dusts;
- (3) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials. Adequate containment methods shall be employed during sandblasting or other similar operations;
- (4) Covering, at all times when in motion, open-bodied trucks transporting materials likely to give rise to airborne dusts;
- (5) Conduct of agricultural practices such as tilling of land, application of fertilizers, etc., in such manner as to minimize airborne dust;
- (6) The paving of roadways and their maintenance in a clean condition; and
- (7) The prompt removal of earth or other material from paved streets onto which earth or other material has been transported by trucking or earth moving equipment, erosion by water, or other means.

(b) Except for persons engaged in agricultural practices or persons who can demonstrate to the director that best practical operation or treatment is being implemented, no person shall:

- (1) Cause or permit the discharge of visible emissions of fugitive dust beyond the lot line of the property on which the emissions originate; or
- (2) Cause or permit to be emitted into the atmosphere any dust from any source in such a manner that the ground level concentrations at a point selected by the department exceeds:
 - (A) 150 micrograms per cubic meter above upwind concentrations. Samples shall be obtained by using a high volume air sampler or other equivalent method for a 12-hour period; or
 - (B) A fallout of 3.0 grams of dust per square meter above upwind concentrations for any 14-day period. Dustfall samples shall be obtained by using fallout jars of 8 inches in diameter and 12 inches in depth or any larger jars of equivalent proportions. [Eff. Nov. 29, 1982]

(Auth: HRS §§342-3, 342-22; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51) (Imp: HRS §§342-3, 342-22; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51)

12-20-82

§11-60-27 Incineration. (a) No person shall cause or permit the emission from any incinerator of particulate matter to exceed 0.20 pounds per 100 pounds (2 gm/kg.) of refuse charged.

(b) Emission tests shall be conducted at maximum burning capacity of the incinerator.

(c) 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 director in accordance with good engineering practices. In cases of conflict, the determination made by the director shall govern.

(d) For the purposes of this regulation, the total of the capacities of all furnaces within one system shall be considered as the incinerator capacity.

[Eff. Nov. 29, 1982] (Auth: HRS §§342-3, 342-22; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51) (Imp: HRS §§342-3, 342-22; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51)

12.20.82

§11-60-28 Bagasse-burning boilers. No person shall cause or permit the emissions of particulate matter from bagasse-burning boilers in excess of 0.4 pounds per hundred pounds of bagasse as burned.
[Eff. Nov. 29, 1982] (Auth: HRS §§342-3, 342-22; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51)
(Imp: HRS §§342-3, 342-22; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51)

§11-60-29 Process Industries. (a) No person shall cause or permit the emission of particulate matter in any one hour from any source in excess of the amount shown in Table 13-1 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 emission of particulate matter. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. For a cyclical 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 for a typical period of time by the number of hours of such period.

(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, a process is any method, reaction, or operation whereby materials introduced into the process undergo physical or chemical change. A specific process, independent or production unit, is one which includes all of the equipment and facilities necessary for the completion of the transformation of the materials to produce a physical or chemical change. There may be several specific processes in series necessary to the manufacture of a product. However, where there are parallel series of specific processes, the similar parallel specific processes shall be considered as a specific process for emission regulation. [Eff. Nov. 29, 1982] (Auth: HRS §§342-3, 342-22; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51) (Imp: HRS §§342-3, 342-22; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51)

TABLE 13-1

<u>Process Weight Rate</u>	<u>Rate of Emission</u>
<u>lb./hr.</u>	<u>lb./hr.</u>
100	0.551
200	0.877
400	1.40
600	1.83
800	2.22
1,000	2.58
1,500	3.38
2,000	4.10
2,500	4.76
3,000	5.38
3,500	5.96
4,000	6.52
5,000	7.58
6,000	8.56
7,000	9.49
8,000	10.4
9,000	11.2
12,000	13.6
16,000	16.5
18,000	17.9
20,000	19.2
30,000	25.2
40,000	30.5
50,000	35.4
60,000 or more	40.0

Interpolation of the data in this table for process weight rates up to 60,000 lb./hr. shall be accomplished by use of the equation $E = 4.10 p^{0.67}$, E = rate of emission in lb./hr. and p = process weight rate in tons/hr.

~~(f) An application for a minor modification to a covered source shall be approved only if the director determines that the minor modification will be in compliance with all applicable requirements.~~

~~(g) The director shall provide a statement that sets forth the legal and factual bases for the proposed permit conditions (including references to the applicable statutory or regulatory provisions) to EPA and any other person requesting it.~~

~~(h) Each application and proposed permit reflecting the minor modification to a covered source shall be subject to EPA oversight in accordance with section 11-60.1-55. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25; 42 U.S.C. §§7407, 7416, 7661a, 7661d; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25; 42 U.S.C. §§7407, 7416, 7661a, 7661d; 40 C.F.R. Part 70)~~

§11-60.1-104 Applications for significant modifications. (a) Every application for a significant modification to a covered source is subject to the same requirements as for an initial covered source permit application pursuant to §11-60.1-83 as it pertains to the proposed significant modification. Applications shall be submitted to the director on forms furnished by the director. The applicant shall submit sufficient information to enable the director to make a decision on the application and to determine the fee requirements specified in subchapter 6. Information submitted shall include:

- (1) The name, address, and phone number of:
 - (A) The company;
 - (B) The facility, if different from the company;
 - (C) The owner and owner's agent; and
 - (D) The plant site manager or other contact;
- (2) A description of the significant modification, identifying all proposed changes, including any changes to the source

- operations, work practices, equipment design, source emissions, or any monitoring, recordkeeping, and reporting procedures;
- (3) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules and capacities to the extent needed to determine or regulate emissions of any proposed addition or modification of any source of emissions; specifications and drawings showing the design of the source and plant layout; a detailed description of all processes and products by Standard Industrial Classification Code and source category or categories (as defined in section 11-60.1-171) affected by the proposed modification; reasonably anticipated alternative operating scenarios, and processes and products by Standard Industrial Classification Code and source category or categories (as defined in section 11-60.1-171) associated with each alternative operating scenario affected by the proposed modification;
- (4) Information to define permit terms and conditions for any proposed emissions trading within the facility pursuant to section 11-60.1-96;
- (5) Maximum emissions rates, including fugitive emissions, of all regulated and hazardous air pollutants and all air pollutants for which the source is major from each emissions unit related to the modification. Emission rates shall be reported in pounds per hour and tons per year and in such terms necessary to establish compliance consistent with the applicable requirements and standard reference test methods. All supporting emission calculations and assumptions shall also be provided;

- (6) Identification and description of all points of emissions in sufficient detail to establish the basis for fees and applicability of requirements of this chapter and the Act. Information on stack parameters and any stack height limitations developed pursuant to Section 123 of the Act shall also be provided;
- (7) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner or operator of the source or modification, and to the extent of available information, an estimate of maximum and expected emissions before and after controls, technical information on the design, operation, size, estimated control efficiency, manufacturer's name, address, telephone number, and relevant specifications and drawings;
- (8) Citation and description of all applicable requirements, and a description of or reference to any applicable test method for determining compliance with each applicable requirement;
- (9) Operational limitations or work practices which the owner or operator of the source plans to implement that affect emissions of any regulated or hazardous air pollutants at the source. For sources subject to an Equivalent Maximum Achievable Control Technology limitation pursuant to section 11-60.1-175, a proposed emission limitation consistent with the requirements set forth in section 11-60.1-175;
- (10) All calculations and assumptions on which the information in paragraphs (3), (5), (6), (7), and (9) is based;
- (11) A detailed schedule for construction or reconstruction of the source or modification;

- (12) For significant modifications which increase the emissions of any air pollutant or result in the emission of any air pollutant not previously emitted, an assessment of the ambient air quality impact of the covered source with the inclusion of any available background air quality data. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the NAAQS and state ambient air quality standards;
- (13) For new covered sources or significant modifications subject to the requirements of subchapter 7, all analyses, assessments, monitoring, and other application requirements of subchapter 7;
- (14) If requested by the director, a risk assessment of the air quality related impacts caused by the covered source or significant modification to the surrounding environment;
- (15) If requested by the director, results of source emission testing, ambient air quality monitoring, or both;
- (16) If requested by the director, information on other available control technologies and associated analysis;
- (17) An explanation of all proposed exemptions from any applicable requirement;
- (18) A list of any new insignificant activities pursuant to section 11-60.1-82(e) to (g);
- (19) A compliance plan in accordance with section 11-60.1-85;
- (20) A source compliance certification in accordance with section 11-60.1-86; and
- (21) Other information:
 - (A) As required by any applicable requirement or as requested and deemed necessary by the director to make a decision on the application; and
 - (B) As may be necessary to implement and enforce other applicable requirements of

the Act or of this chapter or to determine the applicability of such requirements.

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

- (1) All information required and requested pursuant to subsection (a) has been submitted;
- (2) All documents requiring certification have been certified pursuant to section 11-60.1-4;
- (3) All applicable fees have been submitted; and
- (4) The director has certified that the application is complete.

(c) The director shall notify the applicant in writing whether the application is complete:

- (1) For the requirements of subchapter 7, thirty days after receipt of the application; and
- (2) For the requirements of subchapter 5, sixty days after receipt of the application. For purposes of this paragraph, the date of receipt of an application for a new covered source or significant modification subject to the requirements of subchapter 7 shall be the date the application is determined to be complete for the requirements of subchapter 7.

Unless the director requests additional information or notifies the applicant of incompleteness within sixty days after receipt of an application pursuant to subsection (c)(2), the application shall be deemed complete for the requirements of subchapter 5.

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

(e) Except as provided in section 11-60.1-88 and subsections (f) and (g), the director, in writing,

shall approve, conditionally approve, or deny an application for a significant modification within eighteen months after receipt of a complete application.

(f) The director, in writing, shall approve, conditionally approve, or deny an application containing an early reduction demonstration pursuant to Section 112(i)(5) of the Act, and upon program approval, within nine months after receipt of a complete application.

(g) The director, in writing, shall approve, conditionally approve, or deny an application for a new covered source or significant modification subject to the requirements of subchapter 7 within twelve months after receipt of a complete application.

(h) The director shall provide reasonable procedures and resources to complete the review of the majority of the applications for a significant modification within nine months after receipt of a complete application. An application for significant modification shall be approved only if the director determines that the significant modification will be in compliance with all applicable requirements.

(i) The director shall provide for public notice, including the method by which a public hearing can be requested, and an opportunity for public comment on the draft significant modification to the covered source in accordance with section 11-60.1-99.

(j) The director shall provide a statement that sets forth the legal and factual bases for the draft permit conditions (including references to the applicable statutory or regulatory provisions) to EPA and any other person requesting it.

(k) Each application for a significant modification, and the proposed covered source permit reflecting the significant modification shall be subject to EPA oversight in accordance with section 11-60.1-95. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12, 342B-13, 342B-23, 342B-24, 342B-25, 342B-29, 342B-33; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661c,

§11-60.1-104

7661d; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-13, 342B-23, 342B-24, 342B-25, 342B-29, 342B-33; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661c, 7661d; 40 C.F.R. Part 70)

60.1-161

~~Subchapter 10 Field Citations~~

~~\$11-60.1-191 Purpose
\$11-60.1-192 Offer to settle; penalties
\$11-60.1-193 Acceptance or withdrawal of citation
\$11-60.1-194 Form of citation~~

~~Historical note: This chapter is based substantially
upon chapter 11-60. [Eff 11/29/82; am and comp
4/14/86; am and comp 6/29/92; R 11/26/93]~~

SUBCHAPTER 1

GENERAL REQUIREMENTS

\$11-60.1-1 Definitions. As used in this chapter, unless otherwise defined for purposes of a particular subchapter or section of this chapter:

" $\mu\text{g}/\text{m}^3$ " means micrograms per cubic meter.

"Act" means the Clean Air Act, as amended, 42 United States Code Section 7401, et seq.

"Administrative permit amendment" means a permit amendment which:

- (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) Consolidates the terms and conditions of two or more noncovered source permits into one noncovered source permit for a facility;
- (5) Consolidates the terms and conditions of two or more covered source permits into one covered source permit for a facility;
- (6) Incorporates applicable requirements for any insignificant activity listed in section 11-60.1-82(f) or (g), provided the activity is not by itself subject to subchapters 8 or 9, does not cause a noncovered stationary source

- to become a major source, and does not cause the stationary source to become subject to provisions of subchapters 7, 8, or 9; or
- (7) Allows for a change in ownership or operational control of a source provided the department has determined that no other change in the permit is necessary, and provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the director.

"Administrator" means the Administrator of the EPA or the Administrator's designee.

"Agricultural burning permit" means written authorization from the director to engage in agricultural burning.

"Air pollutant" has the same meaning as in chapter 342B, HRS.

"Air pollution" means the presence in the outdoor air of substances in quantities and for durations which may endanger human health or welfare, plant or animal life, or property or which may unreasonably interfere with the comfortable enjoyment of life and property throughout the State and in such areas of the State as are affected thereby, but excludes all aspects of employer-employee relationships as to health and safety hazards.

"Air pollution control equipment" means equipment or a facility of a type intended to eliminate, prevent, reduce, or control the emissions of any regulated or hazardous air pollutant to the atmosphere.

"Allowable emissions" means the emissions of a stationary source calculated using the maximum rated capacity of the source, unless the source is subject to federally enforceable limits which restrict the operating rate, capacity, or hours of operations, or any combination of these, and the most stringent of the following:

- (1) The applicable standards set forth in the Standards of Performance for New Stationary Sources or the National Emissions Standards for Hazardous Air Pollutants;
- (2) Any Hawaii state implementation plan emission limitation, including those with a future compliance date; and
- (3) The emission rates specified as a federally enforceable permit condition, including those with a future compliance date.

"Applicant" means any person who submits an application for a permit.

"Authority to construct" means the permit issued by the director pursuant to repealed chapter '11-60 giving approval or conditional approval to an owner or operator to construct an air pollution source.

"Best available control technology" means an emissions limitation including a visible emission standard based on the maximum degree of reduction for each pollutant subject to regulation approved pursuant to the Act which would be emitted from any proposed stationary source or modification which the director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard promulgated pursuant to 40 CFR Parts 60, 61, and 63. If the director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the

requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation, and shall provide for compliance by means which achieve equivalent results.

"Biomass fuel burning boilers" means fuel burning equipment in which the actual heat input of biomass fuel exceeds the actual heat input of fossil fuels, calculated on an annual basis.

"BTU" means British thermal unit.

"CFR" means the Code of Federal Regulations.

"Commenced" as applied to construction of or modification to a stationary source means that the owner or operator has all necessary preconstruction approvals or permits and either has:

- (1) Begun, or caused to begin a continuous program of actual operation or on-site construction of the source; or
- (2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual operation or construction of the source.

"Complete" means, in reference to an application for a permit, that the application contains all of the information necessary to begin and reasonably complete processing the application.

"Compliance plan" means a plan which includes a description of how a source will comply with all applicable requirements, and includes a schedule of compliance under which the owner or operator will submit progress reports to the director no less frequently than every six months.

"Construction" means a physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of an emissions unit which would result in a change in actual emissions.

"Covered source" means:

- (1) Any major source;
- (2) Any source subject to a standard or other requirement under Section 111 of the Act;
- (3) Any source subject to an emissions standard or other requirement for hazardous air pollutants pursuant to Section 112 of the Act, with the exception of those sources solely subject to regulations or requirements pursuant to Section 112(r) of the Act; and
- (4) Any source subject to the rules for prevention of significant deterioration of air quality as established in this chapter.

"Covered source permit" means a permit or group of permits covering a covered source that is issued, renewed, or amended pursuant to this chapter. A covered source permit generally is synonymous with a "Title V," "operating," or "part 70" permit as referred to in federal regulations or standards.

"Department" means the department of health of the State of Hawaii.

"Director" means the director of health of the State of Hawaii or an authorized agent, officer, or inspector.

"Draft permit" means the version of a permit for which the director offers public notice, including the method by which a public hearing can be requested, and an opportunity for public comment pursuant to section 11-60.1-99.

"Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance,

careless or improper operation, or operator error, and shall not include an exceedance of a health-based emission limitation.

"Emission" means the act of releasing or discharging air pollutants into the ambient air from any source or an air pollutant which is released or discharged into the ambient air from any source.

"Emission limitation" means a requirement established by the director or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated or hazardous air pollutant.

"EPA" means the United States Environmental Protection Agency.

"Existing covered source" means a stationary covered source that has received an authority to construct permit, commenced construction or modification, or was in operation prior to the effective date of this chapter.

"Existing noncovered source" means a stationary noncovered source that has received an authority to construct permit, commenced construction or modification, or was in operation prior to the effective date of this chapter.

"Federally enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60, 61, and 63; requirements within the Hawaii State implementation plan; or any permit requirements established pursuant to 40 CFR Part 52.21 or all permit terms and conditions in a covered source permit except those specifically designated as not federally enforceable or regulations approved pursuant

to 40 CFR Part 51 Subpart I, including operating permits issued under an EPA-approved program that is incorporated into this subchapter and expressly requires adherence to any permit issued under such program.

"Fuel burning equipment" means a furnace, boiler, internal combustion engine, apparatus, stack, and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power.

"Fugitive dust" means the emission of solid airborne particulate matter from any source other than combustion.

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Hazardous air pollutants" means those hazardous air pollutants listed pursuant to Section 112(b) of the Act and any other hazardous air pollutants listed in section 11-60.1-172.

"HRS" means the Hawaii Revised Statutes.

"Major source" means:

- (1) For hazardous air pollutants, a source or a group of stationary sources that is located on one or more contiguous or adjacent properties, and is under common control of the same person (or persons under common control) and that emits or has the potential to emit considering controls and fugitive emissions, any hazardous air pollutant, except radionuclides, in the aggregate of ten tons per year or more or twenty-five tons per year or more of any combination; or
- (2) For any other pollutant, a source, or a group of stationary sources that is located on one or more contiguous or adjacent properties, and is under common control of the same person (or persons under common control) belonging to a single major industrial grouping (i.e., all having the same two-digit

Standard Industrial Classification Code) and that emits or has the potential to emit, considering controls, one hundred tons per year or more of any air pollutant. Fugitive emissions from the stationary source shall be considered in determining whether the stationary source is major, if it belongs to one of the following categories of stationary sources:

- (A) Coal cleaning plants (with thermal dryers);
- (B) Kraft pulp mills;
- (C) Portland cement plants;
- (D) Primary zinc smelters;
- (E) Iron and steel mills;
- (F) Primary aluminum ore reduction plants;
- (G) Primary copper smelters;
- (H) Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;
- (I) Hydrofluoric, sulfuric, or nitric acid plants;
- (J) Petroleum refineries;
- (K) Lime plants;
- (L) Phosphate rock processing plants;
- (M) Coke oven batteries;
- (N) Sulfur recovery plants;
- (O) Carbon black plants (furnace process);
- (P) Primary lead smelters;
- (Q) Fuel conversion plants;
- (R) Sintering plants;
- (S) Secondary metal production plants;
- (T) Chemical process plants;
- (U) Fossil fuel boilers (or combination thereof) totaling more than two hundred fifty million BTU per hour heat input;
- (V) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;
- (W) Taconite ore processing plants;

- (X) Glass fiber processing plants;
- (Y) Charcoal production plants;
- (Z) Fossil fuel fired steam electric plants of more than two hundred fifty million BTU per hour heat input; and
- (AA) All other stationary source categories regulated by a standard promulgated pursuant to Section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.

"Maximum achievable control technology" means the maximum degree of reduction in emissions of the hazardous air pollutants, on a case-by-case basis, taking into consideration the cost of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements, that is deemed achievable.

"Month" means a calendar month.

"NAAQS" means the National Ambient Air Quality Standards contained in 40 CFR Part 50.

"National Emission Standards for Hazardous Air Pollutants" means the federal emission standards contained in 40 CFR Parts 61 and 63.

"Necessary preconstruction approvals or permits" means those permits or approvals required pursuant to federal air quality control laws and regulations, chapter 342B, HRS, and air quality control rules adopted pursuant to chapter 342B.

"New covered source" means a covered source that commenced construction or modification on or after the effective date of this chapter.

"New noncovered source" means a noncovered source that commenced construction or modification on or after the effective date of this chapter.

"Noncovered source" means a stationary source constructed, modified, or relocated after March 20, 1972, that is not a covered source.

"Opacity" means a condition which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view.

"Owner or operator" means a person who owns, leases, operates, controls, or supervises a stationary source.

"Particulate matter" means any material, except water in uncombined form, that is or has been airborne and exists as a liquid or a solid at standard conditions.

"Permit" means written authorization from the director to construct, modify, relocate, or operate any regulated or hazardous air pollutant source. A permit authorizes the owner or operator to proceed with the construction, modification, relocation, or operation of a regulated or hazardous air pollutant source, and to cause or allow the emission of such air pollutants in a specified manner or amount, or to do any act not forbidden by chapter 342B, HRS, the Act, rules adopted pursuant to chapter 342B, or regulations promulgated pursuant to the Act, but requiring review by the department.

"Permit renewal" means the process by which a permit is reissued at the end of its term.

"Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, federal government agency, state, county, commission, political subdivision of the State, or, to the extent they are subject to this chapter, the United States or any interstate body.

"PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers.

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

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to

emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator and the director.

"PSD" means prevention of significant deterioration.

"Reconstruction" means the replacement of components at an existing stationary source to such an extent that the fixed capital cost of the new components exceeds fifty per cent of the fixed capital cost that would be required to construct a comparable entirely new stationary source.

"Regulated air pollutant" means:

- (1) Nitrogen oxides or any volatile organic compound;
- (2) Any air pollutant for which a national or state ambient air quality standard has been promulgated;
- (3) Any air pollutant that is subject to any standard adopted pursuant to chapter 342B, HRS, or promulgated pursuant to Section 111 of the Act;
- (4) Any Class I or II substance subject to a standard promulgated pursuant to or established by Title VI of the Act; or
- (5) Any air pollutant subject to a standard promulgated pursuant to Section 112 or other requirements established pursuant to Section 112 of the Act, including Sections 112(g), (j), and (r) of the Act, including:
 - (A) Any air pollutant subject to requirements of Section 112(j) of the Act. If the Administrator does not promulgate a standard by the date established pursuant to Section 112(e) of the Act, any air pollutant for which a subject source would be major shall be considered a regulated air pollutant on

the date eighteen months after the applicable date established pursuant to Section 112(e) of the Act; and

- (B) Any air pollutant for which the requirements of Section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to Section 112(g)(2) requirements.

"Responsible official" means:

- (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 an 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 facilities employ more than two hundred fifty 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 director;
- (2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively; or
- (3) For a municipality, state, federal, or other public agency: a principal executive officer, ranking elected official, or an authorized representative as approved by the director. For the purposes of this chapter, 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.

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

"SICC" means Standard Industrial Classification Code.

"Significant" means in reference to a net emissions increase or the potential of a source to emit:

- (1) A rate of emissions that would equal or exceed any of the following pollutant and emission rates:
 - (A) Carbon monoxide: one hundred tpy;
 - (B) Nitrogen oxides: forty tpy;
 - (C) Sulfur dioxide: forty tpy;
 - (D) Particulate matter: a total of twenty-five tpy of particulate matter of all sizes or fifteen tpy of PM_{10} ;
 - (E) Ozone: forty tpy of volatile organic compounds;
 - (F) Lead: 0.6 tpy;
 - (G) Asbestos: 0.007 tpy;
 - (H) Beryllium: 0.0004 tpy;
 - (I) Mercury: 0.1 tpy;
 - (J) Vinyl chloride: one tpy;
 - (K) Fluorides: three tpy;
 - (L) Sulfuric acid mist: seven tpy;
 - (M) Hydrogen sulfide (H_2S): ten tpy;
 - (N) Total reduced sulfur (H_2S , methyl mercaptan, dimethyl sulfide, and dimethyl disulfide): ten tpy;
 - (O) Reduced sulfur compounds (H_2S , carbon disulfide and carbonyl sulfide): ten tpy;

- (P) Municipal waste combustor organics: 3.2×10^{-6} megagrams per year (3.5×10^{-6} tpy) measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans;
- (Q) Municipal waste combustor metals: fourteen megagrams per year (fifteen tpy) measured as particulate matter; or
- (R) Municipal waste combustor acid gases: thirty-six megagrams per year (forty tpy) measured as sulfur dioxide and hydrogen chloride;
- (2) Any net emissions increase of a pollutant or the potential of a source to emit a pollutant subject to regulation pursuant to the Act that paragraph (1) does not list; and
- (3) Notwithstanding paragraph (1), any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would be constructed within ten kilometers of a Class I area, and have an impact on such area equal to or greater than one $\mu\text{g}/\text{m}^3$ (twenty-four-hour average).

"Smoke" means the gaseous products of burning carbonaceous materials made visible by the presence of small particles of carbon.

"Source" means property, real or personal, which emits or may emit any air pollutant.

"Stack" means a point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

"Standard Industrial Classification Code" means Major Group Number, Industry Group Number, or Industry Number as described in the Standard Industrial Classification Manual, 1987.

"Standards of Performance for New Stationary Sources" means the federal emission standards contained in 40 CFR Part 60.

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

"Submerged fill pipe" means a fill pipe the discharged opening of which is entirely submerged when the liquid level is six inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean a fill pipe the discharge opening of which is eighteen inches above the bottom of the tank.

"Tpy" means tons per year.

"Upon program approval" means the date the State of Hawaii covered source permit program is granted full or interim approval by the Administrator pursuant to 40 CFR Part 70 and thereafter.

"Valid covered source permit" or "valid noncovered source permit" means a covered or noncovered source permit that has not been canceled pursuant to section 11-60.1-9, has not been terminated or suspended pursuant to section 11-60.1-10, and has not expired or which remains in effect pursuant to subsection 11-60.1-82(b), or 11-60.1-62(b).

"Volatile organic compound" means a compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any such organic compound other than those determined to have negligible photochemical reactivity as listed in the definition of "volatile organic compound" in 40 CFR §51.100.

"Volatile organic compound water separator" means a tank, box, sump, or other container which is primarily designed to separate and recover volatile organic compounds from water. Petroleum storage tanks from which water incidental to the process is periodically removed are not considered volatile organic compound water separators. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; am and comp

NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42

U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416;
40 C.F.R. Parts 50, 51, and 52)

§11-60.1-2 Prohibition of air pollution. No person, including any public body, shall engage in any activity which causes air pollution or causes or allows the emission of any regulated or hazardous air pollutant without first securing approval in writing from the director. The written approval from the director shall not release any person from compliance with any other applicable statutes, local laws, regulations, or ordinances. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)

Historical note: §11-60.1-2 is based substantially upon §11-60-2. [Eff 11/29/82; am, ren §11-60-2 and comp 4/14/86; comp 6/29/92; R 11/26/93]

~~§11-60.1-3 General conditions for considering applications.~~ The director shall approve an application for a noncovered or covered source permit if the applicant can show to the satisfaction of the director that all applicable provisions of this chapter will be complied with, including, as applicable:

- ~~(1) The maintenance and attainment of any NAAQS and any state ambient air quality standard;~~
- ~~(2) General prohibitions pursuant to subchapter 2;~~
- ~~(3) Requirements for noncovered and covered sources pursuant to subchapters 4 and 5;~~
- ~~(4) Applicable Standards of Performance for New Stationary Sources (40 CFR Part 60), National Emission Standards for Hazardous Air~~

~~U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416;
40 C.F.R. Parts 50, 51, and 52)~~

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~~Historical note: §11-60.1-2 is based substantially upon §11-60-2. [Eff 11/29/82; am, ren §11-60-2 and comp 1/11/86, comp 3/23/92, R 11/26/93]~~

§11-60.1-3 General conditions for considering applications. The director shall approve an application for a noncovered or covered source permit if the applicant can show to the satisfaction of the director that all applicable provisions of this chapter will be complied with, including, as applicable:

- (1) The maintenance and attainment of any NAAQS and any state ambient air quality standard;
- (2) General prohibitions pursuant to subchapter 2;
- (3) Requirements for noncovered and covered sources pursuant to subchapters 4 and 5;
- (4) Applicable Standards of Performance for New Stationary Sources (40 CFR Part 60), National Emission Standards for Hazardous Air

Pollutants (40 CFR Part 61), National Emission Standards for Hazardous Air Pollutants for Source Categories (40 CFR Part 63), or any other federal standard or other requirement established pursuant to the Act.

- (5) Prevention of significant deterioration review requirements pursuant to subchapter 7;
- (6) Applicable standards of performance for stationary sources pursuant to subchapter 8; and
- (7) Requirements for stationary sources of hazardous air pollutants pursuant to subchapter 9. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; am and comp NOV 14 2003]
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

~~§11-60.1-4 Certification. Every application form, report, compliance plan, or compliance certification submitted pursuant to this chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required pursuant to this chapter shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)~~

~~§11-60.1-5 Permit conditions. In addition to the conditions authorized in sections 11-60.1-68 and 11-60.1-90, the director may impose more restrictive conditions in a noncovered or covered source permit to further limit the air pollutants and operation of the source. In determining whether to impose more~~

- ~~Pollutants (40 CFR Part 61), National Emission Standards for Hazardous Air Pollutants for Source Categories (40 CFR Part 63), or any other federal standard or other requirement established pursuant to the Act.~~
- ~~(5) Prevention of significant deterioration review requirements pursuant to subchapter 7;~~
 - ~~(6) Applicable standards of performance for stationary sources pursuant to subchapter 8; and~~
 - ~~(7) Requirements for stationary sources of hazardous air pollutants pursuant to subchapter 9. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; am and comp NOV 14 2003 1 (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)]~~

§11-60.1-4 Certification. Every application form, report, compliance plan, or compliance certification submitted pursuant to this chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required pursuant to this chapter shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003 1 (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)]

~~§11-60.1-5 Permit conditions. In addition to the conditions authorized in sections 11-60.1-68 and 11-60.1-90, the director may impose more restrictive conditions in a noncovered or covered source permit to further limit the air pollutants and operation of the source. In determining whether to impose more~~

~~§11-60.1-3~~

- ~~Pollutants (40 CFR Part 61), National Emission Standards for Hazardous Air Pollutants for Source Categories (40 CFR Part 63), or any other federal standard or other requirement established pursuant to the Act.~~
- ~~(5) Prevention of significant deterioration review requirements pursuant to subchapter 7;~~
 - ~~(6) Applicable standards of performance for stationary sources pursuant to subchapter 8; and~~
 - ~~(7) Requirements for stationary sources of hazardous air pollutants pursuant to subchapter 9. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; am and comp NOV 14 2003 (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)]~~

~~§11-60.1-4 Certification. Every application form, report, compliance plan, or compliance certification submitted pursuant to this chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required pursuant to this chapter shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003 (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)]~~

§11-60.1-5 Permit conditions. In addition to the conditions authorized in sections 11-60.1-68 and 11-60.1-90, the director may impose more restrictive conditions in a noncovered or covered source permit to further limit the air pollutants and operation of the source. In determining whether to impose more

~~11-60.1-5~~

restrictive conditions, the director shall consider the relevant circumstances of each individual case, including the availability of a reasonable control technology, cleaner fuels, or a less polluting operating process; the consideration of the existing air quality and the resulting degradation; the protection of the public health, welfare and safety; and any information, assumptions, limitations, or statements made in conjunction with a permit application. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-5 is based substantially upon §11-60-47. [Eff 11/29/82; am, ren §11-60-47 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

~~§11-60.1-6 Holding of permit. (a) Each noncovered or covered source permit, or a copy thereof, shall be maintained at or near the stationary source for which the noncovered or covered source permit was issued and shall be made available for inspection upon the director's request.~~

~~(b) No person shall wilfully deface, alter, forge, counterfeit, or falsify a noncovered or covered source permit. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)~~

Historical note: §11-60.1-6 is based substantially upon §11-60-49. [Eff 11/29/82; am, ren §11-60-49 and comp 4/14/86; comp 6/29/92; R 11/26/93]

~~§11-60.1-7 Transfer of permit. (a) Except as provided in sections 11-60.1-69 and 11-60.1-91, all~~

~~restrictive conditions, the director shall consider the relevant circumstances of each individual case, including the availability of a reasonable control technology, cleaner fuels, or a less polluting operating process; the consideration of the existing air quality and the resulting degradation; the protection of the public health, welfare and safety; and any information, assumptions, limitations, or statements made in conjunction with a permit application. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003 1 (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)]~~

~~Historical note: §11-60.1-5 is based substantially upon §11-60-47. [Eff 11/29/82; am, ren §11-60-47 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]~~

~~§11-60.1-6 Holding of permit. (a) Each noncovered or covered source permit, or a copy thereof, shall be maintained at or near the stationary source for which the noncovered or covered source permit was issued and shall be made available for inspection upon the director's request.~~

~~(b) No person shall wilfully deface, alter, forge, counterfeit, or falsify a noncovered or covered source permit. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003 1 (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)]~~

~~Historical note: §11-60.1-6 is based substantially upon §11-60-49. [Eff 11/29/82; am, ren §11-60-49 and comp 4/14/86; comp 6/29/92; R 11/26/93]~~

§11-60.1-7 Transfer of permit. (a) Except as provided in sections 11-60.1-69 and 11-60.1-91, all

§11-60.1-7

noncovered and covered source permits issued pursuant to this chapter shall not be transferable, whether by operation of law or otherwise, either from one location to another or from one piece of equipment to another.

(b) All noncovered and covered source permits issued pursuant to this chapter shall not be transferable, whether by operation of law or otherwise, from one person to another without the approval of the director. A request for transfer from one person to another shall be made on a permit transfer application form furnished by the director. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-7 is based substantially upon §11-60-50. [Eff 11/29/82; am, ren §11-60-50 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

~~§11-60.1-8 Reporting discontinuance.~~ Within thirty days of permanent discontinuance of the construction, modification, relocation, or operation of any noncovered or covered source, the discontinuance shall be reported in writing to the director by a responsible official of the source. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: ~~§11-60.1-8 is based substantially upon §11-60-54. [Eff 11/29/82; am, ren §11-60-47 and comp 4/14/86; comp 6/29/92; R 11/26/93]~~

~~§11-60.1-9 Cancellation of a noncovered or covered source permit.~~ (a) If construction authorized by a noncovered source permit is not commenced within twelve months after the noncovered source permit takes effect, is discontinued for a period of twelve months

~~§11-60.1-7~~

~~noncovered and covered source permits issued pursuant to this chapter shall not be transferable, whether by operation of law or otherwise, either from one location to another or from one piece of equipment to another.~~

~~(b) All noncovered and covered source permits issued pursuant to this chapter shall not be transferable, whether by operation of law or otherwise, from one person to another without the approval of the director. A request for transfer from one person to another shall be made on a permit transfer application form furnished by the director. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)~~

~~Historical note: §11-60.1-7 is based substantially upon §11-60-50. [Eff 11/29/82; am, ren §11-60-50 and comp 4/14/86; am and comp 6/29/92, R 11/26/93]~~

§11-60.1-8 Reporting discontinuance. Within thirty days of permanent discontinuance of the construction, modification, relocation, or operation of any noncovered or covered source, the discontinuance shall be reported in writing to the director by a responsible official of the source. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-8 is based substantially upon §11-60-54. [Eff 11/29/82; am, ren §11-60-47 and comp 4/14/86; comp 6/29/92; R 11/26/93]

~~§11-60.1-9 Cancellation of a noncovered or covered source permit. (a) If construction authorized by a noncovered source permit is not commenced within twelve months after the noncovered source permit takes effect, is discontinued for a period of twelve months~~

- (2) ~~Permit action is required to assure~~
compliance with the requirements of the Act;
chapter 342B, HRS; and this chapter;
- (3) ~~Permit action is required to address~~
additional requirements of the Act; chapter
342B, HRS; and this chapter;
- (4) ~~There is a violation of any condition of the~~
permit;
- (5) ~~The permit was obtained by misrepresentation~~
or failure to disclose fully all relevant
facts;
- (6) ~~The source is constructed or operated not in~~
accordance with the application for the
noncovered or covered source permit and any
information submitted as part of the
application;
- (7) ~~There is a change in any condition that~~
requires either a temporary or permanent
reduction or elimination of the permitted
discharge;
- (8) ~~More frequent monitoring or reporting by the~~
permittee is required; or
- (9) ~~Such is in the public interest as determined~~
pursuant to section 342B-27, HRS.
- (b) ~~The provisions of this section are~~
supplemental to the provisions of sections 11-60.1-72
and 11-60.1-98. [Eff 11/26/93; comp 10/26/98; am and
comp 9/15/01; comp NOV 14 2003] (Auth: HRS
§§342B-7, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS
§§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-10 is based substantially
upon §11-60-53. [Eff 11/29/82; am, ren §11-60-53 and
comp 4/14/86; am and comp 6/29/92; R 11/26/93]

§11-60.1-11 Sampling, testing, and reporting
methods. (a) All sampling and testing shall be made
and the results calculated in accordance with the
reference methods specified by EPA, or in the absence

of an EPA reference method, test procedures approved by the director. All tests shall be made under the direction of persons knowledgeable in the field of air pollution control.

(b) The department may conduct tests of emissions of air pollutants from any source. Upon request of the director, an owner or operator of a stationary source may be required to conduct tests of emissions of air pollutants at the owner or operator's expense. The owner or operator of the stationary source to be tested shall provide necessary ports 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 emissions of air pollutants.

(c) The director may require the owner or operator of any stationary source to maintain files on information concerning pertinent process and material flow, fuels used, nature and amount and time periods or durations of emissions, or any other information as may be deemed necessary by the director to determine whether the stationary source complies with applicable emission limitations, NAAQS, any state ambient air quality standard, or other provisions of this chapter in a permanent form suitable for inspection or in a manner authorized by the director.

(d) The information recorded shall be summarized and reported to the director as specified in the permit and in accordance with any requirement of this chapter. Recording periods shall be January 1 to June 30 and July 1 to December 31, or any other period specified by the director, except the initial recording period shall commence on the date the director issues the notification of the recordkeeping requirements. The director may require the owner or operator to submit any reported summary to the Administrator.

(e) Information recorded by the owner or operator of a stationary source and copies of the summarizing reports submitted to the director shall be retained by the owner or operator for a specified time period from

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the date on which the information is recorded or the pertinent report is submitted. The specified time period shall be as required in sections 11-60.1-68(5)(F) or 11-60.1-90(7)(H) or identified within an applicable requirement of the stationary source.

(f) Owners or operators of stationary sources shall correlate applicable emission limitations and other requirements within the report. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003 1
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-11 is based substantially upon §11-60-15. [Eff 11/29/82; am and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

~~§11-60.1-12 Air quality models. (a) All required estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR Part 51, Appendix W.~~

~~(b) Where an air quality model specified in Appendix A of 40 CFR Part 51, Appendix W is inappropriate, the model may be modified or another model substituted on written request to and written approval from the director. The director shall provide for public notice, including the method by which a public hearing can be requested, and an opportunity for public comment, on all proposed modifications or substitutions of an air quality model. Written approval from the director, and EPA through the director shall be obtained for any modification or substitution. Guidelines identified in 40 CFR Part 51, Appendix W for substituting or using alternate models shall be used in determining the acceptability of a substitute or alternate model. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp NOV 14 2003 1
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)~~

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~~the date on which the information is recorded or the pertinent report is submitted. The specified time period shall be as required in sections 11-60.1-68(5) (F) or 11-60.1-90(7) (H) or identified within an applicable requirement of the stationary source.~~

~~(f) Owners or operators of stationary sources shall correlate applicable emission limitations and other requirements within the report. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003]~~
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

~~Historical note: §11-60.1-11 is based substantially upon §11-60-15. [Eff 11/29/82; am and comp 4/14/86; am and comp 6/29/92; R 11/26/93]~~

§11-60.1-12 Air quality models. (a) All required estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR Part 51, Appendix W.

(b) Where an air quality model specified in Appendix A of 40 CFR Part 51, Appendix W is inappropriate, the model may be modified or another model substituted on written request to and written approval from the director. The director shall provide for public notice, including the method by which a public hearing can be requested, and an opportunity for public comment, on all proposed modifications or substitutions of an air quality model. Written approval from the director, and EPA through the director shall be obtained for any modification or substitution. Guidelines identified in 40 CFR Part 51, Appendix W for substituting or using alternate models shall be used in determining the acceptability of a substitute or alternate model. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp NOV 14 2003]
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

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Historical note: S11-60.1-12 is based substantially upon S11-60-17. [Eff and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

~~S11-60.1-13 Operations of monitoring stations.~~

The EPA monitoring requirements of Appendix B to 40 CFR Part 58, "Ambient Air Quality Surveillance," shall be met as a minimum during the operation of any monitoring stations required by the director or this chapter.

[Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp
 NOV 14 2003 } (Auth: HRS §§342B-3, 342B-12, 42
 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12, 42-
 U.S.C. §§7407, 7416)

Historical note: S11-60.1-13 is based substantially upon S11-60-18. [Eff and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

~~S11-60.1-14 Public access to information. (a)~~

Except as provided in subsection (b), the following information shall be considered government records and as such shall be available for public inspection pursuant to chapter 92F, HRS, unless access is restricted or closed by law:

- (1) All permit applications;
- (2) All supporting information for permit applications;
- (3) Compliance plans and schedules;
- (4) Reports and results associated with performance tests and continuous emission monitors;
- (5) Ambient air monitoring data and emissions inventory data;
- (6) Certifications;
- (7) Any other information submitted to the department pursuant to the noncovered and covered source permit program;
- (8) Permits; and

Historical note: §11-60.1-12 is based substantially upon §11-60-17. [Eff and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

§11-60.1-13 Operations of monitoring stations.

The EPA monitoring requirements of Appendix B to 40 CFR Part 58, "Ambient Air Quality Surveillance," shall be met as a minimum during the operation of any monitoring stations required by the director or this chapter.

[Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp
 NOV 14 2003 1 (Auth: HRS §§342B-3, 342B-12; 42
 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42
 U.S.C. §§7407, 7416)]

Historical note: §11-60.1-13 is based substantially upon §11-60-18. [Eff and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

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- (2) All supporting information for permit applications;
- (3) Compliance plans and schedules;
- (4) Reports and results associated with performance tests and continuous emission monitors;
- (5) Ambient air monitoring data and emissions inventory data;
- (6) Certifications;
- (7) Any other information submitted to the department pursuant to the noncovered and covered source permit program;
- (8) Permits; and

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

(b) Any owner or operator of an existing or proposed noncovered or covered source may request confidential treatment of specific information, including information concerning secret processes or methods of manufacture, by submitting a written request to the director at the time of submission, and clearly identifying the specific information that is to be accorded confidential treatment. With respect to each item of confidential information, the owner or operator requesting that it be designated as confidential shall provide the following documentation:

- (1) How each item of information concerns secret processes, secret methods of manufacture, or is determined to be confidential pursuant to chapter 92F, HRS;
- (2) Who has access to each item of information;
- (3) What steps have been taken to protect the secrecy of each item of information; and
- (4) Why it is believed each item of information must be accorded confidential treatment and the anticipated prejudice should disclosure be made.

(c) Any information submitted to the department without a request for confidentiality in accordance with this section shall be considered a public record.

(d) Upon a satisfactory showing to the director by any owner or operator that records, reports, or information, or particular part thereof, to which the director has access pursuant to this chapter, contain information of a confidential nature, including information concerning secret processes or methods of manufacture, these records, reports, or information shall be kept confidential except that such records, reports, or information may be disclosed to other state and federal officers or employees concerned with carrying out this chapter or when relevant in any proceeding pursuant to this chapter. If required by

EPA, all records, reports, and information determined by the owner or operator to be confidential shall be submitted directly to EPA. Neither the contents of the permit nor emissions data shall be entitled to confidentiality protection.

(e) Records, reports, or information for which confidentiality has been claimed may be disclosed only after the requirements of section 342B-31(d), HRS, have been met and the person requesting confidentiality has had an opportunity to obtain judicial review pursuant to subsection (f).

(f) Any person who has claimed confidentiality for records, reports, or other information and whose claim was denied by the director may obtain administrative review and subsequent judicial review of the denial pursuant to chapter 91, HRS. Records which are the subject of a judicial review shall not be released until the judicial review is complete and only if the court authorizes such release.

(g) All requests for public records shall be in writing, shall be addressed to the director, and shall identify or describe the character of the requested record. Upon approval by the director, the requested public record shall be available to the requestor for inspection and copying during established office hours. The director shall charge the requester a reasonable cost for reproduction of any public record, but not less than twenty-five cents per page, sheet, or fraction thereof. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

~~§11-60.1-15 Reporting of equipment shutdown. (a)~~

~~In the case of shutdown of air pollution control equipment for necessary scheduled maintenance, the intent to shut down such equipment shall be reported to the director at least twenty-four hours prior to the planned shutdown. The prior notice shall include:~~

~~EPA, all records, reports, and information determined by the owner or operator to be confidential shall be submitted directly to EPA. Neither the contents of the permit nor emissions data shall be entitled to confidentiality protection.~~

~~(e) Records, reports, or information for which confidentiality has been claimed may be disclosed only after the requirements of section 342B-31(d), HRS, have been met and the person requesting confidentiality has had an opportunity to obtain judicial review pursuant to subsection (f).~~

~~(f) Any person who has claimed confidentiality for records, reports, or other information and whose claim was denied by the director may obtain administrative review and subsequent judicial review of the denial pursuant to chapter 91, HRS. Records which are the subject of a judicial review shall not be released until the judicial review is complete and only if the court authorizes such release.~~

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§11-60.1-15 Reporting of equipment shutdown. (a)

In the case of shutdown of air pollution control equipment for necessary scheduled maintenance, the intent to shut down such equipment shall be reported to the director at least twenty-four hours prior to the planned shutdown. The prior notice shall include:

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- (1) Identification of the specific equipment to be taken out of service as well as its location and permit number;
 - (2) The expected length of time that the air pollution control equipment will be out of service;
 - (3) The nature and quantity of emissions of air pollutants likely to be emitted during the shutdown period;
 - (4) Measures such as the use of off-shift labor and equipment that will be taken to minimize the length of the shutdown period; and
 - (5) The reasons why it would be impossible or impractical to shut down the source operation during the maintenance period.
- (b) The submittal of the notice shall not be a defense to an enforcement action. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-15 is based substantially upon §11-60-14. [Eff 11/29/82; am, ren §11-60-14 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

~~§11-60.1-16 Prompt reporting of deviations. (a) Except for emergencies which result in noncompliance with any technology-based emission limitation pursuant to section 11-60.1-16.5, in the event any emission unit, air pollution control equipment, or related equipment malfunctions or breaks down in such a manner as to cause the emission of air pollutants in violation of this chapter or a permit, the owner or operator shall immediately notify the department of the malfunction or breakdown, unless the protection of personnel or public health or safety demands immediate attention to the malfunction or breakdown and makes such notification infeasible. In the latter case, the notice shall be provided as soon as practicable.~~

~~§11-60.1-15~~

- ~~(1) Identification of the specific equipment to be taken out of service as well as its location and permit number;~~
 - ~~(2) The expected length of time that the air pollution control equipment will be out of service;~~
 - ~~(3) The nature and quantity of emissions of air pollutants likely to be emitted during the shutdown period;~~
 - ~~(4) Measures such as the use of off-shift labor and equipment that will be taken to minimize the length of the shutdown period; and~~
 - ~~(5) The reasons why it would be impossible or impractical to shut down the source operation during the maintenance period.~~
- ~~(b) The submittal of the notice shall not be a defense to an enforcement action. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)~~

~~Historical note: §11-60.1-15 is based substantially upon §11-60-14. [Eff 11/29/82; am, ren §11-60-14 and comp 4/14/86; am and comp 6/28/92; R-11/26/93]~~

§11-60.1-16 Prompt reporting of deviations. (a) Except for emergencies which result in noncompliance with any technology-based emission limitation pursuant to section 11-60.1-16.5, in the event any emission unit, air pollution control equipment, or related equipment malfunctions or breaks down in such a manner as to cause the emission of air pollutants in violation of this chapter or a permit, the owner or operator shall immediately notify the department of the malfunction or breakdown, unless the protection of personnel or public health or safety demands immediate attention to the malfunction or breakdown and makes such notification infeasible. In the latter case, the notice shall be provided as soon as practicable.

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

- (1) Identification of each affected emission point and each emission limit exceeded;
- (2) Magnitude of each excess emission;
- (3) Time and duration of each excess emission;
- (4) Identity of the process or control equipment causing each excess emission;
- (5) Cause and nature of each excess emission;
- (6) Description of the steps taken to remedy the situation, prevent a recurrence, limit the excessive emissions, and assure that the malfunction or breakdown does not interfere with the attainment and maintenance of the NAAQS and state ambient air quality standards;
- (7) Documentation that the equipment or process was at all times maintained and operated in a manner consistent with good practice for minimizing emissions; and
- (8) A statement that the excess emissions are not part of a recurring pattern indicative of inadequate design, operation, or maintenance.

(c) The submittal of the notice shall not be a defense to an enforcement action. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp NOV 14 2003]
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

~~§11-60.1-16.5 Emergency provision: (a) An emergency constitutes an affirmative defense to any action brought for noncompliance with any technology-based emission limitation, if it can be demonstrated to the director through properly signed, contemporaneous operating logs, or other relevant evidence that:~~

- ~~(1) An emergency occurred and the owner or operator of the source can identify the cause or causes of the emergency;~~

- (2) ~~The permitted facility was at the time being properly operated;~~
- (3) ~~During the period of the emergency, the owner or operator of the source took all reasonable steps to minimize emission levels that exceeded the emission limitations or other requirements in the covered or noncovered source permit; and~~
- (4) ~~The owner or operator of the source submitted written notice of the emergency to the director within two working days of the time when emission limitations were exceeded due to the emergency, provided that the notice contained a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.~~
- (b) ~~In any proceedings for enforcement action, the owner or operator of the source seeking to establish the occurrence of an emergency has the burden of proof.~~
- (c) ~~This emergency provision is in addition to any emergency or upset provision in any applicable requirement. [Eff and comp 9/15/01; comp~~
- NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70)

~~Historical note: §11-60.1-16.5 is based substantially upon §11-60.1-97. [Eff 11/26/93; comp 10/26/98; R 9/15/01]~~

§11-60.1-17 Prevention of air pollution emergency episodes. (a) This section is designed to prevent the excessive buildup of air contaminants during air pollution episodes, thereby preventing the occurrence of any emergency due to the effects of these contaminants on the public health.

(b) Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the director 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 director shall be guided by the criteria set forth in subsections (c) to (g).

(c) If the national weather service issues an atmospheric stagnation advisory or if an equivalent local forecast of stagnant atmospheric conditions is issued, the department shall survey its monitoring stations to determine whether alert, warning, or emergency levels have occurred or are likely to occur.

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

- (1) SO_2 - eight hundred $\mu\text{g}/\text{m}^3$ (0.3 ppm), twenty-four-hour average;
- (2) PM_{10} - three hundred fifty $\mu\text{g}/\text{m}^3$, twenty-four-hour average;
- (3) SO_2 and particulate matter combined - product of SO_2 , $\mu\text{g}/\text{m}^3$, twenty-four-hour average and particulate matter, $\mu\text{g}/\text{m}^3$, twenty-four-hour average equal to 65×10^3 ;
- (4) CO - seventeen mg/m^3 (fifteen ppm), eight-hour average;
- (5) Ozone - four hundred $\mu\text{g}/\text{m}^3$ (0.2 ppm), one-hour average; or
- (6) NO_2 - one thousand one hundred thirty $\mu\text{g}/\text{m}^3$ (0.6 ppm), one-hour average; two hundred eighty-two $\mu\text{g}/\text{m}^3$ (0.15 ppm), twenty-four-hour average;

and meteorological conditions are such that this condition can be expected to continue for twelve or more hours.

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

- (1) SO_2 - one thousand six hundred $\mu\text{g}/\text{m}^3$ (0.6 ppm), twenty-four-hour average;
- (2) PM_{10} - four hundred twenty $\mu\text{g}/\text{m}^3$, twenty-four-hour average;
- (3) SO_2 and particulate matter combined - product of SO_2 , $\mu\text{g}/\text{m}^3$, twenty-four-hour average and particulate matter, $\mu\text{g}/\text{m}^3$, twenty-four-hour average equal to 261×10^3 ;
- (4) CO - thirty-four mg/m^3 (thirty ppm), eight-hour average;
- (5) Ozone - eight hundred $\mu\text{g}/\text{m}^3$ (0.4 ppm), one-hour average; or
- (6) NO_2 - two thousand two hundred sixty $\mu\text{g}/\text{m}^3$ (1.2 ppm), one-hour average; five hundred sixty-five $\mu\text{g}/\text{m}^3$ (0.3 ppm), twenty-four-hour average;

and meteorological conditions are such that this condition can be expected to continue for twelve or more hours.

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

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

- (2) The director determines that, because of meteorological or other facts, the concentrations will continue to increase; or
- (3) When one of the following levels is reached:
- (A) SO_2 - two thousand one hundred $\mu\text{g}/\text{m}^3$ (0.8 ppm), twenty-four-hour average;
 - (B) PM_{10} - five hundred $\mu\text{g}/\text{m}^3$, twenty-four-hour average; or
 - (C) SO_2 and particulate matter combined - product of SO_2 , $\mu\text{g}/\text{m}^3$, twenty-four-hour average and particulate matter, $\mu\text{g}/\text{m}^3$, twenty-four-hour average equal to 393×10^3 ;
 - (D) CO - forty-six mg/m^3 (forty ppm), eight-hour average;
 - (E) Ozone - one thousand $\mu\text{g}/\text{m}^3$ (0.5 ppm), one-hour average; or
 - (F) NO_2 - three thousand $\mu\text{g}/\text{m}^3$ (1.6 ppm), one-hour average; seven hundred fifty $\mu\text{g}/\text{m}^3$ (0.4 ppm), twenty-four-hour average.

(g) Once declared, any episode level reached by application of these criteria shall remain in effect until the criteria for that level are no longer met. At that time, the next lower episode level shall be assumed. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-17 is based substantially upon §11-60-19. [Eff 11/29/82; am, ren §11-60-19 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

~~§11-60.1-18 Variances (a) Variances and variance applications shall comply with section 342B-14, HRS, except that no variance shall prevent or interfere with the maintenance or attainment of NAAQS. Any application for a variance shall include a~~

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~~calculation and description of any change in emissions and the expected ambient air quality concentrations.~~

~~(b) Under no circumstances shall a variance from any federal regulations or covered source federally enforceable permit terms and conditions be granted.~~

~~[Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp~~

NOV 14 2003 } (Auth: HRS §§342B-3, 342B-12; 42
U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42
U.S.C. §§7407, 7416)

Historical note: §11-60.1-18 is based substantially upon §11-60-20. [Eff 11/29/82; am, ren §11-60-20 and comp 4/14/86; comp 6/29/92; R 11/26/93]

§11-60.1-19 Penalties and remedies. Any person who violates any provision of this chapter, any term or condition of a permit, or any term or condition of an agricultural burning permit shall be subject to the penalties and remedies provided for in sections 342B-42, 342B-44, 342B-47, and 342B-48, HRS. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003 }
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-19 is based substantially upon §11-60-21. [Eff 11/29/82; am, ren §11-60-21 and comp 4/14/86; comp 6/29/92; R 11/26/93]

§11-60.1-20 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the application of such provision to other persons or circumstances and the remainder of this chapter shall not be affected thereby. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003 }
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

~~calculation and description of any change in emissions and the expected ambient air quality concentrations.~~

~~(b) Under no circumstances shall a variance from any federal regulations or covered source federally enforceable permit terms and conditions be granted.~~

~~[Eff 11/25/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)~~

~~Historical note: §11-60.1-18 is based substantially upon §11-60-20. [Eff 11/29/82; am, ren §11-60-20 and comp 4/14/86; comp 6/29/92; R 11/26/93]~~

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~~Historical note: §11-60.1-19 is based substantially upon §11-60-21. [Eff 11/29/82; am, ren §11-60-21 and comp 4/14/86; comp 6/29/92; R 11/26/93]~~

§11-60.1-20 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the application of such provision to other persons or circumstances and the remainder of this chapter shall not be affected thereby. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

§11-60.1-20

Historical note: §11-60.1-20 is based substantially upon §11-60-22. [Eff 11/29/82; am, ren §11-60-22 and comp 4/14/86; comp 6/29/92; R 11/26/93]

60.1-39

Historical note: §11-60.1-20 is based substantially upon §11-60-22. [Eff 11/29/82; am, ren §11-60-22 and comp 4/14/86; comp 6/29/92; R 11/26/93]

SUBCHAPTER 2

GENERAL PROHIBITIONS

§11-60.1-31 Applicability. (a) All owners or operators of an air pollution source are subject to the requirements of this subchapter, whether or not the source is required to obtain a noncovered or covered source permit.

(b) In the event any federal or state laws, rules, or regulations are in conflict with the provisions of this subchapter, the most stringent requirement shall apply. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp

JAN 13 2012] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

§11-60.1-32 Visible emissions. (a) Visible emission restrictions for stationary sources which commenced construction or were in operation before March 21, 1972, shall be as follows:

- (1) No person shall cause or permit the emission of visible air pollutants of a density equal to or darker than forty per cent opacity, except as provided in paragraph (2);
- (2) During start-up, shutdown, or when breakdown of equipment occurs, a person may discharge into the atmosphere from any single source of emission, for a period aggregating not more than six minutes in any sixty minutes, air pollutants of a density not darker than sixty per cent opacity.

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- (2) During start-up, shutdown, or when breakdown of equipment occurs, a person may discharge into the atmosphere from any single source of emission, for a period aggregating not more than six minutes in any sixty minutes, air pollutants of a density not darker than sixty per cent opacity.

(b) Visible emission restrictions for stationary sources which commenced construction, modification, or relocation after March 20, 1972, shall be as follows:

- (1) No person shall cause or permit the emission of visible air pollutants of a density equal to or darker than twenty per cent opacity, except as provided in paragraph (2);

- (2) During start-up, shutdown, or when breakdown of equipment occurs, a person may discharge into the atmosphere from any single source of emission, for a period aggregating not more than six minutes in any sixty minutes, air pollutants of a density not darker than sixty per cent opacity.

(c) Compliance with visible emission requirements shall be determined by evaluating opacity of emissions pursuant to 40 CFR Part 60, Appendix A, Method 9 and other EPA approved methods.

(d) Emissions of uncombined water, such as water vapor, are exempt from the provisions of subsections (a) and (b), and do not constitute a violation of this section. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-32 is based substantially upon §11-60-3. [Eff 11/29/82; am, ren §11-60-3 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

~~§11-60.1-32 Fugitive dust. (a) No person shall cause or permit visible fugitive dust to become airborne without taking reasonable precautions. Examples of reasonable precautions are:~~

- ~~(1) Use of water or suitable chemicals for control of fugitive dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land;~~
- ~~(2) Application of asphalt, water, or suitable chemicals on roads, material stockpiles, and other surfaces which may result in fugitive dust;~~
- ~~(3) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials. Reasonable~~

- ~~containment methods shall be employed during sandblasting or other similar operations;~~
- ~~(4) Covering all moving, open-bodied trucks transporting materials which may result in fugitive dust;~~
 - ~~(5) Conducting agricultural operations, such as tilling of land and the application of fertilizers, in such manner as to reasonably minimize fugitive dust;~~
 - ~~(6) Maintenance of roadways in a clean manner; and~~
 - ~~(7) Prompt removal of earth or other materials from paved streets which have been transported there by trucking, earth-moving equipment, erosion, or other means.~~

~~(b) Except for persons engaged in agricultural operations or persons who can demonstrate to the director that the best practical operation or treatment is being implemented, no person shall cause or permit the discharge of visible fugitive dust beyond the property lot line on which the fugitive dust originates. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)~~

~~Historical note: §11-60.1-33 is based substantially upon §11-60-5. [Eff 11/29/82; am, ren §11-60-5 and comp 1/14/86; am and comp 6/29/92; R 11/26/93]~~

§11-60.1-34 Motor vehicles. (a) No person shall operate a gasoline-powered motor vehicle which emits visible smoke while upon streets, roads, or highways.

(b) No person shall operate a diesel-powered motor vehicle which emits visible smoke for a period of more than five consecutive seconds while upon streets, roads, or highways.

(c) No person shall cause, suffer, or allow any engine to be in operation while the motor vehicle is

stationary at a loading zone, parking or servicing area, route terminal, or other off street areas, except:

- (1) During adjustment or repair of the engine at a garage or similar place of repair;
- (2) During operation of ready-mix trucks, cranes, hoists, and certain bulk carriers, or other auxiliary equipment built onto the vehicle or equipment that require power take-off from the engine, provided that there is no visible discharge of smoke and the equipment is being used and operated for the purposes as originally designed and intended. This exception shall not apply to operations of air conditioning equipment or systems;
- (3) During the loading or unloading of passengers, not to exceed three minutes; and
- (4) During the buildup of pressure at the start-up and cooling down at the closing down of the engine for a period of not more than three minutes.

(d) No person shall remove, dismantle, fail to maintain, or otherwise cause to be inoperative any equipment or feature constituting an operational element of the air pollution control system or mechanism of a motor vehicle as required by the provisions of the Act except as permitted or authorized by law. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-34 is based substantially upon §11-60-4. [Eff 11/29/82; am, ren §11-60-4 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

~~§11-60.1-35 Incineration. (a) No person shall cause or permit the emissions of particulate matter to~~

~~pipe, is a pressure tank as described in subsection (a), or is fitted with a vapor recovery system as described in subsection (a)(2).~~

~~(c) Underground tanks shall be exempted from the requirements of subsection (a) if the total volume of volatile organic compounds added to and taken from a tank annually does not exceed twice the volume of the tank. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003 1 (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)]~~

~~Historical note: §11-60.1-39 is based substantially upon §11-60-10. [Eff 11/29/82; am, ren §11-60-10 and comp 4/14/86; am and comp 6/29/92, R 11/26/93]~~

§11-60.1-40 Volatile organic compound water separation. No person shall use any single or multiple compartment volatile organic compound water separator which receives effluent water containing two hundred gallons (seven hundred sixty liters) or more of any volatile organic compound a day from any equipment that is processing, refining, treating, storing, or handling volatile organic compounds having a Reid vapor pressure of 0.5 pounds per square inch or greater unless such compartment is equipped with a properly installed vapor loss control device described as follows and which is in good working order, and in operation:

- (1) A container having all openings sealed which totally encloses the liquid content. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place;
- (2) A container equipped with a floating roof, consisting of a pontoon type roof, double deck-type roof, or internal floating cover roof, which will rest on the surface of the liquid contents and be equipped with a closure seal or seals to close the space

between the roof edge and container wall.
All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place;

- (3) A container equipped with a vapor recovery system consisting of a vapor gathering system capable of collecting the volatile organic compound vapors and gases discharged, and a vapor disposal system capable of processing such volatile organic compound vapors and gases to prevent their emission to the atmosphere. All container gauging and sampling devices shall be gas-tight except when gauging and sampling is taking place; or
- (4) A container having other equipment of equal efficiency for purposes of air pollution control as may be approved by the director.
[Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-40 is based substantially upon §11-60-11. [Eff 11/29/82; am, ren §11-60-11 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

~~§11-60.1-41 Pump and compressor requirements~~

~~All pumps and compressors handling volatile organic compounds having a Reid vapor pressure of 1.5 pounds per square inch or greater which can be fitted with mechanical seals shall have mechanical seals or other equipment of equal efficiency for purposes of air pollution control as may be approved by the director. Pumps and compressors not capable of being fitted with mechanical seals, such as reciprocating pumps, shall be fitted with the best sealing system available for air pollution control given the particular design of pumps.~~

~~between the roof edge and container wall.~~

~~All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place;~~

- ~~(3) A container equipped with a vapor recovery system consisting of a vapor gathering system capable of collecting the volatile organic compound vapors and gases discharged, and a vapor disposal system capable of processing such volatile organic compound vapors and gases to prevent their emission to the atmosphere. All container gauging and sampling devices shall be gas-tight except when gauging and sampling is taking place; or~~
- ~~(4) A container having other equipment of equal efficiency for purposes of air pollution control as may be approved by the director. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)~~

~~Historical note: §11-60.1-40 is based substantially upon §11-60-11. [Eff 11/29/82; am, ren §11-60-11 and comp 4/14/86; am and comp 6/29/92; R-11/26/93]~~

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or compressor as may be approved by the director. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp

NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-41 is based substantially upon §11-60-12. [Eff 11/29/82; am, ren §11-60-12 and comp 4/14/86; comp 6/29/92; R 11/26/93]

~~§11-60.1-42 Waste gas disposal. No person shall cause or permit the emissions of gas streams containing volatile organic compounds from a vapor blowdown system unless these gases are burned by smokeless flares, or abated by an equally effective control device as approved by the director. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)~~

~~Historical note: §11-60.1-42 is based substantially upon §11-60-13. [Eff 11/29/82; am, ren §11-60-13 and comp 4/14/86; comp 6/29/92; R 11/26/93]~~

~~§11-60.1-41~~

~~or compressor as may be approved by the director. [Eff
11/26/93; comp 10/26/98; comp 9/15/01; comp
NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42
U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42
U.S.C. §§7407, 7416)~~

~~Historical note: §11-60.1-41 is based substantially
upon §11-60-12. [Eff 11/29/82; am, ren §11-60-12 and
comp 4/14/86; comp 6/29/92; R 11/26/93]~~

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10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth:
HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp:
HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-42 is based substantially
upon §11-60-13. [Eff 11/29/82; am, ren §11-60-13 and
comp 4/14/86; comp 6/29/92; R 11/26/93]

SUBCHAPTER 3

OPEN BURNING

§11-60.1-51 Definitions. As used in this subchapter:

"Agricultural burning" means the use of open outdoor fires in agricultural operations, forest management, or range improvements.

"Agricultural operation" means a bona fide agricultural activity with the primary purpose of making a profit, conducting agricultural research, or providing agricultural instruction by an educational institution, and includes the growing and harvesting of crops or the raising of fowl or animals.

"District" means a geographic area, as designated by the director, to distinguish appropriate air basins for the purpose of smoke management.

"Forest management" means wildland vegetation management using prescribed burning procedures which have been approved by the forestry division or responsible federal agency prior to the commencement of any burn and which are being conducted by a public agency or through a cooperative agreement involving a public agency. The fire department may be consulted for advice and guidance as part of the prescribed burning procedure.

"Forestry division" means the division of forestry and wildlife of the department of land and natural resources.

"Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack or flare.

"Range improvement" means the removal of vegetation for a wildlife, game, or livestock habitat.

[Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12, 342B-34; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-34;

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42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52)

~~§11-60.1-52. General provisions. (a) Except as provided in subsection (b) and section 11-60.1-53, no person shall cause, permit, or maintain any open burning. Any open burning is the responsibility of the person owning, operating, or managing the property, premises, business establishment, or industry where the open burning is occurring.~~

~~(b) Subsection (a) shall not apply to:~~

- ~~(1) Fires for the cooking of food;~~
- ~~(2) Fires for recreational, decorative, or ceremonial purposes as approved by the director;~~
- ~~(3) Fires to abate a fire hazard, provided that the director receives notification prior to the commencement of any burn, that the hazard is so declared by the fire department, forestry division, or federal agency having jurisdiction, that a prescribed burning plan, if applicable, has been submitted to and approved by the jurisdictional agency prior to the commencement of any burn, and that no burning occurs during a no-burn period as provided in section 11-60.1-55;~~
- ~~(4) Fires for prevention or control of disease or pests as approved by the director;~~
- ~~(5) Fires for training personnel in firefighting methods, provided that prior notice of any building, structure, or simulated aircraft set afire for training purposes is given to the director;~~
- ~~(6) Fires for the disposal of dangerous materials, where there is no alternate method of disposal and burning is approved in advance by the director;~~
- ~~(7) Fires for residential bathing purposes, provided that plastics, used oil, and wood~~

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which has been painted with lead paint or treated with insecticides or pesticides are not being used as fuel for these fires;

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

- (A) Not within fifty feet of any habitable building;
- (B) Attended or supervised by an adult;
- (C) Started and completed between 9:00 a.m. and 6:00 p.m.;
- (D) Not in violation of the rules of other fire control agencies; and
- (E) Subject to "no burn" periods as specified in Section 11-60.1-55.

This exception shall not apply to any county with a population greater than five hundred thousand; and

- (9) Other fires as approved by the director.

(c) Subsection (b) shall not exempt any activity from the application of any rules or requirements in any other section or chapter. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp NOV 14 2003 1 (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)]

Historical note: §11-60.1-52 is based substantially upon §11-60-31. [Eff 11/29/82; am, ren §11-60-31 and comp 4/14/86; am and comp 6/20/92; R 11/26/93]

§11-60.1-53 Agricultural burning: permit requirement. No person engaged in any agricultural operation, forest management, or range improvement

§11-60.1-53

shall cause or allow agricultural burning without first obtaining an agricultural burning permit from the director. Any person who fails to comply with the terms and conditions of the permit or this chapter shall be subject to the penalties and remedies provided for in sections 342B-42, 342B-44, 342B-47, and 342B-48, HRS, including the invalidation of the permit. No agricultural permit shall be granted for, or be construed to permit, the open burning of trash and other wastes that have been handled or processed by factory operations. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12, 342B-21; 42 U.S.C. §§7407, 7410; 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-21; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)

Historical note: §11-60.1-53 is based substantially upon §11-60-32. [Eff 11/29/82; am, ren §11-60-32 and comp 4/14/86; comp 6/29/92; R 11/26/93]

~~§11-60.1-54 Agricultural burning applications~~

~~(a) Applications for agricultural burning permits shall be made on forms specified by the director and shall be accompanied by two copies of complete data. The information provided on each application shall include a business license for commercial agricultural activities, maps of areas to be burned showing fields by appropriate numbers and acreage, direction of prevailing winds, location of residential, school, and commercial establishments, public buildings, airports, and public utilities, the designation of fields to be burned under specified wind conditions, alternate means of disposal of crops, and any other information that the director may specify.~~

~~(b) Each application shall be signed by the applicant and shall constitute an agreement that the applicant shall comply with all the terms and~~

~~§11-60.1-53~~

~~shall cause or allow agricultural burning without first obtaining an agricultural burning permit from the director. Any person who fails to comply with the terms and conditions of the permit or this chapter shall be subject to the penalties and remedies provided for in sections 342B-42, 342B-44, 342B-47, and 342B-48, HRS, including the invalidation of the permit. No agricultural permit shall be granted for, or be construed to permit, the open burning of trash and other wastes that have been handled or processed by factory operations. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12, 342B-21; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-21; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)~~

~~Historical note: §11-60.1-53 is based substantially upon §11-60-32. [Eff 11/29/82; am, ren §11-60-32 and comp 4/14/86; comp 6/29/92; R 11/26/93]~~

§11-60.1-54 Agricultural burning: applications.

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(b) Each application shall be signed by the applicant and shall constitute an agreement that the applicant shall comply with all the terms and

conditions of the permit and this chapter. [Eff
11/26/93; comp 10/26/98; comp 9/15/01; comp
NOV 14 2003] (Auth: HRS §§342B-3, 342B-12,
342B-21; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts
50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-21;
42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)

Historical note: §11-60.1-54 is based substantially
upon §11-60-33. [Eff 11/29/82; am, ren §11-60-33 and
comp 4/14/86; comp 6/29/92; R 11/26/93]

~~§11-60.1-55. Agricultural burning: "no-burn"
periods. (a) Except as provided in subsection (d), no
person, with or without an agricultural burning permit,
shall cause or allow agricultural burning under the
following conditions:
(1) When the director determines that
meteorological conditions have resulted in
widespread haze on any island or in any
district on the island and that these
meteorological conditions will continue or
deteriorate. For the purposes of this
section, widespread haze shall be considered
to exist when all visible ridges:
(A) Within five to ten miles have a "smoky"
or bluish appearance and colors are
subdued; and
(B) Beyond ten miles have a blurred
appearance;
(2) When a "no-burn" period has been declared in
a district and smoke from any adjacent
district, as determined by the director, may
impact on the affected district, the "no-
burn" period shall apply to both districts;
or
(3) On the island of Oahu either when the
condition specified in paragraph (1) or (2)
occurs or when meteorological conditions have
resulted in a rise of the carbon monoxide~~

~~level exceeding five mg/m³ for an eight hour average or the PM₁₀ level exceeding one hundred fifty µg/m³ for twenty-four hours and when the director determines that these meteorological conditions will continue or deteriorate.~~

~~(b) Notices of "no-burn" periods for the specified islands or districts may be provided by radio broadcast and shall apply for a specified "no burn" period.~~

~~(c) Verification that widespread haze exists in any district may be accomplished by consultation with personnel in the appropriate district fire or police stations.~~

~~(d) In a district where a long-term "no burn" declaration is in effect, the director may provide an exemption during an agricultural "no burn" period for the control of plant diseases or infestations when burning is determined to be the sole method of control.~~

~~[Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp NOV 14 2003 1 (Auth: HRS §§342B-3, 342B-12, 342B-43; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-43; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)]~~

~~Historical note: §11-60.1-55 is based substantially upon §11-60-34. [Eff 11/29/82; am, ren §11-60-34 and comp 4/14/86; am and comp 6/29/92; R 11/20/93]~~

§11-60.1-56 Agricultural burning: recordkeeping and monitoring. Each permittee shall monitor and maintain records in accordance with the agricultural burning permit issued by the director. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp NOV 14 2003 1 (Auth: HRS §§342B-3, 342B-12, 342B-28; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-28; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)]

Historical note: §11-60.1-56 is based substantially upon §11-60-35. [Eff 11/29/82; am, ren §11-60-35 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

~~§11-60.1-57 Agricultural burning: action on~~

~~application. (a) The director shall act on an application within a reasonable time, but not to exceed ninety calendar days from the date the complete application is received, and shall notify the applicant in writing of the approval or denial of the application. If the director has not acted on an application within the ninety calendar-day period, the application shall be deemed to have been approved.~~

~~(b) If an application is denied, the applicant may request a hearing in accordance with chapter 91, HRS.~~

~~(c) The permit may be granted for a period of up to one year from the date of approval.~~

~~(d) At the director's sole discretion or the application of any person, the director may terminate, suspend, reopen, or amend a permit if, after affording the applicant a hearing in accordance with chapter 91, HRS, it is determined that:~~

- ~~(1) Any condition of the permit has been violated;~~
- ~~(2) Any provision of this chapter has been violated;~~
- ~~(3) Any provision of chapter 342B, HRS, has been violated;~~
- ~~(4) The maintenance or attainment of NAAQS and state ambient air quality standards will be interfered with; or~~
- ~~(5) The action is in the public interest.~~

~~(e) The permit shall not be transferable whether by operation of law or otherwise or from one person to another. [Eff 11/26/93; comp 10/26/98; am and comp~~

~~9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12, 342B-21, 342B-24, 342B-27; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp. HRS~~

SUBCHAPTER 5

COVERED SOURCES

§11-60.1-81 Definitions. As used in this subchapter, unless otherwise defined for purposes of a particular section or subsection of this subchapter:

"Applicable requirement" means all of the following as they apply to emissions units in a covered source (including requirements that have been promulgated or approved by EPA through rulemaking at the time of permit issuance but have future-effective compliance dates):

- (1) Any standard or other requirement provided for in the state implementation plan approved or promulgated by EPA;
- (2) Any term or condition of any preconstruction permit issued pursuant to regulations approved or promulgated through rulemaking pursuant to Title I, including Part C of the Act;
- (3) Any standard or other requirement approved pursuant to Section 111 of the Act, including Section 111(d);
- (4) Any standard or other requirement approved pursuant to Section 112 of the Act, including any requirement concerning accident prevention approved pursuant to Section 112(r)(7) of the Act;
- (5) Any requirement approved pursuant to Section 504(b) or 114(a)(3) of the Act;
- (6) Any standard or other requirement governing solid waste incineration approved pursuant to Section 129 of the Act;
- (7) Any standard or other requirement for consumer and commercial products, approved pursuant to Section 183(e) of the Act;
- (8) Any standard or other requirement for tank vessels approved pursuant to Section 183(f) of the Act;

- (9) Any standard or other requirement of the program to control air pollution from outer continental shelf sources approved pursuant to Section 328 of the Act;
- (10) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone approved pursuant to Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit;
- (11) Any NAAQS or increment or visibility requirement approved pursuant to Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the Act;
- (12) Any NAAQS or state ambient air quality standard;
- (13) Any standard or other requirement approved pursuant to Title I, including Part C of the Act;
- (14) The application of best available control technology to control those pollutants subject to any NAAQS or state ambient air quality standard, but only as best available control technology would apply to new covered sources and significant modifications to covered sources that have the potential to emit or increase emissions above significant amounts considering any limitations, enforceable by the director, on the covered source to emit a pollutant; and
- (15) Any standard or other requirement provided for in chapter 342B, HRS; this chapter; or chapter 11-59.

"Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed

to avoid an applicable requirement to which the source would otherwise be subject.

"Final covered source permit" means the version of a covered source permit issued by the director that has completed all review procedures required by 40 CFR Parts 70.7 and 70.8.

"General permit" means a covered source permit covering numerous similar sources that meets the requirements of section 11-60.1-92.

"Minor modification" means a modification which:

- (1) Does not increase the emissions of any air pollutant above the permitted emission limits;
- (2) Does not result in or increase the emissions of any air pollutant not limited by permit to levels equal to or above:
 - (A) 500 pounds per year of a hazardous air pollutant;
 - (B) twenty-five percent of significant amounts of emission as defined in section 11-60.1-1, paragraph (1) in the definition of "significant";
 - (C) five tons per year of carbon monoxide; or
 - (D) two tons per year of each regulated air pollutant other than carbon monoxide;
- (3) Does not violate any applicable requirement;
- (4) Does not involve significant changes to existing monitoring requirements or any relaxation or significant change to existing reporting or recordkeeping requirements in the permit. Any change to the existing monitoring, reporting, or recordkeeping requirements that reduces the enforceability of the permit is considered a significant change;
- (5) Does not require or change a case-by-case determination of an emission limitation or other standard, a source-specific determination for temporary sources of

ambient impacts, or a visibility or increment analysis;

- (6) Does 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 terms and conditions include:
 - (A) A federally enforceable emissions cap assumed to avoid classification as a modification pursuant to any provision of Title I of the Act or subchapter 7; and
 - (B) An alternative emissions limit approved pursuant to regulations promulgated pursuant to Section 112(i)(5) of the Act or subchapter 9; and
- (7) Is not a modification pursuant to any provision of Title I of the Act.

"Modification" means a physical change in or a change in the method of operation of a stationary source which requires a change to a permit. Modification includes minor and significant modifications. Routine maintenance, repair, and replacement of parts shall not be considered a modification.

"Nonmajor covered source" means any covered source that is not a major covered source.

"Proposed covered source permit" means the version of a permit that the director proposes to issue, and forwards to EPA for review pursuant to section 11-60.1-95.

"Section 502(b)(10) changes" means changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"Significant modification" means a modification which does not qualify as a minor modification or administrative amendment. A significant modification shall include every significant change in existing monitoring requirements, and every relaxation of, or significant change to the existing reporting or recordkeeping requirements. 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.

"Temporary covered source" means a nonmajor covered source that is intended to be operated at multiple locations for a designated period of time at each location. The operation of the source shall be temporary and involve at least one change of location during the term of a covered source permit.

"Timely application" means:

- (1) An initial application for a covered source permit filed during the transition period, in accordance with the submittal schedule in section 11-60.1-87; or
- (2) An application for a covered source permit renewal which is submitted to the director no fewer than twelve months and no more than eighteen months prior to the permit expiration date, or the deadline as approved by the director pursuant to subsection 11-60.1-101(b).

"Transition period" means the three years following the effective date of this chapter: [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; am and comp NOV 14 2003] (Auth: HRS §§342B-1, 342B-3, 342B-12; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70) (Imp: HRS §§342B-1, 342B-3, 342B-12; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70)

~~§11-60.1-82 Applicability. (a) Except as provided in subsections (d), (e), and (k) and section 11-60.1-87, no person shall burn used or waste oil or begin construction, reconstruction, modification,~~

~~"Significant modification" means a modification which does not qualify as a minor modification or administrative amendment. A significant modification shall include every significant change in existing monitoring requirements, and every relaxation of, or significant change to the existing reporting or recordkeeping requirements. 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.~~

~~"Temporary covered source" means a nonmajor covered source that is intended to be operated at multiple locations for a designated period of time at each location. The operation of the source shall be temporary and involve at least one change of location during the term of a covered source permit.~~

~~"Timely application" means:~~

- ~~(1) An initial application for a covered source permit filed during the transition period, in accordance with the submittal schedule in section 11-60.1-87; or~~
- ~~(2) An application for a covered source permit renewal which is submitted to the director no fewer than twelve months and no more than eighteen months prior to the permit expiration date, or the deadline as approved by the director pursuant to subsection 11-60.1-101(b).~~

~~"Transition period" means the three years following the effective date of this chapter: [Eff 11/28/93; comp 10/26/98; am and comp 9/15/01; am and comp 11/14/2003] (Auth: HRS §§342B-1, 342B-3, 342B-12; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70) (Imp: HRS §§342B-1, 342B-3, 342B-12; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70)~~

§11-60.1-82 Applicability. (a) Except as provided in subsections (d), (e), and (k) and section 11-60.1-87, no person shall burn used or waste oil or begin construction, reconstruction, modification,

relocation, or operation of an emission unit or air pollution control equipment of any covered source without first obtaining a covered source permit from the director. The construction, reconstruction, modification, relocation, or operation shall continue only if the owner or operator of a covered source holds a valid covered source permit.

(b) The covered source permit shall remain valid past the expiration date and the covered source shall not be in violation for failing to have a covered source permit, until the director has issued or denied the renewal of the covered source permit, provided:

- (1) Prior to permit expiration, a timely and complete renewal application has been submitted and the owner or operator acts consistently with the permit previously granted, the application on which it was based, and all plans, specifications, and other information submitted as part of the application; and
- (2) The owner or operator has submitted to the director within the specified deadlines, all requested additional information deemed necessary to evaluate or take final action on the renewal application, as described in section 11-60.1-101(e).

(c) The covered source permit shall not constitute, nor be construed to be an approval of the design of the covered source. The covered source permit shall be issued in accordance with this chapter and it is the responsibility of the applicant to insure compliance with all applicable requirements in the construction and operation of any covered source.

(d) The following are exempt from the requirements of subsection (a):

- (1) All sources and source categories that would be required to obtain a permit solely because they are subject to the "Standards of Performance for New Residential Wood Heaters," 40 CFR Section 60.530 et seq.;

- (2) All sources and source categories that would be required to obtain a permit solely because they are subject to the "Standards for Demolition and Renovation" pursuant to the "National Emission Standard for Asbestos," 40 CFR Section 61.145;
 - (3) Ocean-going vessels, except for ocean-going vessels subject to any standard or other requirement for the control of air pollution from outer continental shelf sources, pursuant to 40 CFR Part 55;
 - (4) Internal combustion engines propelling mobile sources such as automobiles, trucks, cranes, forklifts, front-end loaders, graders, trains, helicopters, and airplanes;
 - (5) Diesel fired portable ground support equipment used exclusively to start aircraft or provide temporary power or support service to aircraft prior to start-up; and
 - (6) Air-conditioning or ventilating systems that do not contain more than 50 pounds of any Class I or Class II ozone depleting substance regulated under Title VI of the Act and are not designed to remove air pollutants generated by or released from equipment.
- (e) The owner or operator of any insignificant activity identified in subsections (f) and (g) may begin construction, reconstruction, modification, or operation of the activity without first obtaining a covered source permit, provided:
- (1) The insignificant activity is not by itself subject to subchapters 8 or 9;
 - (2) The insignificant activity does not cause a noncovered stationary source to become a major source;
 - (3) The insignificant activity does not cause the stationary source to become subject to provisions of subchapters 7, 8, or 9; and
 - (4) The owner or operator can demonstrate to the director's satisfaction that each activity

meets the size, emission level, or production rate criteria.

The insignificant activities listed in subsection (f) shall be identified in the covered source permit application. The insignificant activities listed in subsection (g) need not be identified in the covered source permit application, unless subject to an applicable requirement. Any fuel burning equipment identified shall not include equipment burning off-spec used oil or fuel classified as hazardous waste. The director may request additional information on any insignificant activity to determine the applicability of, or to impose, any applicable requirement. Action to incorporate applicable requirements for insignificant activities into a covered source permit shall be in accordance with section 11-60.1-88.5.

(f) Insignificant activities based on size, emission level, or production rate, are as follows:

- (1) Any storage tank, reservoir, or other container of capacity equal to or less than forty thousand gallons storing volatile organic compounds, except those storage tanks, reservoirs, or other containers subject to any standard or other requirement pursuant to Sections 111 and 112 of the Act;
- (2) Other than smoke house generators and gasoline fired industrial equipment, fuel burning equipment with a heat input capacity less than one million BTU per hour, or a combination of fuel burning equipment operated simultaneously as a single unit having a total combined heat input capacity of less than one million BTU per hour;
- (3) Steam generators, steam superheaters, water boilers, or water heaters, all of which have a heat input capacity of less than five million BTU per hour, and are fired exclusively with one of the following:
 - (A) Natural or synthetic gas;
 - (B) Liquified petroleum gas; or

- (C) A combination of natural, synthetic, or liquified petroleum gas;
- (4) Kilns used for firing ceramic ware heated exclusively by natural gas, electricity, liquid petroleum gas, or any combination of these and have a heat input capacity of five million BTU per hour or less;
- (5) Standby generators used exclusively to provide electricity, standby sewage pump drives, and other emergency equipment used to protect the health and welfare of personnel and the public, all of which are used only during power outages, emergency equipment maintenance and testing, and which:
 - (A) Are fired exclusively by natural or synthetic gas; or liquified petroleum gas; or fuel oil No. 1 or No. 2; or diesel fuel oil No. 1D or No. 2D; and
 - (B) Do not trigger a Prevention of Significant Deterioration (PSD) or covered source review, based on their potential to emit regulated or hazardous air pollutants;
- (6) Paint spray booths that emit less than two tons per year of any regulated air pollutant, except for paint spray booths subject to any standard or other requirement pursuant to Section 112(d) of the Act; and
- (7) Other activities which emit less than:
 - (A) 500 pounds per year of a hazardous air pollutant;
 - (B) twenty-five percent of significant amounts of emission as defined in section 11-60.1-1, paragraph (1) in the definition of "significant";
 - (C) five tons per year of carbon monoxide; and
 - (D) two tons per year of each regulated air pollutant other than carbon monoxide;
 and which the director determines to be insignificant on a case-by-case basis.

(g) Insignificant activities in addition to those listed in subsection (f) are:

- (1) Welding booths;
- (2) Hand held equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, precision parts, leather, metals, plastics, fiber board, masonry, carbon, glass, or wood, provided reasonable precautions are taken to prevent particulate matter from becoming airborne. Reasonable precautions include the use of dust collection systems, dust barriers, or containment systems;
- (3) Laboratory equipment used exclusively for chemical and physical analyses;
- (4) Containers, reservoirs, or tanks used exclusively for dipping operations for coating objects with oils, waxes, or greases where no organic solvents, diluents, or thinners are used; or dipping operations for applying coatings of natural or synthetic resins which contain no organic solvents;
- (5) Closed tumblers used for cleaning or deburring metal products without abrasive blasting, and pen tumblers with batch capacity of one thousand pounds or less;
- (6) Fire water system pump engines dedicated for fire-fighting and maintaining fire water system pressure, which are operated only during fire fighting and periodically for engine maintenance, and fired exclusively by natural or synthetic gas; or liquified petroleum gas; or fuel oil No. 1 or No. 2; or diesel fuel No. 1D or No. 2D;
- (7) Smoke generating systems used exclusively for training in government or certified fire fighting training facilities;
- (8) Gasoline fired portable industrial equipment less than 25 horsepower in size;

- (9) Plant maintenance and upkeep activities (e.g., grounds-keeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots); including equipment used to conduct these activities, provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and are not otherwise subject to an applicable requirement triggering a permit modification;
- (10) Fuel burning equipment which is used in a private dwelling or for space heating, other than internal combustion engines, boilers, or hot furnaces;
- (11) Ovens, stoves, and grills used solely for the purpose of preparing food for human consumption operated in private dwellings, restaurants, or stores;
- (12) Stacks or vents to prevent escape of sewer gases through plumbing traps;
- (13) Consumer use of office equipment and products; and
- (14) Woodworking shops with a sawdust collection system.

(h) The prevention of significant deterioration review requirements of subchapter 7 for new major stationary sources and major modifications are additional requirements for considering an application for a covered source permit. In the event any requirement of subchapter 7 is in conflict with the requirements of this subchapter, the most stringent requirement shall apply.

(i) Any covered source permit, including temporary and general covered source permits, permit renewals, or permit amendments for a modification may be issued only if all of the following conditions are met:

- (1) The owner or operator has submitted a complete covered source permit application;

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- (2) Except for minor modifications and administrative amendments, the director has provided for public notice, including the method by which a public hearing can be requested, and an opportunity for public comment on the draft covered source permit in accordance with section 11-60.1-99;
- (3) The permit provides for compliance with all applicable requirements and contains the applicable terms and conditions pursuant to 11-60.1-90; and
- (4) The requirements for transmission of information to EPA and EPA oversight have been satisfied pursuant to sections 11-60.1-94 and 11-60.1-95.

(j) An owner or operator of a stationary source that is not subject to the requirements of subchapter 5 and that becomes subject to the requirements of subchapter 5, or becomes subject to additional requirements of subchapter 5, pursuant to a new or amended regulation under section 111 or 112 of the Act or this chapter shall submit a complete and timely covered source permit application to address the new requirements. For purposes of this subsection, "timely" means:

- (1) by the date required under subchapter 8 or 9 of this chapter, or the applicable federal regulation, whichever deadline is earlier; or
- (2) within twelve months after the effective date of the new or amended regulation, if not specified in the applicable regulation.

The owner or operator of the source may continue to construct or operate and shall not be in violation for failing to have a covered source permit addressing the new requirements only if the owner or operator has submitted to the director a complete and timely covered source permit application, and any additional information that the director deems necessary to evaluate or take final action on the application, including additional information required pursuant to sections 11-60.1-83(d) and 11-60.1-84.

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(k) The director, upon written request and submittal of adequate support information from the owner or operator of a covered source, may provide written approval of the following activities to proceed without prior issuance or amendment of a covered source permit. Under no circumstances will these activities be approved if the activity interferes with the imposition of any applicable requirement or the determination of whether a stationary source is subject to any applicable requirement.

- (1) Installation and operation of air pollution control devices. The director may allow the installation and operation of an air pollution control device prior to issuing a covered source permit or amendment to a covered source permit if the owner or operator of the source can demonstrate that the control device reduces the amount of emissions previously emitted, does not emit any new air pollutants, and does not adversely affect the ambient air quality impact assessment. The owner or operator of the covered source shall submit with the written request, a complete covered source permit application to install and operate the air pollution control device.
- (2) Test burns. The director may allow an owner or operator of a covered source to test alternate fuels not allowed by permit if the following conditions are met:
 - (A) The test burn period does not exceed one week, unless the director, upon reasonable justification, approves a longer period, not to exceed three months;
 - (B) The purpose of the test burn is to establish emission rates, to determine if alternate fuels are feasible with the existing covered source facility, or as an investigative measure to research the operational characteristics of a fuel;

- (C) A stack performance test, a pre-approved monitoring program, or both, if requested by the director, are conducted during the test burn to record and verify emissions;
- (D) The owner or operator of the covered source provides emission estimates of the test burn and demonstrates that no violation of the NAAQS and state ambient air quality standards will occur;
- (E) The owner or operator of the covered source demonstrates that the use of the alternate fuel is allowed or not restricted by any applicable requirement, other than the permit condition(s) restricting the alternate fuel use; and
- (F) If a performance test or monitoring is required, the owner or operator of the covered source provides written test or monitoring results within sixty days of the completion of the test burn or such other time as approved by the director. The results shall include the operational parameters of the covered source at the time of the test burn, and any other significant factors that affected the test or monitoring results.

If the director approves the test burn, the director may set operational limitations or other conditions for the test burn.

Deviations from those limits or conditions shall be considered a violation of this chapter. [Eff 11/26/93; comp 10/26/98; am

and comp 9/15/01; am and comp NOV 14 2003]
(Auth: HRS §§342B-3, 342B-12, 342B-22; 42 U.S.C. §§7407, 7416, 7661a, 7661b; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-22; 42 U.S.C. §§7407, 7416, 7661A, 7661B; 40 C.F.R. Part 70)

§11-60.1-83 Initial covered source permit application. (a) Every application for an initial covered source permit shall be submitted to the director on forms furnished by the director. The applicant shall submit sufficient information to enable the director to make a decision on the application and to determine the fee requirements specified in subchapter 6. Information submitted shall include:

- (1) Name, address, and phone number of:
 - (A) The company;
 - (B) The facility, if different from the company;
 - (C) The owner and owner's agent; and
 - (D) The plant site manager or other contact;
- (2) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules and capacities to the extent needed to determine or regulate emissions; specifications and drawings showing the design of the source and plant layout; a detailed description of all processes and products by Standard Industrial Classification Code and source category or categories (as defined in section 11-60.1-171); reasonably anticipated alternative operating scenarios, and processes and products by Standard Industrial Classification Code and source category or categories (as defined in section 11-60.1-171) associated with each alternative operating scenario;
- (3) Information to define permit terms and conditions for any proposed emissions trading within the facility pursuant to section 11-60.1-96;
- (4) Maximum emission rates, including fugitive emissions, of all regulated and hazardous air pollutants and all air pollutants for which the source is major from each emissions unit. Emission rates shall be reported in pounds

- per hour and tons per year and in such terms necessary to establish compliance consistent with the applicable requirements and standard reference test methods. All supporting emission calculations and assumptions shall also be provided;
- (5) Identification and description of all points of emissions in sufficient detail to establish the basis for fees and applicability of requirements of this chapter and the Act. Information on stack parameters and any stack height limitations developed pursuant to Section 123 of the Act shall also be provided;
 - (6) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner or operator of the source, and to the extent of available information, an estimate of maximum and expected emissions before and after controls, technical information on the design, operation, size, estimated control efficiency, manufacturer's name, address, telephone number, and relevant specifications and drawings;
 - (7) Citation and description of all applicable requirements, and a description of or reference to any applicable test method for determining compliance with each applicable requirement;
 - (8) Current operational limitations or work practices, or for covered sources that have not yet begun operation, such limitations or practices which the owner or operator of the source plans to implement that affect emissions of any regulated or hazardous air pollutants at the source. For sources subject to an Equivalent Maximum Achievable Control Technology limitation pursuant to section 11-60.1-175, a proposed emission

- limitation consistent with the requirements set forth in section 11-60.1-175;
- (9) All calculations and assumptions on which the information in paragraphs (2), (4), (5), (6), and (8) is based;
 - (10) A detailed schedule for construction or reconstruction of the source or modification, if applicable;
 - (11) For existing covered sources, an assessment of the ambient air quality impact of the covered source. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the NAAQS and state ambient air quality standards;
 - (12) For new covered sources, and significant modifications which increase the emissions of any air pollutant or result in the emission of any air pollutant not previously emitted, an assessment of the ambient air quality impact of the covered source or significant modification, with the inclusion of any available background air quality data. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the NAAQS and state ambient air quality standards;
 - (13) For new covered sources or significant modifications subject to the requirements of subchapter 7, all analyses, assessments, monitoring, and other application requirements of subchapter 7;
 - (14) If requested by the director, a risk assessment of the air quality related impacts caused by the covered source or significant modification to the surrounding environment;
 - (15) If requested by the director, results of source emission testing, ambient air quality monitoring, or both;
 - (16) If requested by the director, information on other available control technologies and associated analysis;

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- (17) An explanation of all proposed exemptions from any applicable requirement;
- (18) A list of insignificant activities pursuant to section 11-60.1-82(e) to (g);
- (19) A compliance plan in accordance with section 11-60.1-85;
- (20) A source compliance certification in accordance with section 11-60.1-86; and
- (21) Other information:
 - (A) As required by any applicable requirement or as requested and deemed necessary by the director to make a decision on the application; and
 - (B) As may be necessary to implement and enforce other applicable requirements of the Act or of this chapter or to determine the applicability of such requirements.

(b) The director shall not continue to act upon or consider any incomplete application. An application shall be determined to be complete only when all of the following have been complied with:

- (1) All information required or requested pursuant to subsection (a) has been submitted;
- (2) All documents requiring certification have been certified pursuant to section 11-60.1-4;
- (3) All applicable fees have been submitted; and
- (4) The director has certified that the application is complete.

(c) The director shall notify the applicant in writing whether the application is complete:

- (1) For the requirements of subchapter 7, thirty days after receipt of the application; and
- (2) For the requirements of subchapter 5, sixty days after receipt of the application. For purposes of this paragraph, the date of receipt of an application for a new covered source or significant modification subject to the requirements of subchapter 7 shall be the date the application is determined to be

complete for the requirements of subchapter 7.

Unless the director requests additional information or notifies the applicant of incompleteness within sixty days after receipt of an application pursuant to subsection (c) (2), the application shall be deemed complete for the requirements of subchapter 5.

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

(e) Except as provided in section 11-60.1-88 and subsections (f) and (g), the director, in writing, shall approve, conditionally approve, or deny an application for a covered source permit within eighteen months after receipt of a complete application.

(f) The director, in writing, shall approve, conditionally approve, or deny an application containing an early reduction demonstration pursuant to section 112(i) (5) of the Act, and upon program approval, within nine months after receipt of a complete application.

(g) The director, in writing, shall approve, conditionally approve, or deny an application for a new covered source or significant modification subject to the requirements of subchapter 7 within twelve months after receipt of a complete application.

(h) A covered source permit application for a new covered source or a significant modification shall be approved only if the director determines that the construction or operation of the new covered source or significant modification will be in compliance with all applicable requirements.

(i) The director shall provide for public notice, including the method by which a public hearing can be requested, and an opportunity for public comment on the draft covered source permit in accordance with section 11-60.1-99.

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(j) The director shall provide a statement that sets forth the legal and factual bases for the draft permit conditions (including references to the applicable statutory or regulatory provisions) to EPA and any other person requesting it.

(k) Each application and proposed covered source permit shall be subject to EPA oversight in accordance with section 11-60.1-95. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12, 342B-23, 342B-24; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661d; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-23, 342B-24; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661d; 40 C.F.R. Part 70)

~~§11-60.1-84 Duty to supplement or correct permit applications. Any applicant for a covered source permit who fails to submit any relevant facts or who has submitted incorrect information in any 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 the release of a draft permit. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70)~~

~~§11-60.1-85 Compliance plan. (a) A compliance plan shall be submitted with every initial application for a covered source, temporary covered source, and general covered source permit, application for a covered source permit renewal, and application for a significant modification to a covered source, and at such other times as requested by the director.~~

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~~§11-60.1-83~~

~~(j) The director shall provide a statement that sets forth the legal and factual bases for the draft permit conditions (including references to the applicable statutory or regulatory provisions) to EPA and any other person requesting it.~~

~~(k) Each application and proposed covered source permit shall be subject to EPA oversight in accordance with section 11-60.1-95. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12, 342B-23, 342B-24; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661d; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-23, 342B-24; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661d; 40 C.F.R. Part 70)~~

§11-60.1-84 Duty to supplement or correct permit applications. Any applicant for a covered source permit who fails to submit any relevant facts or who has submitted incorrect information in any 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 the release of a draft permit. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70)

~~§11-60.1-85 Compliance plan. (a) A compliance plan shall be submitted with every initial application for a covered source, temporary covered source, and general covered source permit, application for a covered source permit renewal, and application for a significant modification to a covered source, and at such other times as requested by the director.~~

§11-60.1-89 Permit term. (a) A covered source permit shall be issued for a fixed term of five years unless the owner or operator of the covered source requests a shorter term.

(b) A covered source permit shall be renewed for a fixed term of five years unless the owner or operator of the covered source requests a shorter term. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp January 13, 2012] (Auth: HRS §§342B-3, 342B-12, 342B-21, 342B-25; 42 U.S.C. §§7407, 7416, 7661a; 42 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-21, 342B-25; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70)

Historical note: §11-60.1-89 is based substantially upon §11-60-48. [Eff 11/29/82; am, ren §11-60-36 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

§11-60.1-90 Permit content. The director shall consider and incorporate the following elements into all covered source permits, as applicable:

- (1) Emission limitations and standards, including operational requirements and limitations to assure compliance with all applicable requirements at the time of permit issuance;
- (2) Requirements regarding fugitive emissions regardless of whether the source category in question is included in the list of sources contained in the definition of "major source";
- (3) The origin of and authority for each term or condition and any differences in form as compared to the applicable requirement upon which the term or condition is based;
- (4) Permit term pursuant to section 11-60.1-89;
- (5) Requirements for the installation of devices, at the expense of the owner or operator, for the measurement or analysis of source emissions or ambient concentrations of air pollutants;

- (6) The requirement for source emissions tests or alternative methodology to determine compliance with the terms and conditions of the covered source permit, and applicable requirements. Source emission tests conducted or alternative methodology used shall be at the expense of the owner or operator;
- (7) All monitoring and related recordkeeping and reporting requirements to assure compliance with all terms and conditions of the permit. Each covered source permit shall address the following with respect to monitoring, recordkeeping, and reporting:
 - (A) All reporting, emissions monitoring and analysis procedures, or test methods, required pursuant to the applicable requirements, including any procedures or methods promulgated pursuant to Section 114(a)(3) or 504(b) of the Act;
 - (B) If the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring, periodic monitoring or recordkeeping sufficient to yield reliable data from the relevant time period that is representative of the source's compliance with the permit. Use of terms, test methods, units, averaging periods, and other statistical conventions used for these requirements shall be consistent with applicable requirements;
 - (C) Monitoring results expressed in units, averaging periods, and other statistical conventions consistent with the applicable requirements;
 - (D) Requirements concerning the use, maintenance, and installation of monitoring equipment. The installation, operation, and maintenance of the monitoring equipment

- shall be at the expense of the owner or operator;
- (E) Appropriate monitoring methods;
 - (F) Monitoring records including:
 - (i) Place as defined in the permit, date, and time of sampling or measurements;
 - (ii) Dates the analyses were performed;
 - (iii) The name and address of the company or entity that performed the analyses;
 - (iv) Analytical techniques or methods used;
 - (v) Analyses results; and
 - (vi) Operating conditions during the time of sampling or measurement;
 - (G) Other records including support information, such as calibration and maintenance records, original stripchart recordings or computer printouts for continuous monitoring instrumentation, and all other reports required by the director;
 - (H) A requirement for the retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original stripchart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit;
 - (I) A requirement for submission of reports of any required monitoring at least every six months. Deviations from the permit requirements shall be clearly identified and addressed in these reports;

- (J) A requirement for prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The term "prompt" shall be delineated on a permit-by-permit basis in relation to the degree and type of deviation likely to occur and the applicable requirements; and
 - (K) Provisions for the owner or operator to annually report in writing, emissions of hazardous air pollutants;
- (8) If requested by the owner or operator of a covered source, terms and conditions to allow emissions trading within the facility pursuant to section 11-60.1-96, including provisions to insure compliance with all applicable requirements, and requiring the owner or operator to provide a minimum seven-day advance written notification to the Administrator and director prior to any proposed emissions trading;
- (9) Terms and conditions for reasonably anticipated operating scenarios identified by the source in the covered source permit application as approved by the director. Such terms and conditions shall include:
 - (A) A requirement that the owner or operator, contemporaneously with making a change from one operating scenario to another, record in a log at the permitted facility the scenario under which it is operating and, if required by any applicable requirement or the director, submit written notification to the director; and
 - (B) Provisions to ensure that the terms and conditions under each alternative

- scenario meet all applicable requirements;
- (10) General provisions including:
- (A) A statement that the owner or operator shall comply with all the terms and conditions of the covered source permit and that any permit noncompliance constitutes a violation of this chapter and the Act and is grounds for enforcement action; for permit termination, suspension, reopening, or amendment; or for denial of a permit renewal application;
 - (B) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit;
 - (C) A statement that 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 to maintain compliance with the terms and conditions of the permit;
 - (D) A statement that the permit may be terminated, suspended, reopened, or amended for cause pursuant to sections 11-60.1-10 and 11-60.1-98, and section 342B-27, HRS. The filing of a request by the permittee for a permit termination, suspension, reopening, or amendment, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition;
 - (E) A statement that the permit does not convey any property rights of any sort, or any exclusive privilege;
 - (F) A provision that, if construction is not commenced, continued or completed in accordance with section 11-60.1-9, the covered source permit for the

subject emission unit shall become invalid;

- (G) A provision that the owner or operator shall notify the director in writing of the anticipated date of initial start-up for each emission unit of a new covered source or significant modification not more than sixty days or less than thirty days prior to such date. The director shall also be notified in writing of the actual date of construction commencement and start-up within fifteen days after these dates;
- (H) A statement that the owner or operator shall furnish in a timely manner any information or records requested in writing by the department to determine whether cause exists for terminating, suspending, reopening, or amending the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to the department copies of records required to be kept by the permit. For information claimed to be confidential, the director may require the permittee to furnish such records not only to the department but also directly to the Administrator along with a claim of confidentiality;
- (I) A requirement that a copy of applicable correspondence or records submitted to the department be provided to the Administrator;
- (J) A provision for the designation of confidentiality of any records pursuant to section 11-60.1-14;
- (K) A requirement that the owner or operator shall submit fees in accordance with subchapter 6;

- (L) Certification requirements pursuant to section 11-60.1-4; and
- (M) A requirement that the owner or operator allow the director or an authorized representative, upon presentation of credentials or other documents required by law:
 - (i) To enter the owner or operator's premises where a source is located or emission-related activity is conducted, or where records must be kept under the conditions of the permit and inspect at reasonable times all facilities, equipment, including monitoring and air pollution control equipment, practices, operations, or records covered under the terms and conditions of the permit and request copies of records or copy records required by the permit; and
 - (ii) To sample or monitor at reasonable times substances or parameters to assure compliance with the permit or applicable requirements;
- (11) Compliance plan and compliance certification submittal requirements pursuant to sections 11-60.1-85 and 11-60.1-86; and
- (12) Any other provision to assure compliance with all applicable requirements. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; comp January 13, 2012] (Auth: HRS §§342B-3, 342B-12, 342B-28, 342B-29, 342B-31, 342B-33, 342B-41; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661c; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-28, 342B-29, 342B-31, 342B-33, 342B-41; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661c; 40 C.F.R. Part 70)

~~kept under the conditions of the permit and inspect at reasonable times all facilities, equipment, including monitoring and air pollution control equipment, practices, operations, or records covered under the terms and conditions of the permit and request copies of records or copy records required by the permit; and~~
(11) ~~To sample or monitor at reasonable times substances or parameters to assure compliance with the permit or applicable requirements;~~

- (11) ~~Compliance plan and compliance certification submittal requirements pursuant to sections 11-60.1-85 and 11-60.1-86; and~~
(12) ~~Any other provision to assure compliance with all applicable requirements. (Eff 11/26/93, comp 10/26/98, am and comp 9/15/01, comp~~
NOV 14 2003 } (Auth: HRS §§342B-3, 342B-12, 342B-28, 342B-29, 342B-31, 342B-33, 342B-41, 42-U.S.C. §§7407, 7416, 7661a, 7661b, 7661e, 40-C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-28, 342B-29, 342B-31, 342B-33, 342B-41, 42-U.S.C. §§7407, 7416, 7661a, 7661b, 7661e, 40-C.F.R. Part 70)

§11-60.1-91 Temporary covered source permits.

(a) An owner or operator of a temporary covered source may apply for a temporary covered source permit. The owner or operator of the temporary covered source shall certify its intention to operate at various locations with the same equipment and similar operational methods.

(b) The application and issuance of a temporary covered source permit is subject to the same procedures and requirements for an initial application and issuance of a covered source permit, including the

requirements of section 11-60.1-83. The initial location of the source shall be specified.

(c) On the draft temporary covered source permit, the director shall provide for public notice, including the method by which a public hearing can be requested, and an opportunity for public comment in accordance with section 11-60.1-99. Each notification shall identify the intent to operate at various locations.

(d) The director shall provide a statement that sets forth the legal and factual bases for the draft temporary covered source permit conditions (including references to the applicable statutory or regulatory provisions) to EPA and any other person requesting it.

(e) Each application and proposed temporary covered source permit shall be subject to EPA oversight in accordance with section 11-60.1-95.

(f) Upon issuance of the temporary covered source permit, the owner or operator shall submit all succeeding location changes to the director for approval at least thirty days or such lesser time as designated and approved by the director, prior to the change in location. The owner or operator shall submit sufficient information to enable the director to assess the air quality impact the temporary covered source may have at the new location. Information submitted shall include:

- (1) Name, address, and phone number of:
 - (A) The company;
 - (B) The facility, if different from the company;
 - (C) The owner and owner's agent; and
 - (D) The plant site manager or other contact;
- (2) Temporary covered source permit identification number and expiration date;
- (3) Location map of the new temporary location, identifying the surrounding commercial, industrial, and residential developments;
- (4) Projected dates of operation at the new location;
- (5) Identification of any other air pollution source at the new location; and

- (6) Certification that no modification will be made to the equipment, and operational methods will remain similar as permitted under the temporary covered source permit at the new location.
- (g) The director shall not continue to act upon or consider a location change request, unless the following have been submitted:
 - (1) All required information as identified in subsection (f);
 - (2) Any additional information as requested by the director; and
 - (3) Any applicable fee.
- (h) Prior to any relocation, the director shall approve, conditionally approve, or deny in writing each location change. If the director denies a location change, the applicant may appeal the decision pursuant to chapter 91, HRS.
- (i) With the exception of the initial location, if a source remains in any one location for longer than twelve consecutive months, the director may request an ambient air quality impact assessment of the source.
- (j) At each of the authorized locations, the owner or operator shall operate in accordance with the temporary covered source permit and all applicable requirements. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25, 342B-26, 342B-29; 42 U.S.C. §§7407, 7416, 7661a, 7661c, 7661d; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25, 342B-26, 342B-29; 42 U.S.C. §§7407, 7416, 7661a, 7661c, 7661d; 40 C.F.R. Part 70)

~~§11-60.1-92 Covered source general permit. (a) The director, at the director's sole discretion may, after providing for public notice, including the method by which a hearing can be requested, and an opportunity for public comment in accordance with section 11-60.1-99, issue a covered source general permit for similar major covered sources. The general covered source~~

~~(c) Certification that no modification will be made to the equipment, and operational methods will remain similar as permitted under the temporary covered source permit at the new location.~~

~~(d) The director shall not continue to act upon or consider a location change request, unless the following have been submitted:~~

~~(1) All required information as identified in subsection (f);~~

~~(2) Any additional information as requested by the director; and~~

~~(3) Any applicable fee.~~

~~(h) Prior to any relocation, the director shall approve, conditionally approve, or deny in writing each location change. If the director denies a location change, the applicant may appeal the decision pursuant to chapter 91, HRS.~~

~~(i) With the exception of the initial location, if a source remains in any one location for longer than twelve consecutive months, the director may request an ambient air quality impact assessment of the source.~~

~~(j) At each of the authorized locations, the owner or operator shall operate in accordance with the temporary covered source permit and all applicable requirements. [Eff 11/26/93; comp 10/26/98; an and comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25, 342B-26, 342B-29; 42 U.S.C. §§7407, 7416, 7661a, 7661c, 7661d; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25, 342B-26, 342B-29; 42 U.S.C. §§7407, 7416, 7661a, 7661c, 7661d; 40 C.F.R. Part 70)~~

§11-60.1-92 Covered source general permits. (a) The director, at the director's sole discretion may, after providing for public notice, including the method by which a hearing can be requested, and an opportunity for public comment in accordance with section 11-60.1-99, issue a covered source general permit for similar nonmajor covered sources. The general covered source

permit expiration date shall apply to all sources covered under this permit.

(b) The director shall establish criteria and conditional requirements in the covered source general permit by which nonmajor covered sources may qualify for the general permit. Nonmajor covered sources qualifying for a covered source general permit shall, at a minimum, have the same Standard Industrial Classification Code, similar equipment design and air pollution controls, and the same applicable requirements. Under no circumstances shall a general permit be considered for nonmajor covered sources requiring a case-by-case determination for air pollution control requirements (e.g. Best Available Control Technology Determination). The owner or operator of a covered source shall be subject to enforcement action for operating without a permit if the source is later determined not to qualify for the conditions and terms of the general permit.

(c) The owner or operator of a nonmajor covered source requesting coverage for some or all of its emission units under the terms and conditions of the covered source general permit must submit an application to the director on forms furnished by the director. The applicant shall submit sufficient information to enable the director to make a decision on the application and to evaluate the fee requirements specified in subchapter 6. Information submitted shall include:

- (1) Name, address, and phone number of:
 - (A) The company;
 - (B) The facility, if different from the company;
 - (C) The owner and owner's agent; and
 - (D) The plant site manager or other contact;
- (2) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules and capacities to the extent needed to determine or regulate emissions; specifications and drawings

showing the design of the source and plant layout; and a detailed description of all processes and products by Standard Industrial Classification Code and source category or categories (as defined in section 11-60.1-171);

- (3) Maximum emission rates, including fugitive emissions, of all regulated and hazardous air pollutants from each emissions unit. Emission rates shall be reported in pounds per hour and tons per year and in such terms necessary to establish compliance consistent with the applicable requirements and standard reference test methods. All supporting emission calculations and assumptions shall also be provided;
- (4) Identification and description of all points of emissions in sufficient detail to establish the basis for fees and applicability of requirements of this chapter and the Act. Information on stack parameters and any stack height limitations developed pursuant to Section 123 of the Act shall also be provided;
- (5) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner or operator of the source and to the extent of available information, an estimate of maximum and expected emissions before and after controls, technical information on the design, operation, size, estimated control efficiency, manufacturer's name, address, telephone number, and relevant specifications and drawings;
- (6) Citation and description of all applicable requirements and a description of or reference to any applicable test method for determining compliance with each applicable requirement;

- (7) Current operational limitations or work practices, or for covered sources that have not yet begun operation, such limitations or practices which the owner or operator of the source plans to implement that affect emissions of any regulated or hazardous air pollutants at the source;
- (8) All calculations and assumptions on which the information in paragraphs (2), (3), (4), (5), and (7) is based;
- (9) A detailed schedule for construction or reconstruction of the covered source, if applicable;
- (10) If requested by the director, an assessment of the ambient air quality impact of the covered source. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the NAAQS and state ambient air quality standards;
- (11) If requested by the director, a risk assessment of the air quality related impacts caused by the covered source to the surrounding environment;
- (12) If requested by the director, results of source emission testing, ambient air quality monitoring, or both;
- (13) If requested by the director, information on other available control technologies and associated analysis;
- (14) An explanation of all proposed exemptions from any applicable requirement;
- (15) A list of insignificant activities pursuant to section 11-60.1-82(e) to (g);
- (16) A compliance plan in accordance with section 11-60.1-85;
- (17) A source compliance certification in accordance with section 11-60.1-86; and
- (18) Other information:
 - (A) As required by any applicable requirement or as requested and deemed

necessary by the director to make a decision on the application; and

- (B) As may be necessary to implement and enforce other applicable requirements of the Act or of this chapter or to determine the applicability of such requirements.

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

- (1) All information required and requested pursuant to subsection (c) has been submitted;
- (2) All documents requiring certification have been certified pursuant to section 11-60.1-4;
- (3) All applicable fees have been submitted; and
- (4) The director has certified that the application is complete.

(e) The director shall notify the applicant in writing whether the application is complete. Unless the director requests additional information or notifies the applicant of incompleteness within sixty days of receipt of an application, the application shall be deemed complete.

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

(g) The director, in writing, shall approve or deny an application for coverage under a covered source general permit within six months after receipt of a complete application. An application for coverage under a general permit shall be approved only if the director determines that the source seeking coverage meets the criteria and conditional requirements established in the covered source general permit and will be in compliance with all the applicable requirements.

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(h) The director may approve an application for coverage under a covered source general permit without repeating the public participation procedures, but such approval shall not be considered the final permit action for purposes of administrative and judicial review pursuant to section 11-60.1-100.

(i) The director shall provide a statement that sets forth the legal and factual bases for the draft permit conditions (including references to the applicable statutory or regulatory provisions) to EPA and any other person requesting it.

(j) Each application and proposed covered source general permit shall be subject to EPA oversight in accordance with section 11-60.1-95. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp

NOV 14 2003] (Auth: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25, 342B-26, 342B-29, 342B-33; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661c, 7661d; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25, 342B-26, 342B-29, 342B-33; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661c, 7661d; 40 C.F.R. Part 70)

~~11-60.1-95. Federally enforceable permit terms and conditions. Terms and conditions included in a covered source permit, including any provision designed to limit a source's potential to emit, are federally enforceable unless such terms, conditions, or requirements are specifically designated as not federally enforceable. Those terms and conditions left undesignated shall become federally enforceable upon permit issuance provided the Administrator does not object during the forty-five-day review pursuant to section 11-60.1-95. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70)~~

~~(h) The director may approve an application for coverage under a covered source general permit without repeating the public participation procedures, but such approval shall not be considered the final permit action for purposes of administrative and judicial review pursuant to section 11-60.1-100.~~

~~(i) The director shall provide a statement that sets forth the legal and factual bases for the draft permit conditions (including references to the applicable statutory or regulatory provisions) to EPA and any other person requesting it.~~

~~(j) Each application and proposed covered source general permit shall be subject to EPA oversight in accordance with section 11-60.1-95. [Eff. 11/26/93; comp. 10/26/98; am. and comp. 9/15/01; comp.~~

~~NOV 14 2003] (Auth: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25, 342B-26, 342B-29, 342B-33; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661c, 7661d; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25, 342B-26, 342B-29, 342B-33; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661c, 7661d; 40 C.F.R. Part 70)~~

§11-60.1-93 Federally-enforceable permit terms and conditions. Terms and conditions included in a covered source permit, including any provision designed to limit a source's potential to emit, are federally enforceable unless such terms, conditions, or requirements are specifically designated as not federally enforceable. Those terms and conditions left undesignated shall become federally enforceable upon permit issuance provided the Administrator does not object during the forty-five-day review pursuant to section 11-60.1-95. [Eff. 11/26/93; comp. 10/26/98; comp. 9/15/01; comp. NOV 14 2003] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70)

~~511-60.1-99~~

~~or operator can provide adequate written justification for such an extension.~~

~~(e) Upon program approval, if the Administrator notifies the director of any cause to terminate, suspend, reopen, or amend a permit, the director shall submit to the Administrator within ninety days of receipt of such written notification, or within such other times as required by the Administrator, a proposed determination of termination, suspension, reopening, or amendment as appropriate.~~

~~(f) Upon program approval, if the Administrator objects to the director's proposed determination, the director shall terminate, suspend, reopen, or amend the permit in accordance with the Administrator's objection within ninety days from receipt of a written objection.~~

~~[Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp~~
NOV 14 2003 } (Auth: HRS §§342B-3, 342B-12; 42
U.S.C. §§7407, 7416, 7661a, 7661d; 40 C.F.R. Part 70)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416,
7661a, 7661d; 40 C.F.R. Part 70)

§11-60.1-99 Public participation. (a) Except for administrative permit amendments and permit amendments reflecting minor modifications, the director shall provide for public notice, including the method by which a public hearing can be requested, and an opportunity for public comment on all draft covered source permits for initial issuance, for permit renewal, or for the significant modification of a covered source. Any person requesting a public hearing shall do so during the public comment period. Any request from a person for a public hearing shall indicate the interest of the person filing the request and the reasons why a public hearing is warranted.

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

- (1) The director shall make available for public inspection in at least one location in the county affected by the proposed action, or in which the source is or would be located:

- (A) Information on the subject matter;
 - (B) Information submitted by the applicant, except for that determined to be confidential pursuant to section 11-60.1-14;
 - (C) The department's analysis and proposed action; and
 - (D) Other information and documents determined to be appropriate by the department;
- (2) Notification of a public hearing shall be given at least thirty days in advance of the hearing date;
- (3) A public comment period shall be no less than thirty days following the date of the public notice, during which time interested persons may submit to the department written comments on:
- (A) The subject matter;
 - (B) The application;
 - (C) The department's analysis;
 - (D) The proposed actions; and
 - (E) Other considerations as determined to be appropriate by the department;
- (4) Notification of a public comment period or a public hearing shall be made:
- (A) By publication in a newspaper which is printed and issued at least twice weekly in the county affected by the proposed action, or in which the source is or would be located;
 - (B) To persons on a mailing list developed by the director, including those who request in writing to be on the list; and
 - (C) If necessary by other means to assure adequate notice to the affected public;
- (5) Notice of public comment and public hearing shall identify:
- (A) The affected facility;
 - (B) The name and address of the permittee;

- (C) The name and address of the agency of the department processing the permit;
 - (D) The activity or activities involved in the permit action;
 - (E) The emissions change involved in any permit amendment reflecting a modification to the covered source;
 - (F) The name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the draft permit, the application, all relevant supporting materials including any compliance plan, and monitoring and compliance certification reports, and all other materials available to the department that are relevant to the permit decision, except for information that is determined to be confidential, including information determined to be confidential pursuant to section 11-60.1-14;
 - (G) A brief description of the comment procedures;
 - (H) The time and place of any hearing that may be held, including a statement of procedures to request a hearing if one has not already been scheduled; and
 - (I) The availability of the information listed in paragraph (1), and the location and times the information will be available for inspection; and
- (6) The director shall maintain a record of the commenters and the issues raised during the public participation process and shall provide this information to the Administrator upon request. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp NOV 14 2003] (Auth: HRS §§92F-11, 92F-12, 342B-3, 342B-12, 342B-13, 342B-31; 42 U.S.C. §§7407, 7416, 7661a, 7661b; 40 C.F.R. Part 70) (Imp: HRS §§92F-

11, 92F-12 342B-3, 342B-12, 342B-13, 342B-31;
42 U.S.C. §§7407, 7416, 7661a, 7661b; 40
C.F.R. Part 70)

~~S11-60.1-100 Public petitions.~~ (a) Upon program approval, persons may object to the issuance of any proposed covered source permit by petitioning the Administrator pursuant to 40 CFR Section 70.8(d).

(b) Upon program approval, if the Administrator objects to the proposed covered source permit as a result of a public petition, the director shall not issue the permit until the Administrator's objection has been resolved. However, a permit that was issued after the end of the forty five day review period and prior to the Administrator's objection, and except as provided in subsection (h), shall remain in effect at least until the objection is resolved. Upon program approval, if the Administrator amends or terminates the permit based on the public petition, the director may issue only an amended permit that satisfies the Administrator's objection. If an amended permit is issued by the director, the owner or operator of the source shall not be in violation of the requirement to have submitted a timely and complete application.

(c) The applicant and any person who participated in the public comment or hearing process and objects to the grant or denial of a covered source permit or permit amendment may petition the department for a contested case hearing by submitting a written request to the director.

(d) The petition shall be based solely upon objections to the covered source permit that were raised with reasonable specificity during the public participation process, unless the petitioner demonstrates that it was impracticable to raise such objections; for example, the grounds for such objections arose after the public participation process.

(e) Any petitioner shall file a petition for a contested case hearing within ninety days of the date

§11-60.1-103 Applications for minor modifications. (a) Every application for a minor modification to a covered source shall be submitted to the director on forms furnished by the director. The applicant shall submit sufficient information to enable the director to make a decision on the application and to determine the fee requirements specified in subchapter 6. Information submitted shall include:

- (1) A clear description of all changes;
- (2) A statement of why the modification is determined to be minor, and a request that minor modification procedures be used;
- (3) Maximum emission rates, including fugitive emissions, of all regulated and hazardous air pollutants resulting from the change. Emission rates shall be reported in pounds per hour and tons per year and in such terms necessary to establish compliance consistent with applicable requirements and standard reference test methods. All supporting emission calculations and assumptions shall also be provided;
- (4) The identification of any new applicable requirements that will apply if the minor modification occurs;
- (5) The suggested changes to permit terms or conditions;
- (6) Certification by a responsible official that the proposed modification meets the criteria for minor modification;
- (7) All information submitted with the application for the initial covered source permit or any subsequent application for a covered source permit. The owner or operator may reference information contained in a previous application submittal, provided such referenced information has been certified as being current and still applicable; and
- (8) Other information, as required by any applicable requirement or as requested and

deemed necessary by the director to make a decision on the application.

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

- (1) All information required and requested pursuant to subsection (a) has been submitted;
- (2) All documents requiring certification have been certified pursuant to section 11-60.1-4; and
- (3) All applicable fees have been submitted.

(c) The director shall notify the applicant in writing whether the application is complete. Unless the director requests additional information or notifies the applicant of incompleteness within thirty days of receipt of an application, the application shall be deemed complete.

(d) During the processing of an application, if the director determines that additional information is necessary to evaluate or take final action on the application, the director may request such information in writing and set a reasonable deadline for a response.

(e) Within ninety days of receipt of a complete application for a minor modification, or upon program approval, within fifteen days after the end of the Administrator's forty-five-day review period, whichever is later, the director in writing shall:

- (1) Amend the permit to reflect the minor modification as proposed;
- (2) Deny the minor modification;
- (3) Determine that the requested modification does not meet the minor modification criteria, and should be reviewed under the significant modification procedures; or
- (4) Upon program approval, amend the proposed permit and resubmit the amendment to EPA for reevaluation.

(f) An application for a minor modification to a covered source shall be approved only if the director determines that the minor modification will be in compliance with all applicable requirements.

(g) The director shall provide a statement that sets forth the legal and factual bases for the proposed permit conditions (including references to the applicable statutory or regulatory provisions) to EPA and any other person requesting it.

(h) Each application and proposed permit reflecting the minor modification to a covered source shall be subject to EPA oversight in accordance with section 11-60.1-95. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp **NOV 14 2003**] (Auth: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25; 42 U.S.C. §§7407, 7416, 7661a, 7661d; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25; 42 U.S.C. §§7407, 7416, 7661a, 7661d; 40 C.F.R. Part 70)

~~§11-60.1-104 Applications for significant modifications. (a) Every application for a significant modification to a covered source is subject to the same requirements as for an initial covered source permit application pursuant to §11-60.1-83 as it pertains to the proposed significant modification. Applications shall be submitted to the director on forms furnished by the director. The applicant shall submit sufficient information to enable the director to make a decision on the application and to determine the fee requirements specified in subchapter 6. Information submitted shall include:~~

- ~~(1) The name, address, and phone number of:
 - ~~(A) The company;~~
 - ~~(B) The facility, if different from the company;~~
 - ~~(C) The owner and owner's agent; and~~
 - ~~(D) The plant site manager or other contact;~~~~
- ~~(2) A description of the significant modification, identifying all proposed changes, including any changes to the source.~~