

CHAPTER 65-10

AIR POLLUTION CONTROL REGULATIONS

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Chapter Authority: 2 CMC §§ 3121 and 3122

Chapter History: Repeal and Reenact Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Repeal and Reenact Proposed 39 Com. Reg. 40009 (Sept. 28, 2017); Amdts Proposed 29 Com. Reg. 27297 (Nov. 19, 2007);\* Amdts Adopted 9 Com. Reg. 4861 (Jan. 19, 1987); Amdts Proposed 8 Com. Reg. 4229 (Apr. 18, 1986); Adopted 6 Com. Reg. 2987 (July 16, 1984); Proposed 6 Com. Reg. 2833 (June 15, 1984).

Commission Comment: PL 3-23 (effective Oct. 8, 1982), the “Commonwealth Environmental Protection Act,” codified as amended at 1 CMC §§ 2646-2649 and 2 CMC §§ 3101-3135, created the Division of Environmental Quality (DEQ) within the Department of Public Health and Environmental Services. See 1 CMC § 2646. The act authorized the Chief (now the Director) of the Division to administer, implement and enforce specific powers and duties relating to environmental protection and to develop rules and regulations to implement PL 3-23 and other laws administered by the Division. See 1 CMC §§ 2647 and 2648. PL 3-23 § 7, 2 CMC § 3121, granted the Director of the Department of Public Health and Environmental Services the exclusive power to issue regulations pursuant to the act.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 304(d):

Section 304. Department of Public Works.

...

(d) Environmental Quality. The Division of Environmental Quality is transferred from the Department of Public Health to the Department of Public Works. To the maximum

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extent practicable, the Secretary of Public Works shall integrate land-based earth moving permits into the building permit process.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

PL 11-108 (effective Dec. 3, 1999) repealed Executive Order 94-3 § 304(d) in its entirety. See PL 11-108 § 2. PL 11-108 “reclassified [the Division of Environmental Quality] as an independent regulatory agency, acting from within the office of the Governor” and placed all administrative duties and authority with regards to DEQ with the Governor or his designee. PL 11-108 §§ 1 and 3, codified at 1 CMC § 2650.

In November 2007, the Division of Environmental Quality proposed new regulations to supersede the regulations in this chapter. A notice of adoption has not been published as of June 30, 2013.

Executive Order No. 2013-24, promulgated at 35 Com. Reg. 34596 (Nov. 28, 2013), established a new Bureau of Environmental and Coastal Quality. This Order reorganized the Division of Environmental Quality as a division of the Bureau of Environmental and Coastal Quality, and provided that “all rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Executive Order shall continue to be effective until revised, amended, repealed or terminated.”

In codifying 39 Com. Reg. 40415 (Dec. 28, 2017), the Commission renumbered all sections pursuant to 1 CMC § 3806(a).

### Part 001 - General Requirements

#### § 65-10-001 Definitions

As used in these rules, unless otherwise defined for purposes of a particular Part or section of these rules:

- (a) "ug/m3" means micrograms per cubic meter.
- (b) "Act" means the Clean Air Act, as amended, 42 United States Code §§ 7401, et seq.
- (c) "Actual emissions" means the actual rate of emissions of a regulated or hazardous air pollutant from a stationary source. Actual emissions for a time period as specified by the Administrator shall equal the average rate in pounds per hour at which the stationary source actually emitted the pollutant during the specified time period, and which is representative of the source's actual operation. The Administrator shall allow the use of a different time period upon a determination that it is more representative of the actual operation of a source. Actual emissions shall be calculated using the source's actual operating hours, production rates, and amounts of materials processed, stored, or combusted during the selected time period. Other parameters may be used in the calculation of actual emissions if approved by the Administrator.
- (d) "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;

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(4) Without changing any conditions or requirements, consolidates the terms and conditions of two or more minor source permits into one minor source permit for a facility;

(5) Incorporates applicable requirements for any insignificant activity in § 65-10-303(e), provided the activity is not by itself subject to PSD or § 111 or § 112 of the Act, does not cause a minor stationary source to become a major source, and does not cause the stationary source to become subject to PSD or § 111 or § 112 of the Act; or

(6) Allows for a change in ownership or operational control of a source provided the Administrator 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 Administrator.

(e) "Administrator" means the Administrator of the Bureau of Environmental and Coastal Quality.

(f) "Agricultural burning permit" means written authorization from the Administrator to engage in agricultural burning.

(g) "Air pollutant" has the same meaning as in the Act, § 302, and any substance the Administrator may by rule designate as such.

(h) "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 Commonwealth and in such areas of the Commonwealth as are affected thereby, but excludes all aspects of employer-employee relationships as to health and safety hazards.

(i) "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.

(j) "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 CNMI 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.

(k) "Applicable requirement" means all of the following as they apply to emissions units in a minor or major source:

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- (1) Any standard or other requirement provided for in the state implementation plan approved or promulgated by the USEPA;
- (2) Any NAAQS or CNMI ambient air quality standard;
- (3) Any standard or other requirement approved pursuant to Title I of the Act, including but not limited to §§ 111, 112, 114, 129, and 183 and Part C.
- (4) Any standard or other requirement of the program to control air pollution from outer continental shelf sources approved pursuant to § 328 of the Act;
- (5) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone approved pursuant to Title VI of the Act;
- (6) The application of best available control technology to control those pollutants subject to any NAAQS or CNMI ambient air quality standard, but only as best available control technology would apply to new minor sources and modifications to minor sources that have the potential to emit or increase emissions above significant amounts considering any limitations, enforceable by the Administrator, on the minor source to emit a pollutant;
- (7) Requirements in § 65-10-401(a); and
- (8) Any standard or other requirement promulgated pursuant to 2 CMC, Division 3, Chapter 1 or this chapter.

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

(m) "Authority to construct" means the permit issued by the Administrator pursuant to repealed CNMI Air Pollution Control Regulations (9 Com. Reg. 4861) giving approval or conditional approval to an owner or operator to construct an air pollution source.

(n) "BECQ" means the Bureau of Environmental and Coastal Quality.

(o) "Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions unit which are permanent in nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in the method of operation this term refers to those on-site activities other than preparatory activities that mark the initiation of a change.

(p) "Best available control technology ("BACT")" 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 Administrator, 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 Administrator determines that technological or economic limitations on the application of measurement

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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.

(q) "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.

(r) "BTU" means British thermal unit.

(s) "CFR" means the latest promulgated Code of Federal Regulations.

(t) "Chapter" means these Air Pollution Control Rules

(u) "CNMI Ambient Air Quality Standards" means any standard developed or to be developed by the CNMI for "air pollutants" as defined in subsection (j)(2).

(v) "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.

(w) "Complete" means, in reference to an application for a minor source permit, that the application contains all of the necessary information.

(v) "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 Administrator no less frequently than every six months.

(w) "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.

(x) "Draft permit" means the version of a permit for which the Administrator offers public notice, including the method by which a public hearing can be requested, and an opportunity for public comment pursuant to § 65-10-508.

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(y) "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator of the source, which requires immediate corrective action to restore normal operation, and causes the source to exceed a technology based emission limitation under the permit. 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.

(z) "Emission" means the release or discharge of air pollutants into the air from any source, or an air pollutant which is released or discharged into the air from any source.

(aa) "Emission standard" or "Emission limitation" means a requirement established by 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.

(bb) "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.

(cc) "Enforceable as a practical matter" means that an emission limitation or other standard is both legally and practicably enforceable as follows:

(1) An emission limitation or other standard is legally enforceable if the Administrator has the right to enforce it.

(2) Practical enforceability for an emission limitation or for other standards (design standards, equipment standards, work practices, operational standards, pollution prevention techniques) in a permit for a source is achieved if the permit's provisions specify:

(A) A limitation or standard and the emissions units or activities at the source subject to the limitation or standard;

(B) The time period for the limitation or standard (e.g., hourly, daily, monthly and/or annual limits such as rolling annual limits); and

(C) The method to determine compliance, including appropriate monitoring, recordkeeping, reporting, and testing.

(dd) "USEPA" means the United States Environmental Protection Agency.

(ee) "Existing major source" means a stationary major source that has received an authority to construct permit, commenced construction or modification, or was in operation prior to the effective date of these rules.

(ff) "Existing minor source" means a stationary minor source that has received an authority to construct permit, commenced construction or modification, or was in operation prior to the effective date of these rules.

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(gg) "Federally enforceable" means (i) all limitations and conditions which are enforceable by the USEPA Administrator, including those requirements developed pursuant to 40 CFR Parts 60, 61, and 63; (ii) requirements within the CNMI state implementation plan; (iii) any permit requirements established pursuant to Title I Part C of the Act; (iv) all permit terms and conditions in a major source permit except those specifically designated as not federally enforceable; (v) or regulations approved pursuant to 40 CFR Part 51 Subpart I, including operating permits issued under an USEPA-approved program that is incorporated into this Part and expressly requires adherence to any permit issued under such program.

(hh) "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.

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

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

(kk) "Hazardous air pollutants" means those hazardous air pollutants listed pursuant to § 112(b) of the Act. This definition also applies to the terms "air toxics" and "toxic air pollutants".

(ll) "Major modification" means the same as defined at 40 CFR 52.21(b)(2).

(mm) "Major source" means for purposes of determining the applicability of the federal Title V program pursuant to 40 CFR Part 71:

(1) For hazardous air pollutants, except radionuclides, a source or a group of stationary sources that is located within a contiguous area under common control that emits or has the potential to emit considering controls and fugitive emissions, any hazardous air pollutant, except radionuclides, in the aggregate of 10 tons per year or more or 25 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 within a contiguous area 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, 100 tons per year or more of any air pollutant. Fugitive emissions from the stationary source shall be considered by the Administrator in determining whether the stationary source is major, if it belongs to one of the following categories of stationary sources:

Coal cleaning plants (with thermal dryers);

Kraft pulp mills;

Portland cement plants;

Primary zinc smelters;

Iron and steel mills;

Primary aluminum ore reduction plants;

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Primary copper smelters;  
Municipal incinerators capable of charging more than 250 tons of refuse per day;  
Hydrofluoric, sulfuric, or nitric acid plants;  
Petroleum refineries;  
Lime plants;  
Phosphate rock processing plants;  
Coke oven batteries;  
Sulfur recovery plants;  
Carbon black plants (furnace process);  
Primary lead smelters;  
Fuel conversion plants;  
Sintering plants;  
Secondary metal production plants;  
Chemical process plants;  
Fossil fuel boilers (or combination thereof) totaling more than 250,000,000 BTU per hour heat input;  
Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;  
Taconite ore processing plants;  
Glass fiber processing plants;  
Charcoal production plants;  
Fossil fuel fired steam electric plants of more than 250,000,000 BTU per hour heat input;  
and  
All other stationary source categories regulated by a standard promulgated pursuant to §§ 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category;

(3) For radionuclides, a source having the meaning specified by the Administrator by rule and;

(4) For nonattainment areas, a major stationary source as defined in Part D of Title I of the Act.

(5) “Major source” for the purposes of determining whether a physical change or change in the method of operation constitutes a major modification to a major source or major emitting facility means the same as “major stationary source” as defined in 40 CFR 52.21(b).

(nn) "Maximum achievable control technology (“MACT”)" means the maximum degree of reduction in emissions of hazardous air pollutants that the Administrator determines to be achievable, such a determination shall be made on a case-by-case basis, taking into consideration the cost of achieving such emission reductions, any non-air quality health and environmental impacts, and energy requirements.

(oo) “Minor modification at a major source” means a modification at major source that does not qualify as a major modification.

(pp) "Minor source" means any stationary source that is not a major source and is not otherwise exempted in Part 4.

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(qq) "Modification" means a physical change in, or a change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted; or every significant change in existing monitoring requirements, and every relaxation of, or significant change in, reporting or recordkeeping requirements. Routine maintenance, repair, and replacement of parts shall not be considered a modification. A change in source location shall be considered a modification.

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

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

(tt) "Necessary preconstruction approvals or permits" means those permits or approvals required pursuant to federal or CNMI air quality control laws and regulations.

(uu) "New major source" means a major source that commenced construction or modification on or after the effective date of these regulations.

(vv) "New minor source" means a minor source that commenced construction or modification on or after the effective date of these regulations.

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

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

(yy) "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.

(zz) "Permit" means written authorization from the Administrator 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.

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

(bbb) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, federal or CNMI government agency, commission, or political subdivision, and to the extent permitted by law, the United States or any interstate body.

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

(ddd) "Portable" means any source which emits or may emit any air pollutant and is capable of being operated at more than one location.

(eee) "Potential annual heat input" means the product of the maximum rated heat input capacity (megawatts or million BTU per hour) times 8,760 hours per year.

(fff) "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.

(ggg) "PSD" means prevention of significant deterioration as set forth in Title I, Part C of the Act.

(hhh) "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 50% of the fixed capital cost that would be required to construct a comparable entirely new stationary source.

(iii) "Regulated air pollutant" means:

- (1) Nitrogen oxides or any volatile organic compound;
- (2) Any air pollutant for which a national or CNMI ambient air quality standard has been promulgated;
- (3) Any air pollutant that is subject to any standard adopted pursuant to 2 CMC, Division 3, Chapter 1, or promulgated pursuant to § 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 or other requirement promulgated pursuant to § 112 of the Act, including:
  - (i) Any air pollutant subject to requirements of § 112(j) of the Act. If the Administrator does not promulgate a standard by the date established pursuant to § 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 18 months after the applicable date established pursuant to § 112(e) of the Act; and
  - (ii) Any air pollutant for which the requirements of § 112(g)(2) of the Act have been met, but only with respect to the individual source subject to § 112(g)(2) requirements.

(jjj) "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

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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:

- (1) The delegation of authority to such representative is approved in advance by the Administrator;
- (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 Administrator. For the purposes of these rules, 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.

(kkk) "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.

(lll) "SICC" means Standard Industrial Classification Code.

(mmm)"Significant" means, in reference to a net emissions increase, the same as defined at 40 CFR 52.21(b) (23).

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

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

(ppp) "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.

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

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

(sss) "Stationary source" means any piece of equipment or any activity located in a building, structure, facility, or installation that emits or may emit any air pollutant.

(ttt) "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

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applied to a tank which is loaded from the side, shall mean a fill pipe the discharge opening of which is 18 inches above the bottom of the tank.

(uuu) "Synthetic minor source" means a source that otherwise has the potential to emit regulated NSR pollutants in amounts that are at or above the thresholds for major sources in 40 CFR 71.2, as applicable, but has taken a restriction so that its PTE is less than such amounts for major sources. Such restrictions must be enforceable as a practical matter.

(vvv) "Tpy" means tons per year.

(www) "Volatile organic compound" means any compound described at 40 CFR 51.100.

(xxx) "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.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-002 Prohibition of Air Pollution**

(a) No person shall engage in any activity which causes or allows air pollution or the emission of any regulated or hazardous air pollutant without first obtaining written approval from the Administrator, unless specifically exempted by these regulations.

(b) No person shall engage in any activity which causes or allows deterioration of existing air quality in the CNMI that violates PSD requirements pursuant to Title I, Part C of the Act.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-003 Requirement for a Permit**

Except as provided in Parts 300, 400, and 500, no person shall begin actual construction, reconstruction, modification, relocation, or operation of an emissions unit or air pollution control equipment of any minor or major source without first obtaining the applicable permits, either from the Administrator for minor sources, or from USEPA for major sources.

Modified, 1 CMC § 3806(c)

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-004 General Conditions for Considering Applications**

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The Administrator shall approve an application for a minor source or synthetic minor source permit if the applicant can show that all provisions of these regulations and all other applicable requirements will be complied with to the satisfaction of the Administrator.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-005 Certification**

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

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-006 Permit Conditions**

In addition to the conditions authorized in Part 800, the Administrator may impose more restrictive conditions in a minor source permit to further limit the air pollutants and operation of the source. In determining whether to impose more restrictive conditions, the Administrator shall consider the relevant circumstances of each individual case: the availability of a reasonable control technology; cleaner fuels or operating process; existing air quality and the resulting degradation; protection of public health, welfare and safety; and any information, assumptions, limitations, or statements made in conjunction with a permit application.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-007 Holding of Permit**

(a) Each major or minor source permit, or a copy thereof, shall be maintained at or near the stationary source for which the permit was issued and shall be made available for inspection upon the Administrator's request.

(b) No person shall willfully deface, alter, forge, counterfeit, or falsify a minor or major source permit.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-008 Transfer of Permit**

(a) Except as provided in the case of temporary sources in § 65-10-309, all minor source permits issued by the Administrator pursuant to these regulations and all major source permits issued by the USEPA pursuant to USEPA regulations shall not be

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transferable, whether by operation of law or otherwise, either from one location to another or from one piece of equipment to another.

(b) All minor source permits issued pursuant to these regulations shall not be transferable, whether by operation of law or otherwise, from one person to another without the approval of the Administrator. A request for transfer from one person to another shall be made on a permit transfer application form furnished by the Administrator.

(c) All major source permits issued by USEPA shall not be transferable without the approval of USEPA.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-009 Reporting Discontinuance**

Within 30 days of permanent discontinuance of the construction, modification, relocation, or operation of any major or minor source, the discontinuation shall be reported in writing to the Administrator by a responsible official of the source.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-010 Cancellation of a Minor Source Permit**

(a) If construction authorized by a minor source permit is not commenced within 12 months after the minor source permit takes effect, is discontinued for a period of 12 months or more, or is not completed within a reasonable time, the minor source permit shall become invalid with respect to the authorized construction.

(b) Subsection (a) shall not apply to phased construction projects. Instead, each phase shall commence construction within 12 months of the projected and approved commencement dates in the permit.

(c) The Administrator may extend the specified periods upon a satisfactory showing that an extension is justified.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-011 Permit Termination, Suspension, Reopening, and Amendment**

(a) The Administrator, at the Administrator's sole discretion or on the petition of any person, may terminate, suspend, reopen, or amend any minor source permit if, after affording the permittee an opportunity for a hearing in accordance with the

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Administrative Procedures Act 1 CMC §§ 9101, et seq., the Administrator determines that:

- (1) The permit contains a material mistake made in establishing the emissions limitations or other requirements of the permit;
- (2) Permit action is required to assure compliance with the requirements of the Act; 2 CMC, Division 3, Chapter 1; and these rules;
- (3) Permit action is required to address additional requirements of the Act; 2 CMC, Division 3, Chapter 1; and these rules;
- (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 neither constructed nor operated in accordance with the application for the minor 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 emissions;
- (8) More frequent monitoring or reporting by the permittee is necessary; or
- (9) Such is in the public interest, as determined pursuant to 2 CMC, Division 3, Chapter 1.

(b) The provisions of this section are supplemental to the provisions of §§ 65-10-312 and 315.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-012 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 USEPA or, in the absence of a USEPA reference method, test procedures approved by the Administrator. All tests shall be performed under the direction of persons knowledgeable in the field of air pollution control.

(b) The BECQ may perform emissions tests on any source of air emissions. Upon request of the Administrator, 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 air emissions.

(c) The Administrator may require the owner or operator of any stationary source to maintain files in a permanent form suitable for inspection or in a manner authorized by the Administrator. Such files shall contain pertinent process and material flow, fuels used, nature, amount, and time periods or durations of emissions, or any other information as may be deemed necessary by the Administrator to determine whether the

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stationary source complies with applicable emission limitations, NAAQS, any CNMI ambient air quality standard, or other provisions of these regulations.

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

(e) Information recorded by the owner or operator of a stationary source and copies of the summarizing reports submitted to the Administrator shall be retained by the owner or operator for a specified time period from the date on which the information is recorded or the pertinent report is submitted. The specified time period shall be at least three years for minor sources.

(f) Test reports shall include a comparison of test results with permit limits.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-013 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 Administrator who must also obtain USEPA approval in the case of a synthetic minor source under Part 6. The Administrator shall provide for public notice, requests for public hearings, and an opportunity for public comment, on all proposed modifications or substitutions of an air quality model. 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.

Modified, 1 CMC § 3806(g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-014 Operations of Monitoring Stations**

During the operation of any monitoring station required by the Administrator or these regulations, the monitoring requirements of Appendix B to 40 CFR Part 58, "Ambient Air Quality Surveillance," shall be met as a minimum.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

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### § 65-10-015 Public Access to Information

(a) Except as provided in subsection (b), all information submitted to the agency shall be considered government records as set forth in the Open Government Act of 1992, 1 CMC § 9917:

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

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

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

(d) Upon a satisfactory showing to the Administrator that records, reports, or information, or particular part thereof, contain information of a confidential nature, they shall be kept confidential except that such records, reports, or information may be disclosed to USEPA, as well as to other Commonwealth and federal officers or employees concerned with implementing or enforcing these regulations or the Act. Emissions data shall not be entitled to confidentiality protection.

(e) Records, reports, or information for which confidentiality has been claimed may be disclosed only after the person who made the claim of confidentiality has received reasonable notice and has had the opportunity to demonstrate why these records, reports, or information should not be disclosed.

(f) Any person who has claimed confidentiality for records, reports, or other information and whose claim was denied by the Administrator may obtain administrative review and subsequent judicial review of the denial pursuant to the Administrative Procedures Act, 1 CMC §§ 9101, et seq. 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 accordance with the Open Government Act of 1992, 1 CMC §§ 9901, et seq.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

**§ 65-10-016 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 Administrator at least 24 hours prior to the planned shutdown. The notice shall include:

- (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.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

**§ 65-10-017 Prompt Reporting of Deviations**

(a) Except for emergencies under § 65-10-018, in the event any emissions unit, air pollution control equipment, or related equipment malfunctions or breaks down and causes the emission of air pollutants in violation of these rules or a permit, the owner or operator shall immediately notify the BECQ 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, but not later than seven days after the malfunction or breakdown.

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

- (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 CNMI 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.

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(c) The submittal of the notice shall not be a defense to an enforcement action.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-018 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 Administrator 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 major or minor source permit; and
- (4) The owner or operator of the source submitted written notice of the emergency to the Administrator 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.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-019 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 Administrator 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 Administrator shall be guided by the criteria set forth in subsections (c)–(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 BECQ shall

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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 Administrator when any one of the following levels is reached:

- (1) SO<sub>2</sub> - 800 ug/m<sup>3</sup> (0.3 ppm), 24 hour average;
- (2) PM<sub>10</sub> - 350 ug/m<sup>3</sup>, 24 hour average;
- (3) SO<sub>2</sub> and particulate matter combined - product of SO<sub>2</sub>, ug/m<sup>3</sup>, 24 hour average and particulate matter, ug/m<sup>3</sup>, 24 hour average equal to 65 x 10<sup>3</sup>;
- (4) CO - 17 mg/m<sup>3</sup> (15 ppm), eight-hour average;
- (5) Ozone - 400 ug/m<sup>3</sup> (0.2 ppm), one-hour average; or
- (6) NO<sub>2</sub> - 1,130 ug/m<sup>3</sup> (0.6 ppm), one-hour average; 282 ug/m<sup>3</sup> (0.15 ppm), 24 hour average and meteorological conditions are such that this condition can be expected to continue for 12 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 Administrator when any one of the following levels is reached:

- (1) SO<sub>2</sub> - 1,600 ug/m<sup>3</sup> (0.6 ppm), 24 hour average;
- (2) PM<sub>10</sub> - 420 ug/m<sup>3</sup>, 24 hour average;
- (3) SO<sub>2</sub> and particulate matter combined - product of SO<sub>2</sub>, ug/m<sup>3</sup>, 24 hour average and particulate matter, ug/m<sup>3</sup>, 24 hour average equal to 261 x 10<sup>3</sup>;
- (4) CO - 34 mg/m<sup>3</sup> (30 ppm), eight-hour average;
- (5) Ozone - 800 ug/m<sup>3</sup> (0.4 ppm), one-hour average; or
- (6) NO<sub>2</sub> - 2,260 ug/m<sup>3</sup> (1.2 ppm), one-hour average; 565 ug/m<sup>3</sup> (0.3 ppm), 24 hour average; and meteorological conditions are such that this condition can be expected to continue for 12 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 Administrator, and the public evacuated from the affected area if so recommended by the Administrator, civil defense, or the police BECQ when the warning level for a pollutant has been exceeded and:

- (1) The concentrations of the pollutant are continuing to increase;
- (2) The Administrator 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<sub>2</sub> - 2,100 ug/m<sup>3</sup> (0.8 ppm), 24 hour average;
  - (B) PM<sub>10</sub> - 500 ug/m<sup>3</sup>, 24 hour average; or
  - (C) SO<sub>2</sub> and particulate matter combined - product of SO<sub>2</sub>, ug/m<sup>3</sup>, 24 hour average and particulate matter, ug/m<sup>3</sup>, 24 hour average equal to 393 x 10<sup>3</sup>;
  - (D) CO - 46 mg/m<sup>3</sup> (40 ppm), eight-hour average;
  - (E) Ozone - 1,000 ug/m<sup>3</sup> (0.5 ppm), one-hour average; or

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(F) NO<sub>2</sub> - 3,000 ug/m<sup>3</sup> (1.6 ppm), one-hour average; 750 ug/m<sup>3</sup> (0.4 ppm), 24 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.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-020 Variances**

(a) No variance shall prevent or interfere with the maintenance or attainment of NAAQS. Any application for a variance shall include a calculation and description of any change in emissions and the expected ambient air quality concentrations.

(b) Under no circumstances shall a variance be granted from any requirement under the Act or from any federally enforceable permit terms and conditions.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-021 Penalties and Remedies**

Any person who violates any provision of these rules, 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 2 CMC § 3131.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-022 Severability**

If any provision of these regulations or their application to any person or circumstance is held invalid, the application of such provision to other persons or circumstances and the remainder of these rules shall not be affected thereby.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

## **Part 100 - General Prohibitions**

### **§ 65-10-101 Applicability**

(a) All owners or operators of an air pollution source are subject to the requirements of this Part, regardless of whether the source requires a permit from the CNMI or federal government. In the event any federal or CNMI laws, rules, or regulations are in conflict with the provisions of this Part, the most stringent requirement shall apply.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

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### § 65-10-102 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 40% opacity, except as provided in subsection (a)(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 60 minutes, air pollutants of a density not darker than 60% 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 20% opacity, except as provided in subsection (b)(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 60 minutes, air pollutants of a density not darker than 60% 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 USEPA approved methods.

(d) Emissions of uncombined water, such as water vapor, are exempt from the provisions of subsection (a) and (b), and do not constitute a violation of this section.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### § 65-10-103 Fugitive Dust and Other Pollutants

(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;

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- (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 Administrator 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.

(c) No person shall cause or permit the discharge of any vapors, odors or other emissions which are noxious to persons, interfere with sleep, upset appetite, produce irritation of the upper respiratory tract, create symptoms of nausea, or which are or may be detrimental or dangerous to health. The Administrator may require that stack heights of relevant sources be increased, or may prescribe any other remedy necessary, to prevent the discharge of such emissions.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-104 Motor Vehicles**

(a) No person shall operate a gasoline-powered motor vehicle which emits any 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.

(1) To ensure compliance with subsection (b), BECQ requires diesel-powered vehicles to be certified by DEQ through visible emission testing.

(2) The visible emissions certification fee of \$40 shall be assessed upon passing and issuance of VEC.

(3) If initial testing is failed, retesting shall be performed no later than 30 calendar days; each retest will be assessed an additional fee of \$10.

(c) No person shall cause 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

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(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.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-105 Incineration**

(a) Owners or operators of solid waste incinerators subject to the Title V requirements of § 129(e) of the Act shall be subject to the requirements of 40 CFR part 71 and shall apply for and obtain a Part 71 permit from USEPA as required by law.

(a) No person shall cause or permit the emissions of particulate matter to exceed 0.20 pounds per 100 pounds (two grams per kilogram) of refuse charged from any incinerator.

(b) All required emission tests shall be conducted at the maximum burning capacity of the incinerator or at other capacities, as approved by the Administrator. 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 Administrator.

(c) For the purposes of this section, the total of the capacities of all furnaces within one system shall be considered as the incineration capacity.

Modified, 1 CMC § 3806(g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-106 Biomass Fuel Burning Boilers**

No person shall cause or permit the emissions of particulate matter from each biomass burning boiler and its drier or driers in excess of 0.40 pounds per 100 pounds of biomass as burned.

Modified, 1 CMC § 3806(g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-107 Process Industries**

(a) No person shall cause or permit the emission of particulate matter in any one hour from any stack or stacks, except for incinerators and biomass fuel burning boilers, in excess of the amount determined by the equation  $E = 4.10 p^{0.67}$ , where E = rate of

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emission in pounds per hour and  $p$  = process weight rate in tons per hour, except that no rate of emissions shall exceed 40 pounds per hour regardless of the process weight rate.

(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 through any stack or stacks. Solid fuels charged shall be considered as part of the process weight, but liquid and gaseous fuels and combustion air shall not. For a cyclical or batch operation, the process weight per hour shall 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, including any time during which the equipment is idle. For a continuous operation, the process weight per hour shall be derived for a typical period of time by the number of hours of the 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, the interpretation that results in the minimum value for the allowable emission shall apply.

(d) For purposes of this section, a process is any method, reaction, or operation whereby materials introduced into the process undergo physical or chemical change. A specific process 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 a 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 single specific process.

Modified, 1 CMC § 3806(g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-108 Sulfur Oxides From Fuel Combustion**

(a) No person shall burn any fuel containing in excess of 2% sulfur by weight, except for fuel used in ocean-going vessels.

(b) No person shall burn any fuel containing in excess of 0.05% sulfur by weight in any fossil fuel fired power and steam generating facilities having a power generating output in excess of 25 megawatts or a heat input greater than 250,000,000 BTU per hour.

(c) The use of fuels prohibited in subsections (a) and (b) may be allowed at the Administrator's sole discretion if it can be demonstrated that the use of these fuels will result in emission rates of oxides of sulfur equivalent to or lower than the emission rates which would result from the fuels allowed by subsections (a) and (b).

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-109 Storage of Volatile Organic Compounds**

(a) Except as provided in subsection (c), no person shall place, store, or hold in any stationary tank, reservoir, or other container of more than a 40,000 gallon (150,000 liter) capacity any volatile organic compound which, as stored, has a true vapor pressure equal to or greater than 1.5 pounds per square inch absolute unless the tank, reservoir, or other container is pressurized and capable of maintaining working pressures sufficient at all times to prevent vapor or gas loss to the atmosphere or is designed and equipped with one of the following vapor loss control devices:

(1) 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 tank wall. This control equipment shall not be permitted if the volatile organic compounds have a vapor pressure of 11 pounds per square inch absolute (568 millimeters of mercury) or greater under actual storage conditions. All tank gauging or sampling devices shall be gas-tight except when tank gauging or sampling is taking place;

(2) 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 tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place; or

(3) Other equipment or means of equal efficiency for purposes of air pollution control as may be approved by the Administrator.

(b) No person shall place, store, or hold in any new stationary storage tank, reservoir, or other container of more than a 250 gallon (950 liter) capacity any volatile organic compound unless such tank, reservoir, or other container is equipped with a permanent submerged fill 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.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-110 Volatile Organic Compound Water Separation**

No person shall use any single or multiple compartment volatile organic compound water separator which receives effluent water containing 200 gallons (760 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:

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- (a) 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;
- (b) 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;
- (c) 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
- (d) A container having other equipment of equal efficiency for purposes of air pollution control as may be approved by the Administrator.

Modified, 1 CMC § 3806(g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-111 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 Administrator. 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 pump or compressor as may be approved by the Administrator.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-112 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 Administrator.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

## **Part 200 - Open Burning**

### **§ 65-10-201 Definitions**

As used in this Part:

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- (a) "Agricultural burning" means the use of open outdoor fires in agricultural operations, forest management, or range improvements.
- (b) "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.
- (c) "District" means a geographic area, as designated by the Administrator, to distinguish appropriate air basins for the purpose of smoke management.
- (d) "DLNR" means the Department of Lands and Natural Resources.
- (e) "Forest management" means wildland vegetation management using prescribed burning procedures which have been approved by the DLNR 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.
- (f) "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.
- (g) "Range improvement" means the removal of vegetation for a wildlife, game, or livestock habitat.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-202      General Provisions**

- (a) Except as provided in subsection (b) and § 65-10-203, 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 Administrator;
  - (3) Fires to abate a fire hazard, provided that the Administrator receives notification prior to the commencement of any burn, that the hazard is so declared by the fire department, DLNR, or federal agency having jurisdiction, and that a prescribed burning plan, if applicable, has been submitted to and approved by the jurisdictional agency prior to the commencement of any burn;
  - (4) Fires for prevention or control of disease or pests as approved by the Administrator;

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- (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 Administrator;
- (6) Fires for the disposal of military ordnance or similarly dangerous materials, where there is no alternative method of disposal and burning is approved by the Administrator;
- (7) Fires for residential bathing purposes, provided that plastics, used oil, and wood 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 non-commercial burning of leaves, grass, weeds, paper, and wood which has not been painted with lead paint or treated with insecticides or pesticides, not exceeding 25 pounds or 27 cubic feet, whichever is smaller, per day, provided such burning is:
  - (i) Not within 50 feet of any habitable building;
  - (ii) Attended or supervised by an adult;
  - (iii) Started and completed between 9:00 a.m. and 6:00 p.m.;
  - (iv) Not in violation of the rules of other fire control agencies; and
- (9) Other fires as approved by the Administrator.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-203 Agricultural Burning: Permit Requirement**

No person engaged in any agricultural operation, forest management, or range improvement shall cause or allow agricultural burning without first obtaining an agricultural burning permit from the Administrator. 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 2 CMC § 3131, 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.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-204 Agricultural Burning: Recordkeeping and Monitoring**

Each permittee shall monitor and maintain records in accordance with the agricultural burning permit issued by the Administrator.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-205 Agricultural Burning: Action on Application**

(a) The Administrator shall act on an application within a reasonable time, but not to exceed 21 calendar days from the date an application is deemed complete by the Administrator, and shall notify the applicant in writing of the approval or denial of the application.

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- (b) If an application is denied, the applicant may request a hearing in accordance with 1 CMC § 9101, et seq.
- (c) The permit may be granted for a period of up to one year from the date of approval.
- (d) At the Administrator's sole discretion or the application of any person, the Administrator may terminate, suspend, reopen, or amend a permit if, after affording the applicant a hearing in accordance with the Administrative Procedures Act (1 CMC §§ 9101 et seq.), it is determined that:
  - (1) Any condition of the permit has been violated;
  - (2) Any provision of the CNMI Air Pollution Control Rules has been violated;
  - (3) Any provision of 2 CMC, Division 3, Chapter 1, has been violated;
  - (4) The maintenance or attainment of NAAQS and CNMI 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.

Modified, 1 CMC § 3806(g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **Part 300 - Minor Sources**

#### **§ 65-10-301 Definitions**

As used in this Part, unless otherwise defined for purposes of a particular section or subsection of this Part:

- (a) "General permit" means a minor source permit covering numerous similar sources that meets the requirements of § 65-10-310.
- (b) "Modification" means a physical change in, or a change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted; or every significant change in existing monitoring requirements, and every relaxation of, or significant change in, reporting or recordkeeping requirements. Routine maintenance, repair, and replacement of parts shall not be considered a modification. A change in source location shall be considered a modification.
- (c) "Temporary minor source" means a minor 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 minor source permit.

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(d) "Timely application" means:

- (1) An initial application for a minor source permit which is submitted to the Administrator in accordance with the schedule for application submittal specified in § 65-10-307; or
- (2) An application for a minor source permit renewal which is submitted to the Administrator at least 60 days prior to the date of permit expiration.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-302      Applicability**

Except as provided in § 65-10-303(d) and (f) and § 65-10-307, the requirements of this Part are applicable to the construction, reconstruction, modification, relocation, or operation of any minor source.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-303      Permit Requirements**

(a) A minor source shall apply for and receive a minor source permit prior to commencing or continuing any of the activities cited in § 65-10-302. The permit shall require the permittee to comply with all permit conditions, all other applicable requirements, and all provisions of the permit application.

(b) The minor source permit shall remain valid past the expiration date and the minor source shall not be in violation for failing to have a minor source permit, until the Administrator has issued or denied a renewal of the minor 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 Administrator within the specified deadlines all requested additional information deemed necessary to evaluate or take final action on the renewal application, as described in § 65-10-314(c).

(c) A minor source permit shall not constitute, nor be construed to be an approval of the design of a minor source. It is the responsibility of the applicants to insure compliance with all applicable requirements in the construction and operation of any minor source.

(d) Prior to issuance of a minor source permit, if there is reason to be concerned that the minor source or modification would cause or contribute to a violation of the NAAQS or CNMI ambient air quality standards, the Administrator may require the applicant to conduct and submit an air quality model, as outlined in § 65-10-013 of these rules. If the

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air quality model reveals that construction of the source or modification would cause or contribute to a violation of the NAAQS or CNMI ambient air quality standards, the Administrator shall require the reduction or mitigation of such impacts before issuing a minor source permit.

(e) The following emissions units are exempt from the need for a minor source permit, provided that no exemption affects the applicability of any requirement of Part 400 or the determination of whether a stationary source is subject to any requirement of this chapter:

(1) Emissions units with potential emissions of less than 1.0 tpy for each air pollutant and less than 0.1 tpy for each hazardous air pollutant;

(2) Any storage tank, reservoir, or other container of capacity equal to or less than 40,000 gallons storing volatile organic compounds, except those storage tanks, reservoirs, or other containers subject to any standard or other requirement pursuant to §§ 111 and 112 of the Act;

(3) Gasoline service stations;

(4) Fuel burning equipment – other than smoke house generators and gasoline fired industrial equipment – with a heat input capacity less than 150,000 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 150,000 BTU per hour;

(5) Steam generators, steam superheaters, water boilers, or water heaters, all of which have a heat input capacity of less than 5,000,000 BTU per hour, and are fired exclusively with one of the following:

(i) Natural or synthetic gas;

(ii) Liquefied petroleum gas; or

(iii) A combination of natural, synthetic, or liquefied petroleum gas;

(6) 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 10,000,000 BTU per hour or less;

(7) Welding booths;

(8) Diesel fired portable industrial equipment less than 200 horsepower in size which is used during power outages or periodically for the equipment's maintenance and repair;

(9) Gasoline fired portable industrial equipment less than:

(i) 25 horsepower; or

(ii) 200 horsepower in size which is used during power outages or periodically for the equipment's maintenance and repair;

(10) 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;

(11) Laboratory equipment used exclusively for chemical and physical analyses;

(12) 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

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used; or dipping operations for applying coatings of natural or synthetic resins which contain no organic solvents;

(13) Closed tumblers used for cleaning or deburring metal products without abrasive blasting, and pen tumblers with batch capacity of 1,000 pounds or less;

(14) 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;

(15) Fire water system pump engines dedicated for firefighting and maintaining fire water system pressure, which are operated only during firefighting and periodically for engine maintenance, and fired exclusively by natural or synthetic gas; or liquefied petroleum gas; or fuel oil No. 1 or No. 2; or diesel fuel No. 1D or No. 2D;

(16) Smoke generating systems used exclusively for training in government or certified firefighting training facilities;

(17) Internal combustion engines propelling mobile sources such as automobiles, trucks, cranes, forklifts, front-end loaders, graders, trains, helicopters, and airplanes;

(18) Diesel fired portable ground support equipment used exclusively to start aircraft or provide temporary power or support service to aircraft prior to start-up;

(19) 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;

(20) Fuel burning equipment which is used in a private dwelling or for space heating, other than internal combustion engines, boilers, or hot furnaces;

(21) Ovens, stoves, or grills used solely for the purpose of preparing food for human consumption operated in private dwellings, restaurants, or stores;

(22) Stacks or vents to prevent escape of sewer gases through plumbing traps;

(23) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment, and that do not involve the open release or venting of CFC's into the atmosphere;

(24) Woodworking shops with a sawdust collection system; and

(25) Other sources as may be approved by the Administrator.

(f) The owner or operator of a stationary source that becomes subject to the requirements of Part 300 because of a new or amended regulation in this chapter shall submit a complete minor source permit application within six months after the effective date of the new or amended regulation or such other time as approved by the Administrator. The owner or operator of the source may continue to construct or operate and shall not be in violation for failing to have a minor source permit only if the owner or operator has submitted to the Administrator a complete and timely minor source permit application, and any additional information necessary for the processing of the application, including additional information required pursuant to §§ 65-10-304(c) and 65-10-305.

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

(1) Installation of air pollution control devices. The Administrator may allow the installation of an air pollution control device prior to issuing a minor source permit or amendment to a minor 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 minor source shall submit with the written request, a complete minor source permit application to install the air pollution control device.

(2) Test burns. The Administrator may allow an owner or operator of a minor source to test alternate fuels not allowed by permit if the following conditions are met:

(i) The test burn period does not exceed one week, unless the Administrator, upon reasonable justification, approves a longer period, not to exceed three months;

(ii) The purpose of the test burn is to establish emission rates, to determine if alternate fuels are feasible with the existing minor source facility, or as an investigative measure to research the operational characteristics of a fuel;

(iii) A stack performance test, a pre-approved monitoring program, or both, if requested by the Administrator, are conducted during the test burn to record and verify emissions;

(iv) The owner or operator of the minor source provides emission estimates of the test burn and if requested by the Administrator, an ambient air quality impact assessment to demonstrate that no violation of the NAAQS and CNMI ambient air quality standards will occur;

(v) The owner or operator of the minor 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

(vi) If a performance test or monitoring is required, the owner or operator of the minor source provides written test or monitoring results within 60 days of the completion of the test burn or such other time as approved by the Administrator. The results shall include the operational parameters of the minor source at the time of the test burn, and any other significant factors that affected the test or monitoring results. If the Administrator approves the test burn, the Administrator 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.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-304 Initial Minor Source Permit Application**

(a) Every application for an initial minor source permit shall be submitted to the Administrator on forms furnished by the Administrator. The applicant shall submit

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sufficient information to enable the Administrator to make a decision on the application. Application contents are specified in § 65-10-801.

(b) The Administrator 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 or requested pursuant to § 65-10-304(a) has been submitted;
- (2) All documents requiring certification have been certified pursuant to § 65-10-005;
- (3) All applicable fees have been submitted;
- (4) A public hearing has been held if the Administrator determines one is needed; and
- (5) The Administrator has certified that the application is complete.

(c) At any time during the processing of an application, even if the application has been determined or deemed complete, the Administrator may request additional information in writing necessary to evaluate or take final action on the application and set a reasonable time for the response.

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

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-305 Duty to Supplement or Correct Permit Applications**

Any applicant for a minor 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 issuance of the minor source permit.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-306 Compliance Plan**

A compliance plan shall be submitted with every initial application for a minor source, temporary minor source, and general minor source permit, application for a minor source permit renewal, and application for a modification to a minor source, and at such other times as requested by the Administrator. Compliance plan contents are specified in §§ 65-10-806 and 65-10-807.

Modified, 1 CMC § 3806(c).

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History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-307 Transition Into the Minor Source Permit Program**

(a) The owner or operator of an existing minor source with a permit to construct and operate, issued pursuant to repealed CNMI Air Pollution Control Regulations, 9 Com. Reg. 4861 (Jan. 19, 1987), shall submit a complete initial minor source permit application at least 60 days prior to the expiration of the permit to operate. The owner or operator shall continue to operate according to the provisions of the permit to operate and in accordance with any applicable laws, regulations, and rules in effect at the time the permit to operate was issued, until the minor source permit is issued.

(b) The owner or operator of a minor source who has applied for but has not received an initial permit to construct and operate or a renewal for a permit to operate pursuant to repealed CNMI Air Pollution Control Regulations shall submit to the Administrator in a timely manner, not to exceed 60 days from the effective date of this chapter, a complete initial minor source permit application (less any permit to operate application fee previously submitted). The owner or operator shall continue to operate according to the provisions of the authority to construct or permit to operate, whichever is applicable, and in accordance with any applicable laws, regulations, and rules in effect at the time the authority to construct or permit to operate was issued, until the minor source permit is issued.

(c) In the event a permit to construct and operate expires prior to the issuance of the minor source permit, the owner or operator may continue to construct or operate only if the owner or operator has submitted to the Administrator a complete minor source permit application, and any additional information necessary for the processing of the application. The authority to construct or permit to operate shall continue to be in effect until the minor source permit is issued or denied, provided the owner or operator constructs or operates in accordance with the authority to construct or permit to operate and any applicable laws, regulations, and rules in effect at the time of the authority to construct or permit to operate issuance. Noncompliance with any condition of the authority to construct or permit to operate is considered a violation of this chapter.

(d) All minor source permit applications, compliance plans and filing fees shall be submitted in accordance with §§ 65-10-304 and 65-10-306, and Part 600.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-308 Permit Term**

(a) A minor source permit shall not be issued for any term exceeding five years.

(b) A minor source permit may be renewed for additional terms not to exceed five years for each renewal.

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History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### § 65-10-309 Temporary Minor Source Permits

(a) An owner or operator of a temporary minor source may apply for a temporary minor source permit. The owner or operator of the temporary minor 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 minor source permit is subject to the same procedures and requirements for an initial application and issuance of a minor source permit, including requirements of § 65-10-304. The initial location of the source shall be specified.

(c) Upon issuance of the temporary minor source permit, the owner or operator shall submit all succeeding location changes to the Administrator for approval at least 30 days or such lesser time as designated and approved by the Administrator, prior to the change in location. The owner or operator shall submit sufficient information to enable the Administrator to assess the air quality impact the temporary minor source may have at the new location. Relocation request contents are specified in § 65-10-808\*.

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

- (i) All required information as identified in subsection (c);
- (ii) Any additional information as requested by the Administrator; and
- (iii) Any applicable fee.

(e) Prior to any relocation, the Administrator shall approve, conditionally approve, or deny in writing each location change. If the Administrator denies a location change, the applicant may appeal the decision pursuant to 1 CMC § 9101 et seq.

(f) With the exception of the initial location, if a source remains in any one location for longer than 12 consecutive months, the Administrator may request an ambient air quality impact assessment of the source.

(g) At each of the authorized locations, the owner or operator shall operate in accordance with the temporary minor source permit and all applicable requirements.

\* So in original.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

Commission Comment: The Commission renumbered the reference to § 148 in (c) to § 65-10-808. § 148 is one of several untitled and unused reserved sections. The regulation at § 147, renumbered by the Commission to § 65-10-807, is titled “Temporary Source Relocation Request.”

**§ 65-10-310 Minor Source General Permits**

(a) The Administrator, at the Administrator'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 § 65-10-313, issue a minor source general permit for similar minor sources. The general minor source permit expiration date shall apply to all sources covered under this permit.

(b) The Administrator shall establish criteria and conditional requirements in the minor source general permit by which minor sources may qualify for the general permit. Minor sources qualifying for a minor 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 minor sources requiring a case-by-case determination for air pollution control requirements (e.g. Best Available Control Technology Determination) or for synthetic minor sources. The owner or operator of a minor 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 minor source requesting coverage for some or all of its emission units under the terms and conditions of the minor source general permit must submit an application to the Administrator on forms furnished by the Administrator. The applicant shall submit sufficient information to enable the Administrator to make a decision on the application. Minor source general permit application contents are specified in §§ 65-10-801 and 65-10-802.

(d) The Administrator 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 and requested pursuant to subsection (c) has been submitted;
- (2) All documents requiring certification have been certified pursuant to § 65-10-005;
- (3) All applicable fees have been submitted; and
- (4) The Administrator has certified that the application is complete.

(e) The Administrator shall notify the applicant in writing whether the application is complete.

(f) At any time during the processing of an application, even if the application has been determined or deemed complete, the Administrator may request additional information in writing necessary to evaluate or take final action on the application and set a reasonable time for the response.

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(g) The Administrator, in writing, shall approve, conditionally approve, or deny an application for coverage under a minor source general permit within 21 days after receipt of a complete application.

(h) The Administrator may approve an application for coverage under a minor source general permit without repeating the public participation procedures.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-311 Transmission of Information to the Administrator**

(a) The Administrator may at any time require the owner or operator of a minor source to submit to the USEPA a copy of any minor source permit application, including applications for permit renewal and permit amendment reflecting a proposed modification, compliance plan, or records required to be kept under the minor source permit.

(b) The BECQ shall maintain records on all minor source permit applications, compliance plans, final permits, and other relevant information for a minimum of 10 years.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-312 Permit Reopening**

(a) The Administrator shall reopen and amend a minor source permit if the Administrator determines that any one of the following circumstances exist:

(1) The Administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit; or

(2) The permit must be terminated, suspended, or amended to assure compliance with the applicable requirements.

(b) Procedures to reopen and amend a minor source permit shall be the same as procedures which apply to initial permit issuance in accordance with § 65-10-303 and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

(c) The Administrator shall provide written notification to the permittee on the reopening of the permit indicating the basis for reopening at least 30 days prior to the reopening date, except that the Administrator may provide a shorter time period if it is determined that immediate action on the reopening of the permit is required to prevent an imminent peril to public health and safety or the environment.

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(d) If requested by the Administrator, the owner or operator of a minor source shall submit a permit application or information related to the basis of the permit reopening or those provisions affected by the reopening within 30 days of receipt of the permit reopening notice. An extension for the application submittal may be granted by the Administrator if the owner or operator can provide adequate written justification for such an extension.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-313 Public Participation**

(a) Except for administrative permit amendments, in considering any application for a minor source permit, the Administrator, at the Administrator's sole discretion, may require the applicant to provide for public notice in a form approved by the Administrator, of the opportunity for public comment, including a request for public hearing, if the Administrator determines that public comment would aid in the Administrator's decision. If a public comment period is provided, any person requesting a public hearing shall do so during the public comment period. Any request from a person for a public comment period, a public hearing, or both, shall indicate the person's interest in the permit and the reasons why a public comment period or hearing is warranted.

(b) Procedures for public notice, public comment periods, and public hearings shall be as set forth in § 65-10-508.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-314 Minor Source Permit Renewal Applications**

(a) Every application for a minor source permit renewal is subject to the same requirements for an initial application of a minor source permit including the requirements of § 65-10-303. Applications shall be submitted to the Administrator on forms furnished by the Administrator. The applicant shall submit sufficient information to enable the Administrator to make a decision on the application. Application contents are specified in § 65-10-804.

(b) The Administrator 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 and requested pursuant to subsection (a) has been submitted;
- (2) All documents requiring certification have been certified pursuant to § 65-10-005;
- (3) All applicable fees have been submitted; and
- (4) The Administrator has certified that the application is complete.

(c) At any time during the processing of an application, even if the application has been determined or deemed complete, the Administrator may request additional information in writing necessary to evaluate or take final action on the application and set a reasonable time for the response. As set forth in § 65-10-303, the minor source's ability to operate and the validity of the minor source permit shall continue beyond the permit expiration date, until the final permit is issued or denied, provided the applicant submits all additional information within the reasonable deadline specified by the Administrator.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

**§ 65-10-315 Administrative Permit Amendment**

(a) Upon written request from the owner or operator of a minor source or at the Administrator's sole discretion, the Administrator may issue an administrative permit amendment.

(b) Except for a request to consolidate two or more minor source permits into one, or to change ownership or operational control, an owner or operator requesting an administrative permit amendment may make the requested change immediately upon submittal of the request.

(c) Within 60 days of receipt of a written request for an administrative permit amendment, the Administrator shall take final action on the request and may amend the permit without providing notice to the public.

Modified, 1 CMC § 3806(g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

**§ 65-10-316 Applications for Modifications**

(a) Every application for a modification to a minor source shall be submitted to the Administrator on forms furnished by the Administrator. The applicant shall submit sufficient information to enable the Administrator to make a decision on the application. Application contents are specified in § 65-10-805.

(b) The Administrator 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 and requested pursuant to subsection (a) has been submitted;
- (2) All documents requiring certification have been certified pursuant to § 65-10-005;
- (3) All applicable fees have been submitted; and
- (4) The Administrator has certified that the application is complete.

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

(d) An application for modification shall be approved only if the Administrator determines that the modification will be in compliance with all applicable requirements.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### Part 400 - Major Sources

#### § 65-10-401 Definitions

As used in this Part, unless otherwise defined for purposes of a particular section or subsection of this Part:

(a) “Major modification” means the same as defined in 40 CFR 51.21(b)(2).

(b) "Major source" means for the purposes of determining applicability of the Federal Title V program pursuant to 40 CFR Part 71:

(1) For hazardous air pollutants, except radionuclides, a source or a group of stationary sources that is located within a contiguous area under common control that emits or has the potential to emit considering controls and fugitive emissions, any hazardous air pollutant, except radionuclides, in the aggregate of 10 tons per year or more or 25 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 within a contiguous area 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, 100 tons per year or more of any air pollutant. Fugitive emissions from the stationary source shall be considered by the Administrator in determining whether the stationary source is major, if it belongs to one of the following categories of stationary sources:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;

(ix) Hydrofluoric, sulfuric, or nitric acid plants;

(x) Petroleum refineries;

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- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil fuel boilers (or combination thereof) totaling more than two hundred fifty million BTU per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil fuel fired steam electric plants of more than two hundred fifty million BTU per hour heat input; and
- (xxvii) All other stationary source categories regulated by a standard promulgated pursuant to §§ 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.

(3) For radionuclides, a source having the meaning specified by the Administrator by rule.

(4) "Major source" for the purposes of determining whether a physical change or change in the method of operation constitutes a major modification to a major source or major emitting facility means the same as "major stationary source" as defined in 40 CFR 52.21(b).

(c) "Minor modification at a major source" means a modification at a major source which is not a major modification.

(d) "Modification" means a physical change in, or a change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted; or every significant change in existing monitoring requirements, and every relaxation of, or significant change in, reporting or recordkeeping requirements. Routine maintenance, repair, and replacement of parts shall not be considered a modification. A change in source location shall be considered a modification.

Modified, 1 CMC § 3806(g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-402 Prohibitions**

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- (a) No new major source or major modification at an existing major source shall begin actual construction without first obtaining a PSD permit from the USEPA pursuant to 40 CFR 52.21.
- (b) A new major source shall file a complete application to the USEPA to obtain a Title V permit within 12 months after commencing operation, pursuant to 40 CFR Part 71.
- (c) No minor modification at a major source shall begin actual construction without first obtaining written approval or a permit from the BECQ. In cases where the USEPA has previously issued a PSD permit to a major source, a PSD permit revision from the USEPA may be necessary prior to beginning actual construction of a minor modification at a major source. Upon commencement of operation following a minor modification at a major source, the major source shall file for a permit modification within 12 months, pursuant to 40 CFR Part 71.
- (d) An existing major source requiring a Title V permit shall submit a complete application to the USEPA for a Title V permit, pursuant to 40 CFR Part 71, within six months of receipt of written notice from the Administrator that a Title V permit is required. Failure to submit a Title V application to the USEPA within six months may result in enforcement action.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-403 Permit Requirements**

In accordance with these regulations, any person with the intent to construct and/or operate as a major source shall obtain a permit from the USEPA pursuant to 40 CFR 52.21 and/or 40 CFR Part 71. As stated above in the prohibition section, a period of six months following written notification from the Administrator is granted for an existing major source to apply for a Title V permit from the USEPA pursuant to 40 CFR Part 71.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

## **Part 500 - Synthetic Minor Sources**

### **§ 65-10-501 Definitions**

As used in this Part, unless otherwise defined for purposes of a particular section or subsection of this Part:

- (a) "Modification" means a physical change in, or a change in the method of operation of, a stationary source which increases or decreases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted; or every significant change in existing monitoring requirements, and every relaxation of, or significant change in, reporting or recordkeeping requirements.

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Routine maintenance, repair, and replacement of parts shall not be considered a modification. A change in source location shall be considered a modification.

(b) "Potential to emit" (PTE) 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.

(c) "Synthetic minor source" means a source that otherwise has the potential to emit regulated air pollutants in amounts that are at or above the thresholds for major sources in 40 CFR 49.167, 40 CFR 52.21, or 40 CFR 71.2, as applicable, but has taken a restriction so that its potential to emit is less than such amounts for major sources. Such restrictions must be enforceable as a practical matter.

Modified, 1 CMC § 3806(g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-502 Purpose**

This Part authorizes the owners or operators of specified stationary sources that would otherwise be major sources to request and accept enforceable emission limits sufficient to allow the source to be considered "synthetic minor sources." A synthetic minor source is subject to all applicable BECQ Air Quality rules, regulations, and other requirements.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-503 Applicability**

All stationary sources considered to be synthetic minor sources shall be subject to all requirements in Part 300 and Part 700 in addition to the following sections.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-504 Request for Synthetic Minor Status**

- (a) A request for designation as a synthetic minor source shall include:
- (1) The identification and description of all existing emission units at the source;
  - (2) The calculation of each emission unit's maximum annual and maximum monthly emissions of regulated air pollutants for all operating scenarios to be permitted, including all existing enforceable limits established by a mechanism other than this rule;
  - (3) Proposed enforceable conditions which:
    - (i) Limit source-wide emissions to below applicable major source thresholds; and

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- (ii) Are permanent, quantifiable, and otherwise enforceable as a practical matter;
  - (4) Proposed enforceable conditions to impose monitoring, record keeping, and reporting requirements sufficient to determine compliance;
  - (5) Any additional information requested by BECQ; and
  - (6) Certification by a responsible official that the contents of the request are true, accurate, and complete.
- (b) The owner or operator of a major source who chooses to request a synthetic minor source permit shall make such a request within the following timeframes:
- (1) For any major source that is operating or is scheduled to commence operating on the effective date of these regulations, the owner or operator shall request for synthetic minor source status and apply for a synthetic minor source permit no later than 60 days from the effective date of these regulations.
  - (2) For any major source that commences operating after the effective date of these regulations, the owner or operator shall request synthetic minor source status and apply for a synthetic minor source permit no later than 180 days prior to commencing operation.
- (c) BECQ shall determine if the request for synthetic minor status is complete within 30 days of receipt, unless a longer period of time is agreed upon by BECQ and the source's owner or operator.
- (d) The enforceable conditions enabling a source to become a synthetic minor source shall be identified as enforceable by BECQ and included in a source's operating permit issued by BECQ, and shall be:
- (1) Permanent, quantifiable, and practically enforceable permit conditions, including any operational limitations or conditions, which limit the source's potential to emit below the major source thresholds;
  - (2) Monitoring, record keeping, and reporting conditions sufficient to determine on-going compliance with the emission limits.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-505 Record Keeping**

The owner or operator of any facility subject to this section must maintain all required records on-site for a period of five years and make them available to BECQ upon request. BECQ must be granted access to any facility regulated by this section, during normal operating hours, for the purpose of determining compliance with this and any other requirements, regulations, or law.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-506 Compliance**

(a) On an annual basis, beginning one year after the granting of the enforceable conditions, the permittee and/or authorized representative shall provide a certification to

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BECQ that the facility has operated all emission units with the limits imposed by the conditions. This certification shall include a brief summary of the emissions subject to the conditions for that time period and a comparison to those threshold levels of a major source.

(b) The emission of pollutants in exceedance of the applicability thresholds for major sources or conditions in the permit, may be subject to one or a combination of the following actions: enforcement action, permit termination, permit revocation and reissuance, and permit renewal denial.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-507 Permit Term**

(a) A synthetic minor source permit shall not be issued for any term exceeding five years.

(b) A synthetic minor source permit may be renewed for any term not to exceed five years.

(c) A synthetic minor source permit may not be transferable during an existing term of the permit from the current owner or operator to a new owner or operator.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-508 Public Participation**

(a) In considering any application for designation as a synthetic minor source, the Administrator shall require the applicant to provide for public notice in a form approved by the Administrator. The Administrator shall also provide opportunity for public comment on a draft permit, including the opportunity to request for public hearing. Any person requesting a public hearing shall do so during the public comment period.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-509 USEPA Notification**

(a) In considering any application for designation as a synthetic minor source, the Administrator shall provide the USEPA, Region 9, with a copy of the public notice and opportunity for comment on a proposed permit.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

## **Part 600 - Fees for Minor or Synthetic Minor Sources and Agricultural Burning**

### **§ 65-10-601 Definitions**

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As used in this Part:

- (a) "Actual emissions" means the actual rate of emissions of a regulated or hazardous air pollutant from a stationary source. Actual emissions for a time period as specified by the Administrator shall equal the average rate in pounds per hour at which the stationary source actually emitted the pollutant during the specified time period, and which is representative of the source's actual operation. The Administrator shall allow the use of a different time period upon a determination that it is more representative of the actual operation of a source. Actual emissions shall be calculated using the source's actual operating hours, production rates, and amounts of materials processed, stored, or combusted during the selected time period. Other parameters may be used in the calculation of actual emissions if approved by the Administrator.
- (b) "Air permit application" means a minor source permit application.
- (c) "Air permit program" means the program established pursuant to 2 CMC, Division 3, Chapter 1, and this chapter.
- (d) "Allowable emission rate" means the quantity of regulated or hazardous air pollutant that may be emitted (per unit of time, tons of production, or other parameter) as established by an air permit limitation or an applicable requirement that establishes an emission limit.
- (e) "Annual fee" means the fee imposed on each owner or operator of a stationary source on an annual basis.
- (f) "AP-42" means the USEPA's compilation of air pollutant emission factors, Volume 1: Stationary Point and Area Sources (latest edition).
- (g) "Application fee" means the fee imposed on an owner or operator of:
- (1) A stationary source upon the filing of any air permit application; or
  - (2) An agricultural operation upon the filing of any agricultural burning permit application.
- (h) "Closure fee" means the annual fee that an owner or operator of a stationary source is assessed for the last year a source is in operation before permanent discontinuance.
- (i) "Major source permit application" means an application submitted to USEPA for an initial major source permit, a renewal of a major source permit, a permit amendment for any modification to a major source, or an administrative permit amendment to a major source permit.
- (j) "Fee worksheets" means the forms provided by the Administrator to aid the owner or operator of a stationary source in the calculation of annual fees.
- (k) "Minor modification" has the same meaning as in § 65-10-301.

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- (l) "Non-toxic pollutant" means any pollutant that is not a toxic pollutant.
- (m) "Non-toxic source" means a stationary source that is not a toxic source.
- (n) "Minor source permit application" means an application for an initial minor source permit, a renewal of a minor source permit, a permit amendment for any modification to a minor source, or the written request for a change in location of a temporary minor source, or an administrative permit amendment to a minor source permit.
- (o) "Toxic pollutant" means any hazardous air pollutant listed pursuant to § 112(b) of the Act, and any other hazardous air pollutant designated by this chapter.
- (p) "Toxic source" means a minor source that emits or has the potential to emit two tons but less than 10 tons per year of any hazardous air pollutant or five tons but less than 25 tons per year of any combination of hazardous pollutants.
- (q) "Verifiable documentation" means a record, certified pursuant to § 65-10-005 that best substantiates the operating characteristic or parameters of a stationary source. Records identified as verifiable documentation may include fuel usage records, production records, or other records that can be substantiated through the use of non-resetting fuel or hour meters, appropriate testing, and other methods or devices, as required or deemed acceptable by the Administrator. Records may be deemed unacceptable by the Administrator if found to be erroneous, incomplete, inaccurate, or inconsistent.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-602 General Fee Provisions for Major Sources**

There shall be no annual or renewal fees due to BECQ for major sources or major modifications. There shall be an application fee due to BECQ for minor modifications at major sources as outlined in § 10-65-604, however no subsequent annual or renewal fees will be due to BECQ for minor modifications at major sources. All initial, annual, or renewal fees for major sources shall follow the fee schedule set forth in 40 CFR Part 71 and shall be sent to the USEPA.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-603 General Fee Provisions for Minor or Synthetic Minor Sources**

- (a) Every applicant for a minor source permit shall pay an application fee pursuant to § 65-10-604.

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(b) Every owner or operator of a minor source shall pay an annual fee as set forth in § 65-10-605.

(c) All application and annual fees for minor sources required by this chapter shall be submitted by check or money order made payable to the CNMI Treasury/BECQ Program Income Fund, and are not refundable, except for any amount that constitutes an overpayment, as determined by the Administrator.

(d) Checks returned for any reason (e.g., insufficient funds, closed account, etc.) shall be considered a failure to pay. Returned checks are subject to an additional \$15 handling charge. If a returned check results in a late payment, the owner or operator shall also be assessed a late payment penalty in accordance with § 65-10-606(m).

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-604 Application Fees for Minor or Synthetic Minor Sources**

(a) An application fee shall be submitted with the minor source permit application and shall not be applied to any subsequent application, except for any amount that constitutes an overpayment, as determined by the Administrator. No minor source permit application shall be deemed complete unless the application fee is paid in full.

(b) The fee schedule for filing a minor source permit application shall be as follows:

(1) Non-toxic sources:

(i) Initial permit \$ 500

(ii) Renewal \$ 250

(iii) Administrative permit amendment \$ 50

(iv) Modification resulting in an increase of emissions less than 40 tpy of any regulated air pollutant other than hazardous air pollutants, or an increase of emissions less than one tpy of any hazardous air pollutant \$ 100

(v) Modification resulting in an increase of emissions greater than or equal to 40 tpy of any regulated air pollutant, other than hazardous air pollutants, or an increase of emissions greater than or equal to one tpy of any hazardous air pollutant \$ 300

(2) Temporary minor sources:

(i) Initial permit for a non-toxic source \$ 500

(ii) Initial permit for a toxic source \$ 500

(iii) Renewal of a non-toxic source \$ 250

(iv) Renewal of a toxic source \$ 250

(v) Change in location for a non-toxic source \$ 100

(vi) Change in location for a toxic source \$ 100

(vii) Administrative permit amendment \$ 50

(viii) Modification to a non-toxic source resulting in an increase of emissions less than 40 tpy of any regulated air pollutant other than hazardous air pollutants, or an increase of emissions less than one tpy of any hazardous air pollutant \$ 150

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- (ix) Modification to a non-toxic source resulting in an increase of emissions greater than or equal to 40 tpy of any regulated air pollutant other than hazardous air pollutants, or an increase of emissions greater than or equal to one tpy of any hazardous air pollutant \$ 150
- (x) Modification to a toxic source resulting in an increase of emissions less than one tpy of any hazardous air pollutant, or an increase of emissions less than 40 tpy of any regulated air pollutant other than hazardous air pollutants \$ 150
- (xi) Modification to a toxic source resulting in an increase of emissions greater than or equal to one tpy of any hazardous air pollutant, or an increase of emissions greater than or equal to 40 tpy of any regulated air pollutant other than hazardous air pollutant \$ 300
- (3) Sources seeking coverage under a general minor source permit:
- (i) Initial permit for each remaining year before expiration of a general permit at the time of application submittal. Any fraction of a remaining year shall be rounded up to the next full year \$ 100
- (ii) Renewal \$ 50
- (iii) Administrative permit amendment \$ 25
- (4) Toxic sources:
- (i) Initial permit \$ 500
- (ii) Renewal \$ 250
- (iii) Administrative permit amendment \$ 50
- (iv) Modification resulting in an increase of emissions less than one tpy of any hazardous air pollutant, or an increase of emissions less than 40 tpy of any regulated air pollutant other than hazardous air pollutants \$ 150
- (v) Modification resulting in an increase of emissions greater than or equal to one tpy of any hazardous air pollutant, or an increase of emissions greater than or equal to 40 tpy of any regulated air pollutant other than hazardous air pollutants \$ 300
- (c) If a modification changes the classification of a source, the modification fee shall no longer apply. For example, a modification triggering a major source review, the modification application shall go to USEPA. Please refer to Part 400.
- (d) An application fee for an administrative permit amendment shall be assessed only if the administrative permit amendment is requested by the owner or operator of the minor source.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-605 Annual Emission Fees for Minor or Synthetic Minor Sources**

- (a) Except as specified in subsection (b), an annual fee shall be paid in full within the first 60 days of each calendar year and a closure fee shall be paid within 30 days after the permanent discontinuance of the minor source.
- (b) The Administrator, at the Administrator's sole discretion, or upon written request from the owner or operator of a major or minor source, may extend the annual fee

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submittal deadline if the Administrator determines that reasonable justification exists for the extension. The owner or operator's written request for an extension shall be submitted at least 15 days prior to the required submission due date, unless the Administrator with reasonable justification approves a lesser period, and shall include the following information:

- (1) Justification for the extension, including a showing that reasonable effort and resources have been and are being utilized in the calculation of annual emissions and the corresponding annual fee as calculated pursuant to this section;
- (2) Description of the problems being encountered and reasons for any delays in meeting the annual fee deadline;
- (3) The current status of emission calculations; and
- (4) The projected date of submitting the annual fee. If the Administrator disapproves an extension for submitting the annual fee, the owner or operator shall pay the required annual fee within 30 days of receipt of the disapproval notice or by the original submittal deadline, whichever is later. If the Administrator approves an extension for submitting the annual fee, the owner or operator shall pay the required annual fee by the extended approved date. Any part of the annual fee that is not paid within the required time shall at once be assessed the late penalty fee pursuant to subsection (m).

(c) An annual fee due within the first 60 days of each calendar year shall be based upon the tons of regulated air pollutants emitted during the prior calendar year.

(d) An annual fee due within the first 60 days of a particular calendar year shall be referred to as the annual fee for that particular year. For example, the 2017 annual fee shall be due within the first 60 days of calendar year 2017 and shall be based on regulated air pollutants emitted in 2016.

(e) An annual fee shall be assessed for each ton of regulated air pollutant emitted by a minor source except for:

- (1) Carbon monoxide emissions;
- (2) Fugitive emissions if fugitive emissions are not included in the applicable requirements or AP-42;
- (3) Each ton of each regulated air pollutant calculated in excess of 4,000 tons per year. The annual fee assessed for each regulated air pollutant shall be determined by multiplying the appropriate dollar per ton charge pursuant to subsections (g)(1) and (2), and by the minor source emissions in tons per year.

(f) The submittal of an additional annual fee determined by the dollar per ton charge pursuant to subsections (g)(1) and (2) for toxic pollutants shall begin as established by rulemaking.

(g) The dollar per ton charge for each regulated air pollutant emitted by a regulated source shall be as follows:

- (1) All regulated pollutants (toxic and non-toxic) from a minor source – \$13 per ton (made payable to the CNMI Treasury/BECQ Program Income Fund);

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(2) Toxic pollutant emissions – additional charge to be set by rulemaking specifically for regulated toxic pollutants.

(h) When submitting the annual fee, the owner or operator of a major or minor source shall submit a written report of emissions of all regulated air pollutants (toxic and non-toxic) greater than one ton per year.

(i) The minimum annual fee shall be \$500 for each minor source facility in operation or each valid minor source permit held during the prior calendar year, or \$42 per month for any fraction of the year the minor source facility was in operation or the minor source permit was valid. For purposes of § 65-10-605, "minor source facility" means a minor source under common control of the same person or persons that is located on one or more contiguous or adjacent properties.

(j) If any part of the annual fee is not paid within 30 days after the due date, a late payment penalty of 5% of the amount due shall at once accrue and be added thereto. Thereafter, on the first day of each calendar month during which any part of the annual fee or any prior accrued late payment penalty remains unpaid, an additional late payment penalty of 5% of the then unpaid balance shall accrue and be added thereto.

(k) If any annual fee, including the late payment penalty required by this chapter is not paid in full within 30 days after the due date, the Administrator may terminate or suspend any or all of the owner or operator's minor source permits, after providing notice and the opportunity for a hearing in accordance with the CNMI Administrative Procedures Act, 1 CMC §§ 9101, et seq.

(l) The owner or operator of a minor source may at any time request a meeting with the department to discuss the annual fee assessment or the computational methods used to determine the annual fee. If the owner or operator still feels that the annual fee is being miscalculated after meeting with the department, the owner or operator may request a contested case hearing in accordance with CNMI Administrative Procedures Act, 1 CMC §§ 9101, et seq.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-606 Basis of Annual Fees for Minor or Synthetic Minor Sources**

(a) For purposes of calculating annual fees for minor sources under § 65-10-606, the minor source actual emissions in tons per year shall be determined by using the following parameters:

(1) An emission factor derived from the actual rate of emissions as substantiated through stack test reports, continuous emissions monitoring data, or any other certified record as deemed acceptable by the Administrator;

(2) The actual production, operating hours, amount of materials processed or stored, or fuel usage of the minor source during the prior calendar year the annual fee is due. Other

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operating parameters of the minor source may be used in the fee calculation if approved by the Administrator; and

(3) If not already included in the emission factor identified in subsection (a)(1), a percentage reduction factor based upon the efficiency of the air pollution control equipment, as provided by AP-42 or any verifiable documentation demonstrating the actual performance of the air pollution control equipment.

(b) If an actual rate of emissions referenced in subsection (a)(1) cannot be substantiated, the allowable emission rate shall be used to calculate the total annual tonnage of pollutants emitted. If an allowable emission rate is not specified in an air permit or an applicable requirement, the appropriate AP-42 air pollutant emission factor shall be used. If the owner or operator of a minor source cannot provide verifiable documentation on the parameters referenced in subsection (a)(2), the maximum allowable production, operating hours, amount of material processed or stored, or fuel usage shall be used in calculating the total annual tonnage of regulated air pollutants emitted from the minor source.

(c) Any fraction of a ton calculated shall be disregarded for fee purposes. Only the annual tonnage in whole tons of each regulated air pollutant shall constitute the basis of annual fees.

(d) The annual fee shall be calculated on fee worksheets furnished by the Administrator. If a fee worksheet is not available for a particular minor source, the owner or operator of a minor source shall provide their own worksheet showing the method, assumptions, emission factors, and calculations used to obtain the total annual emissions in tons per year, for each regulated air pollutant emitted.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-607 Application Fees for Agricultural Burning Permits**

(a) Every applicant for an agricultural burning permit shall pay an application fee pursuant to this section. The application fee shall be made payable to the CNMI Treasury/BECQ Special Fund, Air Program.

(b) An application fee shall be submitted with the application for an agricultural burning permit and shall not be refunded nor applied to any subsequent application. No application for an agricultural burning permit shall be acted upon or considered unless the application fee is paid in full.

(c) Checks returned for any reason (e.g., insufficient funds, closed account, etc.) shall be considered a failure to pay. Returned checks are subject to an additional \$15 handling charge.

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(d) From the effective date of this chapter, the fee schedule for filing an agricultural burning permit shall be as follows:

- (1) Less than 10 acres \$250
- (2) Ten to less than 100 acres \$500
- (3) One hundred or more acres \$1,000

The acreage shall be the total acreage designated to be burned or cleared for burning as specified in the permit.

Modified, 1 CMC § 3806(g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **Part 700 - Hazardous Air Pollutant Sources**

#### **§ 65-10-701 Definitions**

As used in this Part:

(a) "Carcinogenic hazardous air pollutant" means any hazardous air pollutant recognized as known, probable, or potential human carcinogen by the USEPA's Integrated Risk Information System (IRIS), or other documented studies or information by recognized authorities and approved by the Administrator.

(b) "USEPA risk assessment guidelines" means the U.S. Environmental Protection Agency's Guidelines for Carcinogenic Risk Assessment, 51 FR 33992 (September 24, 1986).

(c) "Hazardous air pollutant" means those air pollutants listed in § 112(b) of the Act and any other air pollutants the Administrator may add to that list by rule.

(d) "Threshold limit value" means the airborne concentration of a substance that, according to the American Conference of Governmental Industrial Hygienists, represents conditions under which nearly all workers may be repeatedly exposed day after day without adverse effects.

(e) "Threshold limit value-time weighted average" means the threshold limit value for a normal eight-hour workday and a forty-hour workweek as specified in the TLV book.

(f) "TLV-TWA" means threshold limit value-time weighted average.

(g) "TLV book" means the "Documentation of the Threshold Limit Value and Biological Exposure Indices," latest edition, published by the American Conference of Governmental Industrial Hygienists, Inc.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

#### **§ 65-10-702 Applicability**

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The provisions of this Part are applicable to any stationary source which emits or has the potential to emit any hazardous air pollutant.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-703 Permit Requirements**

(a) Permit applications for major sources of hazardous air pollutants shall be submitted to the USEPA as set forth in Part 400.

(b) Permit applications for minor sources of hazardous air pollutants shall be submitted to the Administrator in accordance with Parts 300 and 700.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-704 Ambient Air Concentrations of Hazardous Air Pollutants**

(a) No person shall emit or cause to emit from any stationary source, hazardous air pollutants in such quantities that result in, or contribute to, an ambient air concentration which endangers human health.

(b) The Administrator shall not approve any application for a permit required by this chapter, for a new minor source of hazardous air pollutants, or for the modification or reconstruction of any minor source of hazardous air pollutants, or for any stationary source that the Administrator has reason to believe that the emissions of hazardous air pollutants from the source may result in an unacceptable ambient air concentration, unless the owner or operator of the source, and except as provided in subsection (d), complies with one or more of the following:

(1) Demonstrate that the emissions of hazardous air pollutants from the source will not result in, or contribute to, any significant ambient air concentrations as defined in subsection (c); or

(2) Demonstrate that the applicable significant ambient air concentration in subsection (c) is inappropriate for the hazardous air pollutant in question and that the emissions of hazardous air pollutants from the source will not result in, or contribute to, any ambient air concentration which endangers human health. The demonstration shall include documented studies or information by recognized authorities on the specific health effects of such hazardous air pollutants and a detailed analysis, including a risk assessment that demonstrates that the emissions from the sources will not endanger human health.

(c) For purposes of this Part, "significant ambient air concentration of any hazardous air pollutant" shall be defined as follows:

(1) For any non-carcinogenic hazardous air pollutant with a TLV-TWA, and except as provided in subsection (e), any eight-hour average ambient air concentration in excess of

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1/100 of the TLV-TWA, and any annual average ambient air concentration in excess of 1/420 of the TLV-TWA;

(2) For any non-carcinogenic hazardous air pollutant not having a TLV-TWA, any ambient air concentration greater than the concentration which the Administrator determines to cause, to have the potential to cause, or to contribute to, the unreasonable endangerment of human health. The determination shall be made on a case-by-case basis, consider documented studies or information by recognized authorities on the specific health effects of such hazardous air pollutants, and include a reasonable margin of safety for the protection of the general public; or

(3) For any carcinogenic hazardous air pollutant, any ambient air concentration that may result in an excess individual lifetime cancer risk of more than ten in one million assuming continuous exposure for 70 years. The ambient air concentration of a carcinogenic hazardous air pollutant shall be determined by performing a risk assessment based on procedures consistent with the USEPA's risk assessment guidelines or other alternative risk assessment procedures approved by the Administrator.

(d) The emission of any hazardous air pollutants from a stationary source shall be exempt from the provisions of subsection (b) if the total allowable emissions of the hazardous air pollutant from the stationary source are below 0.1 pounds per hour.

(e) Notwithstanding subsection (c)(1), the Administrator may at any time establish a lower concentration than the significant ambient air concentration specified in subsection (c)(1) if the Administrator determines that such lower concentration is required for the protection of the public health or welfare.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **Part 800 - Applications, Permits, Compliance Documents, and Relocation Request Content**

#### **§ 65-10-801 Minor Source Permit Application**

A minor source permit application shall include a complete application form and the following information:

- (a) Name, address, and phone number of:
  - (1) The company;
  - (2) The facility, if different from the company;
  - (3) The owner and owner's agent; and
  - (4) The plant site manager or other contact;

(b) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules to the extent needed to determine or regulate emissions; specifications and drawings showing

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the design of the source and plant layout; a description of all processes and products; and, if reasonably anticipated, a detailed description of alternative operating scenarios;

(c) The potential to emit (PTE), 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;

(d) Identification and description of all points of emissions, including stack or vent dimensions and flow information;

(e) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner or operator of the minor source, and to the extent of available information, an estimate of emissions before and after controls;

(f) Current operational limitations or work practices, or for minor sources that have not yet begun operation, such limitations or practices which the owner or operator of the minor source plans to implement that affect emissions of any regulated or hazardous air pollutants at the source;

(g) A schedule for construction or modification of the minor source, if applicable;

(h) All calculations and assumptions on which the information in subsections (b), (d), (e), and (f) is based;

(i) If requested by the Administrator, an assessment of the ambient air quality impact of the minor source or modification. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the NAAQS and CNMI ambient air quality standards;

(j) If requested by the Administrator, a risk assessment of the air quality related impacts caused by the minor source or modification to the surrounding environment;

(k) If requested by the Administrator, results of source emission testing,

(l) If requested by the Administrator, information on other available control technologies;

(m) An explanation of all proposed exemptions from any applicable requirement;

(o) The applicant may propose emission limitations for each affected emissions unit, which may include pollution prevention techniques, air pollution control devices, design standards, equipment standards, work practices, operational standards or a combination

thereof. The applicant may include an explanation of why they believe the proposed emission limitations to be appropriate.

- (n) A compliance plan in accordance with § 65-10-306; and
- (o) Other information:
  - (1) As required by any applicable requirement or as requested and deemed necessary by the Administrator to make a decision on the application; and
  - (2) 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.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-802 Synthetic Minor Source Permit Application**

This section lists the information that must be attached to the application form for each requested limitation. The requested limitation(s) must be described for each affected emissions unit (or pollutant generating activity) and pollutant and must be accompanied by the supporting information listed on the form and described below. Note that applicability of many federal Clean Air Act requirements (such as Title V, PSD and MACT) is often based on source-wide emission levels of specific pollutants. In that case, all emissions units at a source and all pollutants regulated by that given rule or regulation must be addressed by this section of the application form. A synthetic minor source permit application shall contain all the information listed in § 65-10-801 along with the following information:

- (a) The requested limitation and its effect on actual emissions or potential to emit must be presented in enough detail to document how the limitation will limit the source's actual or potential emissions as a legal and practical matter and, if applicable, will allow the source to avoid an otherwise applicable requirement. The information presented must clearly explain how the limitation affects each emission unit and each air pollutant from that emission unit. Use the information provided to explain how the limitation affects emissions before and after the limitation is in effect.
- (b) For each requested limitation, the application must include proposed testing, monitoring, recordkeeping and reporting that will be used to demonstrate and assure compliance with the limitation. Testing approaches should incorporate and reference appropriate USEPA reference methods where applicable. Monitoring should describe the emission, control, or process parameters that will be relied on and should address frequency, methods, and quality assurance.
- (c) The application must include a description and estimated efficiency of air pollution control equipment under present or anticipated operating conditions. For control equipment that is not proposed to be modified to meet the requested limit, simply note that fact; however, for equipment that is proposed to be modified (e.g. improved

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efficiency) or newly installed to meet the proposed limit, address both current and future descriptions and efficiencies. Include manufacturer specifications and guarantees for each control device.

(d) Any emission estimates submitted to the BECQ must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:

- (1) Source-specific emission tests;
- (2) Mass balance calculations;
- (3) Published, verifiable emission factors that are applicable to the source (i.e., manufacturer specifications);
- (4) Other engineering calculations; or
- (5) Other procedures to estimate emissions specifically approved by the BECQ. Post-Change Allowable Emissions: A source's allowable emissions for a pollutant is expressed in tpy and generally is calculated by multiplying the allowed hourly emissions rate in pounds per hour (lbs/hr) times allowed hours (which is the number of hours in a year) and dividing by 2,000 (which is the number of pounds in a ton).

(e) New construction projects that have the potential to emit GHG emissions of at least 100,000 tpy CO<sub>2</sub>e and 100 or 250 tpy on a mass basis, modifications at existing PSD facilities that increase GHG emissions by at least 75,000 tpy CO<sub>2</sub>e and minor sources that increase GHG emissions by at least 100,000 tpy CO<sub>2</sub>e and 100 or 250 tpy on a mass basis are subject to PSD permitting requirements, even if they do not significantly increase emissions of any other pollutant. As such, any requested limits to avoid PSD must take into account greenhouse gases. Therefore, please include in your permit application estimates of the potential emissions of the following pollutants:

- (1) Carbon dioxide (CO<sub>2</sub>)
- (2) Methane (CH<sub>4</sub>) and its CO<sub>2</sub>e
- (3) Nitrous oxide (N<sub>2</sub>O) and its CO<sub>2</sub>
- (4) Hydrofluorocarbons (HFCs) and its CO<sub>2</sub>e
- (5) Perfluorocarbons (PFCs) and its CO<sub>2</sub>e
- (6) Sulfur hexafluoride (SF<sub>6</sub>) and its CO<sub>2</sub>e

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-803 Minor or Synthetic Minor Source Permit**

The Administrator shall consider and incorporate the following elements into a minor or synthetic minor source permit as applicable:

(a) Emission limitations and standards, including operational requirements, control technology, and limitations to assure compliance with all applicable requirements at the time of permit issuance. The Administrator may consider any of the following factors in making a case-by-case determination:

- (1) Local air quality conditions;

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- (2) Typical control technology or other emissions reduction measures used by similar sources in surrounding areas;
  - (3) Anticipated economic growth in the area; or
  - (4) Cost-effective emission reduction alternatives.
- (b) The emission limitations may consist of numerical limits on the quantity, rate or concentration of emissions; pollution prevention techniques; design standards; equipment standards; work practices; operational standards; requirements relating to the operation or maintenance of the source or any combination thereof. The emission limitations must assure that each affected emissions unit will comply with all requirements of 40 CFR Parts 60, 61 and 63. The emission limitations required by the reviewing authority must not be affected in a manner by so much of a stack's height as exceeds good engineering practice or by any other dispersion technique;
- (c) Permit term pursuant to § 65-10-308;
- (d) 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;
- (e) The requirement for source emissions tests or alternative methodology to determine compliance with the terms and conditions of the minor source permit and applicable requirements. Source emission tests conducted or alternative methodology used shall be at the expense of the owner or operator;
- (f) Monitoring and related recordkeeping and reporting requirements to assure compliance with all the terms and conditions of the permit, including:
- (1) Monitoring results expressed in units, averaging periods, and other statistical conventions consistent with the applicable requirements;
  - (2) 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;
  - (3) Appropriate monitoring methods;
  - (4) 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;
  - (5) Other records including support information, such as calibration and maintenance records, original strip chart recordings or computer printouts for continuous monitoring instrumentation, and all other reports required by the Administrator;
  - (6) A requirement for the retention of records of all required monitoring data and support information for a period of at least three years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration

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and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit; and

(7) Provisions for the owner or operator to annually report in writing emissions of hazardous air pollutants;

(g) Terms and conditions for reasonably anticipated operating scenarios identified by the source in the minor or synthetic minor source permit application as approved by the Administrator. Such terms and conditions shall include:

(1) 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 the Administrator, submit written notification to the Administrator; and

(2) Provisions to ensure that the terms and conditions under each alternative scenario meet all applicable requirements;

(h) General provisions including:

(1) A statement that the owner or operator shall comply with all terms and conditions of the minor source permit and that any permit noncompliance constitutes a violation of this chapter, and is grounds for enforcement action; for permit termination, suspension, reopening, or amendment; or for denial of a permit renewal application;

(2) 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;

(3) 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;

(4) A statement that the permit may be terminated, suspended, reopened, or amended for cause pursuant to §§ 65-10-010 and 65-10-312. 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;

(5) A statement that the permit does not convey any property rights of any sort, or any exclusive privilege;

(6) A provision that, if construction is not commenced, continued, or completed in accordance with § 65-10-009, the minor or synthetic minor source permit for the subject emission unit shall become invalid;

(7) A provision that the owner or operator shall notify the Administrator in writing of the anticipated date of initial start-up for each emission unit of a new minor or synthetic minor source or modification to the source not more than 60 days or less than 30 days prior to such date. The Administrator shall also be notified in writing of the actual date of construction commencement and start-up within 15 days after such dates;

(8) A requirement pursuant to §§ 65-10-016 and 65-10-017 for reporting of equipment shutdown and malfunction;

(9) 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

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department copies of records required to be kept by the permit. For information claimed to be confidential, the permittee shall furnish such records to the department with a claim of confidentiality;

(10) A provision for the designation of confidentiality of any records pursuant to § 65-10-015;

(11) A requirement that the owner or operator shall submit fees in accordance with Part 7;

(12) Certification requirements pursuant to § 65-10-005; and

(13) A requirement that the owner or operator allow the Administrator or an authorized representative, upon presentation of credentials or other documents required by law:

(A) 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

(B) To sample or monitor at reasonable times substances or parameters to assure compliance with the permit or applicable requirements;

(h) Compliance plan submittal requirements pursuant to §§ 65-10-306 and 65-10-806; and

(i) Any other provision to assure compliance with all applicable requirements.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-804 Minor or Synthetic Minor Source Permit Renewal Application**

A permit renewal application shall include a complete application form and the following information:

(a) Name, address, and phone number of:

- (1) The company;
- (2) The facility, if different from the company;
- (3) The owner and owner's agent; and
- (4) The plant site manager or other contact;

(b) Statement certifying that no changes have been made in the design or operation of the source as proposed in the initial and any subsequent minor source permit applications. If changes have occurred or are being proposed, the applicant shall provide a description of those changes such as work practices, operations, equipment design, and monitoring procedures;

(c) A compliance plan in accordance with § 65-10-306; and

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(d) Other information:

- (1) As required by any applicable requirement or as requested and deemed necessary by the Administrator to make a decision on the application; and
- (2) 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.

(e) Each application for permit renewal shall be submitted to the Administrator a minimum of 60 days prior to the date of permit expiration.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-805 Minor or Synthetic Minor Source Modification Application**

A minor source modification application shall include a complete application form and the following information:

- (a) The name, address, and phone number of:
  - (1) The company;
  - (2) The facility, if different from the company;
  - (3) The owner and owner's agent; and
  - (4) The plant site manager or other contact;
- (b) A description of the 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;
- (c) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules 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 description of all processes and products; and, if reasonably anticipated, a detailed description of alternative operating scenarios;
- (d) The potential to emit (PTE), 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;
- (e) Identification and description of all points of emissions including stack or vent dimensions and flow information;
- (f) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner or operator of the

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minor source or modification, and to the extent of available information, an estimate of emissions before and after controls;

- (g) Operational limitations or work practices which the owner or operator of the minor source plans to implement that affect emissions of any regulated or hazardous air pollutants at the source;
- (h) A schedule for construction or modification of the minor source;
- (i) All calculations and assumptions on which the information in subsections (c), (e), (f), and (g) is based;
- (j) If requested by the Administrator, an assessment of the ambient air quality impact of the minor source or modification. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the national and CNMI ambient air quality standards;
- (k) If requested by the Administrator, a risk assessment of the air quality related impacts caused by the minor source or modification to the surrounding environment;
- (l) If requested by the Administrator, results of source emission testing, ambient air quality monitoring, or both;
- (m) If requested by the Administrator, information on other available control technologies;
- (n) An explanation of all proposed exemptions from any applicable requirement;
- (o) At your option, you may propose emission limitations for each affected emissions unit, which may include pollution prevention techniques, air pollution control devices, design standards, equipment standards, work practices, operational standards or a combination thereof. You may include an explanation of why you believe the proposed emission limitations to be appropriate.
- (p) A compliance plan in accordance with § 65-10-306; and
- (q) Other information:
  - (1) As requested and deemed necessary by the Administrator to make a decision on the application; and
  - (2) 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.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-806 Compliance Plan**

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- (a) A compliance plan shall include at a minimum the following information:
- (1) A description of the compliance status of the existing minor source or proposed source with respect to all the applicable requirements in the permit; and
  - (2) The following statement or description and compliance schedule, as applicable:
    - (i) For applicable requirements with which the source is in compliance, a statement that the source is in compliance and will continue to comply with such requirements;
    - (ii) For applicable requirements which become applicable during the permit term, a statement that the source on a timely basis will meet all such applicable requirements and a detailed schedule if required by the applicable requirement. The statement shall include documentation on the proposed method the owner or operator plans to initiate to obtain compliance; and a compliance schedule demonstrating that the source will meet such applicable requirement by the date specified in the applicable requirement; or
    - (iii) For applicable requirements with which the source is not in compliance, a narrative description of how the source will achieve compliance with all such applicable requirements; and a detailed compliance schedule containing specific milestones of remedial measures to obtain compliance, allowing for an enforceable sequence of actions. Any compliance schedule shall resemble and shall be at least as stringent as any judicial consent decree or administrative order that applies to the source. The schedule shall not sanction noncompliance with the applicable requirements on which the schedule is based.
- (b) If a compliance plan is to remedy a violation, a progress report certified pursuant to § 65-10-005 shall be submitted to the Administrator no less frequently than every six months and shall include:
- (1) Dates for achieving the activities, milestones, or compliance, and dates when such activities, milestones, or compliance were achieved; and
  - (2) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

Modified, 1 CMC § 3806(c).

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).

### **§ 65-10-807 Temporary Source Relocation Request**

A relocation request shall include at a minimum the following information:

- (a) Name, address, and phone number of:
  - (1) The company;
  - (2) The facility, if different from the company;
  - (3) The owner and owner's agent; and
  - (4) The plant site manager or other contact;
- (b) Temporary minor source permit identification number and expiration date;
- (c) Location map of the new temporary location, identifying the surrounding commercial, industrial, and residential developments;

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- (d) Projected dates of operation at the new location;
- (e) Identification of any other air pollution source at the new location; and
- (f) Certification that no modification will be made to the equipment, and operational methods will remain similar as permitted under the temporary minor source permit at the new location.

History: Adopted 39 Com. Reg. 40415 (Dec. 28, 2017); Proposed 39 Com. Reg. 40009 (Sept. 28, 2017).