

**Appendix A: Applicable HAR and HRS Provisions
for Approval into the SIP**

January 13, 2012 HAR Amendments

June 19, 2014 HAR Amendments

February 8, 2024 HAR Amendments

New HAR Provisions

New HRS Provision

January 13, 2012 Amendments
HAR Subchapter 3 - Open Burning
§11-60.1-53
§11-60.1-54
§11-60.1-57

[REDACTED]

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§11-60.1-53 Agricultural burning: permit applicability. 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 director. Any person who fails to comply with the terms and conditions of the permit or this chapter shall be subject to the penalties and remedies provided for in sections 342B-42, 342B-44, 342B-47, and 342B-48, HRS, including the invalidation of the permit. No agricultural permit shall be granted for, or be construed to permit:

- (1) The open burning of trash, waste, or by-products generated outside the permitted property;
- (2) The open burning of trash or other waste that has been handled or processed by factory operations, not including material from the field; or
- (3) The open burning of any waste for the clearing of land. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; am and comp 1/13/12; comp 6/30/14; comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-21; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-21; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)

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

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§11-60.1-54 Agricultural burning permit application. (a) Application for an agricultural burning permit shall be made on forms furnished by the director. The application shall include the following:

- (1) Business license information or commercial agricultural activity general excise tax license, if applicable;
- (2) Maps of areas to be burned showing fields by appropriate numbers and acreage, direction of prevailing winds, location of residential, school, and commercial establishments, public buildings, airports, and public utilities;
- (3) The designation of fields to be burned under specified wind conditions; and
- (4) Any other information as required and deemed necessary by the director to make a decision on the application.

(b) To be eligible for an agricultural burning permit, the applicant must currently be involved in agricultural operations, forest management, or range improvements at the property where burning will occur, and must have legal right, title, or possession to the property, and if not the owner, must have the written authorization of the owner or owner's representative to burn on the property.

(c) Each application shall be signed by the applicant as being true and accurate and shall constitute an agreement that the applicant shall comply with all the terms and conditions of the permit and this chapter.

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

- (1) All information required or requested pursuant to subsection (a) has been submitted;
- (2) All documents in subsection (a) have been signed by the applicant; and
- (3) All applicable fees have been submitted.

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(e) The application will be deemed complete sixty days after received unless the director requests the applicant to provide additional information. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; am and comp 1/13/12; comp 6/30/14; comp

FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-21; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-21; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)

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



60.1-64

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§11-60.1-55

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§11-60.1-57 Agricultural burning: action on application. (a) The director shall act on a complete application within a reasonable time, but not to exceed ninety calendar days from the date the complete application is received, and shall notify the applicant in writing of the approval or denial of the application. If the director has not acted on an application within the ninety calendar-day period, the application shall be deemed to have been approved.

(b) If an application is denied, the applicant may request in writing, a re-evaluation of the application to the director.

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

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

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

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

(f) The permit shall not be transferable whether by operation of law or otherwise or from one person to another. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; am and comp 1/13/12; comp 6/30/14; comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-21, 342B-24, 342B-27; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-21, 342B-24, 342B-27; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)

Historical note: §11-60.1-57 is based substantially upon §11-60-36. [Eff 11/29/82; am, ren §11-60-36 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

[REDACTED]

June 19, 2014 Amendments
HAR Subchapter 1 - General Requirements:
§11-60.1-3
§11-60.1-14

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

- (1) The maintenance and attainment of any NAAQS and any state ambient air quality standard;
- (2) General prohibitions pursuant to subchapter 2;
- (3) Requirements for noncovered and covered sources pursuant to subchapters 4 and 5;
- (4) Applicable Standards of Performance for New Stationary Sources (40 CFR Part 60), National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61), National Emission Standards for Hazardous Air Pollutants for Source Categories (40 CFR Part 63), or any other federal standard or other requirement established pursuant to the Act.
- (5) Prevention of significant deterioration review requirements pursuant to subchapter 7;
- (6) Applicable standards of performance for stationary sources pursuant to subchapter 8; and
- (7) Requirements for stationary sources of hazardous air pollutants and greenhouse gases pursuant to subchapters 9 and 11, respectively. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; am and comp 11/14/03; comp 1/13/12; am and comp 6/30/14; comp FEB -8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-71, 342B-72, 342B-73; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)



§11-60.1-14 Public access to information. (a)

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

- (1) All permit applications;
- (2) All supporting information for permit applications;
- (3) Compliance plans and schedules;
- (4) Reports and results associated with performance tests and continuous emission monitors;
- (5) Ambient air monitoring data and emissions inventory data;
- (6) Certifications;
- (7) Any other information submitted to the department pursuant to the noncovered and covered source permit program;
- (8) Proposed GHG emission reduction plans;
- (9) Permits; and
- (10) Public comments or testimonies received during any public comment period or public hearing.

(b) Any owner or operator of an existing or proposed noncovered or covered source may request confidential treatment of specific information, including information concerning secret processes or methods of manufacture, by submitting a written

request to the director at the time of submission, and clearly identifying the specific information that is to be accorded confidential treatment. With respect to each item of confidential information, the owner or operator requesting that it be designated as confidential shall provide the following documentation:

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

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

(d) Upon a satisfactory showing to the director by any owner or operator that records, reports, or information, or particular part thereof, to which the director has access pursuant to this chapter, contain information of a confidential nature, including information concerning secret processes or methods of manufacture, these records, reports, or information shall be kept confidential except that such records, reports, or information may be disclosed to other state and federal officers or employees concerned with carrying out this chapter or when relevant in any proceeding pursuant to this chapter. If required by EPA, all records, reports, and information determined by the owner or operator to be confidential shall be submitted directly to EPA. Neither the contents of the permit nor emissions data shall be entitled to confidentiality protection.

(e) Records, reports, or information for which confidentiality has been claimed may be disclosed only after the requirements of section 342B-31(d), HRS, have been met and the person requesting

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confidentiality has had an opportunity to obtain judicial review pursuant to subsection (f).

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

(g) All requests for public records shall be in writing, shall be addressed to the director, and shall identify or describe the character of the requested record. Upon approval by the director, the requested public record shall be available to the requestor for inspection and copying during established office hours. The director shall charge the requester a reasonable cost for reproduction of any public record, but not less than twenty-five cents per page, sheet, or fraction thereof. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; am and comp 6/30/14; comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

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60.1-36

February 18, 2024 Amendments
HAR Subchapter 1 - General Requirements:

§11-60.1-1

§11-60.1-11

§11-60.1-12

SUBCHAPTER 1

GENERAL REQUIREMENTS

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

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

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

"Administrative permit amendment" means a permit amendment which:

- (1) Corrects typographical errors;
- (2) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;
- (3) Requires more frequent monitoring or reporting by the permittee;
- (4) Consolidates the terms and conditions of two or more noncovered source permits into one noncovered source permit for a facility;
- (5) Consolidates the terms and conditions of two or more covered source permits into one covered source permit for a facility;
- (6) Incorporates applicable requirements for any insignificant activity listed in section 11-60.1-82(f) or (g), provided the activity is not by itself subject to subchapters 8 or 9, does not cause a noncovered stationary source to become a major source, and does not cause the stationary source to become subject to provisions of subchapters 7, 8, or 9; or
- (7) Allows for a change in ownership or operational control of a source provided the department has determined that no other change in the permit is necessary, and provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability

between the current and new permittees has been submitted to the director.

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

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

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

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

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

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

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

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

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

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

"Biogenic CO₂ emissions" mean CO₂ emissions from a stationary source directly resulting from the combustion or decomposition of biologically-based materials other than fossil fuels and mineral sources of carbon. Examples of biogenic CO₂ emissions include, but are not limited to: CO₂ generated from the biological decomposition of waste in landfills, wastewater treatment or manure management processes;

CO₂ from the combustion of biogas collected from biological decomposition of waste in landfills, wastewater treatment or manure management processes; CO₂ from fermentation during ethanol production or other industrial fermentation processes; CO₂ from combustion of the biological fraction of municipal solid waste or biosolids; CO₂ from combustion of the biological fraction of tire-derived fuel; and CO₂ derived from combustion of biological material, including all types of wood and wood waste, forest residue, and agricultural material.

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

"BTU" means British thermal unit.

"Carbon dioxide" means a gas emitted naturally or from human activities such as the burning of fossil fuels and biomass, land-use changes, and industrial processes. It is the principal anthropogenic greenhouse gas that affects the Earth's radiative balance. It is the reference gas against which other greenhouse gases are measured and therefore has a global warming potential of one.

"CFR" means the Code of Federal Regulations.

"CO₂" means carbon dioxide.

"CO₂ equivalent emissions" means the amount of greenhouse gases emitted as computed by multiplying the mass amount of emissions (tpy) for each of the six greenhouse gases in the pollutant GHGs, by the gases' associated global warming potential values published at 40 CFR Part 98, Subpart A, Table A-1, and summing the resultant values of each gas to compute a TPY CO₂ equivalent.

"CO₂e" means carbon dioxide equivalent emissions.

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

- (1) Begun, or caused to begin a continuous program of actual operation or on-site construction of the source; or

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

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

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

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

"Covered source" means:

- (1) Prior to program approval:
 - (A) Any major source;
 - (B) Any source subject to a standard or other requirement under Section 111 of the Act;
 - (C) Any source subject to an emissions standard or other requirement for hazardous air pollutants pursuant to Section 112 of the Act, with the exception of those sources solely subject to regulations or requirements pursuant to Section 112(r) of the Act; and
 - (D) Any source subject to the rules for prevention of significant deterioration of air quality as established in subchapter 7.
- (2) Upon program approval and thereafter:
 - (A) Any major source;

- (B) Any source subject to a standard or other requirement under Section 111 or 112 of the Act designated by the Administrator as requiring a Title V permit, such as subject solid waste incineration units; and
- (C) Any source subject to the rules for prevention of significant deterioration of air quality as established in subchapter 7.

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

"Credible evidence" means various kinds of information other than reference test data, much of which is already available and utilized for other purposes, that may be used to determine compliance or noncompliance with emission standards.

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

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

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

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

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

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

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

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

"EPA" means the United States Environmental Protection Agency.

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

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

"Federally enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60, 61, and 63; requirements within the Hawaii State implementation plan; or any permit requirements established pursuant to 40 CFR Part 52.21 or all permit terms and conditions in a covered source permit except those specifically designated as not federally enforceable or regulations approved pursuant to 40 CFR Part 51 Subpart I, including operating permits issued under an EPA-approved program that is

incorporated into this subchapter and expressly requires adherence to any permit issued under such program.

"Fossil fuel" means a hydrocarbon deposit, such as petroleum, coal, or natural gas, derived from the accumulated remains of plants and animals of a previous geologic time and used for fuel.

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

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

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

"Gas-tight" means no detectable gaseous emissions.

"Global warming potential" means the relative scale of how much a given mass of greenhouse gas is estimated to heat up the atmosphere in comparison to carbon dioxide having a global warming potential of one.

"Greenhouse gases" means the air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

"GHG or GHGs" means greenhouse gas or greenhouse gases.

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

"HRS" means the Hawaii Revised Statutes.

"Major source" means:

- (1) For hazardous air pollutants, a source or a group of stationary sources that is located on one or more contiguous or adjacent properties, and is under common control of

- the same person (or persons under common control) and that emits or has the potential to emit considering controls and fugitive emissions, any hazardous air pollutant, except radionuclides, in the aggregate of ten tons per year or more of a single pollutant or twenty-five tons per year or more of any combination of pollutants; or
- (2) For any other pollutant, a source, or a group of stationary sources that is located on one or more contiguous or adjacent properties, and is under common control of the same person (or persons under common control) belonging to a single major industrial grouping (i.e., all having the same two-digit Standard Industrial Classification Code) and that emits or has the potential to emit, considering controls, one hundred tons per year or more of any air pollutant subject to regulation other than the pollutant greenhouse gases. Fugitive emissions from the stationary source shall be considered in determining whether the stationary source is major, if it belongs to one of the following categories of stationary sources:
- (A) Coal cleaning plants (with thermal dryers);
 - (B) Kraft pulp mills;
 - (C) Portland cement plants;
 - (D) Primary zinc smelters;
 - (E) Iron and steel mills;
 - (F) Primary aluminum ore reduction plants;
 - (G) Primary copper smelters;
 - (H) Municipal incinerators capable of charging more than fifty tons of refuse per day;
 - (I) Hydrofluoric, sulfuric, or nitric acid plants;
 - (J) Petroleum refineries;
 - (K) Lime plants;
 - (L) Phosphate rock processing plants;

- (M) Coke oven batteries;
- (N) Sulfur recovery plants;
- (O) Carbon black plants (furnace process);
- (P) Primary lead smelters;
- (Q) Fuel conversion plants;
- (R) Sintering plants;
- (S) Secondary metal production plants;
- (T) Chemical process plants - the term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (U) Fossil fuel boilers (or combination thereof) totaling more than two hundred fifty million BTU per hour heat input;
- (V) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;
- (W) Taconite ore processing plants;
- (X) Glass fiber processing plants;
- (Y) Charcoal production plants;
- (Z) Fossil fuel fired steam electric plants of more than two hundred fifty million BTU per hour heat input; and
- (AA) Any other stationary source which as of August 7, 1980 is being regulated by a standard promulgated pursuant to Section 111 or 112 of the Act.

"Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation shall not be considered malfunctions.

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

"Monitoring device" means the total equipment, required under the monitoring of operations sections in all applicable subparts, used to measure and record (if applicable) process parameters. Nothing in these rules shall preclude the use, including the exclusive use, of any credible evidence information, relevant to whether a source would have been in compliance with any applicable requirements if the appropriate performance or compliance test or procedure had been performed.

"Month" means a calendar month.

"NAICS" means the North American Industry Classification System used by business and government to classify business establishments according to type of economic activity (process of production) in the United States, Canada, and Mexico. The NAICS numbering system employs a six-digit code at the most detailed industry level. The first two digits designate the largest business sector, the third digit designates the subsector, the fourth digit designates the industry group, and the fifth digit designates particular industries. The last digit designates national industry types.

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

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

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

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

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

"No detectable emissions" means less than 500 ppm above background levels, as measured by a detection

instrument in accordance with Method 21 in Appendix A of 40 CFR Part 60.

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

"Nonroad engine" means:

- (1) Except as discussed in paragraph (2) of this definition, an internal combustion engine that meets any of the following criteria:
 - (A) It is (or will be) used in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers).
 - (B) It is (or will be) used in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers).
 - (C) By itself or in or on a piece of equipment, it is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.
- (2) An internal combustion engine is not a nonroad engine if it meets any of the following criteria:
 - (A) The engine is used to propel a motor vehicle, an aircraft, or equipment used solely for competition.
 - (B) The engine is regulated under 40 CFR Part 60, or otherwise regulated by a federal New Source Performance Standard promulgated under section 111 of the Clean Air Act (42 U.S.C. 7411).
 - (C) The engine otherwise included in subparagraph (1) (C) of this definition remains or will remain at a location for

more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location approximately three months (or more) each year. See 40 CFR Section 1068.31 for provisions that apply if the engine is removed from the location.

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

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

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

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

rules adopted pursuant to chapter 342B, or regulations promulgated pursuant to the Act, but requiring review by the department.

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

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

"PM_{2.5}" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers. Gaseous emissions which condense to form particulate matter at ambient temperatures shall be included.

"PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers. Gaseous emissions which condense to form particulate matter at ambient temperatures shall be included.

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

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator and the director.

"Program approval" means approval granted by the Administrator pursuant to 40 CFR Part 70 for revisions to the State of Hawaii covered source permit program.

"PSD" means prevention of significant deterioration.

"Reconstruction" means the replacement of components at an existing stationary source to such an extent that the fixed capital cost of the new

components exceeds fifty percent of the fixed capital cost that would be required to construct a comparable entirely new stationary source.

"Regulated air pollutant" means:

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

"Responsible official" means:

- (1) For a corporation: a president, secretary, treasurer, or vice-president of the

corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or an authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

- (A) The facilities employ more than two hundred fifty persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
- (B) The delegation of authority to such representative is approved in advance by the director;
- (2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively; or
- (3) For a municipality, state, federal, or other public agency: a principal executive officer, ranking elected official, or an authorized representative as approved by the director. For the purposes of this chapter, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

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

"SICC" means Standard Industrial Classification Code.

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

- (1) A rate of emissions that would equal or exceed any of the following pollutant emission rates:
 - (A) Carbon monoxide: one hundred tpy;
 - (B) Nitrogen oxides: forty tpy;
 - (C) Sulfur dioxide: forty tpy;
 - (D) Particulate matter: a total of twenty-five tpy of particulate matter of all sizes;
 - (E) PM₁₀: fifteen tpy;
 - (F) PM_{2.5}: ten tpy of direct PM_{2.5}, forty tpy of sulfur dioxide, forty tpy of nitrogen oxide;
 - (G) Ozone: forty tpy of volatile organic compounds or nitrogen oxides;
 - (H) Greenhouse Gases: forty thousand tpy CO₂e; or
 - (I) Lead: 0.6 tpy.

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

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

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

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

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

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

"Subject to regulation" means for any pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable

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regulation codified in 40 CFR Subchapter C of Chapter I, Air Programs, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity.

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

"Tpy" means tons per year.

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

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

"Volatile organic compound water separator" means a tank, box, sump, or other container which is primarily designed to separate and recover volatile organic compounds from water. Petroleum storage tanks from which water incidental to the process is periodically removed are not considered volatile organic compound water separators. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; am and comp 11/14/03; comp 1/13/12; am and comp 6/30/14; am and comp] (Auth: HRS §§342B-3, 342B-12, 342B-71, 342B-72, 342B-73; 42 U.S.C. §§7407,

§11-60.1-2.5

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

[REDACTED]

[REDACTED]

[REDACTED]

60.1-25

[REDACTED]

§11-60.1-11 Sampling, testing, and reporting methods. (a) All sampling and testing shall be made and the results calculated in accordance with the reference methods specified by EPA, or in the absence of an EPA reference method, test procedures approved by the director. All tests shall be made under the direction of persons knowledgeable in the field of air emissions measurement testing.

(b) The department may conduct tests of emissions of air pollutants from any source. Upon request of the director, an owner or operator of a stationary source may be required to conduct tests of emissions of air pollutants at the owner or operator's expense. The owner or operator of the stationary source to be tested shall provide necessary ports in stacks or ducts and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices, as may be necessary

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for proper determination of the emissions of air pollutants.

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

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

(e) Information recorded by the owner or operator of a stationary source and copies of the summarizing reports submitted to the director shall be retained by the owner or operator for a specified time period from the date on which the information is recorded or the pertinent report is submitted. The specified time period shall be as required in sections 11-60.1-68(5)(F) or 11-60.1-90(7)(H) or as identified within an applicable requirement for the stationary source.

(f) Owners or operators of stationary sources shall correlate applicable emission limitations and other requirements within the report. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; am and comp FEB - 8 2024]
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

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

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

(b) Where an air quality model specified in 40 CFR Part 51, Appendix W is inappropriate, the model may be modified or another model substituted on written request to and written approval from the director. The director shall provide for public notice, including the method by which a public hearing can be requested, and an opportunity for public comment, on all proposed modifications or substitutions of an air quality model. Written approval from the director, and EPA through the director shall be obtained for any modification or substitution. Guidelines identified in 40 CFR Part 51, Appendix W for substituting or using alternate models shall be used in determining the acceptability of a substitute or alternate model. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; am and comp

FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

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



February 18, 2024 Amendments
HAR Subchapter 2 - General Prohibitions:

§11-60.1-32

§11-60.1-40

§11-60.1-41

§11-60.1-42



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

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

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

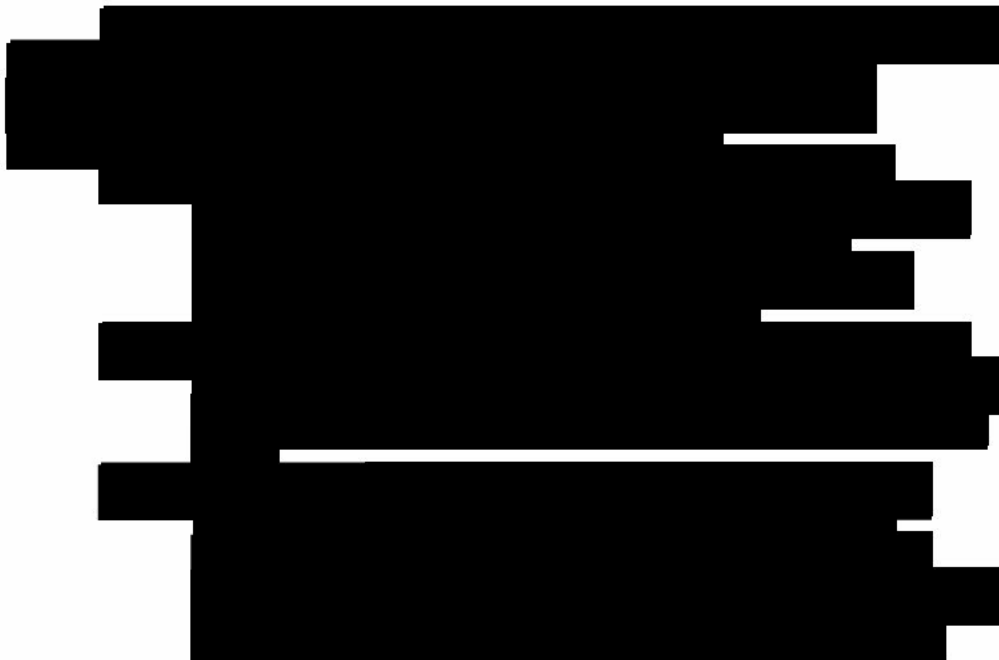
- (1) No person shall cause or permit the emission of visible air pollutants of a density equal to or darker than twenty percent opacity, except as provided in paragraph (2);
- (2) During start-up, shutdown, or when a malfunction of equipment occurs, a person may discharge into the atmosphere from any

single source of emission, for a period aggregating not more than six minutes in any sixty minutes, air pollutants of a density not darker than sixty percent 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, other EPA approved methods, or any other credible evidence.

(d) Emissions of uncombined water, such as water vapor, are exempt from the provisions of subsections (a) and (b), and do not constitute a violation of this section. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; am and comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

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



[REDACTED]

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

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

gas-tight except when gauging or sampling is taking place;

- (3) A container equipped with a vapor recovery system consisting of a vapor gathering system capable of collecting the volatile organic compound vapors and gases discharged, and a vapor disposal system capable of processing such volatile organic compound vapors and gases to prevent their emission to the atmosphere. All container gauging and sampling devices shall be gas-tight except when gauging and sampling is taking place; or
- (4) A container having other equipment of equal efficiency for purposes of air pollution control may be approved by the director after demonstrating equivalence to the director by one of the following methods:
 - (A) an actual emissions test in a full size or scale sealed tank facility which accurately collects and measures all hydrocarbon emissions associated with a given closure device, and which accurately simulates other emission variables, such as temperature, barometric pressure and wind. The test facility shall be subject to prior approval by the director, or
 - (B) a pressure leak test, engineering evaluation or other means where the director determines that the same is an accurate method of determining equivalence.

(b) Compliance with Reid vapor pressure requirements shall be determined by evaluating Reid vapor pressure pursuant to ASTM Method D323-99 or other EPA approved methods. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; am and comp FEB - 8 2024]
 (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)
 (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

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

§11-60.1-41 Pump and compressor requirements.

(a) All pumps and compressors handling volatile organic compounds having a Reid vapor pressure of 1.5 pounds per square inch or greater which can be fitted with mechanical seals shall have mechanical seals or other equipment of equal efficiency for purposes of air pollution control as may be approved by the director. Pumps and compressors not capable of being fitted with mechanical seals, such as reciprocating pumps, shall be fitted with the best sealing system available for air pollution control given the particular design of pump or compressor as may be approved by the director. In either case, all pumps and compressors shall be vapor tight where the reading on a portable hydrocarbon meter is less than 500 parts per million (ppm), expressed as methane, above background.

(b) Compliance with Reid vapor pressure requirements shall be determined by evaluating Reid vapor pressure pursuant to ASTM Method D323-99 or other EPA approved methods.

(c) Compliance with vapor tight requirements shall be determined by evaluating vapor tightness pursuant to EPA Method 21 or other EPA approved methods. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; am and comp] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

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

§11-60.1-42 Waste gas disposal. (a) No person shall cause or permit the emissions of gas streams containing volatile organic compounds from a vapor blowdown system unless these gases are burned by smokeless flares, or abated by an equally effective control device as approved by the director.

(b) Compliance with smokeless flare or equally effective control device requirements shall be in accordance with section 11-60.1-32. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; am and comp FEB -8 2024]
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

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



February 18, 2024 Amendments
HAR Subchapter 3 - Open Burning:
§11-60.1-51

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

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

"Agricultural operation" means a bona fide agricultural, silvicultural, or aquacultural activity for the purpose of making a profit by raising, harvesting and selling crops, or by raising and selling livestock or poultry, or produce thereof. Agricultural operation also means activities conducted by non-profit agricultural research organizations and by educational institutions for the purpose of providing agricultural instruction. The burning of animal carcasses is not an agricultural operation.

"Attended" means to be physically present at the immediate location of the fire, to actively and physically look after, or to actively and physically take charge of.

"Auxiliary fuels" means butane, propane, pipeline quality natural gas, liquefied petroleum gas, or a petroleum liquid having an American Petroleum Institute gravity of at least 30.

"Aquacultural" means dealing with the cultivation of the natural produce of water.

"Clearing of land" means the removal of non-agricultural waste or vegetation from land not currently being utilized for agricultural operations, or not associated with forest management or range improvement.

"Cooking fuel" means any fuel that is processed, marketed, and sold by commercial establishments specifically for the cooking of food.

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

"Forest management" means wildland vegetation management using prescribed burning procedures which have been approved by the forestry division or responsible federal agency prior to the commencement of any burn and which are being conducted by a public agency or through a cooperative agreement involving a

public agency. The fire department may be consulted for advice and guidance as part of the prescribed burning procedure.

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

"No-burn period" means any period in which agricultural burning or conditionally allowed open burning in subsection 11-60.1-52(e) is prohibited by the director as provided in section 11-60.1-55.

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

"Range" means an extensive area of open land on which domestic livestock or wild animals wander and graze.

"Range improvement" means physical modification or treatment of rangeland which is designed to: improve production of forages; change vegetation composition; control patterns of use; provide water; stabilize soil and water conditions; and otherwise restore, protect, and improve the conditions of the rangeland ecosystems to benefit livestock, horses, and fish and wildlife.

"Recreational fire" means a fire used for social, cultural, or other activities including, but not limited to, campfires, bonfires, hand-warming fires, raku or pit pottery curing fires, or fires conducted as part of an unusual event such as fire dancing, provided the activity is not part of a business for gainful occupation.

"Silvicultural" means dealing with the cultivation of forest trees; forestry. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; am and comp 1/13/12; am and comp 6/30/14; am and comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-34; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-34; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52)

February 18, 2024 Amendments
HAR Subchapter 5 - Covered Sources:

§11-60.1-81

§11-60.1-82

§11-60.1-83

§11-60.1-90

§11-60.1-92

§11-60.1-99

§11-60.1-103

§11-60.1-104



SUBCHAPTER 5

COVERED SOURCES

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

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

- (1) Any standard or other requirement provided for in the state implementation plan approved or promulgated by EPA;
- (2) Any term or condition of any preconstruction permit issued pursuant to regulations approved or promulgated through rulemaking

- pursuant to Title I, including Part C of the Act;
- (3) Any standard or other requirement approved pursuant to Section 111 of the Act, including Section 111(d);
 - (4) Any standard or other requirement approved pursuant to Section 112 of the Act, including any requirement concerning accident prevention approved pursuant to Section 112(r)(7) of the Act;
 - (5) Any requirement approved pursuant to Section 504(b) or 114(a)(3) of the Act;
 - (6) Any standard or other requirement governing solid waste incineration approved pursuant to Section 129 of the Act;
 - (7) Any standard or other requirement for consumer and commercial products, approved pursuant to Section 183(e) of the Act;
 - (8) Any standard or other requirement for tank vessels approved pursuant to Section 183(f) of the Act;
 - (9) Any standard or other requirement of the program to control air pollution from outer continental shelf sources approved pursuant to Section 328 of the Act;
 - (10) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone approved pursuant to Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit;
 - (11) Any NAAQS or increment or visibility requirement approved pursuant to Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the Act;
 - (12) Any NAAQS or state ambient air quality standard;
 - (13) Any standard or other requirement approved pursuant to Title I, including Part C of the Act;

- (14) The application of best available control technology to control regulated air pollutants, but only as best available control technology would apply to new covered sources and significant modifications to covered sources that have the potential to emit or increase emissions above significant amounts considering any limitations, enforceable by the director, on the covered source to emit a pollutant; and
- (15) Any standard or other requirement provided for in chapter 342B, HRS; this chapter; or chapter 11-59.

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

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

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

"Minor modification" means a modification which:

- (1) Does not increase the emissions of any air pollutant above the permitted emission limits and for existing major stationary sources, does not result in a major modification as defined in section 11-60.1-131;
- (2) Does not result in or increase the emissions of any air pollutant not limited by permit to levels equal to or above the following, and for existing major stationary sources, does not result in a major modification as defined in section 11-60.1-131:
 - (A) 500 pounds per year of a hazardous air

- pollutant, except lead;
- (B) 300 pounds per year of lead;
- (C) twenty-five percent of significant amounts of emission as defined in section 11-60.1-1, paragraph (1) in the definition of "significant"; or
- (D) two tons per year of each regulated air pollutant not already identified above;
- (3) Does not violate any applicable requirement;
- (4) Does not involve significant changes to existing monitoring requirements or any relaxation or significant change to existing reporting or recordkeeping requirements in the permit. Any change to the existing monitoring, reporting, or recordkeeping requirements that reduces the enforceability of the permit is considered a significant change;
- (5) Does not require or change a case-by-case determination of an emission limitation or other standard, a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;
- (6) Does not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:
 - (A) A federally enforceable emissions cap assumed to avoid classification as a modification pursuant to any provision of Title I of the Act or subchapter 7; and
 - (B) An alternative emissions limit approved pursuant to regulations promulgated pursuant to Section 112(i)(5) of the Act or subchapter 9; and
- (7) Is not a modification pursuant to any provision of Title I of the Act.

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

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

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

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

"Significant modification" means a modification which does not qualify as a minor modification or administrative amendment. A significant modification shall include every significant change in existing monitoring requirements, and every relaxation of, or significant change to the existing reporting or recordkeeping requirements. Nothing herein shall be construed to preclude the permittee from making changes consistent with this part that would render existing permit compliance terms and conditions irrelevant.

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

"Timely application" means:

- (1) An initial application for a covered source permit filed during the transition period, in accordance with the submittal schedule in section 11-60.1-87; or

- (2) An application for a covered source permit renewal which is submitted to the director no fewer than twelve months and no more than eighteen months prior to the permit expiration date, or the deadline as approved by the director pursuant to subsection 11-60.1-101(b).

"Transition period" means the three years following the effective date of this chapter. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; am and comp 11/14/03; comp 1/13/12; am and comp 6/30/14; am and comp FEB - § 2024] (Auth: HRS §§342B-1, 342B-3, 342B-12, 342B-71, 342B-72, 342B-73; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70) (Imp: HRS §§342B-1, 342B-3, 342B-12; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70)

§11-60.1-82 Applicability. (a) Except as provided in subsections (d), (e), and (k) and section 11-60.1-87, no person shall burn used or waste oil or begin construction, reconstruction, modification, relocation, or operation of an emission unit or air pollution control equipment of any covered source without first obtaining a covered source permit from the director. The construction, reconstruction, modification, relocation, or operation shall continue only if the owner or operator of a covered source holds a valid covered source permit.

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

- (1) Prior to permit expiration, a timely and complete renewal application has been submitted and the owner or operator acts consistently with the permit previously granted, the application on which it was based, and all plans, specifications, and other information submitted as part of the application; and

- (2) The owner or operator has submitted to the director within the specified deadlines, all requested additional information deemed necessary to evaluate or take final action on the renewal application, as described in section 11-60.1-101(e).

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

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

- (1) All sources and source categories that would be required to obtain a permit solely because they are subject to the "Standards of Performance for New Residential Wood Heaters," 40 CFR Section 60.530 et seq.;
- (2) All sources and source categories that would be required to obtain a permit solely because they are subject to the "Standards for Demolition and Renovation" pursuant to the "National Emission Standard for Asbestos," 40 CFR Section 61.145;
- (3) Ocean-going vessels, except for ocean-going vessels subject to any standard or other requirement for the control of air pollution from outer continental shelf sources, pursuant to 40 CFR Part 55;
- (4) Internal combustion engines propelling mobile sources such as automobiles, trucks, cranes, forklifts, front-end loaders, graders, trains, helicopters, and airplanes;
- (5) Nonroad Engines. Owners of nonroad engines, except for those exempt engines listed in subsections (f) and (g) of this section, must maintain a Nonroad Engine Location Log to demonstrate the engine meets subparagraph (1) (C) of the nonroad engine definition of

Subchapter 1. The Nonroad Engine Location Log shall include:

- (A) Owner's Name;
- (B) Engine Manufacturer and Model;
- (C) Engine Serial Number;
- (D) Engine Date of Manufacture; and
- (E) For each location to which the engine is moved, the location of the engine, initial date at the location, and the date moved off the location;
- (6) Diesel fired portable ground support equipment used exclusively to start aircraft or provide temporary power or support service to aircraft prior to start-up; and
- (7) Air-conditioning or ventilating systems that do not contain more than 50 pounds of any Class I or Class II ozone depleting substance regulated under Title VI of the Act and are not designed to remove air pollutants generated by or released from equipment.

(e) The owner or operator of any insignificant activity identified in subsections (f) and (g) may begin construction, reconstruction, modification, or operation of the activity without first obtaining a covered source permit, provided:

- (1) The insignificant activity does not cause a noncovered stationary source to become a major source;
- (2) The insignificant activity does not cause the stationary source to become subject to provisions of subchapter 7; and
- (3) The owner or operator can demonstrate to the director's satisfaction that each activity meets the size, emission level, or production rate criteria contained in subsections (f) and (g).

The insignificant activities listed in subsection (f) shall be identified in the covered source permit application. The insignificant activities listed in subsection (g) need not be identified in the covered source permit application, unless subject to an

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

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

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

drives, and other emergency equipment used to protect the health and welfare of personnel and the public, all of which are used only during power outages, emergency equipment maintenance and testing, and which:

- (A) Are fired exclusively by natural or synthetic gas; or liquified petroleum gas; or fuel oil No. 1 or No. 2; or diesel fuel oil No. 1D or No. 2D; and
- (B) Do not trigger a Prevention of Significant Deterioration (PSD) or covered source review, based on their potential to emit regulated or hazardous air pollutants;
- (6) Paint spray booths that emit less than emission levels specified in paragraph 7 below, except for paint spray booths subject to any standard or other requirement pursuant to Section 112(d) of the Act; and
- (7) Other activities which emit less than:
 - (A) 500 pounds per year of a hazardous air pollutant, except lead;
 - (B) 300 pounds per year of lead;
 - (C) five tons per year of carbon monoxide;
 - (D) 3,500 tons per year CO₂e of greenhouses gases; and
 - (E) two tons per year of each regulated air pollutant not already identified above;
 and which the director determines to be insignificant on a case-by-case basis.
- (g) Insignificant activities in addition to those listed in subsection (f) are:
 - (1) Welding booths;
 - (2) Hand held equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, precision parts, leather, metals, plastics, fiber board, masonry, carbon, glass, or wood, provided reasonable precautions are taken to prevent particulate matter from

- becoming airborne. Reasonable precautions include the use of dust collection systems, dust barriers, or containment systems;
- (3) Laboratory equipment used exclusively for chemical and physical analyses;
 - (4) Containers, reservoirs, or tanks used exclusively for dipping operations for coating objects with oils, waxes, or greases where no organic solvents, diluents, or thinners are used; or dipping operations for applying coatings of natural or synthetic resins which contain no organic solvents;
 - (5) Closed tumblers used for cleaning or deburring metal products without abrasive blasting, and pen tumblers with batch capacity of one thousand pounds or less;
 - (6) Fire water system pump engines dedicated for fire-fighting and maintaining fire water system pressure, which are operated only during fire fighting and periodically for engine maintenance, and fired exclusively by natural or synthetic gas; or liquified petroleum gas; or fuel oil No. 1 or No. 2; or diesel fuel No. 1D or No. 2D;
 - (7) Smoke generating systems used exclusively for training in government or certified fire fighting training facilities;
 - (8) Gasoline fired portable industrial equipment less than 25 horsepower in size;
 - (9) Plant maintenance and upkeep activities (e.g., grounds-keeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots), including equipment used to conduct these activities, provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and are not otherwise subject to an applicable requirement triggering a permit modification;

- (10) Fuel burning equipment which is used in a private dwelling or for space heating, other than internal combustion engines, boilers, or hot furnaces;
- (11) Ovens, stoves, and grills used solely for the purpose of preparing food for human consumption operated in private dwellings, restaurants, or stores;
- (12) Stacks or vents to prevent escape of sewer gases through plumbing traps;
- (13) Consumer use of office equipment and products; and
- (14) Woodworking shops with a sawdust collection system.

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

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

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

been satisfied pursuant to sections 11-60.1-94 and 11-60.1-95.

(j) An owner or operator of a stationary source that is not subject to the requirements of subchapter 5 and that becomes subject to the requirements of subchapter 5, or becomes subject to additional requirements of subchapter 5, pursuant to a new or amended regulation under Section 111 or 112 of the Act, HRS chapter 342B, or this chapter shall submit a complete and timely covered source permit application to address the new requirements. For purposes of this subsection, "timely" means:

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

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

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

- (1) Installation and operation of air pollution control devices. The director may allow the

installation and operation of an air pollution control device prior to issuing a covered source permit or amendment to a covered source permit if the owner or operator of the source can demonstrate that the control device reduces the amount of emissions previously emitted, does not emit any new air pollutants, and does not adversely affect the ambient air quality impact assessment. The owner or operator of the covered source shall submit with the written request, a complete covered source permit application to install and operate the air pollution control device. The application shall include the proposed operating parameters, including any parametric monitoring to ensure that the control device is operating properly.

- (2) Test burns. The director may allow an owner or operator of a covered source to test alternate fuels not allowed by permit if the following conditions are met:
 - (A) The test burn period does not exceed one week, unless the director, upon reasonable justification, approves a longer period, not to exceed three months;
 - (B) The purpose of the test burn is to establish emission rates, to determine if alternate fuels are feasible with the existing covered source facility, or as an investigative measure to research the operational characteristics of a fuel;
 - (C) A stack performance test, a pre-approved monitoring program, or both, if requested by the director, are conducted during the test burn to record and verify emissions;
 - (D) The owner or operator of the covered source provides emission estimates of the test burn and demonstrates that no

violation of the NAAQS and state ambient air quality standards will occur;

- (E) The owner or operator of the covered source demonstrates that the use of the alternate fuel is allowed or not restricted by any applicable requirement, other than the permit condition(s) restricting the alternate fuel use; and
- (F) If a performance test or monitoring is required, the owner or operator of the covered source provides written test or monitoring results within sixty days of the completion of the test burn or such other time as approved by the director. The results shall include the operational parameters of the covered source at the time of the test burn, and any other significant factors that affected the test or monitoring results.

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

Deviations from those limits or conditions shall be considered a violation of this chapter. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; am and comp 11/14/03; comp 1/13/12; am and comp 6/30/14; am and comp FEB - J 2024] (Auth: HRS §§342B-3, 342B-12, 342B-22, 342B-71, 342B-72, 342B-73; 42 U.S.C. §§7407, 7416, 7661a, 7661b; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-22; 42 U.S.C. §§7407, 7416, 7661A, 7661B; 40 C.F.R. Part 70)

§11-60.1-83 Initial covered source permit application. (a) Every application for an initial covered source permit shall be submitted to the

director on forms furnished by the director. The applicant shall submit sufficient information to enable the director to make a decision on the application and to determine the fee requirements specified in subchapter 6. Information submitted shall include:

- (1) Name, address, and phone number of:
 - (A) The company;
 - (B) The facility, if different from the company;
 - (C) The owner and owner's agent; and
 - (D) The plant site manager or other contact;
- (2) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules and capacities to the extent needed to determine or regulate emissions; specifications and drawings showing the design of the source and plant layout; a detailed description of all processes and products by Standard Industrial Classification Code and source category or categories (as defined in section 11-60.1-171); reasonably anticipated alternative operating scenarios, and processes and products by Standard Industrial Classification Code and source category or categories (as defined in section 11-60.1-171) associated with each alternative operating scenario;
- (3) Information to define permit terms and conditions for any proposed emissions trading within the facility pursuant to section 11-60.1-96;
- (4) Maximum emission rates, including fugitive emissions, of all regulated and hazardous air pollutants and all air pollutants for which the source is major from each emissions unit. If applicable, biogenic CO₂ emissions shall be identified and quantified

separately from other biogenic and non-biogenic greenhouse gas emissions. 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. For GHGs, emission rates shall also be reported in CO₂e tons per year. All supporting emission calculations and assumptions shall also be provided;

- (5) Identification and description of all points of emissions in sufficient detail to establish the basis for fees and applicability of requirements of this chapter and the Act. Information on stack parameters and any stack height limitations developed pursuant to Section 123 of the Act shall also be provided;
- (6) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner or operator of the source, and to the extent of available information, an estimate of maximum and expected emissions before and after controls, technical information on the design, operation, size, estimated control efficiency, manufacturer's name, address, telephone number, and relevant specifications and drawings;
- (7) Citation and description of all applicable requirements, and a description of or reference to any method and/or applicable test method for determining compliance with each applicable requirement;
- (8) Current operational limitations or work practices, or for covered sources that have not yet begun operation, such limitations or practices which the owner or operator of the source plans to implement that affect emissions of any regulated or hazardous air

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

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

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

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

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

- (1) For the requirements of subchapter 7, thirty days after receipt of the application; and

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

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

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

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

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

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

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

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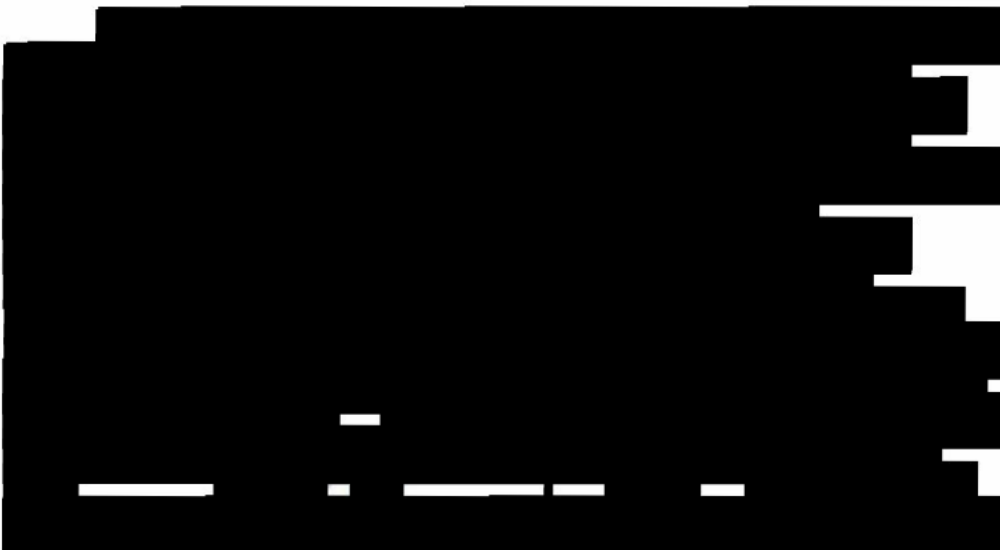
all applicable requirements and will not interfere with attainment or maintenance of a NAAQS.

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

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


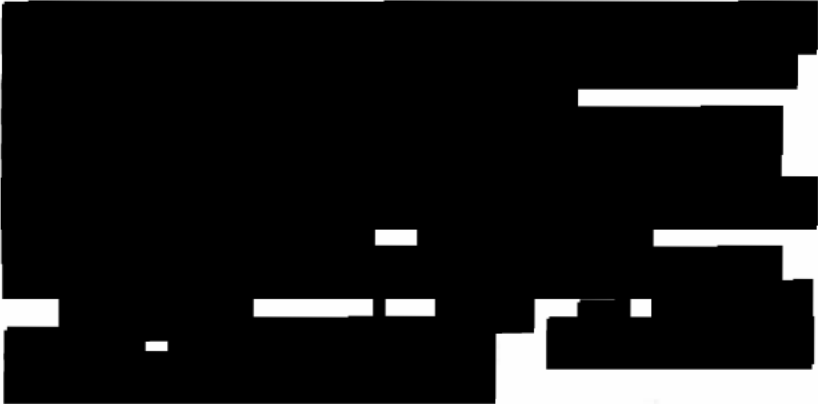
(k) Each application and proposed covered source permit shall be subject to EPA oversight in accordance with section 11-60.1-95. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; comp 1/13/12; am and comp 6/30/14; am and comp

FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-71, 342B-72, 342B-73; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661d; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-23, 342B-24; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661d; 40 C.F.R. Part 70)



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

- (1) Emission limitations and standards, including operational requirements and limitations to assure compliance with all

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- applicable requirements at the time of permit issuance;
- (2) Requirements regarding fugitive emissions regardless of whether the source category in question is included in the list of sources contained in the definition of "major source";
 - (3) The origin of and authority for each term or condition and any differences in form as compared to the applicable requirement upon which the term or condition is based;
 - (4) Permit term pursuant to section 11-60.1-89;
 - (5) Requirements for the installation of devices, at the expense of the owner or operator, for the measurement or analysis of source emissions or ambient concentrations of air pollutants;
 - (6) The requirement for source emissions tests or alternative methodology to determine compliance with the terms and conditions of the covered source permit, and applicable requirements. Source emission tests conducted or alternative methodology used shall be at the expense of the owner or operator;
 - (7) All monitoring and related recordkeeping and reporting requirements to assure compliance with all terms and conditions of the permit. Each covered source permit shall address the following with respect to monitoring, recordkeeping, and reporting:
 - (A) All reporting, emissions monitoring and analysis procedures, or test methods, required pursuant to the applicable requirements, including any procedures or methods promulgated pursuant to Section 114(a)(3) or 504(b) of the Act;
 - (B) If the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring, periodic monitoring or recordkeeping sufficient to yield

- reliable data from the relevant time period that is representative of the source's compliance with the permit. Use of terms, test methods, units, averaging periods, and other statistical conventions used for these requirements shall be consistent with applicable requirements;
- (C) Monitoring results expressed in units, averaging periods, and other statistical conventions consistent with the applicable requirements;
 - (D) Requirements concerning the use, maintenance, and installation of monitoring equipment. The installation, operation, and maintenance of the monitoring equipment shall be at the expense of the owner or operator;
 - (E) Appropriate monitoring methods;
 - (F) Monitoring records including:
 - (i) Place as defined in the permit, date, and time of sampling or measurements;
 - (ii) Dates the analyses were performed;
 - (iii) The name and address of the company or entity that performed the analyses;
 - (iv) Analytical techniques or methods used;
 - (v) Analyses results; and
 - (vi) Operating conditions during the time of sampling or measurement;
 - (G) Other records including support information, such as calibration and maintenance records, original stripchart recordings or computer printouts for continuous monitoring instrumentation, and all other reports required by the director;
 - (H) A requirement for the retention of records of all required monitoring data

and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original stripchart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit;

- (I) A requirement for submission of reports of any required monitoring at least every six months. Deviations from the permit requirements shall be clearly identified and addressed in these reports;
 - (J) A requirement for prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The term "prompt" shall be delineated on a permit-by-permit basis in relation to the degree and type of deviation likely to occur and the applicable requirements; and
 - (K) Provisions for the owner or operator to annually report in writing, emissions of hazardous air pollutants;
- (8) If requested by the owner or operator of a covered source, terms and conditions to allow emissions trading within the facility pursuant to section 11-60.1-96, including provisions to insure compliance with all applicable requirements, and requiring the owner or operator to provide a minimum seven-day advance written notification to the Administrator and director prior to any proposed emissions trading;

- (9) Terms and conditions for reasonably anticipated operating scenarios identified by the source in the covered source permit application as approved by the director. Such terms and conditions shall include:
 - (A) A requirement that the owner or operator, contemporaneously with making a change from one operating scenario to another, record in a log at the permitted facility the scenario under which it is operating and, if required by any applicable requirement or the director, submit written notification to the director; and
 - (B) Provisions to ensure that the terms and conditions under each alternative scenario meet all applicable requirements;
- (10) General provisions including:
 - (A) A statement that the owner or operator shall comply with all the terms and conditions of the covered source permit and that any permit noncompliance constitutes a violation of this chapter and the Act and is grounds for enforcement action; for permit termination, suspension, reopening, or amendment; or for denial of a permit renewal application;
 - (B) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit;
 - (C) A statement that it shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the terms and conditions of the permit;
 - (D) A statement that the permit may be terminated, suspended, reopened, or

amended for cause pursuant to sections 11-60.1-10 and 11-60.1-98, and section 342B-27, HRS. The filing of a request by the permittee for a permit termination, suspension, reopening, or amendment, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition;

- (E) A statement that the permit does not convey any property rights of any sort, or any exclusive privilege;
- (F) A provision that, if construction is not commenced, continued or completed in accordance with section 11-60.1-9, the covered source permit for the subject emission unit shall become invalid;
- (G) A provision that the owner or operator shall notify the director in writing of the anticipated date of initial start-up for each emission unit of a new covered source or significant modification not more than sixty days or less than thirty days prior to such date. The director shall also be notified in writing of the actual date of construction commencement and start-up within fifteen days after these dates;
- (H) A statement that the owner or operator shall furnish in a timely manner any information or records requested in writing by the department to determine whether cause exists for terminating, suspending, reopening, or amending the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to the department copies of records required to be kept by the permit. For information claimed to be confidential,

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the director may require the permittee to furnish such records not only to the department but also directly to the Administrator along with a claim of confidentiality;

- (I) A requirement that a copy of applicable correspondence or records submitted to the department be provided to the Administrator;
- (J) A provision for the designation of confidentiality of any records pursuant to section 11-60.1-14;
- (K) A requirement that the owner or operator shall submit fees in accordance with subchapter 6;
- (L) Certification requirements pursuant to section 11-60.1-4;
- (M) A requirement that the owner or operator allow the director or an authorized representative, upon presentation of credentials or other documents required by law:
 - (i) To enter the owner or operator's premises where a source is located or emission-related activity is conducted, or where records must be kept under the conditions of the permit and inspect at reasonable times all facilities, equipment, including monitoring and air pollution control equipment, practices, operations, or records covered under the terms and conditions of the permit and request copies of records or copy records required by the permit; and
 - (ii) To sample or monitor at reasonable times substances or parameters to assure compliance with the permit or applicable requirements; and

- (N) A requirement that at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the director which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.
- (11) Compliance plan and compliance certification submittal requirements pursuant to sections 11-60.1-85 and 11-60.1-86; and
- (12) Any other provision to assure compliance with all applicable requirements. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; am and comp FEB - 8 2024]
(Auth: HRS §§342B-3, 342B-12, 342B-28, 342B-29, 342B-31, 342B-33, 342B-41; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661c; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-28, 342B-29, 342B-31, 342B-33, 342B-41; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661c; 40 C.F.R. Part 70)



§11-60.1-92 Covered source general permits. (a)

The director, at the director's sole discretion may, after providing for public notice, including the method by which a hearing can be requested, and an opportunity for public comment in accordance with section 11-60.1-99, issue a covered source general permit for similar nonmajor covered sources. The general covered source permit expiration date shall apply to all sources covered under this permit.

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

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

- (1) Name, address, and phone number of:
 - (A) The company;
 - (B) The facility, if different from the company;

- (C) The owner and owner's agent; and
- (D) The plant site manager or other contact;
- (2) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules and capacities to the extent needed to determine or regulate emissions; specifications and drawings showing the design of the source and plant layout; and a detailed description of all processes and products by Standard Industrial Classification Code and source category or categories (as defined in section 11-60.1-171);
- (3) Maximum emission rates, including fugitive emissions, of all regulated and hazardous air pollutants from each emissions unit. If applicable, biogenic CO₂ emissions shall be identified and quantified separately from other biogenic and non-biogenic greenhouse gas emissions. 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. For GHGs, emission rates shall also be reported in CO₂e tons per year. All supporting emission calculations and assumptions shall also be provided;
- (4) Identification and description of all points of emissions in sufficient detail to establish the basis for fees and applicability of requirements of this chapter and the Act. Information on stack parameters and any stack height limitations developed pursuant to Section 123 of the Act shall also be provided;
- (5) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities

as planned by the owner or operator of the source and to the extent of available information, an estimate of maximum and expected emissions before and after controls, technical information on the design, operation, size, estimated control efficiency, manufacturer's name, address, telephone number, and relevant specifications and drawings;

- (6) Citation and description of all applicable requirements and a description of or reference to any method and/or applicable test method for determining compliance with each applicable requirement;
- (7) Current operational limitations or work practices, or for covered sources that have not yet begun operation, such limitations or practices which the owner or operator of the source plans to implement that affect emissions of any regulated or hazardous air pollutants at the source;
- (8) All calculations and assumptions on which the information in paragraphs (2), (3), (4), (5), and (7) is based;
- (9) A detailed schedule for construction or reconstruction of the covered source, if applicable;
- (10) If requested by the director, an assessment of the ambient air quality impact of the covered source. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the NAAQS and state ambient air quality standards;
- (11) If requested by the director, a risk assessment of the air quality related impacts caused by the covered source to the surrounding environment;
- (12) If requested by the director, results of source emission testing, ambient air quality monitoring, or both;

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

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

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

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

(f) During the processing of an application that has been determined or deemed complete if the director

determines that additional information is necessary to evaluate or take final action on the application, the director may request such information in writing and set a reasonable deadline for a response.

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

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

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

(j) Each application and proposed covered source general permit shall be subject to EPA oversight in accordance with section 11-60.1-95. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; comp 1/13/12; am and comp 6/30/14; am and comp

FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25, 342B-26, 342B-29, 342B-33, 342B-71, 342B-72, 342B-73; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661c, 7661d; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25, 342B-26, 342B-29, 342B-33; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661c, 7661d; 40 C.F.R. Part 70)

§11-60.1-99 Public participation. (a) Except for administrative permit amendments and permit amendments reflecting certain minor modifications, the director shall provide for public notice, including the method by which a public hearing can be requested, and an opportunity for public comment on all draft covered source permits for:

- (1) initial issuance;
- (2) renewal;
- (3) significant modification; or
- (4) minor modifications to major stationary sources that result in a net emissions increase, as defined in 40 CFR Part 52.21, equal to or exceeding fifty percent of the significant amounts of emissions in the definition of significant in section 11-60.1-131, paragraph (1) of the definition.

(b) Any person requesting a public hearing shall do so during the public comment period. Any request from a person for a public hearing shall indicate the interest of the person filing the request and the reasons why a public hearing is warranted.

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

- (1) The director shall make available for public inspection in at least one location in the county affected by the proposed action, or in which the source is or would be located:
 - (A) Information on the subject matter;
 - (B) Information submitted by the applicant, except for that determined to be confidential pursuant to section 11-60.1-14;
 - (C) The department's analysis and proposed action; and
 - (D) Other information and documents determined to be appropriate by the department;
- (2) Notification of a public hearing shall be given at least thirty days in advance of the hearing date;

- (3) A public comment period shall be no less than thirty days following the date of the public notice, during which time interested persons may submit to the department written comments on:
 - (A) The subject matter;
 - (B) The application;
 - (C) The department's analysis;
 - (D) The proposed actions; and
 - (E) Other considerations as determined to be appropriate by the department;
- (4) Notification of a public comment period or a public hearing shall be made:
 - (A) By publication in a newspaper which is printed and issued at least twice weekly in the county affected by the proposed action, or in which the source is or would be located;
 - (B) To persons on a mailing list developed by the director, including those who request in writing to be on the list; and
 - (C) If necessary by other means to assure adequate notice to the affected public;
- (5) Notice of public comment and public hearing shall identify:
 - (A) The affected facility;
 - (B) The name and address of the permittee;
 - (C) The name and address of the agency of the department processing the permit;
 - (D) The activity or activities involved in the permit action;
 - (E) The emissions change involved in any permit amendment reflecting a modification to the covered source;
 - (F) The name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the draft permit, the application, all relevant supporting materials including any compliance plan, and monitoring and

compliance certification reports, and all other materials available to the department that are relevant to the permit decision, except for information that is determined to be confidential, including information determined to be confidential pursuant to section 11-60.1-14;

- (G) A brief description of the comment procedures;
 - (H) The time and place of any hearing that may be held, including a statement of procedures to request a hearing if one has not already been scheduled; and
 - (I) The availability of the information listed in paragraph (1), and the location and times the information will be available for inspection; and
- (6) The director shall maintain a record of the commenters and the issues raised during the public participation process and shall provide this information to the Administrator upon request. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; am and comp FEB - 3 2024] (Auth: HRS §§92F-11, 92F-12, 342B-3, 342B-12, 342B-13, 342B-31; 42 U.S.C. §§7407, 7416, 7661a, 7661b; 40 C.F.R. Part 70) (Imp: HRS §§92F-11, 92F-12, 342B-3, 342B-12, 342B-13, 342B-31; 42 U.S.C. §§7407, 7416, 7661a, 7661b; 40 C.F.R. Part 70)

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§11-60.1-103 Applications for minor modifications. (a) Every application for a minor modification to a covered source shall be submitted to the director on forms furnished by the director. The applicant shall submit sufficient information to

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enable the director to make a decision on the application and to determine the fee requirements specified in subchapter 6. Information submitted shall include:

- (1) A clear description of all changes;
- (2) A statement of why the modification is determined to be minor, and a request that minor modification procedures be used;
- (3) Maximum emission rates, including fugitive emissions, of all regulated and hazardous air pollutants resulting from the change. If applicable, biogenic CO₂ emissions shall be identified and quantified separately from other biogenic and non-biogenic greenhouse gas emissions. Emission rates shall be reported in pounds per hour and tons per year and in such terms necessary to establish compliance consistent with applicable requirements and standard reference test methods. For GHGs, emission rates shall also be reported in CO₂e tons per year. All supporting emission calculations and assumptions shall also be provided;
- (4) The identification of any new applicable requirements that will apply if the minor modification occurs;
- (5) The suggested changes to permit terms or conditions;
- (6) Certification by a responsible official that the proposed modification meets the criteria for minor modification;
- (7) All information submitted with the application for the initial covered source permit or any subsequent application for a covered source permit. The owner or operator may reference information contained in a previous application submittal, provided such referenced information has been certified as being current and still applicable; and
- (8) Other information, as required by any applicable requirement or as requested and

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

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

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

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

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

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

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

(f) An application for a minor modification to a covered source shall be approved only if the director

determines that the minor modification will be in compliance with all applicable requirements.

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

(h) Each application and proposed permit reflecting the minor modification to a covered source shall be subject to EPA oversight in accordance with section 11-60.1-95. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; am and comp 6/30/14; am and comp FEB - 3 2024]

(Auth: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25, 342B-71, 342B-72, 342B-73; 42 U.S.C. §§7407, 7416, 7661a, 7661d; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-23, 342B-24, 342B-25; 42 U.S.C. §§7407, 7416, 7661a, 7661d; 40 C.F.R. Part 70)

§11-60.1-104 Applications for significant modifications.

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

- (1) The name, address, and phone number of:
 - (A) The company;
 - (B) The facility, if different from the company;
 - (C) The owner and owner's agent; and
 - (D) The plant site manager or other contact;

- (2) A description of the significant modification, identifying all proposed changes, including any changes to the source operations, work practices, equipment design, source emissions, or any monitoring, recordkeeping, and reporting procedures;
- (3) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules and capacities to the extent needed to determine or regulate emissions of any proposed addition or modification of any source of emissions; specifications and drawings showing the design of the source and plant layout; a detailed description of all processes and products by Standard Industrial Classification Code and source category or categories (as defined in section 11-60.1-171) affected by the proposed modification; reasonably anticipated alternative operating scenarios, and processes and products by Standard Industrial Classification Code and source category or categories (as defined in section 11-60.1-171) associated with each alternative operating scenario affected by the proposed modification;
- (4) Information to define permit terms and conditions for any proposed emissions trading within the facility pursuant to section 11-60.1-96;
- (5) Maximum emissions rates, including fugitive emissions, of all regulated and hazardous air pollutants and all air pollutants for which the source is major from each emissions unit related to the modification. If applicable, biogenic CO₂ emissions shall be identified and quantified separately from other biogenic and non-biogenic greenhouse gas emissions. 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. For GHGs, emission rates shall also be reported in CO₂e tons per year. All supporting emission calculations and assumptions shall also be provided;
- (6) Identification and description of all points of emissions in sufficient detail to establish the basis for fees and applicability of requirements of this chapter and the Act. Information on stack parameters and any stack height limitations developed pursuant to Section 123 of the Act shall also be provided;
 - (7) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner or operator of the source or modification, and to the extent of available information, an estimate of maximum and expected emissions before and after controls, technical information on the design, operation, size, estimated control efficiency, manufacturer's name, address, telephone number, and relevant specifications and drawings;
 - (8) Citation and description of all applicable requirements, and a description of or reference to any method and/or applicable test method for determining compliance with each applicable requirement;
 - (9) Operational limitations or work practices which the owner or operator of the source plans to implement that affect emissions of any regulated or hazardous air pollutants at the source. For sources subject to an Equivalent Maximum Achievable Control Technology limitation pursuant to section 11-60.1-175, a proposed emission limitation consistent with the requirements set forth in section 11-60.1-175;

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- (10) All calculations and assumptions on which the information in paragraphs (3), (5), (6), (7), and (9) is based;
- (11) A detailed schedule for construction or reconstruction of the source or modification;
- (12) For significant modifications which increase the emissions of any air pollutant or result in the emission of any air pollutant not previously emitted, an assessment of the ambient air quality impact of the covered source with the inclusion of any available background air quality data. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the NAAQS and state ambient air quality standards;
- (13) For new covered sources or significant modifications subject to the requirements of subchapter 7, all analyses, assessments, monitoring, and other application requirements of subchapter 7;
- (14) If requested by the director, a risk assessment of the air quality related impacts caused by the covered source or significant modification to the surrounding environment;
- (15) If requested by the director, results of source emission testing, ambient air quality monitoring, or both;
- (16) If requested by the director, information on other available control technologies and associated analysis;
- (17) An explanation of all proposed exemptions from any applicable requirement;
- (18) A list of any new insignificant activities pursuant to section 11-60.1-82(e) to (g);
- (19) A compliance plan in accordance with section 11-60.1-85;
- (20) A source compliance certification in accordance with section 11-60.1-86; and
- (21) Other information:

- (A) As required by any applicable requirement or as requested and deemed necessary by the director to make a decision on the application; and
- (B) As may be necessary to implement and enforce other applicable requirements of the Act or of this chapter or to determine the applicability of such requirements.

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

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

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

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

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

(d) During the processing of an application that has been determined or deemed complete if the director

determines that additional information is necessary to evaluate or take final action on the application, the director may request such information in writing and set a reasonable deadline for a response.

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

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

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

(h) The director shall provide reasonable procedures and resources to complete the review of the majority of the applications for a significant modification within nine months after receipt of a complete application. An application for significant modification shall be approved only if the director determines that the significant modification will be in compliance with all applicable requirements and will not interfere with attainment or maintenance of the NAAQS.

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

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

(k) Each application for a significant modification, and the proposed covered source permit

reflecting the significant modification shall be subject to EPA oversight in accordance with section 11-60.1-95. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; comp 1/13/12; am and comp 6/30/14; am and comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-13, 342B-23, 342B-24, 342B-25, 342B-29, 342B-33, 342B-71, 342B-72, 342B-73; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661c, 7661d; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-13, 342B-23, 342B-24, 342B-25, 342B-29, 342B-33; 42 U.S.C. §§7407, 7416, 7661a, 7661b, 7661c, 7661d; 40 C.F.R. Part 70)

[REDACTED]

New HAR Provisions

HAR Subchapter 2 - General Prohibitions:

§11-60.1-33

§11-60.1-35

§11-60.1-36

§11-60.1-37

§11-60.1-38

§11-60.1-39



§11-60.1-33 Fugitive dust. (a) No person shall cause or permit visible fugitive dust to become airborne without taking reasonable precautions.

Examples of reasonable precautions are:

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

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

(b) Except for persons engaged in agricultural operations or persons who are implementing the best practical operation or treatment, no person shall cause or permit the discharge of visible fugitive dust beyond the property lot line on which the fugitive dust originates.

(c) Except for persons engaged in agricultural operations, no person shall cause or permit visible fugitive dust emissions equal to or in excess of twenty percent opacity for more than twenty-four individual readings recorded during any one-hour period. Opacity observations shall be conducted in accordance with 40 CFR Part 51, Appendix M, Method 203B, "Visual Determination of Opacity of Emissions from Stationary Sources for Time-Exception Regulations." This rule shall be in addition to complying with paragraphs (a) and (b), including when reasonable precautions are applied and shall be applicable in all circumstances. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; am and comp FEB - J. 2024]
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-33 is based substantially upon §11-60-5. [Eff 11/29/82; am, ren §11-60-5 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

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§11-60.1-34



§11-60.1-35 Incineration. (a) No person shall cause or permit the emissions of particulate matter to exceed 0.20 pounds per one hundred pounds (two grams per kilogram) of refuse charged from any incinerator.

(b) Compliance with particulate matter emissions requirements shall be determined by evaluating particulate matter emissions pursuant to 40 CFR Part 60, Appendix A-3, Method 5 or other EPA approved methods.

(c) All required emission tests shall be conducted at the maximum burning capacity of the incinerator.

(d) The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate.

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

[Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; am and comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

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

§11-60.1-36 Biomass fuel burning boilers. (a) No person shall cause or permit the emissions of particulate matter from each biomass burning boiler

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and its drier or driers in excess of 0.40 pounds per one hundred pounds (four grams per kilogram) of biomass as burned.

(b) Compliance with particulate matter emissions requirements shall be determined by evaluating particulate matter emissions pursuant to 40 CFR Part 60, Appendix A-3, Method 5 or other EPA approved methods. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; am and comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-36 is based substantially upon §11-60-7. [Eff 11/29/82; am, ren §11-60-7 and comp 4/14/86; comp 6/29/92; R 11/26/93]

§11-60.1-37 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 emission in pounds per hour and p = process weight rate in tons per hour, except that no rate of emissions shall exceed forty pounds per hour regardless of the process weight rate.

(b) Rate of emissions shall be determined by evaluating particulate matter emissions pursuant to 40 CFR Part 60, Appendix A-3, Method 5 or other EPA approved methods.

(c) 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

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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.

(d) 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.

(e) 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 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. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; am and comp

FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-37 is based substantially upon §11-60-8. [Eff 11/29/82; am, ren §11-60-8 and comp 4/14/86; comp 6/29/92; R 11/26/93]

§11-60.1-38 Sulfur oxides from fuel combustion.

(a) No person shall burn any fuel containing in excess of two percent sulfur by weight.

(b) No person shall burn any fuel containing in excess of 0.50 percent sulfur by weight in any fossil fuel fired power and steam generating unit having a

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power generating output in excess of twenty-five megawatts or a heat input greater than two hundred fifty million BTU per hour.

(c) Compliance with sulfur by weight requirements shall be determined by evaluating sulfur by weight pursuant to *American Society for Testing and Materials (ASTM)* methods.

- (1) For liquid fuels: ASTM D129-00(2005) Standard Test Method for Sulfur in Petroleum Products (General Bomb Method); D2622-05 Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-ray Fluorescence Spectrometry; D4294-03 Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy Dispersive X-ray Fluorescence Spectrometry; D5453-05 Standard Test Method for Determination of Total Sulfur in Light Hydrocarbons, Motor Fuels and Oils by Ultraviolet Fluorescence; or other EPA approved methods.
- (2) For gaseous fuels: ASTM D1072-90(1999) Standard Test Method for Total Sulfur in Fuel Gases; D3246-05 Standard Test Method for Sulfur in Petroleum Gas by Oxidative Microcoulometry; D4810-88(1999) Standard Test Method for Hydrogen Sulfide in Natural Gas Using Length-of-Stain Detector Tubes; D6228-98(2003), D6667-01 or Gas Processors Association Standard 2377-86 Test for Hydrogen Sulfide and Carbon Dioxide in Natural Gas Using Length-of-Stain Tubes; or other EPA approved methods.

(d) The use of fuels prohibited in subsections (a) and (b) may be allowed at the director's sole discretion if it can be demonstrated that the use of these fuels will result in equivalent or lower emission rates of oxides of sulfur. Compliance with oxides of sulfur emissions requirements shall be determined by evaluating oxides of sulfur emissions pursuant to 40 CFR Part 60, Appendix A-4, Method 8 or other EPA approved methods. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; comp

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1/13/12; comp 6/30/14; am and comp FEB - 8 2024]
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-38 is based substantially upon §11-60-9. [Eff 11/29/82; am, ren §11-60-9 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

§11-60.1-39 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 forty thousand-gallon (one hundred fifty thousand-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 eleven pounds per square inch absolute (five hundred sixty-eight 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

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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 may be approved by the director after demonstrating equivalence to the director by one of the following methods:

- (A) an actual emissions test in a full size or scale sealed tank facility which accurately collects and measures all hydrocarbon emissions associated with a given closure device, and which accurately simulates other emission variables, such as temperature, barometric pressure and wind. The test facility shall be subject to prior approval by the director, or
- (B) a pressure leak test, engineering evaluation or other means where the director determines that the same is an accurate method of determining equivalence.

(b) Compliance with true vapor pressure requirements shall be determined by evaluating vapor pressure pursuant to ASTM Method D323-82 or other EPA approved methods.

(c) No person shall place, store, or hold in any new stationary storage tank, reservoir, or other container of more than a two hundred fifty-gallon (nine hundred fifty-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).

(d) 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

§11-60.1-39

tank annually does not exceed twice the volume of the tank. Any person claiming this exemption shall be responsible for maintaining records which substantiate this claim and make them available to the director upon request. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; am and comp 6/30/14; am and comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

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



60.1-54

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New HAR Provisions
HAR Subchapter 3 - Open Burning:
§11-60.1-52
§11-60.1-55

§11-60.1-52 General provisions. (a) Except as provided in subsections (b), (c), (d), (e) and section 11-60.1-53, no person shall cause, permit, or maintain any open burning. Any open burning is the responsibility of the person owning, operating, or managing the property, premises, business establishment, or industry where the open burning is occurring. Subsections (b), (c), (d), (e) and section 11-60.1-53 shall not apply to the open burning of human remains or animal carcasses unless the activities fall under the exemptions found in paragraph (d)(2).

(b) Subsection (a) shall not apply to attended fires for the cooking of food provided that:

- (1) Only untreated dry wood, charcoal, natural or synthetic natural gas, butane, propane, or cooking fuel is used, and
- (2) If visible smoke enters any residence, business or public area, best practical measures to eliminate the smoke, including extinguishing the fire, are taken.

(c) Subsection (a) shall not apply to the following, provided that notification is given to the director prior to the commencement of any burn:

- (1) Fires set to a building, structure or simulated aircraft for training personnel in firefighting methods.

(d) Subsection (a) shall not apply to the following, provided that the burning is approved by the director:

- (1) Outdoor fires for recreational, religious, ceremonial or decorative, or related purposes including, but not limited to, campfires, bonfires, pottery curing fires, that are burning dry untreated wood, charcoal, or auxiliary fuels;
- (2) Fires for the disposal of human remains and animal carcasses and debris generated from a

natural disaster or catastrophic event,
where there is no reasonable alternative
method of disposal;

- (3) Outdoor fires set for cultural, traditional,
or related purposes and fires within
cultural or traditional structures including
sweat houses or lodges; and
- (4) Pyrotechnics for the creation of special
effects during filming or motion pictures,
television programs, or other commercial
video, photography or creative arts
production activities.

(e) Subsection (a) shall not apply to the
following, provided that the burning is both approved
by the director, and that the burning is allowed under
either section 11-60.1-55 or 11-60.1-52(f):

- (1) Fires to abate a fire hazard, provided that
the hazard is so declared by the fire
department, forestry division, or federal
agency having jurisdiction, and that a
prescribed burning plan, if applicable, has
been submitted to and approved by the
jurisdictional agency;
- (2) Fires for prevention or control of disease,
pests, invasive species or other natural
threats to the environment or economy; and
- (3) Fires for the disposal of dangerous
materials, where there is no alternate
method of disposal;

(f) The director may provide a waiver to the
section 11-60.1-55 "no-burn" period for any exemption
to open burning found under subsection 11-60.1-52(e).

(g) Subsections (b), (c), (d), or (e) shall not
exempt any activity from the application of any rules
or requirements in any other section or chapter. [Eff
11/26/93; comp 10/26/98; am and comp 9/15/01; comp
11/14/03; am and comp 1/13/12; comp 6/30/14; am and
comp FEB - 8 2024] (Auth: HRS §§342B-3,
342B-12; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts
50, 51, and 52) (Imp: HRS §§342B-3, 342B-12; 42
U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)



§11-60.1-55 Agricultural burning or conditionally allowed open burning from subsection 11-60.1-52(e): "no-burn" periods. (a) Except as provided in subsection (f), no person, with or without an agricultural burning permit, shall cause or allow agricultural burning or conditionally allowed open burning from subsection 11-60.1-52(e) when a "no-burn" period has been declared by the director.

(b) "No-burn" periods shall be determined by current and forecasted weather conditions which inhibit the dispersion of air pollutants. A no-burn period may be declared if unfavorable meteorological conditions such as high winds, temperature inversions and air stagnation are existing and forecasted to continue or deteriorate. If forecasting is unavailable, "no-burn" periods shall be determined based on visibility.

(c) Visibility shall be used as the basis for determining "no-burn" periods when forecasting is not possible or not available. A "no-burn" call based on visibility shall be made under the following conditions:

- (1) When the director determines that meteorological conditions have resulted in widespread haze on any island or in any

district on the island and that these meteorological conditions will continue or deteriorate. For the purposes of this section, widespread haze shall be considered to exist when all visible ridges:

- (A) Within five to ten miles have a "smoky" or bluish appearance and colors are subdued; and
- (B) Beyond ten miles have a blurred appearance;
- (2) When a "no-burn" period has been declared in a district and smoke from any adjacent district, as determined by the director, may impact on the affected district, the "no-burn" period shall apply to both districts; or
- (3) On the island of Oahu either when the condition specified in paragraph (1) or (2) occurs or when meteorological conditions have resulted in a rise of the carbon monoxide level exceeding five mg/m³ for an eight-hour average or the PM₁₀ level exceeding one hundred thirty five µg/m³ for twenty-four hours and when the director determines that these meteorological conditions will continue or deteriorate.

(d) Verification that widespread haze exists in any district may be accomplished by consultation with department personnel in the appropriate district.

(e) Notices of "no-burn" periods for the specified islands or districts may be posted on a department web page and shall apply to a specified "no burn" period.

(f) In a district where a long-term "no burn" declaration is in effect, the director may provide a waiver during an agricultural "no burn" period for the control of plant diseases or infestations when burning is determined to be the best available method of control. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; am and comp 1/13/12; comp 6/30/14; am and comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-43; 42 U.S.C. §§7407,

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7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp:
HRS §§342B-3, 342B-12, 342B-43; 42 U.S.C. §§7407,
7416; 40 C.F.R. Parts 50, 51, and 52)

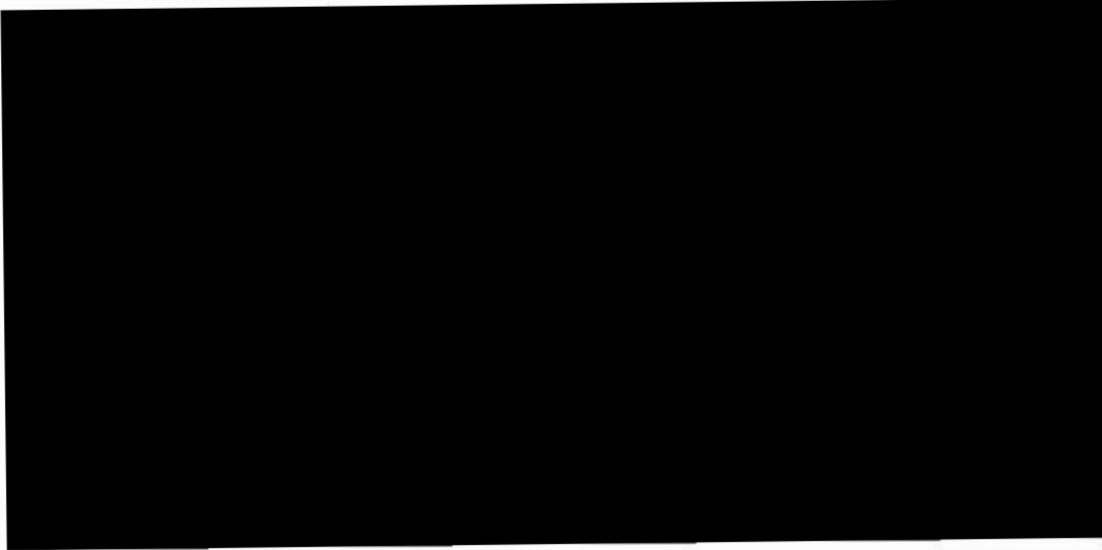
Historical note: §11-60.1-55 is based substantially
upon §11-60-34. [Eff 11/29/82; am, ren §11-60-34 and
comp 4/14/86; am and comp 6/29/92; R 11/26/93]

[REDACTED]

[REDACTED]

60.1-66

New HAR Provisions
HAR Subchapter 6 - Fees for Covered Sources,
Noncovered Sources, and Agricultural Burning:
§11-60.1-111
§11-60.1-112



SUBCHAPTER 6

FEEs FOR COVERED SOURCES, NONCOVERED SOURCES,
AND AGRICULTURAL BURNING

§11-60.1-111 Definitions. As used in this subchapter:

"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 director 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 director 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 director.

"Air permit application" means a noncovered or covered source permit application.

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"Air permit program" means the program established pursuant to part III of chapter 342B, HRS, and this chapter.

"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.

"Annual fee" means the fee imposed on each owner or operator of a stationary source on an annual basis.

"AP-42" means EPA's compilation of air pollutant emission factors, Volume 1: Stationary Point and Area Sources, Fifth Edition, and its associated supplements and appendices.

"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.

"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.

"Covered source permit application" means an application for an initial covered source permit, a renewal of a covered source permit, a permit amendment for any modification to a covered source, or the written request filed for a change in location of a temporary covered source, or an administrative permit amendment to a covered source permit.

"Dollar per ton charge" means the dollar fee charge per ton of regulated air pollutant emitted, and the dollar fee charge per CO₂e ton of greenhouse gas emitted.

"Fee worksheets" means the forms provided by the director to aid the owner or operator of a stationary source in the calculation of annual fees.

"Major modification" has the same meaning as in section 11-60.1-131.

"Minor modification" has the same meaning as in section 11-60.1-81.

"Non-toxic pollutant" means any pollutant that is not a toxic pollutant.

"Non-toxic source" means a stationary source that is not a toxic source.

"Noncovered source permit application" means an application for an initial noncovered source permit, a renewal of a noncovered source permit, a permit amendment for any modification to a noncovered source, or the written request for a change in location of a temporary noncovered source, or an administrative permit amendment to a noncovered source permit.

"PSD source" means a source subject to the requirements of subchapter 7.

"Significant modification" has the same meaning as in section 11-60.1-81.

"Toxic pollutant" means any hazardous air pollutant listed pursuant to Section 112(b) of the Act, and any other hazardous air pollutant designated by this chapter.

"Toxic source" means:

- (1) A major covered source that emits or has the potential to emit any hazardous air pollutant, except radionuclides, in the aggregate of ten tons per year or more, or twenty-five tons per year or more of any combination;
- (2) A covered source that is subject to an emission standard or other requirement for hazardous air pollutants approved pursuant to Section 112 of the Act, with the exception of those sources solely subject to regulations or requirements approved pursuant to Section 112(r) of the Act; or
- (3) A noncovered source that emits or has the potential to emit two tons per year or more of any hazardous air pollutant or five tons per year or more of any combination.

"Verifiable documentation" means a record, certified pursuant to section 11-60.1-4, that best substantiates the operating characteristic or

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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 director. Records may be deemed unacceptable by the director if found to be erroneous, incomplete, inaccurate, or inconsistent. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; comp 1/13/12; am and comp 6/30/14; am and comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-71, 342B-72, 342B-73; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

§11-60.1-112 General fee provisions for covered sources. (a) Every applicant for a covered source permit shall pay an application fee as set forth in section 11-60.1-113.

(b) Except as provided in subsection (h) below, every owner or operator of a covered source shall pay an annual fee as set forth in section 11-60.1-114.

(c) All application and annual fees collected pursuant to this chapter shall be used to cover the direct and indirect costs to develop, support, and administer the air permit program.

(d) All application fees for covered sources shall be submitted by check or money order made payable to the Clean Air Special Fund-COV, and are not refundable, except as otherwise provided in this subchapter.

(e) All annual fees for covered sources required by this chapter shall be submitted by check or money order, made payable to:

- (1) The Clean Air Special Fund-COV, for fees determined by the dollar per ton charge pursuant to sections 11-60.1-114(i)(1), (3) and (4), and (j); and
- (2) The Clean Air Special Fund-NON, for fees determined by the dollar per ton charge

pursuant to sections 11-60.1-114(i)(2), (3) and (5), and (j); and are not refundable, except for any amount that constitutes an overpayment, as determined by the director.

(f) 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 \$25 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 section 11-60.1-114(m).

(g) The department shall reevaluate the provisions of this subchapter at least every three years to ensure that adequate fees are being generated to cover the direct and indirect costs to develop, support, and administer the air permit program. If fee adjustments are required based on the director's reevaluation, the director shall afford the opportunity for public comment in accordance with chapters 91 and 342B, HRS. Any fee adjustments pursuant to subsection 11-60.1-114(j), and fee waivers allowed in subsection (h) below, shall not require that the director afford the opportunity for public comment in accordance with chapters 91 and 342B, HRS.

(h) With EPA's approval, the director may waive annual fees due from owners or operators of covered sources for the following calendar year, provided that funds in excess of \$6 million will exist in the Clean Air Special Fund-COV account as of the end of the current calendar year. Nothing in this subsection shall be construed to allow a waiver of any application fee, or a waiver of any other requirements under this chapter, including reporting requirements, such as annual emissions reporting. The owner or operator of a covered source shall continue to report the source's actual emissions of regulated air pollutants, including toxic pollutants, in tons per year. For greenhouse gases, biogenic CO₂ emissions shall be identified separately; and actual emissions shall be reported in both mass tons and CO₂e tons of each greenhouse gas emitted (e.g., carbon dioxide,

§11-60.1-112

nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride), and the resulting total mass tons and CO₂e tons emitted. The emissions report shall show the method, assumptions, emissions factors, and calculations used to obtain the tons per year emissions of each regulated air pollutant, including the CO₂e tons of GHGs. The reporting of annual emissions shall be submitted within the time frame specified in the applicable permit. [Eff 11/26/93; am and comp 10/26/98; am and comp 9/15/01; comp 11/14/03; comp 1/13/12; am and comp 6/30/14; am and comp FEB - 8 2014]
(Auth: HRS §§342B-3, 342B-12, 342B-29, 342B-71, 342B-72, 342B-73; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70) (Imp: HRS §§342B-3, 342B-12, 342B-29; 42 U.S.C. §§7407, 7416, 7661a; 40 C.F.R. Part 70)

60.1-180

New HRS Provision
HRS Chapter 84 - Standards of Conduct:
§84-18

Note

The 2023 amendment applies to all disclosures that were filed before March 31, 2023, and that are in the state ethics commission's possession and control. L 2023, c 9, §4.

§84-18 Restrictions on post employment. (a) No former legislator or employee shall disclose any information that by law or practice is not available to the public and that the former legislator or employee acquired in the course of the former legislator's or employee's official duties or use the information for the former legislator's or employee's personal gain or the benefit of anyone.

(b) No former legislator, within twelve months after termination of the former legislator's employment, shall represent any person or business for a fee or other consideration on:

- (1) Matters in which the former legislator participated as a legislator;
- (2) Matters involving official action by the legislature; or
- (3) Any administrative action, as defined in section 97-1.

(c) No former employee, within twelve months after termination of the former employee's employment, shall represent any person or business for a fee or other consideration, on matters in which the former employee participated as an employee or on matters involving official action by the particular state agency or subdivision thereof with which the former employee had actually served. This section shall not apply to a former task force member who, but for service as a task force member, would not be considered an employee.

(d) This section shall not prohibit any agency from contracting with a former legislator or employee to act on a matter on behalf of the State within the period of limitations stated herein, and shall not prevent that legislator or employee from appearing before any agency in relation to that employment.

(e) Subject to the restrictions imposed in subsections (a) through (d), the following individuals shall not represent any person or business for a fee or other consideration regarding any legislative action or administrative action, as defined in section 97-1, for twelve months after termination from their respective positions:

- (1) The governor;
- (2) The lieutenant governor;
- (3) The administrative director of the State;
- (4) The attorney general;
- (5) The comptroller;
- (6) The chairperson of the board of agriculture;
- (7) The director of corrections and rehabilitation;

- (8) The director of finance;
- (9) The director of business, economic development, and tourism;
- (10) The director of commerce and consumer affairs;
- (11) The adjutant general;
- (12) The superintendent of education;
- (13) The chairperson of the Hawaiian homes commission;
- (14) The director of health;
- (15) The director of human resources development;
- (16) The director of human services;
- (17) The director of labor and industrial relations;
- (18) The chairperson of the board of land and natural resources;
- (19) The director of law enforcement;
- (20) The director of taxation;
- (21) The director of transportation;
- (22) The president of the University of Hawaii;
- (23) The executive administrator of the board of regents of the University of Hawaii;
- (24) The administrator of the office of Hawaiian affairs;
- (25) The chief information officer;
- (26) The executive director of the agribusiness development corporation;
- (27) The executive director of the campaign spending commission;
- (28) The executive director of the Hawaii community development authority;
- (29) The executive director of the Hawaii housing finance and development corporation;
- (30) The president and chief executive officer of the Hawaii tourism authority;
- (31) The executive officer of the public utilities commission;
- (32) The state auditor;
- (33) The director of the legislative reference bureau;
- (34) The ombudsman;
- (35) The permanent employees of the legislature, other than persons employed in clerical, secretarial, or similar positions;
- (36) The administrative director of the courts;
- (37) The executive director of the state ethics commission;
- (38) The executive officer of the state land use commission;
- (39) The executive director of the natural energy laboratory of Hawaii authority;
- (40) The executive director of the Hawaii public housing authority; and
- (41) The first deputy to the chairperson of the commission on water resource management;

provided that this subsection shall not apply to any person who has held one of the positions listed above only on an interim or acting basis and for a period of less than one hundred eighty-one days.

(f) Subsections (b) through (e) shall not apply to any person who is employed by the State for a period of less than one hundred and eighty-one days.

(g) For the purposes of this section, “represent” means to engage in direct communication on behalf of any person or business with a legislator, a legislative employee, a particular state agency or subdivision thereof, or their employees. [L 1972, c 163, pt of §1; gen ch 1985; am L 1995, c 239, §1; am L 2012, c 208, §7; am L 2021, c 189, §2; am L 2022, c 278, §25]