

The Washoe County Portion of the Nevada State Implementation Plan for the 2008 Ozone NAAQS: Demonstration of Adequacy

December 17, 2012

Draft
December 20, 2012

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Acronyms and Abbreviations

AQS	Air Quality System
CAA	Clean Air Act
CFR	Code of Federal Regulations
CO	Carbon Monoxide
DMV	Department of Motor Vehicles
EPA	U.S. Environmental Protection Agency
FR	Federal Register
HA	Hydrographic Area
I-SIP	Infrastructure State Implementation Plan
NAAQS	National Ambient Air Quality Standard
NDEP	Nevada Division of Environmental Protection
NO ₂	Nitrogen Dioxide
NRS	Nevada Revised Statute
NSR	New Source Review
O ₃	Ozone
Pb	Lead
PM _{2.5}	Particulate Matter less than or equal to a nominal 2.5 microns in aerodynamic diameter
PM ₁₀	Particulate Matter less than or equal to a nominal 10 microns in aerodynamic diameter
PSD	Prevention of Significant Deterioration
SIP	State Implementation Plan
SLAMS	State and Local Air Monitoring Station
SO ₂	Sulfur Dioxide
USC	United States Code
WCDBOH	Washoe County District Board of Health
WCAQMD	Washoe County Health District - Air Quality Management Division

Introduction and Background

This Demonstration of Adequacy addresses Washoe County's portion of the State of Nevada's I-SIP requirements for the 2008 Ozone (O₃) NAAQS. The authorities approved by the US EPA for the 1997 ozone NAAQS remain intact and provide adequate ability and authority to implement, maintain, and enforce the 2008 ozone NAAQS.

Section 110(a)(2) lists the required elements of the I-SIP. These elements include: enforceable emission limitations, air quality modeling, enforcement programs, ambient air monitoring programs, and confirmation of adequate personnel, resources and legal authorities. The following elements are addressed in the existing applicable SIP for the 1997 ozone NAAQS and meet the infrastructure requirements of the 2008 ozone NAAQS:

- Enforceable Emission Limitations and Other Control Measures (110(a)(2)(A))
- Air Quality Monitoring, Compilation, Data Analysis, and Reporting (110(a)(2)(B))
- Enforcement and Stationary Source Permitting (110(a)(2)(C))
- Interstate Transport (110(a)(2)(D))
- Resources, Conflict of Interest, and Emergency Backstop (110(a)(2)(E))
- Stationary Source Emissions Monitoring and Reporting (110(a)(2)(F))
- Emergency Powers and Contingency Plans (110(a)(2)(G))
- SIP Revision For Revised Air Quality Standards or New Attainment Methods (110(a)(2)(H))
- SIP Revisions for New Nonattainment Areas (110(a)(2)(I))
- Consultation and Public Notification (110(a)(2)(J))
- Air Quality Modeling and Reporting (110(a)(2)(K))
- Major Stationary Source Permitting Fees (110(a)(2)(L))
- Consultation with Local Entities (110(a)(2)(M))

Table 1
Existing SIP Elements Meeting Current CAA 110(a)(2)(A)-(M) Requirements for the
Washoe County Portion of the Nevada Infrastructure SIP for the
2008 Ozone NAAQS, Unless Otherwise Noted

Element (A)	<p><u>Enforceable emission limits and other control measures:</u> Requires SIPs to include enforceable emission limits and other control measures, means, or techniques, and schedules for compliance.</p>
<p>WCDBOH Regulations Governing Air Quality Management (Regulation) Section 020.005 (See 38 FR 12702) authorizes the Control Officer to enforce all SIP measures including the following previously submitted Sections: 030.000; 030.005; 030.010; 030.015; 030.025; 030.030; 030.110; 030.115(1), (5), and Subsection B; 030.1201;030.205; 030.215; 030.245; 030.250 (See 46 FR 21758); 030.300; 030.305; 030.310; 030.3101-3105; 030.3107; 030.3108 (See 46 FR 43141); 030.218, 030.230, and 030.970A (See 77 FR 60915); 040.070; 040.075; 040.080; 040.085; 040.090 (See 46 FR 21758); and 050.001 (See 72 FR 33397).</p> <p>The following Sections have not been submitted as part of the SIP, but have been adopted by the WCDBOH and further support this element requirement (See Attachment B): 020.0051 (Board of Health - Powers and Duties); and 020.020 (Control Officer - Powers and Duties).</p>	
Element (B)	<p><u>Ambient air quality monitoring/data system:</u> Requires SIPs to provide for establishment and operation of ambient air quality monitors, collection and analysis of ambient air quality data, and to make these data available to EPA upon request.</p>
<p>The WCAQMD operates an ambient air monitoring network in accordance with 40 CFR 58. The network is reviewed annually pursuant to 40 CFR 58.10 to ensure it meets ambient air monitoring objectives (See Attachment A).</p>	

<p>Element (C)</p>	<p><u>Program for enforcement of control measures:</u> Requires SIPs to include a program providing for enforcement of all SIP measures and the regulation of construction of new and modified stationary sources as necessary to assure that the NAAQS are achieved, including a permit program as required in Parts C and D.</p>
<p>WCDBOH Regulation Section 020.005 (See 38 FR 12702) authorizes the Control Officer to enforce all SIP measures including the following previously submitted Sections: 030.000; 030.005; 030.010; 030.015; 030.025; 030.030; 030.110; 030.115(1), (5), and Subsection B; 030.1201;030.205; 030.215; 030.245; 030.250 (See 46 FR 21758); 030.300; 030.305; 030.310; 030.3101-3105; 030.3107; 030.3108 (See 46 FR 43141); 030.218, 030.230, and 030.970A (See 77 FR 60915); 040.070; 040.075; 040.080; 040.085; 040.090 (See 46 FR 21758); and 050.001 (See 72 FR 33397).</p> <p>The following Sections have not been submitted as part of the SIP, but have been adopted by the WCDBOH and further support this element requirement (See Attachment B): 010.1303 (Regulated Air Pollutant); 020.0051 (Board of Health - Powers and Duties); 020.020 (Control Officer - Powers and Duties); 030.002 (Construction or Modification of Permitted Operations); 030.500 (New Source Review (NSR) Applicability); 030.502 (Review for Emission Limitation Compliance); 030.503 (Conditions for Approval); 030.504 (Emission Offset Ratios); 030.505 (Completeness of Application); 030.506 (Requirements for Public Notice); 030.507 (Comments); 030.508 (Final Action); and 030.905 (Sources Requiring Part 70 Permits).</p> <p>On March 3, 2008, the WCAQMD received full delegation of the federal PSD program (See Washoe County 2006 PM_{2.5} NAAQS I-SIP, Attachment C, submitted December 4, 2009) and is incorporated into Nevada's SIP (40 CFR 52.1485).</p>	

Element (D)	<p><u>Interstate transport provisions:</u> Requires SIPs to contain adequate provisions prohibiting emissions generated within the state from contributing significantly to nonattainment in, or interfering with maintenance by, any other state with respect to the NAAQS, or from interfering with measures required to be included in the SIP of any other state to prevent significant deterioration or to protect visibility.</p>
<p>Gina McCarthy, Assistant Administrator of the US EPA issued a memo on November 19, 2012 to EPA Air Division Directors, Regions 1-10, regarding states' and US EPA's obligations with respect to the requirements of (D)(i)(I). Ms. McCarthy notes:</p> <p style="padding-left: 40px;">“I would also like to note that the recent CSAPR decision made certain holdings regarding the requirement for states to submit SIPs addressing the provisions of Clean Air Act section 110(a)(2)(D)(i)(I), the good neighbor provision that addresses upwind emissions linked to NAAQS attainment problems in downwind states. The decision states that a SIP cannot be deemed deficient for failing to meet the good neighbor obligation before the EPA quantifies that obligation. Although we have filed a petition for rehearing of the Court's decision, including this element of the decision, and although the mandate for that decision has not yet been issued, we intend to act in accordance with the decision during the pendency of the appeal. Therefore, at this time the EPA does not intend to make findings that states failed to submit SIPs to comply with section 110(a)(2)(D)(i)(I). To the extent that states may inquire about their obligations to submit SIPs addressing this provision, we believe it would be appropriate to convey that at this time we do not intend to make such findings with respect to section 110(a)(2)(D)(i)(I).”</p> <p>Because US EPA has not informed Nevada of its contribution to any ozone NAAQS attainment problem in downwind states, the NDEP concludes that it is not obligated to address this requirement at this time.</p>	
Element (E)	<p><u>Adequate resources:</u> Requires SIPs to provide necessary assurances for adequate personnel, funding, and authority under state law to carry out its SIP, to contain requirements addressing potential conflicts of interest, and to provide necessary assurances that the state retains responsibility for ensuring adequate implementation of the SIP where the state relies on a local or regional government for implementation of any SIP provision.</p>
<p>NRS 445B.500 authorizes the WCDBOH to implement and administer air quality management programs within the geographic boundaries of Washoe County. These programs are managed through the WCAQMD. For the most recent fiscal year (2011-12), the WCAQMD consisted of 19 allocated full-time staff. Primary funding sources are: 1) Operating permit fees; 2) EPA grants; 3) Nevada DMV funds; and 4) the City of Reno, City of Sparks, and County of Washoe via an inter-local agreement with the Washoe County Health District (See Washoe County 2006 PM_{2.5} NAAQS I-SIP, Attachment D, submitted December 4, 2009).</p>	
Element (F)	<p><u>Stationary source monitoring system:</u> Requires SIPs to establish a system to monitor emissions from stationary sources, to submit periodic emissions reports, to correlate the emissions reports with the corresponding SIP emission limits and standards, and to make emissions reports available to the public.</p>

WCDBOH Regulation Section 020.005 (See 38 FR 12702) authorizes the Control Officer to enforce all SIP measures including the following previously submitted Sections related to authority for stationary source monitoring and reporting:

030.210; 030.250 (See 46 FR 21758); and
030.218, 030.230; 030.235, and 030.970A (See 77 FR 60915).

The following Sections have not been submitted as part of the SIP, but have been adopted by the WCDBOH and further support this element requirement (See Attachment B):

020.0051 (Board of Health - Powers and Duties); and
020.060 (Sampling and Testing).

Element (G)	<p><u>Emergency episodes:</u> Requires SIPs to provide for authority to address activities causing imminent and substantial endangerment to public health and to provide for adequate contingency plans to implement such authority.</p>
<p>Emergency powers are authorized under WCDBOH Regulation 050.001 (Emergency Episode Plan) (See 72 FR 33397). In addition, general emergency powers are provided in Nevada’s SIP in NRS 445B.560.</p>	
Element (H)	<p><u>Future SIP revisions:</u> Requires SIPs to provide for SIP revisions in response to changes in the NAAQS, or availability of improved methods for attaining the NAAQS, and in response to an EPA finding that the SIP is substantially inadequate.</p>
<p>WCDBOH Regulation Section 020.005 (See 38 FR 12702) authorizes the Control Officer to enforce Section 020.0051 (Board of Health - Powers and Duties) which provides the WCDBOH the authority to revise a SIP “to achieve and maintain levels of air quality to protect human health”.</p>	
Element (I)	<p><u>SIP revisions for new non-attainment areas:</u> Requires SIP revisions to meet the applicable Part D requirements relating to non-attainment areas.</p>
<p>The WCAQMD commits to submit SIP revisions whenever the county, or portions of the county, are newly designated non-attainment for any federal NAAQS.</p>	
Element (J) [§121]	<p><u>Consultation with government officials, public notification, PSD and visibility protection:</u> Requires states to provide a process for consultation with local governments and Federal Land Managers carrying out NAAQS implementation requirements; . . .</p>
<p>All SIP elements are adopted by the WCDBOH before being formally submitted as the Washoe County portion of the Nevada SIP. Participation by local political subdivisions is authorized by WCDBOH Regulation Section 020.005 (See 38 FR 12702) and an inter-local agreement between the City of Reno, City of Sparks, and the County of Washoe, Nevada (See Washoe County 2006 PM_{2.5} NAAQS I-SIP, Attachment D, submitted December 4, 2009). This inter-local agreement requires that the WCDBOH include one elected official from each of the three political subdivisions in Washoe</p>	

County. The WCAQMD is committed to include all stakeholders, such as local governments and federal land managers, in the SIP development process.	
Element (J) [§127]	. . . requires SIPs to notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances; and . . .
WCDBOH Regulation Section 050.001 (See 72 FR 33397) authorizes the WCAQMD to advise the public on measures that are taken to reduce their exposure during elevated air pollutant concentrations. Near-time ambient air monitoring data are posted on the WCAQMD website (www.washoecounty.us/health/aqm/home.html). A Trends report, which summarizes monitored ambient air quality in Washoe County, is prepared annually and also posted on the WCAQMD website.	
Element (J) [Part C PSD / Visibility]	. . . requires SIPs to meet applicable requirements of Part C related to prevention of significant deterioration and visibility protection.
On July 31, 2007, EPA’s approval of Nevada’s interstate transport SIP (CAA 110(a)(2)(D)(i)) for the 8-hour O ₃ and PM _{2.5} NAAQS promulgated in July 1997 was published in the Federal Register (See 72 FR 41629). Also, Article 13 of Nevada’s SIP, “General Provisions for the Review of New Sources,” requires an environmental evaluation before a registration certificate may be issued. Finally, on March 3, 2008, the WCAQMD received full delegation of the federal PSD program (See Washoe County 2006 PM _{2.5} NAAQS I-SIP, Attachment C, submitted December 4, 2009) and is incorporated into Nevada’s SIP (40 CFR 52.1485).	
Element (K)	<u>Air quality modeling/data:</u> Requires SIPs to provide for the performance of air quality modeling for predicting effects on air quality of emissions of any NAAQS pollutant and the submission of such data to EPA upon request.
WCDBOH Regulation Section 030.235 (Requirements for Source Sampling and Testing) (See 77 FR 60915) authorizes the Control Officer to require operators provide source stack testing or other types of testing to determine the quantity and effect of emissions produced by a stationary source. In addition, the following Section has not been submitted as part of the SIP, but have been adopted by the WCDBOH and further support this element requirement (See Attachment B): 030.503 (Conditions for Approval).	
Element (L)	<u>Permitting fees:</u> Requires SIPs to require each major stationary source to pay permitting fees to cover the cost of reviewing, acting upon, implementing and enforcing a permit until such fee requirement is superseded by EPA approval of a fee program under Title V of the CAA.
Permitting fees are authorized under WCDBOH Regulation Sections 030.210 (See 46 FR 21758) and 030.310 (See 46 FR 43141).	
Element (M)	<u>Consultation/participation by affected local entities:</u>

	Requires SIPs to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP.
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All SIP elements are adopted in a public hearing by the WCDBOH before being formally submitted as the Washoe County portion of the Nevada SIP. Participation by local political subdivisions is authorized by WCDBOH Regulation Section 020.005 (See 38 FR 12702) and an inter-local agreement between the City of Reno, City of Sparks, and the County of Washoe, Nevada (See Washoe County 2006 PM_{2.5} NAAQS I-SIP, Attachment D, submitted December 4, 2009). This inter-local agreement requires that the WCDBOH include one elected official from each of the three political subdivisions in Washoe County.

Draft
December 20, 2012

Attachment A

Letter from Matthew Lakin (EPA Region IX) to Kevin Dick (WCAQMD) Regarding the
“2011 Annual Monitoring Network Plan” (November 1, 2011)

Draft
December 20, 2012



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105
NOV 01 2011

Mr. Kevin Dick, Director
Air Quality Management Division
Washoe County Health District
1001 East Ninth Street, Suite A115
P.O. Box 11130
Reno, NV 89520-0027

Dear Mr. Dick:

Thank you for your timely submittal of the 2011 Annual Monitoring Network Plan for the Washoe County Health District Air Quality Management Division (AQMD). EPA has reviewed the submitted document and found that it is complete, informative, very detailed and meets the requirements set forth under 40 CFR Part 58.10. We also appreciate your addressing in full our comments to last year's 2010 Network Plan. This letter serves as an official approval of the annual network plan and all of the proposed modifications except the Sparks site special purpose monitoring proposed for non-submission into the AQS. This issue, along with special purpose monitoring at the Reno3 is further discussed in our enclosed comments. AQMD should continue to work with EPA Region 9 staff to obtain the proper documentation and approvals necessary to establish proper special purpose monitoring at the Sparks and Reno3 sites.

If you have any questions regarding this letter or the enclosed comments, please feel free to contact me at (415) 972-3851 or Elfego Felix at (415) 947-4141.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Lakin".

Matthew Lakin, Manager
Air Quality Analysis Office
Air Division

Enclosure

cc: Craig Petersen, Senior Air Quality Specialist, AQMD
Julie Hunter, Air Quality Specialist, AQMD

Attachment B

Washoe County District Board of Health Regulations Governing Air Quality Management
Not Included in the Washoe County Portion of the Nevada Ozone Infrastructure SIP
But Further Support CAA 110(a)(2)(A)-(M) Requirements

Draft
December 20, 2012

010.1303

"REGULATED AIR POLLUTANT" shall mean the following:

1. Nitrogen oxides or any volatile organic compounds;
2. Any pollutant for which a national ambient air quality standard has been promulgated.
3. Any pollutant that is subject to any standard promulgated under section 111 of the Act.
4. Any class I or II substance subject to a standard promulgated under or established by title VI of the Act.
5. Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act, including the following:
 - a. Any pollutant subject to requirements under section 112(j) of the Act. If the administrator fails to promulgate a standard pursuant to section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and
 - b. Any 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) requirement.

(Adopted 10/20/93)

020.0051

BOARD OF HEALTH - POWERS AND DUTIES

Pursuant to the powers and responsibilities that have inured to the benefit of the Board of Health, said Board shall, without excluding any other powers, responsibilities, and authority conferred on said Board in the Nevada Revised Statutes, have the following powers and/or responsibilities:

- A. To adopt and enforce rules and regulations to reduce the release into the atmosphere of any air contaminants originating within the territorial limits of the Washoe County Health District in order to achieve and maintain levels of air quality which will protect human health and safety, prevent injury to plant and animal life, prevent damage to property, and preserve visibility and scenic, aesthetic and historic value within said Health District.
- B. To establish ambient air quality standards in accordance with law.
- C. To make such determinations and issue such orders as may be necessary to implement the provisions of these regulations and to achieve air quality standards in accordance with law.
- D. To institute proceedings to prevent continued violation of any order issued by the Board of Health, Hearing Board, or Control Officer, and to enforce these regulations.
- E. To require access to records relating to emissions which cause or contribute to air pollution.
- F. To apply or and receive grants or other funds or gifts from public or private agencies.
- G. To cooperate and contract with other governmental agencies including the State of Nevada, other states, and the federal government.

- H. To conduct investigations, research and technical studies consistent with the general purposes of the Nevada Revised Statutes.
- I. To establish such emission control requirements, as may be necessary to prevent, abate, or control air pollution.
- J. To require the registration of air pollution sources together with a description of the processes employed, fuels used, nature of emissions and other information considered necessary to evaluate the pollution potential of a source.
- K. To prohibit, regulate or control, as specifically provided in **Section 030.000** through **030.260**, the installation, alteration or establishment of any source capable of causing air pollution.
- L. To issue or deny all requests or applications for a variance or waiver from any of the requirements of these regulations after due consideration of the recommendations of the Hearing Board and Control Officer.
- M. To require the submission of preliminary plans and specifications and other information as the Board deems necessary to process permits required by these regulations.
- N. To enter into and inspect, at any reasonable time, any premises containing an air contaminant source or a source under construction for purposes of ascertaining the state of compliance with these regulations.
- O. To hold any hearing as authorized in Chapter 445 of the Nevada Revised Statutes.
- P. To review recommendations of the Hearing Board and to take such additional evidence as the Board of Health deems necessary or to remand to the Hearing Board for such evidence as the Board of Health may direct on any matters arising under these regulations.
- Q. To require elimination of devices or practices which cannot be reasonably allowed without generation of undue amounts of contaminants.
- R. To specify the manner in which incinerators may be constructed and operated.
- S. To delegate all above powers, except **Subsections A, B, F, O, and P**, to the Control Officer or his representatives as may be necessary to implement these regulations.
- T. To appoint by resolution, or other appropriate action of the Board of Health, a Hearing Board consisting of seven (7) members who are not employees of the State of Nevada or any political subdivision of the State of Nevada, or which one (1) member must be an attorney admitted to practice law in the State of Nevada, or which one (1) member must be a professional engineer registered in the State of Nevada and one (1) member shall be licensed in Nevada as a general engineering contractor or a general building contractor as defined by NRS 624.215. All members of said Hearing Board shall be appointed to the terms as specified in NRS 445.481.
- U. To institute, in any court of competent jurisdiction, legal proceedings to compel compliance

with these regulations and the Nevada Revised Statutes pertaining to the emission of air contaminants into the atmosphere within the territorial limits of the Washoe County Health District.

020.020 CONTROL OFFICER - POWER AND DUTIES

The Control Officer, or his designated agent or representative, shall enforce the provisions of these regulations in his name, or in the name of the Board of Health, in any one or combination of the following ways:

- A. By issuing a written notice of violation, delivered personally or by registered or certified mail, to any person if reasonable cause exists to believe said person is violating these regulations.
- B. By issuing a warning to any person suspected of violating these regulations and by giving said person an opportunity to correct the cause of said violation prior to issuing a notice of violation or citation and referring the matter to the Board of Health or proper prosecuting authority in the Washoe County Health District;
- C. By requesting the District Attorney of the County of Washoe, or other proper agency, person or prosecuting authority in the Washoe County Health District, to institute appropriate criminal, civil or administrative proceedings against the person or persons responsible for violation of any of these regulations.
- D. By requesting the Board of Health to levy an appropriate administrative fine against any person found to have violated any of these regulations.
- E. By reviewing each variance to ascertain if the variance holder is meeting all provisions of the variance or dates set forth in the compliance schedule; if they are not met, the Control Officer may notify the variance holder personally or by registered or certified mail to this effect and may suspend or revoke any variances or reject any schedule of compliance involved with said infractions.
- F. By requesting the Board of Health to institute all necessary and proper legal proceedings authorized by law to carry out the purposes of these regulations and purposes of Chapter 445 of the Nevada Revised Statutes, including injunctive relief.

020.060 SAMPLING AND TESTING

In addition to any other testing requirements provided for in these regulations, the Control Officer or the Board of Health may require any person to conduct or make arrangements to conduct testing of any source to determine compliance with these regulations. In the event such testing is required, the Control Officer may do any of the following:

- A. Witness all tests as required by this Section.
- B. Determine whether or not generally recognized methods of measurement have been used to determine the quantity of emissions from the source being tested and if not additional testing may be required.

- C. Determine the point or points at or within the source where testing shall be done, to determine the actual discharge into the atmosphere.
- D. Make any modifications or adjustments in the testing requirements so as to be compatible with specific sampling conditions or needs as shown by good practice, judgement and experience.
- E. Require the cost of any testing to be paid by the owner or person responsible for any source of air contaminants.
- F. Require additional tests of any source of air contaminants tested in accordance with this Section, provided such separate or additional tests shall be conducted on behalf of the Board of Health and at said Board's expense.
- G. Require in writing the construction or creation of sampling holes, safe scaffolding and related facilities, to be provided at the expense of the owner or person responsible for any source of air contaminants being tested in accordance with this section.
- H. Require the owner or person responsible for any source of any air contaminants being tested pursuant to this section to provide a suitable power source to the point of testing, so that sampling instruments can be operated as required.
- I. All information gathered during any testing operation conducted pursuant to this Section will be provided to both the Control Officer or the Board of Health and the person or persons who own or control or are responsible for any source of air contaminants that are tested pursuant to this Section. All such information obtained pursuant to any testing required under this Section will be treated as confidential in accordance with the requirements of **Section 020.055** of these regulations.

030.002

CONSTRUCTION OR MODIFICATION OF PERMITTED OPERATIONS (Amended 4/89, 10/20/93)

A written Authority to Construct shall be required to construct, erect, alter or replace any equipment which may cause, potentially cause, reduce, control or eliminate the issuance of air contaminants. A single Authority to Construct may be issued for all components of an integrated system or process. Plans and specifications drawn in accordance with acceptable engineering practices shall be required before issuance of an Authority to Construct. The applicant for any Authority to Construct must notify the Control Officer in the application of any source which is or will become subject to 40 CFR Part 70 upon completion of the proposed construction. An Authority to Construct is not needed for routine operation and maintenance. This includes maintenance prescribed by the manufacturer, replacement of worn or broken components with like equipment, etc.

030.500

NEW SOURCE REVIEW (NSR) APPLICABILITY

A major new source or major modification which would locate in an area designated as nonattainment for a pollutant for which the source or modification would be major shall not be allowed to construct unless the stringent conditions set forth below are met. These conditions are designed to insure that the new source's or modification's emission will be controlled to the greatest degree possible, that more than equivalent offsetting emission reductions ("emission offsets") will be progress toward achievement of the national ambient air quality standards. For

the purposes of this part, a reconstructed source shall be treated as a new stationary source. Since major facility definition and requirements vary upon State and EPA area designations, a map (**Figure 1**) is included to facilitate the determination of which requirements must be met.

030.502 REVIEW FOR EMISSION LIMITATION COMPLIANCE

Authority to construct any new source or modification shall be denied unless the new source or modification meets all applicable emission requirements in the Nevada State Implementation Plan (SIP), all applicable Federal New Source Performance Standards, and all applicable National Emission Standards For Hazardous Air Pollutants.

030.503 CONDITIONS FOR APPROVAL (Amended 7/28/93, Revised 10/25/95)

If a major stationary source or major modification would be constructed in an area designated as nonattainment for a pollutant for which the stationary source or modification is major, an Authority to Construct shall be denied unless the following conditions are met:

- Condition 1 The new source or modification is required to meet an emission limitation which specifies lowest achievable emission rate for such source.
- Condition 2 The applicant must certify that all existing major sources owned or operated by the applicant for any entity controlling, controlled by, or under common control of the applicant in the State of Nevada are in compliance with all applicable emission limitations and standards under the Clean Air Act (or are in compliance with an expeditious schedule which is federally enforceable or contained in a court decree).
- Condition 3 Emission reductions ("offsets") from existing sources in the same nonattainment area as the proposed new source or modification (whether or not under the same ownership) are required such that they shall not interfere with or contribute to the interference with the attainment of the applicable National Ambient Air Quality Standards. Only intrapollutant emission offsets will be acceptable (e.g. hydrocarbon increases may not be offset against SO₂ reductions). All emission reductions for the purpose of offsets shall be enforceable under the Clean Air Act.

The terms of the offset emission reductions shall be specified and federally enforceable prior to permit issuance.

All offset emissions reductions shall be, by the time a new or modified source commences operation, in effect and enforceable and shall assure that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater reduction.

All offset emissions reductions must be obtained from decreases in actual emissions from the same or other sources in the area. No emissions reductions otherwise required by the Clean Air Act or other regulatory action may be credited for the purpose of meeting offset requirements.

- Condition 4 The emission offsets will provide a positive net air quality benefit in the affected area. Atmospheric simulation modeling is not necessary for volatile organic compounds and NOX. Fulfillment of **Condition 3** and **Section 030.504** of these regulations will be considered adequate to meet this condition.
- Condition 5 The applicant must perform an analysis of at least two (2) alternative sites for the facility, production processes, and environmental control techniques. This analysis must demonstrate that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.
- Condition 6 The Control Officer shall also require the review of any Major Stationary Source or Major Modification subject to New Source Review under this section that may have an impact on visibility in any mandatory Class I Federal area. Such visibility review will ensure the source's emissions will be consistent with making reasonable progress toward State and National visibility goals.
- Condition 7 The Administrator has not made a determination that the applicable implementation plan is not being adequately implemented for the attainment area in which the proposed source is to be constructed or modified.
- Condition 8 The proposed major source or major modification shall not contribute to nonattainment in, or interfere with maintenance by, any other State with respect to any national ambient air quality standard, or interfere with measures required to be included in the applicable implementation plan for any other State with respect to prevention of significant deterioration of air quality or to protect visibility.

All emission limitations shall be assessed in light of the limits of "good engineering practice" on stack heights as specified in **Section 030.614**.

Any major stationary source or major modification commencing construction without an Authority to Construct shall be subject to an enforcement action. Obtaining an Authority To Construct does not relieve the owner from complying with any applicable local, state or federal regulation.

At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of regulations approved pursuant to this section shall apply to the source or modification as though construction had not yet commenced on the source or modification. All permits issued by the Control officer shall comply with all applicable terms of the State Implementation Plan for the non-attainment area in which the source is to be constructed.

030.504

EMISSION OFFSET RATIOS (Amended 7/28/93)

Emission reductions required under **Section 030.503** shall be offset at a ratio of 1.2 to 1 when the offset sources are five (5) miles or less from the new source or modification. For offset

sources that are greater than five (5) miles from the new source or modification, the applicant shall determine an offset ratio based on atmospheric simulation modeling or an equivalent method to ensure a positive net air quality benefit. In no case shall the offset ratio for source located greater than five miles from the proposed project be less than 1.2 to 1. Non-reactive organic compounds (those which are listed in 40 CFR 51.100(s)) cannot be used for offsets.

030.505

COMPLETENESS OF APPLICATION

Following submittal by the applicant, the Control Officer shall determine whether the application for permit to construct is complete not later than thirty (30) calendar days after receipt of the application, or after such longer time as both the applicant and the Control Officer may agree. Such determination shall be transmitted in writing immediately to the applicant at the address indicated on the application if it is determined to be incomplete, the determination shall specify which parts of the application are incomplete and how they can be made complete. Upon receipt by the Control Officer of any re-submittal of the application, a new thirty (30) day period in which the Control Officer must determine completeness shall begin. Completeness of an application or resubmitted application shall be evaluated on the basis of the guideline for such, published by the Control Officer. After acceptance of an application as complete, the Control Officer shall not subsequently request of an applicant any new or additional information which was not specified in the Control Officer's list of items to be included within such applications. However, the Control Officer may, during the processing of the application, request an applicant to clarify, amplify, correct or otherwise supplement the information required in such list in effect at the time the complete application was received. Making any such request does not waive, extend, or delay the time limits in this section for decision on the completed application, except as the applicant and Control Officer may both agree.

030.506

REQUIREMENTS FOR PUBLIC NOTICE (Amended 7/28/93, Revised 10/25/95)

For those sources subject to Section 030.500, following acceptance of an application as complete, the Control Officer shall:

- A. Perform the evaluations required to determine compliance with this section and make a preliminary written decision as to whether an Authority to Construct should be approved, conditionally approved, or disapproved. The decision shall be supported by a succinct written analysis;
- B. Within ten (10) calendar days following such decision, publish a notice by prominent advertisement in at least one (1) newspaper of general circulation in the County, stating the preliminary decision of the Control Officer and where the public may inspect the information required to be made available. The notice shall provide thirty (30) days from the date of publication for the publication for the public to submit written comments on the preliminary decision;
- C. At the time notice of the preliminary decision is published, make available for public inspection at the District office the information submitted by the applicant, the supporting analysis for the preliminary decision to grant or deny the Authority to Construct, including any proposed permit conditions, and the reasons therefore. The confidentiality of trade secrets shall be considered in accordance with **Section 020.055** of these regulations;
- D. No later than the date of publication of the notice, a copy of said notice and any appropriate data is to be sent to the Nevada Department of Conservation and Natural

Resources Division of Environmental Protection, the regional planning authority of Washoe County, local government offices, any Indian governing body whose lands may be affected by facility emissions, any Federal Land Manager whose lands may be affected (including visibility effects) and the Regional Office of the U.S. Environmental Protection Agency; and

- E. Applicant to bear cost of all public notices under this section and **Section 030.508**.
- F. The Control Officer shall contact any Federal Land Manager whose lands may be affected for comments on the proposed project within 30 days after the application has been deemed complete. This shall be for the purpose of obtaining comments on the proposed scope of review for affected lands and species.

030.507 COMMENTS

The Control Officer shall consider all written comments submitted during the thirty (30) day public comment period.

030.508 FINAL ACTION (Amended 7/28/93)

Within 180 days after acceptance of the application as complete and the completion of all required preconstruction monitoring and public notice periods (including those required under the District's Part 70 Permit regulations), the Control Officer shall take final action on the application after considering all written comments. The Control Officer shall provide written notice of the final action to the applicant, the U.S. Environmental Protection Agency, other Affected States and the Nevada Department of Conservation and Natural Resources and shall publish such notice in a newspaper of general circulation. The notice and all supporting documents shall be made available for public inspection during normal business hours.

030.905 SOURCES REQUIRING PART 70 PERMITS (Adopted 10/20/93, Revised 10/25/95)

A. Sources Required to Obtain a Part 70 Permit

The following sources and source categories shall be subject to Part 70 permitting:

1. Any Major Stationary Source;
2. Any source, including area sources, subject to a standard, limitation or other requirement under section 111 (New Source Performance Standards) of the Act;
3. Any source, including an area source, subject to a standard or other requirement under section 112 (Hazardous Air Pollutants) of the Act. However, a source which is subject to regulations or requirements only under section 112(r) of the Act shall not be required to obtain a permit;
4. Any source that includes one or more units subject to Title IV (Acid Rain) of the Act;
5. Any source in a source category designated by the EPA Administrator pursuant to 40 CFR Part 70.

B. Exemptions

The following sources and source categories shall be exempted from Part 70 permit requirements:

1. Any source subject to this regulation solely because it is subject to 40 CFR Part 60, subpart AAA, Standards of Performance for New Residential Wood Heaters.
2. Any source subject to this regulation solely because it is subject to 40 CFR Part 61, subpart M, National Emission Standards for Hazardous Air Pollutants for Asbestos, Standards for Demolition and Renovation.

3. Insignificant Emission Levels

Sources with the potential to emit less than an annual average of two (2) pounds per day of any criteria pollutant or less than one (1) pound per day of any hazardous air pollutant on a facility wide basis are exempted from all part 70 permitting requirements. Such sources may still be required by the Control Officer to obtain a non-Part 70 operating permit under District regulations. No source which is itself subject to an applicable requirement may qualify as an insignificant source.

4. All Dry Cleaning operations with the potential to emit less than ten (10) tons per year of any criteria or hazardous air pollutant shall be exempted for a period of five (5) years from the initial EPA Part 70 program approval date unless required to obtain a permit under **Section 030.905(A) (5)**.
5. All sources which would be subject to Part 70 permits under **Section 030.905 (A)** which are not major sources, affected sources or solid waste incineration units subject to permitting under section 129(e) of the act, are exempt from requirements to obtain a Part 70 permit for a period of 5 years from the date of EPA approval of the Washoe County Part 70 permit program.
6. Sources may seek exempt status by limiting facility emissions to levels below those defined for a major source as provided in **Section 010.090, part D (prohibitory status) and part E (Synthetic Minor sources)**.

C. Sources Which Must be Permitted by the State of Nevada

Any facility whose principal business is to generate electricity using steam derived from the burning of fossil fuels must obtain any necessary Part 70 permit(s) from the State of Nevada.