

**CODE OF LAWS  
OF THE  
METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY,  
TENNESSEE**

**CHAPTER 10.56  
“AIR POLLUTION CONTROL”**

**Adopted by the Metropolitan Council  
of Nashville and Davidson County,  
Tennessee**

**As Amended January 23, 1997**

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## SECTION 10.56.010: Definitions

For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

**“Act”** means the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.

**“Actual Emissions”** means the actual rate of emissions of a pollutant from an emissions unit as determined below:

1. Actual emissions shall equal the average rate, in tons per year, at which the facility actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal operation. The Director may use a different time period upon determining that it is more representative of normal operation. Actual emissions shall be calculated using the facility’s actual operating hours, production rates, and type of materials processed, stored or combusted during the selected time period;
2. The Director may presume that the source-specific allowable emissions for the facility are equivalent to the actual emissions of the facility; or
3. For any facility which has not begun normal operations on the particular date, actual emission shall equal the potential to emit.

**“Administrator”** means the Administrator of the United States Environmental Protection Agency or his designee.

**“Air Pollutant”** means any particulate matter or any gas or vapor or any combination thereof including any physical, chemical, biological, radioactive (including source material, special nuclear material and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air.

**“Air Pollution”** means the presence in the outdoor atmosphere of one or more air pollutants in such quantities, characteristics or duration as is or tends to be injurious to human health or welfare, or animal or plant life or health, or property, or would interfere with the enjoyment of life or property.

**“ASME”** means the American Society of Mechanical Engineers.

**“ASTM”** means the American Society of Testing and Materials.

**“Board”** means the Metropolitan Board of Health.

**“Breaching”** means any conduit for the transport of products of combustion or processes to the atmosphere or to any intermediate device before being discharged into the atmosphere. Such term does not include the chimney or stack.

**“Cleaning Fires”** means the act of removing ashes from the fuel bed or furnace.

**“Continuous Monitoring”** means the sampling and analysis of air pollutants in a continuous or timed sequence, using techniques which will adequately measure actual emission levels or ambient concentrations on a continuous basis.

**“Department”** means the Department of Health of the Metropolitan Government, including the Board, agents, employees and Divisions.

**“Director”** means the chief administrative officer of the Metropolitan Board of Health or his designated representative.

**“Emissions”** means the act of releasing or discharging air pollutants into the ambient air from source.

**“Existing Source”** means any equipment, machine, device, article, contrivance or installation which was in existence on the effective date of this Chapter, except that any existing equipment, machine, device, article, contrivance or installation which is altered, replaced or rebuilt that increases the amount of air pollutants emitted by such source or which results in the emission of any air pollutant not previously emitted shall be reclassified as a new source.

**“Fuel-Burning Equipment”** means any furnace, boiler, apparatus, stack, and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer.

**“Fugitive Dust”** means any solid, airborne particulate matter emitted from any source other than through a stack.

**“Hand-Fired Fuel-Burning Equipment”** means fuel-burning equipment in which fresh fuel is manually introduced directly into the combustion chamber but not including fireplaces.

**“Hazardous Material”** means any air pollutant which may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness and has been so defined in the Federal Register.

**“Incinerator”** means any equipment, device or contrivance used for the destruction of refuse by burning, and all appurtenances thereto.

**“Internal Combustion Engine”** means any engine in which the combustion of gaseous, liquid or pulverized solid fuel takes place within one or more cylinders.

**“Legally Enforceable”** means all limitations and conditions which are enforceable by the Director and the Administrator, which includes all provisions of this Chapter, any provisions of the State Implementation Plan, and any permit requirements.

**“Major Modification”** means any physical alteration of or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulations under the Clean Air Act. Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone. A physical alteration of or change in the method of operation shall not include:

1. Routine maintenance, repair and replacement;
2. Use of an alternative fuel or raw material by reason of an order under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;
3. Use of an alternative fuel by reason of an order or rule under Section 125 of the Clean Air Act;
4. An increase in the hours of operation or in the production rate, unless such change is prohibited by an enforceable permit condition; or

5. Any changes in ownership at a stationary source.

**“Major Source”** means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in Paragraph (1), (2), or (3) of this definition. For the purposes of defining “major source,” a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

1. A major source under Section 112 of the Act, which is defined as:
  - a. For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule.
  - b. For radionuclides, major sources shall have the meaning specified by the Administrator by rule.
2. A major stationary source of air pollutants that directly emits or has the potential to emit, 100 tpy or more of any air pollutant under the Clean Air Act (including any major source of fugitive emissions of any such pollutant). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source unless the source 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 250 tons of refuse per day;
  - i. Hydrofluoric, sulfuric, or nitric acid plants;
  - j. Petroleum refineries;
  - k. Lime plants;
  - l. Phosphate rock processing plants;
  - m. Coke oven batteries;
  - n. Sulfur recovery plants;

- o. Carbon black plants (furnace process);
  - p. Primary lead smelters;
  - q. Fuel conversion plants;
  - r. Sintering plants;
  - s. Secondary metal production plants;
  - t. Chemical process plants;
  - u. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
  - v. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 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 250 million British thermal units per hour heat input; or
  - aa. All other stationary source categories regulated by a standard promulgated under Section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.
3. Any stationary source with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen.

**“Malfunction”** means any sudden and unavoidable failure of air pollution control equipment or process equipment, or the failure of a process to operate in a normal or usual manner; however, such failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable improper function or preventable equipment breakdown shall not be considered a malfunction.

**“Mechanical Fuel-Burning Equipment”** means fuel-burning equipment incorporating means by which fuel is mechanically introduced into the combustion chamber.

**“Minor Stationary Source”** means any stationary source that is not a major stationary source and is required to obtain a construction permit, in accordance with the provisions of Sections 10.56.020. through 10.56.070.

**“Mist”** means a suspension of any finely divided liquid in any gas or atmosphere.

**“Modification”** means any physical change in, or change in the method of operation, of a stationary source which increases the amount of any air pollutant emitted by such source or which results in emissions of any air pollution previously not emitted.

**“National Emission Standard for Hazardous Air Pollutant Sources (NESHAPS)”** means any stationary source for which a national emission standard for hazardous air pollutants has been published in the Code of Federal Regulations.

**“New Source Performance Standards (NSPS) Source”** means any stationary source containing a facility for which the construction, modification or reconstruction commenced after the date the standard of performance for new stationary sources was published in the Code of Federal Regulations.

**“Nonattainment Area”** means a geographical area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Director to be reliable and which are approved by the Federal Environmental Protection Agency) to exceed any national ambient air quality standard for any air pollutant.

**“Opacity”** means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

**“Open Burning”** means any fire from which the products of combustion are emitted directly into the open air without passing through a stack or chimney.

**“Particulate Matter”** means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than one hundred micrometers.

**“Particulate Matter Emissions”** means all finely divided solid or liquid materials, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in Title 40, Code of Federal Regulations, Chapter 1, as the same may be amended or recodified.

**“Permit Unit”** means any article, machine or process equipment or other contrivance of which air pollutants emanate or are emitted. A permit unit is any singular continuous operation.

**“Permitted Allowable Emission”** means the emission rate of a source calculated at full design capacity while operating 8760 hours per year or an allowable emission rate specified in a legally enforceable construction or operating permit.

**“Person”** means any individual, natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, municipal corporation, city, county, municipality, district or other political subdivision, department, bureau, agency or instrumentality of federal, state or local government, or other entity recognized by law as the subject of rights and duties, and any officer, agent or employee thereof. The masculine, feminine, singular or plural is included in any circumstances.

**“PM<sub>10</sub>”** means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers as measured by a reference method based on Appendix J of Title 40, Code of Federal Regulations, Part 50, as the same may be amended or recodified, or by an equivalent method designated in accordance with Part 53 of Title 40, Code of Federal Regulations, as the same may be amended or recodified.

**“PM<sub>10</sub> Emissions”** means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal ten micrometers emitted to the ambient air as measured by an applicable reference method.

**“Potential Emissions”** means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollutant 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 only if the limitation or the effect it would have on emissions is legally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source unless otherwise provided in the Metropolitan Health Department, Pollution Control Division's, Regulation No. 13, "Part 70 - Operating Permit Program.

**"Prevention of Significant Deterioration (PSD)"** means the duty to preserve air quality in the manner prescribed in Part C, Section 160, et seq., of the Clean Air Act of 1977, as codified in 41 USCA 7470 through 7479, as amended.

**"Process Equipment"** means any equipment, device or contrivance for changing any materials whatsoever or for storage or handling of any materials, the use or existence of which may cause any discharge of air pollutants into the open air but not including that equipment specifically defined as "fuel-burning equipment" or "incinerator" in this Section.

**"Process Weight"** means the total weight of all materials introduced into any specific process that may cause any emission of particulate matter, but excluding liquid and gaseous fuels and combustion air.

**"Refuse"** means and is the inclusive term for solid waste products which are composed wholly or partly of such materials as garbage, sweepings, cleanings, trash, rubbish, litter, industrial solid waste or domestic solid waste, trees or shrub leaves, limbs, trunks, roots or droppings or trimmings, grass clippings, brick, plaster or other waste resulting from the demolition, alteration or construction of buildings or structures, accumulated waste material, cans, containers, tires, junk or other such substances which may become a nuisance.

**"Regulated Pollutant"** means each of the following:

1. Nitrogen oxides or any volatile organic compound;
2. Any pollutant regulated under Section 111 or 112 of the Clean Air Act as amended;
3. Any pollutant for which a national primary ambient air quality standard has been promulgated; and
4. Any Class I or Class II substance listed pursuant to Section 602 of the Clean Air Act as amended.

**"Ringlemann Chart"** means the chart published and described in the U.S. Bureau of Mines Information Circular 8333.

**"Smoke"** means small gasborne or airborne particulates resulting from combustion operations and consisting of carbon and ash and other matter present in sufficient quantity to be observable.

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

**"Stack"** means any conduit, duct, vent, flue or opening of any kind whatsoever arranged to conduct any products to the atmosphere. Such term does not include breeching.

**"Standard Conditions"** means a gas temperature of sixty-eight degrees Fahrenheit (twenty degrees Centigrade), and a gas pressure of 29.92 inches mercury absolute.

**"Stoker"** means any mechanical device that feeds solid fuel uniformly onto a grate or hearth within a furnace.



**“Total Suspended Particulate”** means particulate matter as measured by the method described in Appendix B of Title 40, Code of Federal Regulations, Part 50, as the same may be amended or recodified.

**“Uniform Administration Procedures Act”** means Tennessee Code Annotated Title 4, Chapter 5. The term “agency” as used in the Uniform Administrative Procedures Act shall also include the Metropolitan Board of Health and the Metropolitan Health Department.

**“Volatile Organic Compounds (VOC)”** means volatile organic compound as defined by Title 40, Code of Federal Regulation, Part 51, Subpart F.

## **ARTICLE I. ADMINISTRATION AND ENFORCEMENT**

### **SECTION 10.56.020: Construction Permits**

A.

1. It is unlawful for any person to install, erect, construct, reconstruct, alter, or add to, or cause to be installed, erected, constructed, reconstructed, altered or added to, any fuel-burning equipment, incinerator, process equipment, control device, or any equipment pertaining thereto, or any stack or chimney connected therewith, or to make or cause to be made any alteration or repairs which increases the amount of air contaminant emitted by such source or which results in the emission of any air contaminant not previously emitted until application for a construction permit has been filed with the Metropolitan Health Department and plans and specifications applicable to the work have been submitted to the Director and a construction permit issued by him for such construction, installations, alterations or repairs. Applications for a construction permit shall be filed in duplicate in the offices of the Director on forms adopted by the Director and supplied by the Metropolitan Health Department along with a copy of plans and specifications. The Director shall not grant a construction permit to any source which does not comply with the provisions of the New Source Review Regulations as adopted by the Board. If the Director determines, on the basis of information available to him, that such source does, or in all likelihood will, operate in violation of this Chapter, or that the source will operate so as to prevent attainment or maintenance of any national ambient air quality standard, he shall either impose conditions on the face of the construction permit that in his opinion will promote compliance with this Chapter, and/or attainment and maintenance of any national ambient air quality standard, or he shall deny the application for the construction permit. This Section shall not apply to fuel-burning equipment used exclusively for heating less than three (3) dwelling units, or to gas, or fuel oil equipment of five hundred thousand BTU input or less or to internal combustion engines.
2. In addition to any other remedies available on account of the issuance of an order prohibiting construction, installation, or establishment of any fuel-burning equipment, incinerator, process equipment, or control devices and prior to invoking any such remedies, the person aggrieved thereby shall, upon request in accordance with the provisions of this Chapter and the rules and regulations adopted by the Board be entitled to a hearing. Such hearing shall be conducted pursuant to the contested cases

3. The absence or failure to issue a rule, regulation or order pursuant to this Section shall not relieve any person from compliance with any emission control requirements or with any other provision of law.
- B. Maintenance or repairs or alterations which are minor in scope or do not change the capacity of any fuel-burning equipment, incinerator, process equipment and which do not involve any change in the method of combustion or materially effect the emission of smoke, dust, gases, fumes, or other air contaminants therefrom may be made without placing an application for construction permit with the Metropolitan Health Department. Emergency repairs may be made prior to the applications in the event an emergency arises and serious consequences would result if the repair were to be deferred. When such repair is made in an emergency, the application as required by this Section shall be filed in the office of the Director within ten days after the start of such work.
  - C. The plans and specifications, submitted pursuant to this Section, concerning any fuel-burning equipment, incinerator or process equipment shall show the type, form and dimensions of all equipment and appurtenances thereto and stacks and ducts, together with the description and dimensions of the building or part thereof in which such equipment is to be located, the amount of work or the amount of heating to be done by such equipment and all provisions for securing complete combustion of the fuel or refuse and for reducing or controlling emission of air contaminants. Such plans and specifications shall also show the character of the fuel or refuse to be burned or process material, the maximum quantity to be burned per hour, and the operation requirements of the equipment. The plans and specifications shall show that the room or premises in which fuel-burning equipment or incinerator is to be located is provided with adequate ventilation to provide sufficient air for the combustion process and for the safety of people.
  - D. The plans and specifications submitted pursuant to this Section shall be prepared under the direction of, or approved by and bear the seal of, a professional engineer registered in this State or be a graduate of an accredited engineering school and experienced in his field of endeavor.
  - E. The requirement for filing plans and specifications involving the installation, erection, construction, reconstruction, alteration, or repair of or addition to, any fuel-burning equipment, incinerator, process equipment, or the building of pilot plants or processes to be used in or to become part of a secret process is suspended upon the filing with the Metropolitan Health Department, in lieu of the filing of plans and specifications, of an affidavit of a responsible person to the effect that such equipment or process is to be so used. Such person may be required by the Board to furnish bond or other proof of financial responsibility. The suspension of the filing of such plans and specifications shall in no way relieve the person or persons responsible for the secret process from complying with all other provisions of this Chapter.
  - F. If the installation, erection, construction, reconstruction, alteration, addition or repair is not started within one (1) year of the date of issuance of a construction permit or any extended period granted in writing by the Director, the construction permit shall become void.

- G. Any equipment covered by this Section which is installed, erected, constructed, reconstructed or altered without making application for a construction permit to the Department of Health and receiving this permit as provided herein may be sealed by the Director with the approval of the Board, the seal to remain in effect until all provisions of this Chapter have been complied with. This remedy is not deemed to be the exclusive remedy.
- H. The receipt of a construction permit from the Metropolitan Health Department shall not be construed to indicate approval of the strength or safety of any equipment or to indicate compliance with the requirements of the Building Code of Metropolitan Nashville and Davidson County or any other ordinance thereof. Neither shall it relieve anyone from the responsibility to comply fully with the applicable provisions of this Code, nor any other requirement(s) imposed by statute, rule or regulation of the Metropolitan Government of Nashville and Davidson County, Tennessee, the State of Tennessee or the United States Government.
- I. New and modified sources having obtained a valid construction permit in accordance with this Section may operate under the construction permit for the period of time specified within the permit which shall not exceed one hundred and eighty (180) days provided that the Director is notified of the date of startup. Such notification must be submitted in writing within five (5) working days of the date of startup of the new or modified source.
- J. Results of any compliance testing required as a condition of a construction permit must be conducted in accordance with Section 10.56.290, "Measurement of Emissions" and Section 10.56.300, "Testing Procedures" of this Chapter and the test results submitted to the Director within the time period specified on the permit. Failure to demonstrate compliance with the allowable emission standards or any other condition shown on the construction permit shall constitute sufficient grounds for the Director to require changes in the installation before an operating permit can be granted. Responsibility for demonstrating proof of compliance including all expenses incurred in conducting the required compliance tests shall be borne by the owner or operator of the effected facility.
- K. The Director or his authorized representative shall have the right to enter the premises to observe any compliance tests and to inspect the installation and operation of any equipment for which a construction permit was issued.
- L. Any application for a construction permit for a major source received by the Director is subject to objection and comment by the Administrator under the provisions of 42 U.S.C. Section 7661 d., as amended. Therefore, no permit shall be final until the time for objection by the Administrator has expired.
- M. Any failure to act or inaction by the Director within eighteen (18) months after receipt of a complete application for a construction permit may be considered final action for the purpose of any appeal to the Davidson County Chancery Court under T.C.A. Section 27-8-101, et seq., and T.C.A. Section 27-9-101, et seq.
- N. The Director shall, on a monthly basis, notify the public, by advertisement in a newspaper or newspapers of general circulation within the Metropolitan Government area, of the applicants seeking to obtain a permit to construct or modify an air pollution source. This notice shall specify the location of the proposed source or modification, the type of source

### **SECTION 10.56.030: Reserve**

### **SECTION 10.56.040: Operating Permit**

- A. After the construction permit has been issued and it is demonstrated to the satisfaction of the Director that the fuel-burning equipment, incinerator, process equipment, control device or any equipment pertaining thereto can be operated in compliance with this Chapter, an application for an operating permit shall be filed in duplicate in the office of the Director on forms adopted by the Director and supplied by the Metropolitan Health Department. If the Director determines that the source does or will operate in violation of this Chapter, or if the source will operate so as to prevent attainment or maintenance of any lawful national ambient air quality standard, he shall either impose conditions on the face of the operating permit that, in his opinion, will promote compliance with this Chapter, or he shall deny the application for an operating permit. The operating permit shall be kept posted on or near the installation for which it was issued. The operating permit shall properly identify the equipment to which it pertains and shall specify the class of fuel, and/or type of raw material used, for which the equipment and appurtenances have been designed or which has been successfully used in the operating test. The owner or his agent shall be responsible for notifying the Director that equipment for which a construction permit has been issued, has been tested and is ready for permanent operation. With such notification the owner shall submit to the Director test and operation data, as required by the Director, as evidence that the equipment will operate in compliance with all provisions of this Chapter. The Director, with the approval of the Board is authorized to seal the equipment in operation for which an operating permit has not been obtained, as required by this Section.
- B. The operating permit shall be issued for a one year period or for such longer period as the Director may designate but not to exceed five (5) years. Applications for renewal of the operating permit shall be made in writing upon forms furnished by the Metropolitan Health Department and shall be made not less than sixty days prior to expiration of the certificate for which renewal is sought except as otherwise provided in the Metropolitan Health Department, Pollution Control Division's, Regulation No. 13, "Part 70 - Operating Permit

Program”. Disclosures of information, tests and other prerequisites to the issuance of a construction permit, temporary operating permit, or operating permit may be required by the Director prior to renewal of an operating permit.

- C. Any person operating a source constructed on or before the effective date of this Chapter shall file an application for an operating permit. An application for an operating permit shall be filed in duplicate in the office of the Director on forms furnished by the Metropolitan Health Department.
- D. In addition to the requirements of this Section, the Metropolitan Board of Health, by regulation duly adopted in accordance with Section 10.56.090 of this Chapter, may specify additional permitting requirements.
- E. Any application for an operating permit for a major source received by the Director is subject to objection and comment by the Administrator under the provisions of 42 U.S.C. Section 7661 d., as amended. Therefore no permit can be final until the statutory time for objection by the Administrator has expired.
- F. Any major source may opt out of the provisions of the Metropolitan Health Department, Pollution Control Division’s, Regulation No. 13, “Part 70, Operating Permit Program”, by limiting their potential to emit such that they are below the applicable threshold. In order to exercise this option, the following provisions must be met:
  - 1. The source must agree in writing to be bound by a permit which specifies the more restrictive limit and to be subject to detailed monitoring, reporting and recordkeeping requirements that prove the source is in compliance with the applicable permit.
  - 2. The permit limitations, controls, and other requirements imposed by the permits will be at least as stringent as any other applicable limitations and requirements contained in the State Implementation Plan or enforceable under the State Implementation Plan.
  - 3. The permit limitations, controls, and other requirements imposed by the permit shall be permanent, quantifiable, and enforceable. If the source decides to increase its potential to emit, the source must meet the requirements of Section 10.56.020.
  - 4. A public notice and opportunity for public comments on any application seeking a permit with limited potential to emit shall be given in a newspaper or newspapers of general circulation within the Metropolitan Government area. The public shall have thirty (30) days from the date of notice to submit written comments.
  - 5. The Director shall provide to the Administrator a copy of each draft and final permit. The draft permit must be submitted to the Administrator prior to the public notice as outlined in Paragraph (4). The final permit shall be submitted to the Administrator within thirty (30) days of issuance.
- G. Any failure to act or any inaction by the Director within eighteen (18) months after receipt of a complete application for an operating permit may be considered final action for the purpose of any appeal to Davidson County Chancery Court under T.C.A. Section 27-8-101, et seq., T.C.A. Section 27-9-101, et seq., or T.C.A. Section 4-5-322.

#### **SECTION 10.56.050: Exemptions**

- A. The following sources are exempt from the provisions of this Chapter unless otherwise specified by the Director:
1. Fuel burning equipment used exclusively for heating less than three dwelling units;
  2. Natural gas or fuel oil burning equipment of less than five hundred thousand BTU input per hour. This exemption shall not apply when the total capacity of such equipment operated by one person exceeds 2.0 million BTU input per hour;
  3. Any process emission source emitting less than 0.1 pounds per hour of non-hazardous particulate matter;
  4. Equipment used on farms for soil preparation, tending or harvesting of crops, or for preparation of feed to be used on the farm when prepared;
  5. Residential barbecue pits and cookers;
  6. Wood smoking operations used to cure tobacco in barns; and
  7. Mobile sources such as automobiles, trucks, buses, locomotives, planes, and boats.
- B. Notwithstanding the exemptions granted in Paragraph (A) of this Section, no person shall discharge, from any source whatsoever, such quantities of air contaminants or other materials which cause or have a tendency to cause, injury, detriment, annoyance, or adverse effect to the public.
- C. The sources listed below are exempt from the permitting requirements of Sections 10.56.020 and 10.56.040 of this Chapter unless specifically required to do so by the Director. However, the emissions from these sources shall comply with the remaining provisions of this Chapter and with any applicable regulation adopted by the Metropolitan Board of Health in accordance with the provisions of Section 10.56.090 of this Chapter.
1. Fuel burning equipment that are fired with liquid petroleum gas, natural gas or No. 2 fuel oil with a heat input of less than 10 million BTU per hour where the combined total heat input rate at the facility does not exceed 20 million BTU per hour. This exemption does not apply to gas-fired turbines;
  2. Equipment used exclusively to store or hold dry natural gas or liquid petroleum gas;
  3. Laboratory equipment used exclusively for chemical and physical analysis, including ventilating and exhaust systems for laboratory hoods used for air contaminants other than carcinogenic or radioactive air pollutant;
  4. Brazing, soldering, or welding equipment, except those which emit lead or use lead compounds;
  5. Repairs or maintenance of a source regulated by an emission standard provided that no structural changes are involved such as replacement or installation of any new process, fuel burning, incineration or air pollution control equipment;
  6. Alkaline/phosphate washers and associated gas-fired burners provided that no volatile organic compounds are present in the phosphatizing or wash solutions;
  7. All gas or No. 2 fuel oil fired, infrared, or electric ovens which have no emission other than products of fuel combustion except for those regulated by Regulation No. 5,

8. Surface coating operations which do not exceed a combined total usage of more than 45 gallons per month of coatings, thinners and cleanup solvents at one location;
  9. Any process emitting less than 0.1 pounds per hour of any non-hazardous air pollutant except for those regulated by Regulation No. 5, "Standards of Performance For New Stationary Sources;" and
  10. Tank trucks and barges.
- D. Notwithstanding any exemption granted in this Section because of size or production rate, an exempted source must be listed in the application for a permit to be issued in accordance with Regulation No. 13, "Part 70, Operating Permit Program."
- E. The exemptions in this Section shall not apply:
1. To any source regulated under Section 111 or 112 of the Act; or
  2. Is a source of any of the Following hazardous air pollutants:
    - 2-Acetylaminofluorene
    - Acrolein
    - Acrylamide
    - Acrylic acid
    - Acrylonitrile
    - Arsenic compounds
    - Benzidine
    - Beryllium compounds
    - Bis (chloromethyl) ether
    - 1, 3-Butadiene
    - Cadmium compounds
    - Chlordane
    - 2-Chloroacetophenone
    - Chromium compounds
    - Chloromethyl methyl ether
    - Coke oven emissions
    - Diazomethane
    - Dibenzofuran
    - 1, 2-Dibromo-3-Chloropropane
    - Dichloroethyl ether (Bis(2-Chloroethyl)ether)
    - Dimehtylcarbamoyl chloride
    - 1, 2-Diphenylhydrazine
    - Ethylene dibromide
    - Ethylenimine (Aziridine)
    - Ethylene oxide
    - Heptachlor
    - Hexachlorobenzene

- Hexachlorocyclopentadiene
- Hydrazine
- Manganese compounds
- Mercury compounds
- Methylene Diphenyl diisocyanate (MDI)
- Methyl hydrazine
- Methyl isocyanate
- Nickel compounds
- N-Nitrosodimethylamine
- N-Nitroso-n-methylurea
- Parathion
- Phosgene
- Phosphine
- Phosphorus
- 1, 2-Propleneimine
- 2, 3, 7, 8-Tetrachlorodibenzo-p-dioxin
- Toxophene (Chlorinated camphene)
- Vinyl chloride

F. Notwithstanding any exemption in this Section any application submitted in accordance with Section 10.56.020 and Section 10.56.040 of this Chapter shall include all emission sources and quantify emissions if needed to determine major source status, to determine compliance with an applicable requirement and/or the applicability of any applicable requirement such as a NSPS, NESHAPS, or MACT standard, etc. or in calculation permit fees in accordance with Section 10.56.080.”

#### **SECTION 10.56.060: Transferability of Permit**

Any permit issued in accordance with the provisions of this Chapter is not transferable from one person to another person nor from one facility to another facility without prior approval from the Director.

#### **SECTION 10.56.070: Suspension or Revocation of Permit**

The Director may suspend or revoke either a construction or an operating permit if the permit holder fails to comply with the provisions, stipulations or compliance schedule provided in the permit.

#### **SECTION 10.56.080: Permit and Annual Emission Fees**

A. The Metropolitan Board of Health by rule or regulation may prescribe and provide for the payment and collection of reasonable fees for the issuance of all permits as specified in



- B. Regulated pollutants for determining emission fees shall mean the annual permitted allowable emissions up to 4,000 tons per regulated pollutant, as defined by Paragraph C, of each of the following pollutants:
1. Volatile Organic Compounds;
  2. Any pollutant regulated under Section 111 or 112 of the Clean Air Act as amended;
  3. Any pollutant for which a national primary ambient air quality standard has been promulgated, except Carbon Monoxide; and
  4. Nitrogen Oxides.
- C. Permitted allowable emissions for determining permit fees shall mean the emission rate of a source calculated at full design capacity operating 8760 hours per year or an allowable emission rate specified in a legally enforceable permit condition.
- D. Construction Permit.
1. Any person making application to the Metropolitan Health Department for a construction permit in accordance with the provisions of Section 10.56.020 shall pay an initial filing fee of twenty five (\$25.00) dollars per ton for the potential or the proposed permitted annual allowable emissions of each regulated pollutant or one hundred (\$100.00) dollars which ever is greater. This filing fee shall not be refunded if a permit is denied or if the application is withdrawn, nor shall it be applied to any subsequent application.
  2. All fees shall be included with the permit application. Fees shall be paid by check made payable to the Metropolitan Department of Health.
  3. Any person constructing a source without a construction permit in addition to the above initial filing fee shall pay a penalty of fifty (50) percent of the initial filing fee amount, plus interest on the fee amount computed in accordance with Section 6621(a)(2) of the Internal Revenue Code of 1986.
- E. Operating Permit and annual emission fee.
1. Any person making application to the Metropolitan Health Department for an operating permit in accordance with the provisions of Section 10.56.040 shall pay the applicable fee in accordance with the following schedule:
    - a. Asbestos demolition/renovation removal permits, one hundred (\$100.00) dollars.
    - b. Air curtain destructor permits, one hundred (\$100.00) dollars.
    - c. Any owner or operator of any other source required to have an operating permit in accordance with the provisions of Section 10.56.040 must pay an annual emission fee of twenty five (\$25.00) dollars per ton, as adjusted pursuant to the criteria set

- d. The annual emission fee shall be calculated as the sum of permitted allowable emissions of all regulated pollutants, except for carbon monoxide, at a source.
- e. The \$25.00 per ton per year used to calculate the annual emission fee shall be adjusted each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for calendar year 1989.

The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all urban consumers published by the Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for the calendar year 1989 shall be used.

- f. The annual emission fee is due and payable to the Metropolitan Department of Health in full by March 31 of the year following the year the emissions occurred. Any source failing to pay the annual emission fee by March 31 shall pay in addition a penalty of fifty (50%) percent of the annual emissions fee, plus interest on the fee amount as computed by the Director in accordance with Section 6621(a)(2) of the Internal Revenue Code of 1986.
- g. The appropriate annual emission fee for a new source that has not been in operation a full calendar year shall be determined by the following equation:

$$\frac{\text{No. of months in operation}}{12} \times \text{Annual emission fee based on permitted allowable emission} = \text{emission fee}$$

- h. A source owner or operator of the opinion that their annual emission fee is improper or incorrect may request a meeting with the Director to discuss the annual emission fee assessment. This must be requested in writing at least thirty (30) days prior to the due date of the annual emission fee. This meeting will be for the purpose of explaining to the source owner or operator the computation methods used to determine the annual emission fee and to provide the source an opportunity to explain why the assessment is incorrect. At this meeting the source may restructure its fee liability through a reduction in permitted allowable emission rates.

Any owner or operator who disagrees with the calculation or the applicability of the fee may petition the Board for a hearing.

F. Permit modification.

Any person making application to the Metropolitan Health Department for the modification of a permit shall be subject to the fee outlined in Paragraph (D)(1) of this Section. No fee is required for modification of a permit to correct clerical, typographical or calculation errors.

- G. No permit will be issued or modified until the appropriate filing fee has been received by the Department.

#### **SECTION 10.56.090: Board - Powers and Duties**

- A.
  - 1. There is imposed upon the Board in addition to those functions and duties set forth in Article 10, Chapter 1, of the Charter of the Metropolitan Government, the authority, power and duty to adopt, promulgate and enforce such rules and regulations to carry out the provisions of this Chapter which the Board deems necessary in order to achieve and maintain such levels of air quality as will protect human health and safety and to the greatest degree practical, prevent injury to plant life and property, foster the comfort and convenience of the inhabitants of the Metropolitan Government area and promote the economic and social development of the Metropolitan Government area; provided, that such rules and regulations shall not conflict with any laws of the State, the Charter of the Metropolitan Government or any ordinance of the Metropolitan Government, nor shall such rules and regulations exceed the limits of authority granted to the Board in this Chapter.
  - 2. The Director shall recommend to the Board such rules and regulations as he considers necessary consistent with the general intent and purpose of this Chapter to prevent, abate and control air pollution. Thereupon, the Board shall fix and hold a public hearing, as provided herein, with respect to the rules of their amendments, and the Board may approve or reject such recommended rules or amendments, in whole or in part, or it may modify and approve them as so modified. Thereafter, the Board may amend or add to the rules and regulations, on recommendation of the Director, or on its own initiative, but only after a public hearing on the proposed amendments.
  - 3. Such rules and regulations or any amendments thereto shall be approved by the Director of law as to legality, and the same shall then be filed with the secretary of the Board and the Metropolitan Clerk. After such rules and regulations or any amendments thereto of the Board have been so adopted in the manner herein provided, such rules and regulations shall have the force and effect of law.
- B. In exercising its powers to prevent, abate and control air pollution, the Board shall have the following powers and duties:
  - 1. Develop and prepare a general comprehensive plan for the prevention, control and abatement of air pollution recognizing varying requirements for different areas of the Metropolitan Government;
  - 2. Establish, modify or amend, after public hearing, a system of permits applicable to installation or modification of facilities capable of becoming a source of air pollution;
  - 3. Establish, modify or amend, without hearing, rules and regulations with respect to procedural aspects of:

- a. Hearings,
  - b. Filing of reports and orders,
  - c. Issuance of permits, and
  - d. All other matters not specifically requiring a hearing;
4. Require that any person whom the Board has reason to believe is or may be about to be causing or contributing to air pollution to furnish the Board pertinent information required by it in the discharge of its duties under this Chapter; provided, that no such person shall be required to disclose any secret formulas, processes or methods used in any manufacturing operation carried on by or under his direction;
  5. Cause to be instituted in a court of competent jurisdiction, legal proceedings to compel compliance with any provision of this Chapter or with any order or determination issued by the Board;
  6. Collect and disseminate information relative to air pollution, encourage voluntary cooperation of affected persons or groups in preserving and restoring a reasonable degree of air purity and advise, consult and cooperate with other agencies, persons or groups in matters pertaining to air pollution;
  7. Prescribe and provide, at its discretion, for payment and collection of reasonable fees for the review of plans and specifications required to be submitted pursuant to this Chapter. Such fees shall be deposited with the Metropolitan Treasurer and shall be used to supplement the budget of the Metropolitan Health Department.
  8. Adopt, promulgate and enforce such other rules and regulations which the Board deems necessary to carry out the provisions of this Chapter; provided, that nothing in this Chapter shall be deemed to grant the Board any jurisdiction or authority with respect to air pollution existing solely within commercial or industrial plants, works or shops or to affect the relationship between employers and employees with respect to or arising out of any condition of air pollution, so long as such internal pollution does not affect the ambient air outside the plant, works or shops.
- C. In addition to any other power granted to it by this Chapter, the Board is granted the authority to assess a civil penalty in an amount not to exceed the sum of twenty five thousand (\$25,000.00) dollars per day for each day of violation against any person in violation of this Chapter or of any regulation adopted pursuant to this Section.
1. The assessment of a civil penalty shall be made by the Director against any person determined to be in violation of this Chapter or of any regulation adopted by the Board pursuant to this Section. Notice of such assessment shall be provided by certified mail, return receipt requested.
  2. Any person against whom an assessment is made by the Director may appeal to the Board by filing a request with the Director for review by the Board. Request for review by the Board must be made in writing and filed within thirty days of the receipt of the assessment and shall state with particularity the grounds for the appeal. Any such appeal shall stay the effect of the assessment.

3. Failure to appeal the assessment within thirty days shall be a waiver of the right to appeal and be deemed as consent to the assessment which shall become final upon approval by the Board.
4. Any assessment of civil penalty appealed to the Board shall be heard pursuant to the provisions of the contested cases provisions of the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5, Part 3. The assessment of civil penalty shall be upheld unless the preponderance of the evidence shows that the assessment was unlawfully levied or unreasonably severe.
5. No assessment of civil penalty, whether brought to the Board by appeal or for confirmation by the Director, shall be final until such assessment is approved by the Board at any regular meeting or duly called special meeting. The Board may alter or modify the terms of any civil penalty, but any increase in the amount of civil penalty or which otherwise imposes a greater burden upon the person against whom the penalty is assessed shall not become final until such person receives written notice thereof and is provided the right to petition the Board for modification of such assessment in the same manner as an appeal from assessment of civil penalty by the Director.
6. The Director may enter into consent decrees with any person in violation of this Chapter or of any regulation adopted pursuant to this Chapter, and, after approval by the Board shall have the same effect and be enforceable in the same manner as a civil penalty.
7. The Board may cause an action to be filed with the chancery court for Davidson County for judgment to enforce any final assessment of civil penalty or consent decree and for any execution of any judgment so obtained.
8. In assessing a civil penalty, the Director and the Board may consider all factors listed in Section 10.56.100, and may include any expenses and actual damages incurred by the Metropolitan Government in investigating, removing, correcting or cleanup of the effects of the violation, including loss or destruction of plant or animal life.

#### **SECTION 10.56.100: Board - Consideration of Facts and Circumstances**

In the exercise of its powers to prevent, abate and control air pollution, the Board shall give due consideration to such pertinent facts and circumstances, including, but not limited to:

- A. The character and degree of injury to, or interference with, the protection of the health, general welfare and physical property of the residents of the Metropolitan Government area;
- B. The social and economic value of the air pollutants source;
- C. The degree of detrimental effect of the air pollutants upon the achievement of the national ambient air quality standard for such pollutant;
- D. The technical practicability and economic reasonableness of reducing or eliminating the emission of such air pollutants;
- E. The suitability or unsuitability of the air pollution source to the area in which it is located; and

- F. The economic benefit gained by the air pollutants source through any failure to comply with the provisions of this Chapter and regulations adopted pursuant to this Chapter.

**SECTION 10.56.110: Rules and Regulations - Hearings Procedure**

- A. No standard, rule or regulation shall be adopted by the Board pursuant to Section 10.56.090, and no amendment, repeal or modification thereof, shall take effect except after a public hearing has been held regarding the matter in question. At the discretion of the Board, the hearing may be held before the Board or a hearing officer, as defined by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-301, designated by the Board for such purpose.
- B. Hearing shall be conducted in the following manner:
  - 1. A public notice of any and all public hearings pursuant to this Chapter shall be given at least thirty days prior to the scheduled date of the hearing by public advertisement on three consecutive days in a newspaper or newspapers of general circulation within the Metropolitan Government area, giving the date, time, place and purpose of such hearing.
  - 2. At such hearings, opportunity to be heard with respect to the subject thereof shall be given to any interested person. Any interested persons, whether or not heard, may submit, in writing, a statement of their views on the proposed rules and regulations prior to or within seven days subsequent to such hearings.
  - 3. No rule or regulation of the Board, or any amendment, repeal or modification thereof, shall be deemed adopted or in force and effect until it shall have been approved, in writing, by at least the majority of the members to which the Board is entitled and the same shall have been approved by the Director of law as to its legality and a certified copy thereof has been filed with the Metropolitan Clerk.
  - 4. Any person heard or represented at such hearing or requesting notice shall be given, without charge, written notice of the action of the Board with respect to the subject thereof. A reasonable record shall be made and maintained of any such public hearing and the testimony at such hearing may or may not be under oath, at the discretion of the board. Copies of the proceedings at the public hearing shall be made available only upon the payment of the fee therefore, which fee shall be set by the Board of Health.

**SECTION 10.56.120: Complaint Notice - Hearings Procedure**

- A. In addition to the other remedies available, the Director is authorized to file with the Board a complaint of an alleged violation, and the Board may cause to have issued and served upon the person complained against a formal notice of complaint, which shall specify the provision of this Chapter of which such person is said to be in violation and a statement of the manner and extent to which, if applicable, such person is said to violate this Chapter, and shall require the person complained against to answer the charges of such formal complaint at a hearing before the Board.

- B. Such Hearing shall be conducted pursuant to the provisions of the contested cases provisions of the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5, Part 3.

**SECTION 10.56.130: Variances - Hearings Procedure**

- A. Any person seeking a variance from the provisions of this Chapter or from the rules and regulations adopted by the Board pursuant to this Chapter shall do so by filing a petition for variance with the Director. The Director shall promptly investigate such petition and make recommendation to the Board as to the disposition thereof.
- B. The Board may grant such variance if it finds that:
  - 1.
    - a. The emission occurring, or proposed to occur, do not endanger or tend to endanger human health or safety, and
    - b. Compliance with the provisions of this Chapter and the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public;
  - 2. The emissions occurring, or proposed to occur, do not have a serious adverse effect on the quality of the ambient air of Davidson County and of adjacent counties;
  - 3. The owner or operator of the source agrees that upon the expiration of the order granting the variance that he/she will use any new means of emission limitation demonstrated to the satisfaction of the Board to be the best available system of continuous emission reduction for the particular source or sources for which the variance is granted;
  - 4. Such new means of emission limitation are not likely to be used unless a petition is granted under this subsection;
  - 5. Such new means of emission limitation have a substantial likelihood of:
    - a. Achieving greater continuous emission reduction than the means of emission limitation which, but for such variance, would be required, or
    - b. Achieving an equivalent continuous reduction at lower cost in terms of energy, economic or nonair quality environmental impact;
  - 6. Compliance with the source would be impracticable prior to or during the installation of such new means.
- C. Upon receiving the recommendation of the director, the Board shall grant a public hearing. Such public hearing shall be held not later than sixty days after receipt of a recommendation from the Director.
- D. Public hearings will be conducted in the following manner:
  - 1. The petitioner and the public shall be given written notice at the earliest practicable time as to the time and place of such hearing.

2. At the discretion of the Board, such hearing before a hearing officer may be conducted as defined by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-301, and a complete record of the hearing shall be made for review by the Board members.
  3. All testimony shall be recorded and may or may not be under oath, at the discretion of the hearing officer. The transcript so recorded shall be made available to the petitioner or any party to the hearing upon the payment of the fee for transcribing such testimony.
  4. The Board in considering the granting of a variance shall give due consideration to the equities of the petitioner and others who may be affected by granting or denial of the petition.
  5. The Board may make the granting of a petition for variance contingent upon such other requirements or restrictions on the petitioner as the Board may deem appropriate and reasonable, including, but not limited to, the requirement that a performance bond be posted by the petitioner.
  6. Any variance granted shall be for a period not to exceed one year, except as hereinafter provided, but may be extended from time to time by the action of the Board.
- E. Subject to the conditions of Subsections A and B of this Section, the Board may grant a variance on the grounds that there is no practicable means known or available for the adequate prevention, abatement or control of the air pollutant source involved, and, if granted, such variance may remain in effect only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternate measures that the Board may prescribe.
- F. If the variance is granted on the grounds that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time, as in the view of the Board, is requisite for the taking of the necessary measures. A variance granted on the grounds specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be contained on adherence to such timetable.
- G. Upon failure of the Board to issue a final order or determination within sixty days after the final argument in any such hearing or within sixty days following receipt of the recommendation of the Director when no hearing is held, the petitioner shall be entitled to treat for all purposes such failure to act as a granting of the variance requested.
- H. The burden of proof in such hearings shall be upon the petitioner.
- I. Nothing in this Section, and no variance or renewal thereof granted pursuant hereto, shall be construed to prevent or limit the application of the emergency provisions and procedures of this Chapter to any person or his property.

#### **SECTION 10.56.140: Emergency Measures - Hearings Procedure**

- A. Any other provisions of law to the contrary notwithstanding, if the Director finds that a generalized condition of air pollution exists and that it creates an emergency requiring



- B. Upon issuance of any such order, the Director shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before the Board. Such hearing shall be held in conformity with the provisions of Section 10.56.120, insofar as applicable. Not more than twenty-four hours after the commencement of such hearing, and without adjournment thereof, the Board shall affirm, modify or set aside the order of the Director.
- C. In the absence of a generalized condition of air pollution of the type referred to in Subsection A of this Section, if the Director finds that emissions from the operation of one or more air contaminant sources is causing or may tend to cause imminent danger to human health or safety, he may order the person responsible for the operation in question to reduce or discontinue operations immediately, without regard to the provisions of this Chapter. In such event, the requirements for hearing affirmance, modification, or setting aside of orders set forth in Subsection B of this Section shall apply.

**SECTION 10.56.150: Nuisance Declared - Injunctive Relief**

- A. Any person violating the provisions of this Chapter by exhausting into the atmosphere an air contaminant in excess of that permitted by this Chapter is declared to be creating a nuisance.
- B. The Board may cause to be instituted a civil action in any court of competent jurisdiction for injunctive relief to prevent violation of any Section of this Chapter.

**ARTICLE II. STANDARDS FOR OPERATION**

**SECTION 10.56.160: Ambient Air Quality Standards**

- A. The primary ambient air quality standards define levels of air quality believed adequate with an appropriate margin of safety to protect the public health.
- B. The secondary ambient air quality standards define levels of air quality believed adequate with an appropriate margin of safety to protect the public welfare from any known anticipated adverse effects of the pollutant.
- C. The ambient air quality standards of Table 10.56.160 are applicable throughout Metropolitan Nashville and Davidson County. The ambient air quality standards of Table 10.56.160 shall not be construed or interpreted to allow any significant deterioration of the existing air quality in any area of Metropolitan Nashville and Davidson County.

**TABLE 10.56.160**

Primary Standard	Secondary Standard
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POLL.	CONC.	AVERAGE INTERVAL	CONC.	AVERAGE INTERVAL	REMARK
PM <sub>10</sub>	150 µg/m <sup>3</sup>	24-hr	150 µg/m <sup>3</sup>	24-hr	This standard is attained when the expected number of days per calendar year with a 24-hr average conc. above 150 µg/m <sup>3</sup> as determined in accordance with Appendix K of Title 40, CFR Part 50, is less than or equal to one.
	50 µg/m <sup>3</sup>	AAM	50 µg/m <sup>3</sup>	AAM	This standard is attained when the expected annual arithmetic mean conc., as determined in accordance with Appendix K of Title 40, CFR Part 50, is less than or equal to 50µg/m <sup>3</sup> .
SO <sub>2</sub>	0.03 ppm	AAM	0.50 ppm	3-hr	Annual arithmetic mean. Standard not to be exceeded more than once a year.
	0.14 ppm	24-hr			
CO	35.0 ppm	1-hr	35.0 ppm	1-hr	Not to be exceeded more than once a year.
	9.0 ppm	8-hr	9.0 ppm	8-hr	Not to be exceeded more than once a year.
Ozone	0.12 ppm	1-hr	0.12 ppm	1-hr	This standard is attained when the expected No. of days per calendar year with maximum hourly average conc. above 0.12 ppm is equal to or less than one.
NO <sub>2</sub>	100µg/m <sup>3</sup>	AAM	100 µg/m <sup>3</sup>	AAM	Annual arithmetic mean.
Lead	1.5 µg/m <sup>3</sup>	QAM	1.5 µg/m <sup>3</sup>	QAM	Calendar Quarter arithmetic mean.
Gaseous Fluorides			1.5 ppb	30-day	Not to be exceeded more than once a year.
			2.0 ppb	7-day	
			3.5 ppb	24-hr	
			4.5 ppb	12-hr	

**SECTION 10.56.170: Emission of Gases, Vapors or Objectionable Odors**

No person shall cause, suffer, allow or permit any emission of gases, vapors or objectionable odors beyond the property line from any source whatsoever which causes injury, detriment, nuisance or annoyance to any considerable number of persons or to the public, or which causes or has a natural tendency to cause injury or damage to business or property.

**SECTION 10.56.180: Laundry Operations - Dryer and Vent Pipe Requirements**

No person shall operate a laundry, dry cleaning plant or similar operation unless the following conditions are met:

- A. All driers shall be equipped with lint filters which will substantially prevent the expulsion of materials harmful to the public.
- B. Provision shall be made so that all vent pipes carrying solvent vapor are not directed toward any building openings within twenty feet.

### **SECTION 10.56.190: Controlling Wind-Borne Materials**

- A. No person shall cause, suffer, allow or permit the handling, transporting or disposition of any substance or material which is likely to be scattered by the wind, or is susceptible to being wind-borne, without taking adequate precautions or measures to minimize atmospheric pollution.
- B. Vehicles carrying the material subject to becoming airborne operating on public streets, roads or highways shall cover their load with a tarpaulin, canvas or other means acceptable to the Director.
- C. No person shall maintain, cause, permit or allow to be maintained any premises, open area, right-of-way, storage pile of materials, any construction, alteration, demolition or wrecking operation, or any other enterprise which involves any material or substance likely to be scattered by the wind or susceptible to being wind-borne, without applying all such reasonable measures as may be necessary or required to prevent particulate matter from becoming airborne, including, but not limited to, paving, or frequent cleaning of roads, driveways and parking lots, application of dust-free surfaces, or the planting and maintenance of vegetative ground cover.
- D. In addition, all parking areas containing spaces for ten or more motor vehicles shall be surfaced with asphalt, concrete, or other hard-surfaced dustless material.

### **SECTION 10.56.200: Sale, Use or Consumption Of Solid And Liquid Fuels**

- A.
  - 1. It is unlawful for any person to sell or burn, in any fuel-burning equipment, any solid or liquid fuel containing in excess of two percent sulfur by weight. If such fuel is not reasonably available, an application for exemption may be made to the Board, and the Board, after considering the factors set forth in this Subsection, shall allow exemption from this provision when the applicant demonstrates that their activities do not result in the condition of air pollution defined in Section 10.56.010.
  - 2. In determining reasonable availability, the factors to be considered by the Board shall include, among others: price, firmness of supply, extent of existing pollution and assurance of supply under adverse weather and natural disaster conditions.
  - 3. The Board, at its discretion, may review such exemptions from time to time and revise same when it finds such changes in circumstances which require additional action on the part of a fuel user to protect the air.
- B.
  - 1. Subsection A of this Section shall not apply to any case in which by the use of a combination of gas, liquid or solid fuel it is demonstrated to the Director that sulfur oxide emissions, caused by the combustion of any solid or liquid fuel, or any fuel-burning equipment or from any stack connected thereto, does not exceed the sulfur oxide emissions of burning two percent sulfur fuel.
  - 2. Any person seeking to come within this Subsection B of this Section shall install and operate a continuous monitoring device, approved by the Director, to monitor sulfur

- C.
1. Subsection A of this Section shall not apply in any case in which, by the use of a cleaning process, it is demonstrated to the Director that sulfur oxide emissions, caused by the combustion of any solid or liquid fuel, of any fuel-burning equipment or from any stack connected thereto, does not exceed the sulfur oxide emissions of burning two percent sulfur fuel.
  2. Any person seeking to come within this Subsection C of this Section shall conduct, at the expense of the company or industries, a series of detailed stack analyses, the method of sampling must be approved by the Director, within thirty days of the installation of this cleaning process, and the performance data must be submitted to the Director for evaluation. The owner or operator shall install and operate a continuous monitoring device, approved by the Director, to monitor Sulfur dioxide emissions. The sulfur dioxide emission record shall be submitted to the Director each month. Tests to determine compliance with this Section shall be performed as provided in Section 10.56.300.

#### **SECTION 10.56.210: Hazardous Air Pollutants**

- A. Hazardous air pollutant means any air pollutant listed by the Administrator of the EPA pursuant to Section 112 of the Act, 74 U.S.C. Paragraph 7412.
- B. Any owner or operator of a hazardous air pollutant source must comply with any applicable standard emission standard or any other applicable requirement established by the Administrator of the EPA pursuant to Section 112 of the Act.
- C. The owner or operator of a hazardous air pollutant source in existence on the effective date of designation of a hazardous air pollutant shall, within six (6) months from the date, file with the Director the necessary information to evaluate the compliance status of said source.

#### **SECTION 10.56.220: Fuel-Burning Equipment**

- A. The emission of particulate matter resulting from the combustion of solid fuel from any installation of fuel-burning equipment or any stack connected thereto existing before the effective date of this Chapter in quantities exceeding the values specified in Table I of this Subsection is prohibited. The maximum allowable particulate emission limits as given in this Section are based upon the total plant rate of heat input to one or more stacks. Where natural gas or liquefied petroleum gas is used as a fuel, the BTU heat input from these fuels shall not be included.

#### **TABLE I**

<b>Total Heat Input in Million BTU/Hr.</b>	<b>Maximum Emission Rate in Pounds Per Million BTU Input</b>
10 or less	0.60
20	0.50
50	0.39
100	0.33
500	0.22
1,000	0.18
5,000	0.12
10,000 or greater	0.10

Interpolation of the data in Table I shall be accomplished by the use of the equation:

$$E = 1.09 (Q)^{-0.2594}$$

Where E= emissions in pounds per million BTU input, Q= total heat input in million BTU per hour.

- B. The emission of particulate matter resulting from the combustion of solid fuel from any installation of fuel-burning equipment or any stack connected thereto beginning operation on or after the effective date of this Chapter, in quantities exceeding the values specified in Table II of this Subsection is prohibited.

**TABLE II**

<b>Total Heat Input in Million BTU/Hr.</b>	<b>Maximum Emission Rate in Pounds Per Million BTU Input</b>
10 or less	0.60
20	0.41
50	0.24
100	0.16
200	0.10
250 or greater	0.10

Interpolation of the data in Table II shall be accomplished by the use of the equation:

$$E = 2.16(Q)^{-0.5566}$$

Where E = emissions in pounds per million BTU input, Q = total heat input in million BTU per hour.

- C. The emissions of particulate matter resulting from the combustion of distillate oil from any installation of fuel-burning equipment or any stack connected thereto shall not exceed 0.02 pounds per million BTU heat input.
- D. The emissions of particulate matter resulting from the combustion of residual oil from any existing installation of fuel-burning equipment or any stack connected thereto shall not exceed 0.15 pounds per million BTU heat input. For any installation constructed after the effective date of this Chapter, the emission of particulate matter resulting from the combustion of residual oil shall not exceed 0.15 pounds per million BTU heat input or the value specified in Table II, whichever is more restrictive.
- E. Irrespective of the emission standards of this Section, the Metropolitan Board of Health, by regulation, may specify emission standards for all new, modified or existing fuel-burning equipment sources located within or impacting a nonattainment area.
- F. No new coal-burning equipment of less than one million BTU per hour input shall be installed, excluding all potbellied stoves.
- G. The operation of hand-fired fuel-burning equipment is prohibited. This Subsection shall not apply to fuel-burning equipment used exclusively for heating a dwelling of less than three dwelling units or the burning of wood as a fuel in residential fireplaces.
- H. The burning of refuse in fuel-burning equipment is prohibited, except in equipment specifically designed to burn refuse.
- I. Tests to determine compliance with this Section shall be performed as provided for in Section 10.56.300.

#### **SECTION 10.56.230: Incinerators**

- A. No person shall burn any refuse in any incinerator except in an incinerator having a rated capacity of one hundred pounds per hour or greater, with adequate auxiliary heat or other approved means to prevent air pollution or an air pollution nuisance. This requirement of a capacity of one hundred pounds per hour shall not apply to incinerators designed for and used exclusively as pathological incinerators.
- B. No person shall cause, suffer, allow or permit the emissions from any incinerator, having a charge rate of two thousand pounds per hour or less, particulate matter in quantities exceeding two-tenths grain per standard dry cubic foot of flue gases, adjusted to twelve percent carbon dioxide by volume excluding the contribution of auxiliary fuel.
- C. No person shall cause, suffer, allow or permit the emissions from any incinerator, having a charge rate greater than two thousand pounds per hour, particulate matter in quantities exceeding eight one-hundredths grain per standard dry cubic foot of flue gases, adjusted to twelve percent carbon dioxide by volume excluding the contribution of auxiliary fuel.
- D. Irrespective of the emission standards of this Section, the Metropolitan Board of Health, by regulation, may specify emission standards for any new, modified or existing incinerator located within or impacting on a nonattainment area.

- E. Tests to determine compliance with this Section shall be performed as provided in Section 10.56.300.
- F. This Section shall not apply to any incinerator covered by any regulation duly adopted by the Board in accordance with Section 10.56.090.

#### **SECTION 10.56.240: Internal Combustion Engines**

- A. No person shall cause, suffer, allow or permit the emission of visible air contaminants, the shade or appearance of which is dark or darker than No. 2 on the Ringlemann Smoke Chart or forty percent opacity.
- B. It is unlawful for any pollution-control device required by the Environmental Protection Agency, the Air Pollution Control Board of the State or the Metropolitan Health Department for the control of air pollution from motor vehicles to be removed or attended in any way to make them partially or completely inoperable.
- C. All buses and trucks registered in the Metropolitan Government are shall be equipped with smoke and odor elimination equipment within twelve months after which one or more such devices have been approved by the Department or by the U.S. Environmental Protection Agency.
- D. The Board may, by rule or regulation, promulgate, require and enforce programs of inspection and maintenance for vehicles propelled by internal combustion engines; however, such rules or regulations shall only become effective upon the approval by resolution of the Council of the Metropolitan Government of Nashville and Davidson County. The Board may, at its discretion, prescribe reasonable fees for inspections and provide for the payment and collection of such fees.

#### **SECTION 10.56.250: Open Burning**

No person shall cause, suffer, allow or permit open burning, except as specifically permitted in this Chapter:

- A. Ceremonial or recreational fires of reasonable size and duration; such fires may not contain material such as plastics, rubber or similar refuse;
- B. Fires set for the training and instruction of public or private firefighting personnel when approval is received from the Director;
- C. Smokeless or safety flares;
- D. Fires used for outdoor cooking where done with equipment or fireplace designed for such purposes and in a manner not offensive to persons in the vicinity thereof;
- E. Fires used for disposing of materials grown on that tract of land, when done with approved device, at sites approved by the Director, and with a valid permit from the Director;
- F. Such other open burning as may be approved by the Director where there is no other practical, safe and lawful method of disposal;

- G. Fires used for disposing of leaves, yard clippings and small tree limbs (less than three inches in diameter) grown on land zoned residential for not more than a single-family or two-family dwelling shall be permitted by the owner of such land without approval of the Director of Health, provided the property owner has notified the Public Works Department to pick up such material and the Public Works Department has not picked up such material within thirty days after notification. Provided further, that the requirement of notice to the Public Works Department shall not be required of property owners in the general services district

### **SECTION 10.56.260: Process Emissions**

This Section applies to any operation, process or activity except the burning of fuel for indirect heating in which the products of combustion do not come into direct contact with process materials and except the burning refuse.

- A. No person shall cause, permit, suffer or allow the emission of gas containing sulfur oxides in excess of five hundred ppm (volume). All sampling of exhaust gases to determine compliance with this Section shall be performed as provided in Section 10.56.300. For the purposes of this Section, all sulfur present in gaseous compounds and containing oxygen shall be deemed to be present as sulfur dioxide. Regardless of the emission standard listed in this Subsection, new sources shall utilize the best available control technology as determined by the Director.
- B. Process weight per hour means the total weight of all materials introduced into any specific process that may cause any emission of particulate matter. Solid fuels charged are considered as part of the process weight, but liquid and gaseous fuels and combustion air are not. For a cyclical or batch operation, the process weight per hour is derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle. For a continuous operation, the process weight per hour is derived by dividing the process weight for a typical period of time.
- C. No person shall cause, suffer, allow or permit the emission of particulate matter in any one hour from any existing process source in excess of the amount shown in Table III of this Subsection for the process weight allocated to such source.



**TABLE III  
ALLOWABLE RATE OF EMISSION  
BASED ON PROCESS WEIGHT RATE**

Process Weight Rate		Rate of Emissions
Lb/Hr.	Tons/Hr.	Lb/Hr.
100	0.05	0.551
200	0.10	0.877
400	0.20	1.40
600	0.30	1.83
800	0.40	2.22
1,000	0.50	2.58
1,500	0.75	3.38
2,000	1.00	4.10
2,500	1.25	4.76
3,000	1.50	5.38
3,500	1.75	5.96
4,000	2.00	6.52
5,000	2.50	7.58
6,000	3.00	8.56
7,000	3.50	9.49
8,000	4.00	10.4
9,000	4.50	11.2
10,000	5.00	12.0
12,000	6.00	13.6
16,000	8.00	16.5
18,000	9.00	17.9
20,000	10.00	19.2
30,000	15.00	25.2
40,000	20.00	30.5
50,000	25.00	35.4
60,000	30.00	40.0
70,000	35.00	41.3
80,000	40.00	42.5
90,000	45.00	43.6
100,000	50.00	44.6
120,000	60.00	46.3
140,000	70.00	47.8
160,000	80.00	49.0
200,000	100.00	51.2
1,000,000	500.00	69.0
2,000,000	1,000.00	77.6
6,000,000	3,000.00	92.7

Interpolation of the data in Table III for process weight rates up to sixty thousand pounds per hour shall be accomplished by the use of the equation:  $E = 4.10 P^{0.67}$  and interpolation and extrapolation of the data for process weight rates in excess of sixty thousand pounds per hour shall be accomplished by use of the equation:  $E = 55.0 P^{0.11} - 40$ , where E = rate of emission in pounds per hour and P = process weight rate in tons per hour.

- D. No person shall cause, suffer, allow or permit the emission of particulate matter from any process source beginning operation on or after the effective date of this Chapter in excess of the amount shown in Table IV of this Subsection for the process weight allocated to such source.

**TABLE IV**

<b>Process Weight Rate Lbs/Hr</b>	<b>Emission Rate Lbs/Hr</b>
50	0.36
100	0.55
500	1.53
1,000	2.34
5,000	6.34
10,000	9.73
20,000	14.99
60,000	29.60
80,000	31.19
120,000	33.28
160,000	34.85
200,000	36.11
400,000	40.35
1,000,000	46.72

Interpolation of the data in Table IV for the process weight rates up to sixty thousand pounds per hour shall be accomplished by the use of the equation:  $E = 3.59 P^{0.62}$  ( $P \leq 30$  tons/hr) and interpretation and extrapolation of the data for process weight in excess of sixty thousand pounds per hour shall be accomplished by the use of the equation:  $E = 17.31 P^{0.16}$  ( $P > 30$  tons/hr) where E = emissions in pounds per hour and P = process weight rate in tons per hour.

- E. Irrespective of the maximum allowable emission as determined by either the process weight tables of Subsections C and D of this Section, the maximum allowable concentration of particulate process emissions shall be 0.25 grains per dry cubic foot of exhaust gases corrected to standard conditions.
- F. Regardless of the specific emission standards contained in this Section, the Metropolitan Board of Health may, by regulation, specify separate emission standards for all new, modified or existing sources located within or impacting upon a nonattainment area.
- G. Subsections A through E shall not apply to any new or modified source, construction or modification which commenced after the date of publication in the Federal Register of Proposed Standards which will be applicable to such source.
- H. No person shall construct an air contaminant source which may emit gaseous air contaminants unless he shall install and utilize equipment and technology which is deemed reasonable by the Director.

### **SECTION 10.56.270: Visible Emissions**

- A. No person shall cause, suffer, allow or permit emission of smoke from any air contaminant source, the shade of appearance of which is as dark or darker than No. 1 of the Ringelmann Smoke Chart.
  - 1. The provisions of this Subsection shall not apply to smoke emitted during the cleaning of a fire, the building of a new fire, or the blowing of soot from boiler surfaces. Under these conditions, smoke not darker than No. 3 of the Ringelmann Smoke Chart may be emitted for a period or periods aggregating no more than five minutes in any sixty consecutive minutes or more than twenty minutes in any twenty-four-hour period.
  - 2. The provisions of this Subsection shall not apply to smoke resulting from any fire ignited for the purpose of training firemen or for research in fire protection or prevention, nor to uncontrollable emissions occasioned by breakdowns of fuel-burning equipment or other failure which is not reasonably preventable, or by the maintaining and repair of air pollution control equipment.
- B. No person shall cause, suffer, allow or permit the discharge into the open air, from any single source of emission whatsoever, of any air contaminant of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in Subsection A of this Section; provided, that this Subsection shall not apply to vision opacity caused by uncombined water droplets.
- C. This Section shall not apply to visible emissions from fuel-burning equipment used exclusively for heating a dwelling of less than three dwelling units.
- D. The provisions of this Section shall not apply to any steam locomotive or steamboat used for recreational or historical purposes; provided, that such locomotive and steamboat shall operate without any unnecessary or intentional production of smoke.

### **SECTION 10.56.280: Start-ups, Shutdowns and Malfunctions**

- A. Operators of sources must take all reasonable measures to keep emissions to a minimum during start-ups, shutdowns and malfunctions. These may include installation and use of alternate control systems, changes in operation methods or procedures, ceased operation until the process equipment and/or air pollution control equipment is repaired, maintenance of sufficient spare parts, use of overtime labor, use of outside consultants and contractors and other appropriate means. Failures that are caused entirely or in part by poor maintenance, careless operation, or other preventable upset condition or preventable equipment breakdown shall not be considered a malfunction and shall be considered a violation of the applicable emission standards.
- B. When any fuel-burning equipment, incinerator, control equipment or process equipment breaks down in such a manner as to cause emissions of an air contaminant in violation of this Chapter, the person responsible for such equipment shall immediately notify the Director of such failure or breakdown and provide a statement, giving all pertinent information, including the estimated duration of the breakdown.

- C. A signed and dated log of all malfunctions, all start-ups and all shutdowns must be maintained by the owner or operator at the source. This log must include at least the following information:
  - 1. Stack or emission point involved;
  - 2. Time malfunction, start-up or breakdown began;
  - 3. Type of malfunction and/or reason for shutdown;
  - 4. Time start-up or shutdown was completed, or time the air contaminant source returned to normal operation.
- D. The owner or operator of all sources having a significant impact on air quality in a nonattainment area which reported a breakdown in any calendar quarter must submit a report to the Director within thirty days after the end of each calendar quarter listing the times at which malfunctions, start-ups and shutdowns occurred resulting in the discharge of emissions greater than any applicable emission limitation during this time. This report must include the magnitude of the excess emissions expressed in pounds per hour and/or the units of the applicable emission limitation standards and the operating data and calculations used in determining the magnitude of the excess emission during the quarter.

#### **SECTION 10.56.290: Measurement and Reporting of Emissions**

- A. The Director may require any person responsible for emission of air pollutants to make or have made at the owner's expense tests to determine the quantity and quality of the emission of air pollutants from any source. The Director may specify testing methods to be used. The Director may require that such tests be conducted in the presence of his representative. The Director shall be given a copy of the test results in writing and signed by the person responsible for the tests. All tests and calculations shall be made under the direction of a professional engineer registered in the State or be a graduate of an accredited engineering school, and be experienced in his field of endeavor.
- B.
  - 1. At the completion of any new installation, or any significant alterations, the Director may require the owner or person responsible to conduct such tests as are necessary to establish the amount of air pollutants emitted from such equipment or control apparatus. Such tests shall be made at the expense of the owner and shall be conducted in a manner approved by the Director. The Director may require that such tests be conducted in the presence of his representative.
  - 2. In all new installations, there shall be provided sampling ports of a size, number and location as the Director may require, safe access to each port, any other sampling and testing facilities as the Director may require.
  - 3. Any person proposing to conduct a test for the purpose of demonstrating compliance with an applicable emission standard shall notify the Director of the intent to test not less than thirty (30) days prior to the proposed test date. The notification shall contain at least the following:
    - a. A statement outlining the purpose of the proposed test;

- b. A description of the source and emission point to be tested;
  - c. A detailed description of the test protocol; and
  - d. A timetable setting forth the dates on which the testing will be conducted and a date by which the test results will be submitted to the Director.
- C. The Director may conduct tests of air pollutants from any source. Upon request of the Director, the person responsible for the source to be tested shall provide, at no expense to the Board, necessary holes in stacks or ducts and such other safe and proper sampling and testing facilities, including a suitable power source, exclusive of instruments and sensing devices as may be necessary for proper determination of the level of air pollutants.
- D. The owner or operator of any air pollution source permitted in accordance with the provisions of Section 10.56.020 and 10.56.040 must submit to the Director by March 31 of each year the actual annual emissions of all regulated pollutants emitted by the source during the previous calendar year. This information shall be submitted in writing upon forms furnished by the Metropolitan Health Department. The data must be certified by a company official that the information is accurate to the best of his knowledge.
- E. The Director, by permit condition, may require periodic or enhanced monitoring, recording, and reporting that he deems necessary for demonstrating compliance with the emission standards of this Chapter.
1. Monitoring may include, but is not limited to: source testing; in-stack monitoring; process parameter monitoring of material feed rates, temperature, pressure differentials, power consumption or fuel consumption; chemical analysis of feed stocks, coatings, or solvents; ambient monitoring; visible emissions evaluations; control equipment performance parameters of pressure differentials, power consumption, air or liquid flow rates or amount of air contaminants collected for disposal; air contaminant leak detection tests from process or control equipment; and any other such monitoring that the Director may prescribe.
    - a. The monitoring must be conducted in a manner approved by the Director. This includes, but is not limited to: sampling methods, analytical methods, sensor locations and frequency of sampling.
    - b. The monitoring method must have at least a 95% operational availability rate to prove compliance directly or indirectly with the applicable requirements unless otherwise stipulated by the Director in the permit. Missing data in excess of these levels shall be grounds for enforcement action.
  2. Records and reports prescribed by the Director shall be recorded, compiled and submitted in a form prescribed by the Director. The Director shall have the authority to inspect the records during reasonable hours at the place where such records are kept. The source owner or operator must provide copies of the records to the Director<sup>6</sup> upon request.
    - a. In the absence of a specific recordkeeping procedure, it is the responsibility of the owner or operator to keep the records in such a manner that compliance with the applicable requirements can be readily ascertained.

- b. Records must be legible, quantifiable and supported by documentation to validate the entries.
3. Reporting shall be in the manner prescribed by the Director in the permit or approved by him in the source's operating permit application.
4. All reports submitted to the Director must be certified by a company official that the information is accurate to the best of his knowledge.

### **SECTION 10.56.300: Testing Procedures**

- A. In order to establish a standard procedure for coal and fuel oil analysis, the following procedures or any subsequent amendment or modification thereof shall be used:
  1. The heat content of coal shall be determined according to ASTM method D-271-68 Laboratory Sampling and Analysis of Coal and Coke or ASTM method D-2015-66 Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter.
  2.
    - a. The method of determining the ash and sulfur content in coal shall be that described in ASTM D-271-68 Laboratory Sampling and Analysis of Coal and Coke or equivalent method approved by the Board. All coal analysis and heat contents are to be made on a dry basis. Moisture content of coal is to be determined in all cases and results recorded to facilitate calculation of actual pollutants.
    - b. The method of determining the sulfur content of fuel oil shall be that described in ASTM.-D-129-54 Standard Method of Test for Sulfur in Petroleum Products and Lubricants by the Bomb Method. The method for determining heat content of fuel oil shall be that described in ASTM-D-240-64 Standard Method of Test for Heat of Combustion of Liquids by the Parr Bomb Calorimeter or other method giving comparable results.
  3. The Director is authorized to take any quantity of fuel which he deems necessary for the purpose of evaluation to determine compliance with this Regulation. Where applicable, the following sampling methods will be used:
    - a. For coal: ASTM-D-492-48 (1958) Sampling coal Classified According to Ash Content, ASTM-D-2013-68 Preparing Coal Sampling for Analysis and ASTM-D-2234-68 Mechanical Sampling of Coal.
    - b. For oil: ASTM-D-270-65 Tentative Method of Sampling Petroleum Products.
- B. Source testing conducted for the purpose of demonstrating compliance with emission standards of this Chapter shall be by the applicable methods as outlined in Title 40, Code of Federal Regulations, Part 60, Appendix A, "Reference Methods," with the exception that for particulate matter the analytical result shall include the particulate matter collected in the impinger train. For new stationary sources subject to Federal New Source Performance Standards, the method for determining concentrations of particulate matter shall be in accordance with the method outlined in Title 40, Code of Federal Regulations, Part 60, Appendix A.

- C. The procedure for sampling and analysis for ambient air concentrations shall be by the applicable method as outlined in Title 40, Code of Federal Regulations, Part 50, “National Primary and Secondary Ambient Air Quality Standards,” as the same title and part may be amended or recodified. Any other method that is approved by the Director may be used in accordance with good professional practice. The procedure for sampling and analyzing atmospheric fluorides shall conform with the method adopted by the American Society for Testing Materials (ASTM) in 1958 and bearing ASTM designation D-1606-58T.
- D. When new analytical methods become available which are superior to the methods stipulated in this Section, the Board, upon the recommendation of the Director, may approve the new methods as alternatives to those set forth in this Section.

#### **SECTION 10.56.310: Severability**

Should any court of competent jurisdiction declare any Section, clause or provision of this Ordinance to be unconstitutional, illegal or unenforceable for any other reason, such decision shall affect only such Section, clause, or provision so declared unconstitutional, illegal and unenforceable, and shall not affect any other section, clause or provision of this Ordinance, it being the intent of the Metropolitan Council that all other provisions of this Ordinance remain in full force and effect.