REGULATION 61-62.5
AIR POLLUTION CONTROL STANDARDS

STANDARD NO. 7.1 NONATTAINMENT NEW SOURCE REVIEW (NSR)

(A) **Applicability.**

(1) This rule applies to all major stationary sources constructed or modified in any nonattainment area as designated in 40 Code of Federal Regulations (CFR) 81.341 ("nonattainment area") if the emissions from such facility will cause or contribute to concentrations of a regulated NSR pollutant (as defined in paragraph (B)(32)) for which the nonattainment area was designated as nonattainment. Applicability to this regulation shall be based on the pollutant emission rate set out in paragraph (B)(37) for only those pollutants for which the area's designation is based.

(a) The requirements of paragraph (d) apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as provided in paragraph (b).

(b) No new major stationary source or major modification to which the requirements of this regulation apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The Department has authority to issue any such permit.

(2) **Redesignation to attainment**. If any nonattainment area to which this regulation applies is later designated in 40 CFR 81.341 as attainment, all sources in that nonattainment area subject to this regulation before the redesignation date shall continue to comply with this regulation.

(3) For any area designated as nonattainment a major stationary source or major modification that is major for volatile organic compounds (VOCs) or nitrogen oxides is also major for ozone.

(4) Except as otherwise provided in paragraph (A)(9), and consistent with the definition of major modification as defined in paragraph (B)(21)(a), a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases – a significant emissions increase (as defined in paragraph (B)(38), and a significant net emissions increase (as defined in paragraphs (B)(24) and (B)(37). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(5) The procedure for calculating, before beginning actual construction, whether a significant emissions increase (the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (A)(6) through (A)(8). The procedure for calculating, before beginning actual construction, whether a significant net emissions increase will occur at the major stationary source (the second step of the process) is contained in the definition in paragraph (B)(24). Regardless of any such

preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(6) **Actual-to-projected-actual applicability test for projects that only involve existing emissions units**. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in paragraph (B)(31)) and the baseline actual emissions (as defined in paragraphs (B)(3)(a) and (B)(3)(b), as applicable), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in paragraph (B)(37).

(7) **Actual-to-potential test for projects that only involve construction of a new emissions unit(s)**. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in paragraph (B)(27)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in paragraph (B)(3)(c)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in paragraph (B)(37)).

(8) **Hybrid test for projects that involve multiple types of emissions units**. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference for all emissions units using the method specified in paragraphs (A)(6) and (A)(7) as applicable with respect to each emissions unit, equals or exceeds the significant amount for that pollutant (as defined in paragraph (B)(37)).

(9) The "sum of the difference" as used in paragraphs (A)(6), (A)(7), and (A)(8) of this section shall include both increases and decreases in emissions calculated in accordance with those paragraphs.

(10) For any major stationary source with a Plantwide Applicability Limitation (PAL) for a regulated NSR pollutant, the major stationary source shall comply with requirements under Section (N).

(11) The provisions of this section shall not apply to a particular major stationary source or major modification if the source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

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

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) Primary zinc smelters;

(e) Iron and steel mills;

(f) Primary aluminum ore reduction plants;

(g) Primary copper smelters;

(h) Municipal incinerators capable of charging more than fifty (50) 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; and

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act.

(B) **Definitions**. For the purposes of this regulation:

(1)(a) **Actual emissions** means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (B)(1)(b) through (B)(1)(d), except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Section (N). Instead, paragraphs (B)(3) and (B)(31) shall apply for those purposes.

(b) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive twenty-four (24)-month period which precedes the particular date and which is representative of normal source operation. The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(c) The Department may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(d) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(2) **Allowable emissions** means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(a) The applicable standards as set forth in 40 CFR Parts 60 and 61;

(b) Any applicable State Implementation Plan emissions limitation, including those with a future compliance date; or

(c) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(3) **Baseline actual emissions** means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with paragraphs (B)(3)(a) through (B)(3)(d).

(a) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive twenty-four (24)-month period selected by the owner or operator within the five (5)-year period immediately preceding when the owner or operator begins actual construction of the project. The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

(i) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(ii) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above

any emission limitation that was legally enforceable during the consecutive twenty-four (24)-month period.

(iii) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive twenty-four (24)-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive twenty-four (24)-month period can be used for each regulated NSR pollutant.

(iv) The average rate shall not be based on any consecutive twenty-four (24)-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraph (B)(3)(a)(ii).

(b) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive twenty-four (24)-month period selected by the owner or operator within the ten (10)-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Department for a permit required either under this section or under a plan approved by the Administrator whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990. The Department reserves the right to determine if the twenty-four (24)-month period selected is appropriate.

(i) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(ii) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive twenty-four (24)-month period.

(iii) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive twenty-four (24)-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the state has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of paragraph (D)(7).

(iv) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive twenty-four (24)-month period must

be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive twenty-four (24)-month period can be used for each regulated NSR pollutant.

(v) The average rate shall not be based on any consecutive twenty-four (24)-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraphs (B)(3)(b)(ii) and (B)(3)(b)(iii).

(c) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

(d) For a PAL for a major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (B)(3)(a), for other existing emissions units in accordance with the procedures contained in paragraph (B)(3)(b), and for a new emissions unit in accordance with the procedures contained in paragraph (B)(3)(c).

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

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

(6)(a) **Building, structure, facility, or installation** means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

(b) Notwithstanding the provisions of paragraph (B)(6)(a), building, structure, facility, or installation means, for onshore activities under Standard Industrial Classification (SIC) Major Group 13: Oil and Gas Extraction, all of the pollutant-emitting activities included in Major Group 13 that are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities shall be considered adjacent if they are located on the same surface site; or if they are located on surface sites that are located within one-fourth (1/4) of a mile of one another (measured from the center of the equipment on the surface site) and they share equipment. Shared equipment includes, but is not limited to, produced fluids storage tanks, phase separators, natural gas dehydrators, or emissions control devices. Surface site, as used in this paragraph, has the same meaning as in 40 CFR 63.761.

(7) **Temporary clean coal technology demonstration project** means a clean coal technology demonstration project that is operated for a period of five (5) years or less, and which complies with the State Implementation Plan for the state in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

(8) **Clean coal technology** means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or nitrogen oxides associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

(9) **Clean coal technology demonstration project** means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall lie at least twenty (20) percent of the total cost of the demonstration project.

(10) **Commence** as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(11) **Construction** means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.

(12) **Continuous emissions monitoring system (CEMS)** means all of the equipment that may be required to meet the data acquisition and availability requirements, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

(13) **Continuous emissions rate monitoring system (CERMS)** means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

(14) **Continuous parameter monitoring system (CPMS)** means all of the equipment necessary to meet the data acquisition and availability requirements, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O2 or CO2 concentrations), and to record average operational parameter value(s) on a continuous basis.

(15) **Electric utility steam generating unit** means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than twenty-five (25) MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

(16) **Emissions unit** means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit as defined in paragraph (B)(15) of this section. For purposes of this section, there are two types of emissions units as described in paragraphs (B)(16)(a) and (B)(16)(b) of this section.

(a) A new emissions unit is any emissions unit which is (or will be) newly constructed and which has existed for less than two (2) years from the date such emissions unit first operated.
(b) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (B)(16)(a) of this section. A replacement unit, as defined in paragraph (B)(33), is an existing emissions unit.

(17) **Federal Land Manager** means, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.

(18) **Federally enforceable** means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State implementation plan, any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I, including operating permits issued under an EPA-approved program that is incorporated into the State implementation plan and expressly requires adherence to any permit issued under such program.

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

(20) **Lowest achievable emission rate (LAER)** means, for any source, the more stringent rate of emissions based on the following:

(a) The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

(b) The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emission rate for the new or modified emission units within the stationary source. In no event shall the application of the term allow a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

(21)(a) **Major modification** means any physical change in or change in the method of operation of a major stationary source that would result in:

(i) A significant emissions increase of a regulated NSR pollutant (as defined in paragraph (B)(32)); and

(ii) A significant net emissions increase of that pollutant from the major stationary source.

(b) Any significant emissions increase (as defined in paragraph (B)(38)) from any emissions units or net emissions increase (as defined in paragraph (B)(24)) at a major stationary source that is significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone.

(c) A physical change or change in the method of operation shall not include

(i) Routine maintenance, repair, and replacement;

(ii) Use of an alternative fuel or raw material by reason of an order under Sections 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;

(iii) Use of an alternative fuel by reason of an order or rule under Section 125 of the Clean Air Act;

(iv) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) Use of an alternative fuel or raw material by a stationary source which;

(1) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I; or

(2) The source is approved to use under any permit issued under regulations approved pursuant to this section;

(vi) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I;

(vii) Any change in ownership at a stationary source;

(viii) [Reserved];

(ix) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(1) The South Carolina State Implementation Plan, and

(2) Other requirements necessary to attain and maintain the National Ambient Air Quality Standard (NAAQS) during the project and after it is terminated.

(d) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under Section N for a PAL for that pollutant. Instead, the definition at paragraph (N)(2)(h) shall apply.

(e) [Reserved]

(22)(a) **Major stationary source** means:

(i) Any stationary source of air pollutants that emits, or has the potential to emit, one-hundred (100) tons per year or more of any regulated NSR pollutant, except that lower emissions thresholds shall apply in areas subject to Subpart 2, Subpart 3, or Subpart 4 of Part D, Title I of the Clean Air Act, according to the following table:

Nonattainment Area Classification	NO_x	VOC	CO	SO_2	PM_{10}	$PM_{2.5}$
	All values expressed in tons per year					
Ozone: Marginal and Moderate	100	100				
Ozone: Serious	50	50				
Ozone: Severe	25	25				
Ozone: Extreme	10	10				
CO			100			
CO: Serious, where stationary sources contribute significantly to CO levels			50			
PM_{10}					100	
PM_{10}: Serious					70	
$PM_{2.5}$	100	100		100		100
$PM_{2.5}$ in any serious nonattainment area for $PM_{2.5}$	70	70		70		70
SO_2				100		
NO_x	100					

(ii) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (B)(22)(a) as a major stationary source, if the change would constitute a major stationary source by itself.

(b) A major stationary source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone.

(c) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this paragraph whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

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

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than fifty (50) tons of refuse per day

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

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;

(xv) Carbon black plants (furnace process);

(xvi) Primary lead smelters;

(xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

(xx) Chemical process plants;

(xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

(xxvi) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and

(xxvii) Any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act.

(23) **Necessary preconstruction approvals or permits** means those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

(24)(a) **Net emissions increase** means, with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

(i) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to paragraphs (A)(4) through (A)(8); and

(ii) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this paragraph (B)(24)(a)(ii) shall be determined as provided in paragraph (B)(3), except that paragraphs (B)(3)(a)(iii) and (B)(3)(b)(iv) shall not apply.

(b) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs:

(i) The date five (5) years before construction on the particular change commences; and

(ii) The date that the increase from the particular change occurs.

(c) An increase or decrease in actual emissions is creditable only if:

(i) The Department has not relied on it in issuing a permit for the source, which permit is in effect when the increase in actual emissions from the particular change occurs;

(ii) [Reserved]

(d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level;

(e) A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions whichever is lower, exceeds the new level of actual emissions;

(ii) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

(iii) The Department has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR Part 51, Subpart I or the Department has not relied on it in demonstrating attainment or reasonable further progress; and

(iv) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(f) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days;

(g) Paragraph (B)(1)(b) shall not apply for determining creditable increases and decreases or after a change.

(25) **Nonattainment major new source review (NSR) program** means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of this regulation, or a program that implements 40 CFR Part 51, Appendix S, Sections I through VI. Any permit issued under such a program is a major NSR permit.

(26) **Pollution prevention** means any activity that through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants (including fugitive emissions) and other pollutants to the environment prior to recycling, treatment, or disposal; it does not mean recycling (other than certain "in-process recycling" practices), energy recovery, treatment, or disposal.

(27) **Potential to emit** 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 pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(28) **Predictive emissions monitoring system (PEMS)** means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O2 or CO2 concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

(29) **Prevention of Significant Deterioration (PSD) permit** means any permit that is issued under a major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of 40 CFR 51.166, or under the program in 40 CFR 52.21.

(30) **Project** means a physical change in, or change in the method of operation of, an existing major stationary source.

(31)(a) **Projected actual emissions** means, the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the five (5) years (twelve (12)-month period) following the date the unit resumes regular operation after the project, or in any one of the ten (10) years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

(b) In determining the projected actual emissions under paragraph (B)(31)(a) before beginning actual construction, the owner or operator of the major stationary source:

(i) Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the approved plan; and

(ii) Shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and

(iii) Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive twenty-four (24)-month period used to establish the baseline actual emissions under paragraph (B)(3) and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,

(iv) In lieu of using the method set out in paragraphs (B)(31)(b)(i) through (B)(31)(b)(iii) may elect to use the emissions unit's potential to emit, in tons per year, as defined in paragraph (B)(27) of this section.

(32) **Regulated NSR pollutant,** for purposes of this regulation, means the following:

(a) Nitrogen oxides or any volatile organic compounds;

(b) Any pollutant for which a national ambient air quality standard has been promulgated; or

(c) Any pollutant that is identified under this paragraph as a constituent or precursor of a general pollutant listed under paragraphs (B)(32)(a) or (B)(32)(b), provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(i) Volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone nonattainment areas;

(ii) Sulfur dioxide, volatile organic compounds, nitrogen oxides, and ammonia are precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area.

(d) $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in nonattainment major NSR permits issued under this ruling. Compliance with emissions limitations for $PM_{2.5}$ and PM_{10} issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.

(33) **Replacement unit** means an emissions unit for which all the criteria listed in (B)(33)(a) through (B)(33)(d) are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

(a) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit;

(b) The emissions unit is identical to or functionally equivalent to the replaced emissions unit;

(c) The replacement does not alter the basic design parameters of the process unit; and

(d) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

(34) **Resource recovery facility** means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide more than fifty (50) percent of the heat input to be considered a resource recovery facility under this Ruling.

(35) **Reviewing authority** means the state air pollution control agency, local agency, other state agency, Indian tribe, or other agency authorized by the Administrator to carry out a permit program under 40 CFR 51.165 or 40 CFR 51.166, or the Administrator in the case of EPA-implemented permit programs under 40 CFR 52.21.

(36) **Secondary emissions** means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(37) **Significant** means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant		**Emissions Rate** (tons per year)
Carbon monoxide	Marginal and Moderate Nonattainment Areas	100
	Serious Nonattainment Areas	50*
Nitrogen oxides		40
Sulfur dioxide		40
PM_{10}		15
$PM_{2.5}$	Of direct $PM_{2.5}$	10
	Of SO_2, NO_x, or VOC	40
Ozone	Marginal and Moderate Nonattainment Areas	40 (of VOC or NOx)
	Serious and Severe Nonattainment Areas	25 (of VOC or NOx)
	Extreme Nonattainment Areas	Any (of VOC or NOx)
Lead		0.6

* The significant emission rate of 50 tons for carbon monoxide in serious nonattainment areas shall only apply if the Administrator has made a determination that stationary sources significantly contribute to the carbon monoxide levels in the area.

(38) **Significant emissions increase** means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in paragraph (B)(37)) for that pollutant .

(39) **Stationary source** means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

(40) **Volatile organic compounds (VOC)** is as defined in Regulation 61-62 .1, Section (I), Definitions.

(C)(1) **Permitting requirements.** If the Department finds that the major stationary source or major modification would be constructed in an area designated in 40 CFR 81.341 as nonattainment for a pollutant for which the stationary source or modification is major, approval may be granted only if the following conditions are met:

(a) The major stationary source or major modification is required to meet an emission limitation which specifies the lowest achievable emission rate (LAER) for such source.

(b) The applicant must certify that all existing major sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) in the same state as the proposed source are in compliance with all applicable emission limitations and standards under the Clean Air Act (or are in compliance with an expeditious schedule which is federally enforceable or contained in a court decree).

(c) The owner or operator of the proposed new major stationary source or major modification will obtain sufficient emission reductions of the nonattainment pollutant from other sources. Emission reductions shall be in effect and enforceable prior to the date the new source or modification commences operation. The emission reductions shall be obtained in accordance with the requirements in Section (D), Offset standards.

(d) The emission offsets must provide a positive net air quality benefit in the affected area as determined by 40 CFR Part 51, Appendix S, Emission Offset Interpretative Ruling.

(e) Alternative Sites Analysis. An analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification shall be required.

(2) Exemptions. Temporary emission sources, such as pilot plants and portable facilities which will be relocated outside of the nonattainment area after a short period of time, are exempt from the requirements of paragraphs (C)(1)(c) and (C)(1)(d) of this section.

(3) Secondary emissions. Secondary emissions need not be considered in determining whether the stationary source or modification is major. However, if a source is subject to this regulation on the basis of the direct emissions from the source, the applicable conditions in paragraph (C)(1) must also be met for secondary emissions. However,

secondary emissions may be exempt from paragraphs (C)(1)(a) and (C)(1)(b) of this section.

(4) The requirements of this regulation applicable to major stationary sources and major modifications of PM10 shall also apply to major stationary sources and major modifications of PM10 precursors, except where the Administrator determines that such sources do not contribute significantly to PM10 levels that exceed the PM10 ambient standards in the area.

(D) Offset standards.

(1) All emission reductions claimed as offset credit shall be permanent, quantifiable, federally enforceable, and surplus;

(2) Where the permitted emissions limit allows greater emissions than the potential to emit of the source (as when a state has a single particulate emission limit for all fuels), emissions offset credit will be allowed only for control below this potential;

(3) For an existing fuel combustion source, credit shall be based on the allowable emissions for the type of fuel being burned at the time the application to construct is filed. If the existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the allowable (or actual) emissions for the fuels involved is not acceptable, unless the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date.

(4) Emissions reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels may be generally credited for offsets if the shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this paragraph, the Department may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units. No credit may be given for shutdowns that occurred before August 7, 1977.

(5) Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements in paragraph (D)(4) may be generally credited only if:

(a) The shutdown or curtailment occurred on or after the date the new source permit application is filed; or

(b) The applicant can establish that the proposed new source is a replacement for the shutdown or curtailed source, and the emission reductions achieved by the shutdown or curtailment met the requirements of paragraph (D)(4).

(6) No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, that emissions credit may be allowed for the replacement with

those compounds listed as having negligible photochemical reactivity in 40 CFR 51.100(s).

(7) Credit for an emissions reduction can be claimed to the extent that the Department has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR Part 51, Subpart I or the Department has not relied on it in demonstrating attainment or reasonable further progress.

(8) The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset in accordance with Section 173 of the Clean Air Act shall be determined by summing the difference between the allowable emissions after the modification (as defined by paragraph (B)(2)) and the actual emissions before the modification (as defined in paragraph (B)(1)) for each emissions unit.

(9) If a designated nonattainment area is projected to be an attainment area as part of an approved SIP control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

(10) Any facility that has the potential to emit any NAAQS pollutant in an amount greater than five (5) tons per year and that is located in a federally-designated nonattainment area shall be eligible to create emission offsets.

(11) Emission reductions shall have been created by an existing facility that has obtained an enforceable air quality permit or letter of permit cancellation resulting from the surrender of the source's permit(s).

(12) Emission reductions may be created by any of, or a combination, of the following methods:

(a) Installation of control equipment beyond what is necessary to comply with existing requirements;

(b) A change in process inputs, formulations, products or product mix, fuels, or raw materials;

(c) A reduction in actual emission rates; or

(d) Any other enforceable method that the Department determines to result in real, permanent, quantifiable, federally enforceable, and surplus reduction of emissions.

(13) A completed emissions offset submittal must be received by the Department within one (1) year of the date of the creation of the reductions. Emission offsets not requested within one (1) year of the date of the creation of the reductions will be permanently retired. Prior to commencing operation of a permitted emissions unit, Department approval for the required emission offsets must be granted.

(14) The following emission reductions that are not considered surplus, are ineligible for emission offsets:

(a) Emission reductions that have previously been used to avoid Regulation 61-62.5 Standard No. 7, *Prevention of Significant Deterioration*, or Regulation 61-62.5 Standard No. 7.1, *Nonattainment New Source Review (NSR),* through a netting demonstration;

(b) Emission reductions of hazardous air pollutants, listed in Section 112(b) of the Clean Air Act, to the extent needed to comply with Regulation 61-62.61, *National Emission Standards for Hazardous Air Pollutants (NESHAP),* and Regulation 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories.* However, emission reductions of hazardous volatile organic compound (VOC) and/or hazardous particulate matter (PM) air pollutants beyond the amount of reductions necessary to comply with Regulation 61-62.61, *NESHAP, and* Regulation 61-62.63, *NESHAP for Source Categories,* are considered surplus);

(c) Emission reductions of nitrogen oxides (NOx), sulfur dioxide (SO2), particulate matter (PM), and VOCs to the extent needed to comply with Section 111 of the Clean Air Act and Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards (NSPS)*. However, emission reductions of NOx, SO2, PM and VOCs beyond the amount of reductions necessary to comply with Regulation 61-62.60, *South Carolina Designated Facility Plan and NSPS,* are considered surplus;

(d) Emission reductions from emission units covered under an agreement, order or variance for exceeding an emission standard until compliance is demonstrated with the emission standard that is the subject of the agreement, order or variance;

(e) Emission reductions from sources that have operated less than twelve (12) months;

(f) Emission reductions required in order to comply with any state or federal regulation not listed above, unless these reductions are in excess of the amount required by the state or federal regulation; and

(g) Emission reductions from facilities that have received a Department transmittal letter with notification of permit cancellation due to the facility's decision to close out its operating permit without a request to qualify facility emission reductions as offsets.

(E) Calculation of Emission Offsets

(1) The following procedure shall be used to calculate emission offsets:

(a) The source shall calculate average annual actual emissions, in tons per year, before the emission reduction using data from the twenty (24)-month period

immediately preceding the reduction in emissions. With the Department's approval, the use of a different time period, not to exceed ten (10) years immediately preceding the reduction in emissions, may be allowed if the owner or operator of the source documents that such period is more representative of normal source operation, but not prior to the base year inventory date, which is the last day of the two (2) years preceding the date of nonattainment designation; and

(b) The emission offsets created shall be calculated by subtracting the allowable emissions following the reduction from the average annual actual emissions prior to the reduction.

(2) For any emissions unit that has been operating for a consecutive period of at least twelve (12) months but less than twenty-four (24) months on the base year inventory date, based on the unit's potential to emit, emissions shall be calculated equal to the amount needed to complete a twenty-four (24) month period on the base year inventory date.

(F) Location of offsetting emissions. Emission offsets shall be obtained from sources currently operating within the same designated nonattainment area as the new or modified stationary source. Emission offsets may be obtained from another nonattainment area with the Department's approval only if:

(1) The other area has an equal or higher nonattainment classification than the area in which the proposed source is located, and

(2) Emissions from the other area contribute to a violation of the NAAQS in the nonattainment area in which the source is located.

(G) Emission offsetting ratios. Emission offsets shall be required in nonattainment areas in accordance with the following provisions:

(1) Emissions for carbon monoxide (CO), nitrogen dioxide (NO_2), sulfur dioxide (SO_2), lead (Pb), and particulate matter (PM_{10} and $PM_{2.5}$) nonattainment areas shall be offset at a ratio greater than one to one.

(2) Emissions increase for ozone nonattainment areas shall be offset for volatile organic compounds (VOCs) and NOx in accordance with the following table:

Designation	Offset ratios
Marginal	1.1 to 1
Moderate	1.15 to 1
Serious	1.2 to 1
Severe	1.3 to 1
Extreme	1.5 to 1

(H)

(1) In meeting the emissions offset requirements of Section (D) the emissions offsets obtained shall be for the same regulated NSR pollutant unless interpollutant offsetting is permitted for a particular pollutant as specified in this paragraph. The offset requirements of Section (D) for direct $PM_{2.5}$ emissions or emissions of precursors of $PM_{2.5}$ may be satisfied by offsetting reductions of direct $PM_{2.5}$ emissions or emissions of any $PM_{2.5}$ precursor identified under paragraph (B)(32)(c) if such offsets comply with the interprecursor trading hierarchy and ration established in the approved plan for a particular nonattainment area.

(2) The control requirements applicable to major stationary sources and major modifications of $PM_{2.5}$ shall also apply to major stationary sources and major modifications of $PM_{2.5}$ precursors in a $PM_{2.5}$ nonattainment area, except that the Department may exempt new major stationary sources and major modifications of a particular precursor from the requirements for $PM_{2.5}$ if the nonattainment NSR precursor demonstration submitted to and approved by the Administrator shows that such sources do not contribute significantly to $PM_{2.5}$ levels that exceed the standard in the area. Any demonstration submitted for the Administrator's review must meet the conditions for a nonattainment NSR precursor demonstration as set forth in 40 CFR 51.1006(a)(3).

(I) Banking of emission offsets. For new sources obtaining permits by applying offsets after January 16, 2979, the Department may allow offsets that exceed the requirement of reasonable progress toward attainment to be "banked" (i.e., saved to provide offsets for a source seeking a permit in the future) for future use. Likewise, the Department may allow the owner of an existing source that reduces its own emissions to bank any resulting reductions beyond those required by the State Implementation Plan for future use.

(J) [Reserved]

(K) [Reserved]

(L) Source obligation.

(1) Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this section or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this section who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

(2) Approval to construct shall become invalid if construction is not commenced within eighteen (18) months after receipt of such approval, if construction is discontinued for a period of eighteen (18) months or more, or if construction is not completed within a reasonable time. The Department may extend the eighteen (18) month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen (18) months of the projected and approved commencement date.

(3) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, state or federal law.

(4) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of regulations approved pursuant to this section shall apply to the source or modification as though construction had not yet commenced on the source or modification;

(5) Monitoring, Recordkeeping, and Reporting. The following provisions apply with respect to any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in paragraphs (B)(31)(b)(i) through (B)(31)(b)(iii) for calculating projected actual emissions .

(a) If the project requires construction permitting under Regulation 61-62.1, Section II "Permit Requirements," the owner or operator shall provide a copy of the information set out in paragraph (L)(5)(b) as part of the permit application to the Department. If construction permitting under Regulation 61-62.1, Section II "Permit Requirements" is not required, the owner or operator shall maintain the information set out in paragraph (L)(5).

(b) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

(i) A description of the project;

(ii) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph (B)(31)(b)(iii) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(c) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in paragraph (L)(5)(b) to the reviewing authority. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the reviewing authority before beginning actual construction.

(d) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions units identified in paragraph (L)(5)(b)(ii) ; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of five (5) years following resumption of regular operations after the change, or for a period of ten (10) years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.

(e) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Department within sixty (60) days after the end of each year during which records must be generated under paragraph (L)(5)(b) setting out the unit's annual emissions during the year that preceded submission of the report.

(f) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the Department if the annual emissions, in tons per year, from the project identified in paragraph (L)(5)(b), exceed the baseline actual emissions (as documented and maintained pursuant to paragraph (L)(5)(b)(iii)), by a significant amount (as defined in paragraph (B)(37)) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph (L)(5)(b)(iii). Such report shall be submitted to the Department within sixty (60) days after the end of such year. The report shall contain the following:

(i) The name, address and telephone number of the major stationary source;

(ii) The annual emissions as calculated pursuant to paragraph (L)(5)(d); and

(iii) Any other information needed for to make a compliance determination (for example, an explanation as to why the emissions differ from the preconstruction projection).

(6) A “reasonable possibility” under paragraph (L)(5) occurs when the owner or operator calculates the project to result in either:

(a) A projected actual emissions increase of at least fifty (50) percent of the amount that is a “significant emissions increas,” as defined under paragraph (B)(38) (without reference to the amount that is significant net emissions increase), for the regulated NSR pollutant; or

(b) A projected actual emissions increase that, added to the amount of emissions excluded under paragraph (B)(31)(b)(iii), sums to at least fifty (50) percent of the amount that is a "significant emissions increase," as defined under paragraph (B)(38) (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant.

For a project for which a reasonable possibility occurs only within the meaning of this paragraph, and not also within the meaning of paragraph (L)(6)(a), then provisions (L)(5)(c) through (L)(5)(f) do not apply to the project.

(7) The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph (L)(5) for review upon a request for inspection by the Department or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).

(M) Public participation.

(1) Within thirty (30) days after receipt of an application to construct, or any addition to such application, the Department shall advise the applicant of any deficiency in the application or in the information submitted and transmit a copy of such application to EPA. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this regulation, the date on which the Department received all required information.

(2) In accordance with Regulation 61-30, Environmental Protection Fees, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner:

(a) For the purposes of this section, the time frame for making a final determination shall be consistent with Regulation 61-30, Environmental Protection Fees, paragraph (H)(2)(c)(iii).

(b) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

(c) Make available in at least one location in each region in which the proposed facility or modification would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination. This requirement may be met by making these materials available at a physical location or on a public website identified by the Department.

(d) Notify the public, by posting the notice, for the duration of the public comment period, on a public website identified by the Department. This consistent noticing method shall be used for all draft permits subject to notice under this section. The public website notice shall include a notice of public comment including notice of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment. The public website notice shall also include the draft permit, information on how to access the administrative record for the draft permit, and how to request and/or attend a public hearing on the draft permit. The Department may use additional means to provide adequate notice to the affected public, including by publishing the notice in a newspaper of general circulation in

each region in which the proposed source or modification would be constructed (or in a state publication designed to give general public notice).

(e) Send a copy of the notice of public comment to the applicant, the Administrator of EPA, and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: The chief executives of the city and county where the facility or modification would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the facility or modification.

(f) Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the facility or modification, alternatives to the facility or modification, the control technology required, and other appropriate considerations.

(g) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same location or on the same website where the Department made available preconstruction information relating to the proposed facility or modification.

(h) Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section.

(i) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location or on the same website where the Department made available preconstruction information and public comments relating to the facility or modification.

(j) Notify EPA of every action related to the consideration of the permit.

(M) Actuals PALs. The provisions in paragraphs (N)(1) through (N)(15) govern actuals PALs.

(1) Applicability.

(a) The Department may approve the use of an actuals PAL for any existing major stationary source (except as provided in paragraph (N)(1)(b)) if the PAL meets the requirements in paragraphs (N)(1) through (N)(15). The term "PAL" shall mean "actuals PAL" throughout Section (N).

(b) The Department shall not allow an actuals PAL for VOC or NOX for any major stationary source located in an extreme ozone nonattainment area.

(c) Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in paragraphs (N)(1) through (N)(15), and complies with the PAL permit:

(i) Is not a major modification for the PAL pollutant;

(ii) Does not have to be approved through Regulation 61-62.5, Standard 7.1, "Nonattainment New Source Review"; however, will be reviewed through Regulation 61-62.1, Section II, "Permit Requirements," and

(iii) Is not subject to the provisions in paragraph (L)(4) (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the nonattainment major NSR program).

(d) Except as provided under paragraph (N)(1)(c)(iii), a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

(2) Definitions. The definitions in paragraphs (N)(2)(a) through (N)(2)(k) shall apply to actuals PALs consistent with paragraphs (N)(1) through (N)(15). When a term is not defined in these paragraphs, it shall have the meaning given in Section (B) of this regulation; or in the Clean Air Act.

(a) **Actuals PAL** for a major stationary source means a PAL based on the baseline actual emissions (as defined in paragraph (B)(3)) of all emissions units (as defined in paragraph (B)(16) of this regulation) at the source, that emit or have the potential to emit the PAL pollutant.

(b) **Allowable emissions** means “allowable emissions” as defined in paragraph (B)(2) of this regulation, except as this definition is modified according to paragraphs (N)(2)(b)(i) through (N)(2)(b)(ii).

(i) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

(ii) An emissions unit's potential to emit shall be determined using the definition in paragraph (B)(27), except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

(c) **Small emissions unit** means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in paragraph (B)(37) or in the Clean Air Act, whichever is lower.

(d) **Major emissions unit** means:

(i) Any emissions unit that emits or has the potential to emit one-hundred (100) tons per year or more of the PAL pollutant in an attainment area; or

(ii) Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Clean Air Act for nonattainment areas. For example, in accordance with the definition of major stationary source in Section 182(c) of the Clean Air Act, an emissions unit would be a major emissions unit for VOC if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit fifty (50) or more tons of VOC per year.

(e) **Plantwide applicability limitation (PAL)** means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with paragraphs (N)(1) through (N)(15).

(f) **PAL effective date** generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit which is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(g) **PAL effective period** means the period beginning with the PAL effective date and ending ten (10) years later.

(h) **PAL major modification** means, notwithstanding paragraphs (B)(21) and (B)(24) (the definitions for major modification and net emissions increase), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

(i) **PAL permit** means the major NSR permit, the minor NSR permit, or the State operating permit under Regulation 61-62.1 Section II(G), or the Title V permit issued by the Department that establishes a PAL for a major stationary source.

(j) **PAL pollutant** means the pollutant for which a PAL is established at a major stationary source.

(k) **Significant emissions unit** means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in paragraph (B)(37) or in the Clean Air Act, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in paragraph (N)(2)(d).

(3) Permit application requirements. As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the Department for approval:

(a) A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, Federal or State applicable requirements, emission limitations or work practices apply to each unit.

(b) Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown and malfunction.

(c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a twelve (12)-month rolling total for each month as required by paragraph (N)(13)(a).

(4) General requirements for establishing PALs.

(a) The Department is allowed to establish a PAL at a major stationary source, provided that at a minimum, the requirements in paragraphs (N)(4)(a)(i) through (N)(4)(a)(iv) are met.

(i) The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first twelve (12) months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous twelve (12) consecutive months is less than the PAL (a twelve (12)-month average, rolled monthly). For each month during the first eleven (11) months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(ii) The PAL shall be established in a PAL permit that meets the public participation requirements in paragraph (N)(5).

(iii) The PAL permit shall contain all the requirements of paragraph (i)(7).

(iv) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

(v) Each PAL shall regulate emissions of only one pollutant.

(vi) Each PAL shall have a PAL effective period of ten (10) years.

(vii) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting

requirements provided in paragraphs (N)(12) through (N)(14) for each emissions unit under the PAL through the PAL effective period.

(b) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of offsets under Section (D) Offset standards unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

(5) Public participation requirement for PALs. PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with Section M. This includes the requirement that the Department provide the public with notice of proposed approval of a PAL permit and at least a thirty (30)-day period for submittal of public comment. The Department must address all material comments before taking final action on the permit.

(6) Setting the 10-year actuals PAL level.

(a) Except as provided in paragraph (N)(6)(b), the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in paragraph (B)(3)) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under paragraph (B)(37) or under the Clean Air Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive twenty-four (24)-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive twenty-four (24)-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this twenty-four (24)-month period must be subtracted from the PAL level. The Department shall specify a reduced PAL level(s) (in tons per year) in the PAL permit to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the Department is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of sixty (60) ppm NOX to a new rule limit of thirty (30) ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).

(b) For newly constructed units (which do not include modifications to existing units) on which actual construction began after the twenty-four (24)-month period the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

(7) Contents of the PAL permit. The PAL permit must contain, at a minimum, the information in paragraphs (N)(7)(a) through (N)(7)(j).

(a) The PAL pollutant and the applicable source-wide emission limitation in tons per year.

(b) The PAL permit effective date and the expiration date of the PAL (PAL effective period).

(c) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with paragraph (N)(10) before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Department.

(d) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns and malfunctions.

(e) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of paragraph (N)(9).

(f) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a twelve (12)-month rolling total for each month as required by paragraph (N)(13)(a).

(g) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under paragraph (N)(12).

(h) A requirement to retain the records required under paragraph (N)(13) on site. Such records may be retained in an electronic format.

(i) A requirement to submit the reports required under paragraph (N)(14) by the required deadlines.

(j) Any other requirements that the Department deems necessary to implement and enforce the PAL.

(8) PAL effective period and reopening of the PAL permit. The requirements in paragraphs (N)(8)(a) and (N)(8)(b) apply to actuals PALs.

(a) **PAL effective period**. The Department shall specify a PAL effective period of ten (10) years.

(b) **Reopening of the PAL permit**.

(i) During the PAL effective period, the Department must reopen the PAL permit to:

(1) Correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL.

(2) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Section (D).

(3) Revise the PAL to reflect an increase in the PAL as provided under paragraph (N)(11).

(ii) The Department shall have discretion to reopen the PAL permit for the following:

(1) Reduce the PAL to reflect newly applicable federal requirements (for example, NSPS) with compliance dates after the PAL effective date.

(2) Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the Department may impose on the major stationary source under the State Implementation Plan.

(3) Reduce the PAL if the Department determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an air quality related value that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.

(iii) Except for the permit reopening in paragraph (N)(8)(b)(i)(1) for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of paragraph (N)(5)

(9) Expiration of a PAL. Any PAL which is not renewed in accordance with the procedures in paragraph (N)(10) shall expire at the end of the PAL effective period, and the requirements in paragraphs (N)(9)(a) through (N)(9)(e) shall apply.

(a) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the procedures in paragraphs (N)(9)(a)(i) through (N)(9)(a)(ii).

(i) Within the time frame specified for PAL renewals in paragraph (N)(10)(b), the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Department) by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under

paragraph (N)(10)(e), such distribution shall be made as if the PAL had been adjusted.

(ii) The Department shall decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Department determines is appropriate.

(b) Each emissions unit(s) shall comply with the allowable emission limitation on a twelve (12)-month rolling basis. The Department may approve the use of monitoring systems (source testing, emission factors, etc.) other than Continuous Emissions Monitoring System (CEMS), Continuous Emissions Rate Monitoring System (CERMS), Predictive Emissions Monitoring System (PEMS), or Continuous Parameter Monitoring System (CPMS) to demonstrate compliance with the allowable emission limitation.

(c) Until the Department issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (N)(9)(a)(i), the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(d) Any physical change or change in the method of operation at the major stationary source will be subject to the nonattainment major NSR requirements if such change meets the definition of major modification in paragraph (B)(21).

(e) The major stationary source owner or operator shall continue to comply with any State or Federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to paragraph (L)(4), but were eliminated by the PAL in accordance with the provisions in paragraph (N)(1)(c)(iii).

(10) Renewal of a PAL.

(a) The Department shall follow the procedures specified in paragraph (N)(5) in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Department.

(b) **Application deadline**. A major stationary source owner or operator shall submit a timely application to the Department to request renewal of a PAL. A timely application is one that is submitted at least six (6) months prior to, but not earlier than eighteen (18) months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the

PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

(c) **Application requirements**. The application to renew a PAL permit shall contain the information required in paragraphs (N)(10)(c)(i) through (N)(10)(c)(iv).

(i) The information required in paragraphs (N)(3)(a) through (N)(3)(c).

(ii) A proposed PAL level.

(iii) The sum of the potential to emit of all emissions units under the PAL (with supporting documentation).

(iv) Any other information the owner or operator wishes the Department to consider in determining the appropriate level for renewing the PAL.

(d) **PAL adjustment**. In determining whether and how to adjust the PAL, the Department shall consider the options outlined in paragraphs (N)(10)(d)(i) and (N)(10)(d)(ii). However, in no case may any such adjustment fail to comply with paragraph (N)(10(d)(iii) .

(i) If the emissions level calculated in accordance with paragraph (N)(6) is equal to or greater than eighty (80) percent of the PAL level, the Department may renew the PAL at the same level without considering the factors set forth in paragraph (N)(10)(d)(ii); or

(ii) The Department may set the PAL at a level that it determines to be more representative of the source's baseline actual emissions, or that it determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Department in its written rationale.

(iii) Notwithstanding paragraphs (N)(10)(d)(i) and (N)(10)(d)(ii),

(1) If the potential to emit of the major stationary source is less than the PAL, the Department shall adjust the PAL to a level no greater than the potential to emit of the source; and

(2) The Department shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of paragraph (N)(11) (increasing a PAL).

(e) If the compliance date for a state or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Department has not

already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or Title V permit renewal, whichever occurs first.

(11) Increasing a PAL during the PAL effective period.

(a) The Department may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (N)(11)(a)(i) through (N)(11)(a)(iv).

(i) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(ii) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s) exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding ten (10) years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(iii) The owner or operator obtains a major NSR permit for all emissions unit(s) identified in paragraph (N)(11)(a)(i), regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the nonattainment major NSR program process (for example, LAER), even though they have also become subject to the PAL or continue to be subject to the PAL.

(iv) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(b) The Department shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with paragraph (N)(11)(a)(ii)), plus the sum of the baseline actual emissions of the small emissions units.

(c) The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of paragraph (N)(5).

(12) Monitoring requirements for PALs.

(a) General Requirements.

(i) Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(ii) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in paragraphs (N)(12)(b)(i) through (N)(12)(b)(iv) and must be approved by the Department.

(iii) Notwithstanding paragraph (N)(12)(a)(ii), you may also employ an alternative monitoring approach that meets paragraph (N)(12)(a)(i) if approved by the Department.

(iv) Failure to use a monitoring system that meets the requirements of this regulation renders the PAL invalid.

(b) Minimum Performance Requirements for Approved Monitoring Approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (N)(12)(c) through (N)(12)(i):

(i) Mass balance calculations for activities using coatings or solvents;

(ii) Continuous emissions monitoring system (CEMS);

(iii) Continuous parameter monitoring system (CPMS) or Predictive emissions monitoring system (PEMS); and

(iv) Emission Factors.

(c) Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

(i) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

(ii) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

(iii) Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Department determines there is site-specific data- or a site-specific monitoring program to support another content within the range.

(d) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

(i) CEMS must comply with applicable Performance Specifications found in 40 CFR Part 60, Appendix B; and

(ii) CEMS must sample, analyze and record data at least every fifteen (15) minutes while the emissions unit is operating.

(e) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

(i) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

(ii) Each CPMS or PEMS must sample, analyze, and record data at least every fifteen (15) minutes, or at another less frequent interval approved by the Department, while the emissions unit is operating.

(f) Emission factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

(i) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

(ii) The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

(iii) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific

emission factor within six (6) months of PAL permit issuance, unless the Department determines that testing is not required.

(g) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

(h) Notwithstanding the requirements in paragraphs (N)(12)(c) through (N)(12)(g), where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Department shall, at the time of permit issuance:

(i) Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or

(ii) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

(i) Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Department. Such testing must occur at least once every five (5) years after issuance of the PAL.

(13) Recordkeeping requirements.

(a) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of Section (N) and of the PAL, including a determination of each emissions unit's twelve (12)-month rolling total emissions, for five (5) years from the date of such record.

(b) The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five (5) years:

(i) A copy of the PAL permit application and any applications for revisions to the PAL; and

(ii) Each annual certification of compliance pursuant to Title V and the data relied on in certifying the compliance.

(14) Reporting and notification requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Department in accordance with the applicable Title V operating permit program. The reports shall meet the requirements in paragraphs (N)(14)(a) through (N)(14)(c).

(a) Semi-Annual Report. The semi-annual report shall be submitted to the Department within thirty (30) days of the end of each reporting period. This report shall contain the information required in paragraphs (N)(14)(a)(i) through (N)(14)(a)(vii).

(i) The identification of owner and operator and the permit number.

(ii) Total annual emissions (tons per year) based on a twelve (12)-month rolling total for each month in the reporting period recorded pursuant to paragraph (N)(13)(a).

(iii) All data relied upon, including, but not limited to, any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions.

(iv) A list of any emissions units modified or added to the major stationary source during the preceding six (6)-month period.

(v) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.

(vi) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by paragraph (N)(12)(g).

(vii) A signed statement by the responsible official (as defined by Regulation 61-62 .70) certifying the truth, accuracy, and completeness of the information provided in the report.

(b) Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to 40 CFR 70 .6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program implementing 40 CFR 70 .6(a)(3)(iii)(B). The reports shall contain the following information:

(i) The identification of owner and operator and the permit number;

(ii) The PAL requirement that experienced the deviation or that was exceeded;

(iii) Emissions resulting from the deviation or the exceedance; and

(iv) A signed statement by the responsible official (as defined by Regulation 61-62.70) certifying the truth, accuracy, and completeness of the information provided in the report.

(c) Re-validation results. The owner or operator shall submit to the Department the results of any re-validation test or method within three (3) months after completion of such test or method.

(15) Transition requirements.

(a) The Department may not issue a PAL that does not comply with the requirements in paragraphs (N)(1) through (N)(15) after the date these provisions become effective.

(b) The Department may supersede any PAL which was established prior to the date of approval of the plan by the Administrator with a PAL that complies with the requirements of paragraphs (N)(1) through (N)(15).

(O) If any provision of this regulation, or the application of such provision to any person or circumstance, is held invalid, the remainder of this regulation, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

THIS IS THE FEDERALLY APPROVED REGULATION AS OF **OCT 28, 2021.**

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