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Department of Agriculture and Forestry
Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given December 5-6, 2005, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows.

New Candidates:	September 2, 2005
Re-Take Candidates:	September 23, 2005
Reciprocity Candidates:	November 11, 2005

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to September 2, 2005. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0509#007

POTPOURRI

Department of Environmental Quality
Office of the Secretary

Notice of Public Hearing
Substantive Changes to Proposed Rule AQ246L
Nonattainment New Source Review; Prevention of Significant Deterioration – Louisiana Revisions
(LAC 33:III.504 and 509)(AQ246LS)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et. seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that the department is seeking to incorporate substantive changes to the proposed amendments to the Air Quality regulations, LAC 33:III.504 and 509 (Log #AQ246LS), which were originally noticed as AQ246L in the June 20, 2005, issue of the *Louisiana Register*. This rule is also being proposed as a revision to the Louisiana State Implementation Plan (SIP).

The department has made substantive changes to address comments received during the public comment period of proposed rule AQ246L. Louisiana's June 20, 2005, AQ246L proposal eliminated "malfunctions" from the definitions of *baseline actual emissions* and *projected actual emissions*. Because the state's proposed regulation did not mirror the corresponding federal requirement, the department must demonstrate that such provisions are at least as stringent as the federal rule. With these substantive changes, "malfunctions" will be reinstated where previously omitted, but defined. The federal rule does not define "malfunction." AQ246LS establishes that for purposes of LAC 33:III.504 and 509, malfunctions shall include any such emissions authorized by permit, variance, or the on-line operating adjustment provisions of LAC 33:III.1507.B and 2307.C.2, but exclude any emissions that are not compliant with federal or state standards. The addition of a definition which clarifies that the only "malfunction" emissions to be excluded are those not compliant with federal or state standards ensures that the state rule is at least as stringent as the federal rule.

A strikeout/underline/shaded version of the proposed rule that distinguishes original proposed language from substantively changed language is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

A public hearing on the substantive changes and the SIP revision will be held on October 25, 2005, at 1:30 p.m. in the Galvez Building, Room 1051, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the substantive changes. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage when the parking ticket is validated by department personnel at the hearing.

Written comments regarding the substantive changes must be received no later than October 25, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for the substantive changes ends on the same date as the public hearing. Persons commenting should reference AQ246LS in their correspondence. Copies of this proposed regulation with substantive changes can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy.

This regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

[Note: These changes supersede text in AQ246FS.]

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. - D.9.a.iii. ... [See AQ246FS]

b. 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 Subparagraph D.9.a of this Section to the administrative authority.

9.c. - 10. ... [See AQ246FS]

11. For a project originally determined not to result in a significant net emissions increase, if an owner or operator subsequently reevaluates projected actual emissions and determines that the project has resulted or will now result in a significant net emissions increase, the owner or operator must either:

a. request that the administrative authority limit the potential to emit of the affected emissions units (including those used in netting) as appropriate via federally enforceable conditions such that a significant net emissions increase will no longer result; or

b. submit a revised permit application within 180 days requesting that the original project be deemed a major modification.

E. - J.3.a. ... [See AQ246FS]

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 authorized emissions associated with startup, shutdown, and malfunction;

3.c. - 7.c. ... [See AQ246FS]

d. a requirement that emission calculations for compliance purposes include emissions associated with startup, shutdown, and malfunction;

7.e. - 15.b. ... [See AQ246FS]

K. Definitions. The terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

* * *

[See AQ246FS]

Baseline Actual Emissions• the rate of emissions, in tons per year, of a regulated pollutant, determined as follows.

a. ... [See AQ246FS]

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

a.ii. - b. ... [See AQ246FS]

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

b.ii. - d. ... [See AQ246FS]

* * *

[See AQ246FS]

Clean Coal Technology• repealed from AQ246F.

Clean Coal Technology Demonstration Project• repealed from AQ246F.

* * *

[See AQ246FS]

Major Modification• •

a. - c.vii. ... [See AQ246FS]

viii. Reserved.

d. ... [See AQ246FS]

* * *

[See AQ246FS]

Malfunctions• for purposes of this Section, *malfunctions* shall include any such emissions authorized by permit, variance, or the on-line operating adjustment provisions of LAC 33:III.1507.B and 2307.C.2, but exclude any emissions that are not compliant with federal or state standards.

* * *

[See AQ246FS]

Projected Actual Emissions• the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated 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. In determining the *projected actual emissions* before beginning actual construction, the owner or operator of the major stationary source:

a. ... [See AQ246FS]

b. shall include fugitive emissions to the extent quantifiable, and authorized emissions associated with startups, shutdowns, and malfunctions; and

c. - d. ... [See AQ246FS]

* * *

[See AQ246FS]

Temporary Clean Coal Technology Demonstration Project• repealed from AQ246F.

* * *

[See AQ246FS]

L. ... [See AQ246FS]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:

§509. Prevention of Significant Deterioration

A. - A.6. ... [See AQ246FS]

B. Definitions. For the purpose of this Section, the terms below shall have the meaning specified herein as follows.

* * *

[See AQ246FS]

Baseline Actual Emissions• the rate of emissions, in tons per year, of a regulated NSR pollutant, determined as follows.

a. ... [See AQ246FS]

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

a.ii. - b. ... [See AQ246FS]

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

b.ii. - d. ... [See AQ246FS]

* * *

[See AQ246FS]

Clean Coal Technology• repealed from AQ246F.

Clean Coal Technology Demonstration Project• repealed from AQ246F.

* * *

[See AQ246FS]

Major Modification• •

a. - c.vii. ... [See AQ246FS]

viii. Reserved.

d. ... [See AQ246FS]

* * *

[See AQ246FS]

Malfunctions• for purposes of this Section, *malfunctions* shall include any such emissions authorized by permit, variance, or the on-line operating adjustment provisions of LAC 33:III.1507.B and 2307.C.2, but exclude any emissions that are not compliant with federal or state standards.

* * *

[See AQ246FS]

Projected Actual Emissions• the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated 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. In determining the *projected actual emissions* before beginning actual construction, the owner or operator of the major stationary source:

a. ... [See AQ246FS]

b. shall include fugitive emissions to the extent quantifiable, and authorized emissions associated with startups, shutdowns, and malfunctions; and

c. - d. ... [See AQ246FS]

Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit• repealed from AQ246F.

* * *

[See AQ246FS]

Repowering• repealed from AQ246F.

* * *

[See AQ246FS]

Temporary Clean Coal Technology Demonstration Project• repealed from AQ246F.

C. - R.6.a.iii. ... [See AQ246FS]

b. 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 Subparagraph R.6.a of this Section to the administrative authority.

6.c. - 7. ... [See AQ246FS]

8. Revisions to Projected Actual Emissions. For a project originally evaluated in accordance with Paragraph A.3 of this Section and determined not to result in a significant net emissions increase, if an owner or operator subsequently reevaluates projected actual emissions and determines that the project has resulted or will now result in a significant net emissions increase, the owner or operator shall:

a. request that the administrative authority limit the potential to emit of the affected emissions units (including those used in netting) as appropriate via federally enforceable conditions such that a significant net emissions increase will no longer result; or

b. submit a revised PSD application within 180 days requesting that the original project be deemed a major modification.

S. - AA.3.a. ... [See AQ246FS]

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 authorized emissions associated with startup, shutdown, and malfunction;

3.c. - 15.b. ... [See AQ246FS]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:

Herman Robinson, CPM
Executive Counsel

0509#052

POTPOURRI

Department of Environmental Quality
Office of the Secretary

Solicitation of Comments on Revision of Comprehensive Toxic Air Pollutant Emission Control Program (LAC 33:III.Chapter 51)

The Department of Environmental Quality is proposing to revise the Louisiana Air Toxics regulations in LAC 33:III.Chapter 51, Subchapter A. LAC 33:III.Chapter 51, Subchapter A was originally promulgated in December 1991 pursuant to R.S. 30:2060. There have been several revisions to the regulations since; however, the department is considering a comprehensive review of Subchapter A. Revisions will be proposed to revise dated language in the regulations and update the Louisiana Ambient Air Quality Standards to ensure protection of human health and the environment by applying the most recent and best scientific data available.

The department seeks written comments from interested parties for consideration as we develop rule revisions for proposal. The comments may suggest areas or topics for revision or propose revisions to the regulations. Comments are due no later than 4:30 p.m., November 20, 2005, and should be submitted to James Orgeron, Office of

Environmental Assessment, Air Quality Planning Section, Box 4314, Baton Rouge, LA 70821-4314 or to FAX (225) 219-3240 or by e-mail to james.orgeron@la.gov. After the comment period has ended, a stakeholders meeting will be scheduled and held.

Herman Robinson, CPM
Executive Counsel

0509#051

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Notice of Public Hearing
Substantive Changes to Proposed Rule AQ246F
Nonattainment New Source Review;
Prevention of Significant Deterioration
(LAC 33:III.504 and 509)(AQ246FS)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et. seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et. seq., the secretary gives notice that the department is seeking to incorporate substantive changes to the proposed amendments to the Air Quality regulations, LAC 33:III.504 and 509 (Log #AQ246FS), which were originally noticed as AQ246F in the June 20, 2005, issue of the *Louisiana Register*. This Rule is also being proposed as a revision to the Louisiana State Implementation Plan (SIP).

The department has made substantive changes to address comments received during the public comment period of proposed Rule AQ246F. On June 24, 2005, the United States Court of Appeals for the District of Columbia Circuit vacated the Clean Unit and Pollution Control Project portions of EPA's December 31, 2002, NSR Reform rule (*New York et al. v. U.S. EPA*, No. 02-1387). These provisions were removed from AQ246F. Several other unrelated changes were also made in response to public comments.

A strikeout/underline/shaded version of the proposed Rule that distinguishes original proposed language from substantively changed language is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

A public hearing on the substantive changes and the SIP revision will be held on October 25, 2005, at 1:30 p.m. in the Galvez Building, Room 1051, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the substantive changes. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage when the parking ticket is validated by department personnel at the hearing.

Written comments regarding the substantive changes must be received no later than October 25, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for the substantive changes ends on the same date as the public hearing. Persons commenting should reference AQ246FS in their correspondence. Copies of this proposed regulation with substantive changes can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy.

This regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. Applicability. The provisions of this Section apply to the construction of any new *major stationary source* or to any *major modification* at a major stationary source, as defined herein, provided such source or modification will be located within a nonattainment area so designated in accordance with Section 107 of the federal Clean Air Act, and will emit a regulated pollutant for which it is major and for which the area is designated nonattainment. If any provision of this Section, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Section, 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.

1. For an area that is designated incomplete data, transitional nonattainment, marginal, moderate, serious, or severe nonattainment for the ozone national ambient air quality standard, VOC and NO_X are the regulated pollutants under this Section. VOC and NO_X emissions shall not be aggregated for purposes of determining major stationary source status and significant net emissions increases.

2. ...

3. Except as specified in Paragraph A.5 of this Section, the emissions increase that would result from a proposed modification, without regard to project decreases, shall be compared to the trigger values listed in Subsection L.Table 1 of this Section to determine whether a calculation of the net emissions increase over the contemporaneous period must be performed.

a. Actual-to-Projected-Actual Applicability Test for Projects That Only Involve Existing Emissions Units. The emissions increase of a regulated pollutant shall be calculated by summing the difference between the *projected actual emissions*, as defined in Subsection K of this Section, and the *baseline actual emissions*, as defined in Subsection K of this Section, specifically Subparagraphs a and b of the definition, for each existing emissions unit.

b. Actual-to-Potential Test for Projects That Only Involve Construction of New Emissions Units. The emissions increase of a regulated pollutant shall be calculated by summing the difference between the *potential to emit*, as defined in Subsection K of this Section, from each new emissions unit following completion of the project and the *baseline actual emissions*, as defined in Subsection K of this Section, specifically Subparagraph c of the definition, of these units before the project.

c. Reserved.

d. Hybrid Test for Projects That Involve Multiple Types of Emissions Units. The emissions increase of a regulated pollutant shall be calculated using the methods specified in Subparagraphs A.3.a-b of this Section, as applicable, with respect to each emissions unit, for each type of emissions unit.

4. The net emissions increase shall be compared to the significant net emissions increase values listed in Subsection L.Table 1 of this Section to determine whether a nonattainment new source review must be performed.

5. Reserved.

6. For any major stationary source with a plantwide applicability limit (PAL) for a regulated pollutant, the owner or operator shall comply with Subsection J of this Section.

7. For applications deemed administratively complete in accordance with LAC 33:III.519.A prior to December 20, 2001, the requirements of this Section shall not apply to NO_X increases; furthermore, the 1.40 to 1 VOC internal offset ratio for serious ozone nonattainment areas shall not apply. In such situations, a 1.30 to 1 internal offset ratio shall apply to VOC if lowest achievable emission rate (LAER) is not utilized.

8. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after December 20, 2001 and prior to June 23, 2003, the provisions of this Section governing serious ozone nonattainment areas shall apply to VOC and NO_X increases. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after June 23, 2003, the provisions of this Section governing severe ozone nonattainment areas shall apply to VOC and NO_X increases.

B. - D.3. ...

4. For any new major stationary source or major modification in accordance with this Section, it shall be assured that the total tonnage of the emissions increase that would result from the proposed construction or modification shall be offset by an equal or greater reduction as applicable, in the actual emissions of the regulated pollutant from the same or other sources in accordance with Paragraph F.9 of this Section. The total tonnage of increased emissions, in tons per year, shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit. A higher level of offset reduction may be required in order to demonstrate that a net air quality benefit will occur.

5. - 8.d. ...

9. For 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 and the owner or operator elects to use, for the purpose of calculating projected actual emissions, the method specified in Subparagraphs K.*Projected Actual Emissions*.a-c of this Section, the following shall apply.

a. 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 units whose emissions of a regulated 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 pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under Subparagraph K.*Projected Actual Emissions*.c of this Section (i.e., demand growth) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

b. 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 Subparagraph D.9.a of this Section to the administrative authority. Nothing in this Subparagraph shall be construed to require the owner or operator of such a unit to obtain any determination from the administrative authority before beginning actual construction.

c. The owner or operator shall monitor the emissions of any regulated pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in Clause D.9.a.ii of this Section, and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated pollutant at such emissions unit.

d. If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the administrative authority within 60 days after the end of each year during which records must be generated under Subparagraph D.9.c of this Section setting out the unit's annual emissions during the year that preceded submission of the report.

e. 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 administrative authority if the annual emissions, in tons per year, from the project identified in Subparagraph D.9.a of this Section, exceed the baseline actual emissions, as documented and maintained in accordance with Clause D.9.a.iii of this Section, by a *significant* amount, as defined in Subsection K of this Section, for that regulated pollutant, and if such emissions differ from the preconstruction projection as documented and maintained in accordance with Clause D.9.a.iii of this Section. Such report shall be submitted to the administrative authority within 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 in accordance with Subparagraph D.9.c of this Section; and

iii. any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

10. The owner or operator of the source shall make the information required to be documented and maintained in

accordance with Paragraph D.9 of this Section available for review upon a request for inspection by the administrative authority or the general public in accordance with the requirements contained in 40 CFR 70.4(b)(3)(viii).

E. - F.10. ...

11. Reserved.

12. Reserved.

G. Reserved.

H. Reserved.

I. Reserved.

J. Actuals PALs

1. Applicability

a. The administrative authority may approve the use of an actuals PAL for any existing major stationary source, except as provided in Subparagraph J.1.b of this Section, if the PAL meets the requirements of this Subsection. The term "PAL" shall mean "actuals PAL" throughout this Subsection.

b. The administrative authority shall not allow an actuals PAL for VOC or NO_X 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 of this Subsection, and complies with the PAL permit:

i. is not a major modification for the PAL pollutant;

ii. does not have to be approved through this Section; and

iii. is not subject to the provisions in Paragraph B.1 of this Section (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 Clause J.1.c.iii of this Section, 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. For purposes of this Subsection, the terms below shall have the meaning herein as follows. When a term is not defined in this Paragraph, it shall have the meaning given in Subsection K of this Section or in the Clean Air Act.

a. *Actuals PAL*• a PAL based on the *baseline actual emissions*, as defined in Subsection K of this Section, of all *emissions units*, as defined in Subsection K of this Section, at the source that emit or have the potential to emit the PAL pollutant.

b. *Allowable Emissions*• as defined in Subsection K of this Section, except with the following modifications.

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 Subsection K of this Section, except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

c. *Major Emissions Unit*• •

i. any emissions unit that emits or has the potential to emit 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 appropriate major stationary source threshold value listed in Subsection L.Table 1 of this Section for the PAL pollutant.

d. *Plantwide Applicability Limitation (PAL)*• 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 this Subsection.

e. *PAL Effective Date*• generally the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

f. *PAL Effective Period*• the period beginning with the PAL effective date and ending 10 years later.

g. *PAL Major Modification*• notwithstanding the definitions for *major modification* and *net emissions increase* in Subsection K of this Section, 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.

h. *PAL Permit*—the major NSR permit, the minor NSR permit, or the state operating permit under a program that is approved into the State Implementation Plan or the Title V permit issued by the administrative authority that establishes a PAL for a major stationary source.

i. *PAL Pollutant*—the pollutant for which a PAL is established at a major stationary source.

j. *Significant Emissions Unit*—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 Subsection K of this Section 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 Subparagraph J.2.c of this Section.

k. *Small Emissions Unit*• 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 Subsection K of this Section or in the Clean Air Act, whichever is lower.

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 administrative authority 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 12-month rolling total for each month as required by Subparagraph J.13.a of this Section.

4. General Requirements for Establishing PALs

a. The administrative authority may establish a PAL at a major stationary source, provided that at a minimum, the following requirements 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 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 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 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 J.5 of this Section.

iii. The PAL permit shall contain all the requirements of Paragraph J.7 of this Section.

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 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 J.12-14 of this Section 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 Subsection F of this Section 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. Procedures to establish, renew, or increase PALs for existing major stationary sources shall be the same as the procedures for permit issuance in accordance with LAC 33:III.519. These include the requirement that the administrative authority provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comments. The administrative authority shall address all material comments before taking final action on the permit.

6. Setting the 10-Year Actuals PAL Level

a. Except as provided in Subparagraph J.6.b of this Section, the actuals PAL level for a major stationary source shall be established as the sum of the *baseline actual emissions*, as defined in Subsection K of this Section, of the PAL pollutant for each emissions unit at the source, plus an amount equal to the applicable *significant* level for the PAL pollutant, as defined in Subsection K of this Section or in the Clean Air Act, whichever is lower. When establishing the actuals PAL level for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The administrative authority shall specify a reduced PAL level (in tons/yr) in the PAL permit to become effective on the future compliance date of any applicable federal or state regulatory requirement that the administrative authority 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 60 ppm NO_X to a new rule limit of 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.

b. For newly-constructed units, which do not include modifications to existing units, on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in Subparagraph J.6.a of this Section, 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 shall contain, at a minimum, the following information:

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 that if a major stationary source owner or operator applies to renew a PAL in accordance with Paragraph J.10 of this Section before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period, but shall remain in effect until a revised PAL permit is issued by the administrative authority;

d. a requirement that emission calculations for compliance purposes include emissions associated with startup, shutdown, and malfunction;

e. a requirement that, once the PAL expires, the major stationary source is subject to the requirements of Paragraph J.9 of this Section;

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 12-month rolling total for each month as required by Subparagraph J.13.a of this Section;

g. a requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Paragraph J.12 of this Section;

h. a requirement to retain the records required under Paragraph J.13 of this Section on site. Such records may be retained in an electronic format;

i. a requirement to submit the reports required under Paragraph J.14 of this Section by the required deadlines;

j. any other requirements that the administrative authority deems necessary to implement and enforce the PAL.

8. PAL Effective Period and Reopening of the PAL Permit

a. PAL Effective Period. The administrative authority shall specify a PAL effective period of 10 years.

b. Reopening of the PAL Permit

i. During the PAL effective period, the administrative authority shall reopen the PAL permit to:

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

(b). reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Subsection F of this Section;

(c). revise the PAL to reflect an increase in the PAL as provided under Paragraph J.11 of this Section.

ii. The administrative authority has the discretion to reopen the PAL permit in order to:

(a). reduce the PAL to reflect newly applicable federal requirements [e.g., new source performance standards (NSPS)] with compliance dates after the PAL effective date;

(b). reduce the PAL consistent with any other requirement that is enforceable as a practical matter, and that the state may impose on the major stationary source;

(c). reduce the PAL if the administrative authority determines that a reduction is necessary to avoid causing or contributing to a national ambient air quality standard (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 Subclause J.8.b.i.(a) of this Section 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 J.5 of this Section.

9. Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in Paragraph J.10 of this Section shall expire at the end of the PAL effective period, and the following requirements 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 following procedures.

i. Within the time frame specified for PAL renewals in Subparagraph J.10.b of this Section, 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 administrative authority, 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 Subparagraph J.10.e of this Section, such distribution shall be made as if the PAL had been adjusted.

ii. The administrative authority 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 administrative authority determines is appropriate.

b. Each emissions unit shall comply with the allowable emission limitation on a 12-month rolling basis. The administrative authority may approve the use of monitoring systems (source testing, emission factors, etc.) other than continuous emissions monitoring systems (CEMS), continuous emissions rate monitoring systems (CERMS), predictive emissions monitoring systems (PEMS), or continuous parameter monitoring systems (CPMS) to demonstrate compliance with the allowable emission limitation.

c. Until the administrative authority issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under Clause J.9.a.i of this Section, 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 Subsection K of this Section.

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 in accordance with Paragraph B.1 of this Section, but were eliminated by the PAL in accordance with the provisions in Clause J.1.c.iii of this Section.

10. Renewal of a PAL

a. The administrative authority shall follow the procedures specified in Paragraph J.5 of this Section 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 administrative authority.

b. Application Deadline. A major stationary source owner or operator shall submit a timely application to the administrative authority to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 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 following information:

i. the information required in Subparagraphs J.3.a-c of this Section;

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 administrative authority to consider in determining the appropriate level for renewing the PAL.

d. PAL Adjustment. In determining whether and how to adjust the PAL, the administrative authority shall consider the options outlined in Clauses J.10.d.i-ii of this Section. However, in no case may any such adjustment fail to comply with Clause J.10.d.iii of this Section.

i. If the emissions level calculated in accordance with Paragraph J.6 of this Section is equal to or greater than 80 percent of the PAL level, the administrative authority may renew the PAL at the same level without considering the factors set forth in Clause J.10.d.ii of this Section.

ii. The administrative authority may set the PAL at a level that he or she determines to be more representative of the source's baseline actual emissions, or that he or she 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 administrative authority in his or her written rationale.

iii. Notwithstanding Clauses J.10.d.i-ii of this Section:

(a). if the potential to emit of the major stationary source is less than the PAL, the administrative authority shall adjust the PAL to a level no greater than the potential to emit of the source; and

(b). the administrative authority shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of Paragraph J.11 of this Section regarding 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 administrative authority 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 administrative authority may increase a PAL emission limitation only if the major stationary source complies with the following provisions.

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 units 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 units, 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 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 shall obtain a major NSR permit for all emissions units identified in Clause J.11.a.i of this Section, regardless of the magnitude of the emissions increase resulting from them (i.e., no significant levels apply). These emissions units shall comply with any emissions requirements resulting from the nonattainment major NSR program process (e.g., 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 administrative authority 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 Clause J.11.a.ii of this Section, 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 in accordance with the public notice requirements of Paragraph J.5 of this Section.

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 Clauses J.12.b.i-iv of this Section and must be approved by the administrative authority.

iii. Notwithstanding Clause J.12.a.ii of this Section, an owner or operator may also employ an alternative monitoring approach that meets the requirements of Clause J.12.a.i of this Section if approved by the administrative authority.

iv. Failure to use a monitoring system that meets the requirements of this Paragraph 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 Subparagraphs J.12.c-i of this Section:

i. mass balance calculations for activities using coatings or solvents;

ii. CEMS;

iii. CPMS or 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 shall use the highest value of the range to calculate the PAL pollutant emissions unless the administrative authority 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 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 parameters 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 15 minutes, or at another less frequent interval approved by the administrative authority, 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 months of PAL permit issuance, unless the administrative authority 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 Subparagraphs J.12.c-d of this Section, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, the administrative authority shall, at the time of permit issuance:

i. establish default values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating points; or

ii. determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameters and the PAL pollutant emissions is a violation of the PAL.

i. Revalidation. All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the administrative authority. Such testing must occur at least once every five 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 this Subsection and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five 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 years:

i. a copy of the PAL permit application and any applications for revisions to the PAL; and

ii. each annual certification of compliance in accordance with Title V and the data relied on in certifying the compliance.

14. Reporting and Notification Requirements. The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the administrative authority in accordance with the applicable Title V operating permit program. The reports shall meet the following requirements.

a. Semiannual Report. The semiannual report shall be submitted to the administrative authority within 30 days of the end of each reporting period. This report shall contain the following information:

i. the identification of the owner or operator and the permit number;

ii. total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded in accordance with Subparagraph J.13.a of this Section;

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 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 Subparagraph J.12.g of this Section;

vii. a signed statement by the responsible official, as defined by the applicable Title V operating permit program, 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 in accordance with 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 the owner or 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 the applicable Title V operating permit program, certifying the truth, accuracy, and completeness of the information provided in the report.

c. Revalidation Results. The owner or operator shall submit to the administrative authority the results of any revalidation test or method within three months after completion of such test or method.

15. Transition Requirements

a. No administrative authority may issue a PAL that does not comply with the requirements of this Subsection after the administrator has approved regulations incorporating these requirements into the State Implementation Plan.

b. The administrative authority may supersede any PAL that was established prior to the date of approval of the State Implementation Plan by the administrator with a PAL that complies with the requirements of this Subsection.

K. Definitions. The terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

Act• repealed.

Actual Emissions• the actual rate of emissions of a pollutant from an emissions unit as determined in accordance with the following, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Subsection J of this Section. Instead, the definitions of *projected actual emissions* and *baseline actual emissions* in this Subsection shall apply for those purposes.

a. 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 24-month period that precedes the particular date and that is representative of normal major stationary source operation. A different time period shall be allowed upon a determination by the department that it is more representative of normal major stationary 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.

b. The administrative authority may presume that source-specific allowable emissions for the unit are equivalent to the *actual emissions* of the unit.

c. For any emissions unit that has not begun normal operations on the particular date, *actual emissions* shall equal the allowable emissions of the unit.

Administrator• the *administrator* of the USEPA or an authorized representative.

Adverse Impact on Visibility• visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the mandatory federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairments and how these factors correlate with:

a. times of visitor use of the mandatory federal Class I area; and

b. the frequency and timing of natural conditions that reduce visibility.

This term does not include effects on integral vista as defined at 40 CFR 51.301, Definitions.

Allowable Emissions• the emissions rate of a major 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 standard set forth in 40 CFR Part 60, 61, or 63;

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.

Baseline Actual Emissions• the rate of emissions, in tons per year, of a regulated pollutant, determined as follows.

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 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The administrative authority 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 24-month period.

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

iv. The average rate shall not be based on any consecutive 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 Clause a.ii of this definition.

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 24-month period selected by the owner or operator within the 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 administrative authority for a permit required under this Section, except that the 10-year period shall not include any period earlier than November 15, 1990.

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 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 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 Paragraphs F.4 and 5 of this Section.

iv. For a regulated pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the *baseline actual emissions* for the emissions units being changed. A different consecutive 24-month period may be used for each regulated pollutant.

v. The average rate shall not be based on any consecutive 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 Clauses b.ii-iii of this definition.

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 Subparagraph a of this definition, for other existing emissions units in accordance with the procedures contained in Subparagraph b of this definition, and for a new emissions unit in accordance with the procedures contained in Subparagraph c of this definition.

Begin Actual Construction• initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. Such activities include, but are not limited to, installation of building support 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 that mark the initiation of the change.

Best Available Control Technology (BACT)• as defined in LAC 33:III.509.

Building, Structure, Facility, or Installation• all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, or are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

Clean Air Act• the federal Clean Air Act, 42 U.S.C. 7401-7671(q).

Clean Coal Technology• any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen 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.

Clean Coal Technology Demonstration Project• 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 be at least 20 percent of the total cost of the demonstration project.

Clean Unit• Repealed.

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 major stationary source, to be completed within a reasonable time; or

b. entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the major stationary source to be completed within a reasonable time.

Construction• 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 actual emissions.

Continuous Emissions Monitoring System (CEMS)• all of the equipment that may be required to meet the data acquisition and availability requirements of this Section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

Continuous Emissions Rate Monitoring System (CERMS)• the total equipment required for the determination and recording of the pollutant mass emissions rate, in terms of mass per unit of time.

Continuous Parameter Monitoring System (CPMS)• all of the equipment necessary to meet the data acquisition and availability requirements of this Section, to monitor process and control device operational parameters (e.g., control device secondary voltages and electric currents) and other information (e.g., gas flow rate, O_2 or CO_2 concentrations), and to record average operational parameter values on a continuous basis.

Electric Utility Steam Generating Unit• 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 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.

Emissions Unit• any part of a major stationary source that emits or would have the potential to emit any regulated pollutant, and includes an *electric utility steam generating unit* as defined in this Subsection. For purposes of this Section, there are two types of *emissions units* as described below.

a. A *new emissions unit* is any emissions unit that is, or will be, newly constructed and that has existed for less than two 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 Subparagraph a of this definition. A *replacement unit*, as defined in this Subsection, is an *existing emissions unit*.

Federal Class I Area• any federal land that is classified or reclassified as a "Class I" area in accordance with the federal Clean Air Act.

Federal Land Manager• with respect to any lands in the United States, the secretary of the department with authority over such lands.

Federally Enforceable• all limitations and conditions which are *federally enforceable* by the administrator, including those requirements developed in accordance with 40 CFR Parts 60, 61, and 63, requirements within any applicable State Implementation Plan, any permit requirements established in accordance with 40 CFR 52.21 or under regulations approved in accordance with 40 CFR Part 51, Subpart I including 40 CFR 51.165 and 40 CFR 51.166.

Fugitive Emissions• those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

Lowest Achievable Emission Rate• for any source, the more stringent rate of emissions based on the following:

a. the most stringent emissions limitation that is contained in the implementation plan of any state for such class or category of major 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 that is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified major stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

Major Modification• •

a. Any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase, as listed in Subsection L.Table 1 of this Section, of any regulated pollutant for which the stationary source is already major.

b. Any net emissions increase that is considered significant for VOC or NO_X shall be considered significant for ozone. VOC and NO_x emissions shall not be aggregated for the purpose of determining significant net emissions increases.

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 in accordance with 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 that:

(a). the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition that was established after December 12, 1976, in accordance with 40 CFR 52.21 or under regulations approved in accordance with 40 CFR Part 51, Subpart I or 40 CFR 51.166; or

(b). the source is approved to use under any permit issued under regulations approved in accordance with 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 that was established after December 21, 1976, in accordance with 40 CFR 52.21 or regulations approved in accordance with 40 CFR Part 51, Subpart I or 40 CFR 51.166;

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:

(a). the State Implementation Plan for the state in which the project is located; and

(b). other requirements necessary to attain and maintain the national ambient air quality standard during the project and after it is terminated.

d. This definition shall not apply with respect to a particular regulated pollutant when the major stationary source is complying with the requirements under Subsection J of this Section for a PAL for that pollutant. Instead, the definition at Subparagraph J.2.g of this Section shall apply.

Major Stationary Source• •

a. any stationary source (including all emission points and units of such source located within a contiguous area and under common control) of air pollutants which emits, or has the potential to emit, any regulated pollutant at or above the threshold values defined in Subsection L.Table 1 of this Section; or

b. any physical change that would occur at a stationary source not qualifying under Subparagraph a of this definition as a *major stationary source*, if the change would constitute a *major stationary source* by itself;

c. a *major stationary source* that is major for VOC or NO_x shall be considered major for ozone. VOC and NO_x emissions shall not be aggregated for the purpose of determining *major stationary source* status;

d. a stationary source shall not be a *major stationary source* due to fugitive emissions, to the extent that they are quantifiable, unless the source belongs to:

i. any category in Table A in LAC 33:III.509; or

ii. any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act;

e. a stationary source shall not be a *major stationary source* due to secondary emissions.

Mandatory Federal Class I Area• those federal lands that are international parks, national wilderness areas which exceed 5,000 acres in size, national memorial parks which exceed 5,000 acres in size, and national parks which exceed 6,000 acres in size, and that were in existence on August 7, 1977. These areas may not be redesignated.

Natural Conditions• includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

Necessary Preconstruction Approvals or Permits• 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.

Net Emissions Increase• the amount by which the sum of the following exceeds zero:

a.i. any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source as calculated in accordance with Paragraph A.3 of this Section; and

ii. any other creditable increases and decreases in actual emissions at the major stationary source over a period including the calendar year of the proposed increase, up to the date on which the proposed increase will occur, and the preceding four consecutive calendar years. Baseline actual emissions for calculating increases and decreases under this Clause shall be determined as provided in Subsection K.*Baseline Actual Emissions* of this Section except that Clauses a.iii and b.iv of that definition shall not apply;

b. an increase or decrease in actual emissions is creditable only if neither the department nor the administrator has relied on it in issuing a permit for the source under this regulation and, for a decrease, the administrator has not relied on it in issuing a permit under 40 CFR 52.21, which permit is in effect when the increase in actual emissions from the particular change occurs;

c. Reserved;

d. an increase in actual emissions is creditable only to the extent that the new level of allowable emissions exceeds the old level of actual emissions;

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 allowable emissions;

ii. it is enforceable as a practical matter at and after the time that actual construction of the particular change begins;

iii. it has not been relied on by the state in demonstrating attainment or reasonable further progress;

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

v. Reserved;

f. an increase that results from a physical change at a major stationary 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. Subparagraph K.*Actual Emissions*.a of this Section shall not apply for determining creditable increases and decreases or after a change.

Nonattainment Area• for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the administrator to be reliable) to exceed any national ambient air quality standard for such pollutant. Such term includes any area identified under Subparagraphs (A)-(C) of Section 107(d)(1) of the Federal Clean Air Act.

Pollution Control Project (PCP)• Repealed.

Pollution Prevention• 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.

Portable Stationary Source• a source that can be relocated to another operating site with limited dismantling and reassembly.

Potential to Emit• 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.

Predictive Emissions Monitoring System (PEMS)• all of the equipment necessary to monitor process and control device operational parameters (e.g., control device secondary voltages and electric currents) and other information (e.g., gas flow rate, O_2 or CO_2 concentrations), and calculate and record the mass emissions rate (e.g., lb/hr) on a continuous basis.

Prevention of Significant Deterioration (PSD) Permit• any permit that is issued under a major source preconstruction permit program that has been approved by the administrator and incorporated into the State Implementation Plan to implement the requirements of 40 CFR 51.166, or under the program in 40 CFR 52.21.

Project• a physical change in, or change in the method of operation of, an existing major stationary source.

Projected Actual Emissions• the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated 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. In determining the *projected actual emissions* before beginning actual construction, the owner or operator of the major stationary source:

a. 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 State Implementation Plan; and

b. shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and

c. 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 24-month period used to establish the *baseline actual emissions* as defined in this Subsection and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

d. in lieu of using the method set out in Subparagraphs a-c of this definition, may elect to use the emissions unit's *potential to emit*, in tons per year, as defined in this Subsection.

Regulated Pollutant• any air pollutant, the emission or ambient concentration of which is regulated in accordance with the Clean Air Act.

Replacement Unit• an emissions unit for which all the following criteria 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 emissions unit does not alter the basic design parameters of the process unit.

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*, as defined in this Subsection.

Secondary Emissions• 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. For the purpose of this Section, *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.

Significant• 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 the lower of any of the following rates or the applicable major modification significant net increase threshold in Subsection L.Table 1 of this Section.

Pollutant	Emission Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Ozone	40 tpy of volatile organic compounds
Lead	0.6 tpy

Stationary Source• any building, structure, facility, or installation which emits or may emit any regulated pollutant.

Temporary Clean Coal Technology Demonstration Project• a clean coal technology demonstration project that is operated for a period of five years or less, and that

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.

Temporary Source• a stationary source that changes its location or ceases to exist within one year from the date of initial start of operations.

Visibility Impairment• any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

L. Table 1• Major Stationary Source/Major Modification Emission Thresholds

Table 1
Major Stationary Source/Major Modification Emission Thresholds

Pollutant	Major Stationary Source Threshold Values (tons/year)	Major Modification Significant Net Increase (tons/year)	Offset Ratio Minimum
Ozone VOC/NO_x[1]		Trigger Values	
Marginal[1]	100	40(40)[2]	1.10 to 1
Moderate	100	40(40)[2]	1.15 to 1
Serious	50	25[3](5)[4]	1.20 to 1 w/LAER or 1.40 to 1 internal w/o LAER
Severe	25	25[3](5)[4]	1.30 to 1 w/LAER or 1.50 to 1 internal w/o LAER
CO			
Moderate	100	100	>1.00 to 1
Serious	50	50	>1.00 to 1
SO_2	100	40	>1.00 to 1
PM_{10}			
Moderate	100	15	>1.00 to 1
Serious	70	15	>1.00 to 1
Lead	100	0.6	>1.00 to 1

[1]For those parishes that are designated incomplete data or transitional nonattainment for ozone, the new source review rules for a marginal classification apply.

[2]Consideration of the net emissions increase will be triggered for any project that would increase emissions by 40 tons or more per year, without regard to any project decreases.

[3]For serious and severe ozone nonattainment areas, the increase in emissions of VOC or NO_X resulting from any physical change or change in the method of operation of a stationary source shall be considered significant for purposes of determining the applicability of permit requirements, if the net emissions increase from the source equals or exceeds 25 tons per year of VOC or NO_X.

[4]Consideration of the net emissions increase will be triggered for any project that would increase VOC or NO_X emissions by five tons or more per year, without regard to any project decreases, or for any project that would result in a 25 ton or more per year cumulative increase in emissions of VOC within the contemporaneous period or of NO_X for a period of five years after the effective date of the rescission of the NO_X waiver, and within the contemporaneous period thereafter.

VOC = volatile organic compounds
NO_X = oxides of nitrogen
CO = carbon monoxide
SO_2 = sulfur dioxide
PM_{10} = particulate matter of less than 10 microns in diameter

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HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:

§509. Prevention of Significant Deterioration

A. Applicability Procedures

1. The requirements of this Section apply to the construction of any new *major stationary source*, as defined in Subsection B of this Section, or any project at an existing *major stationary source* in an area designated as attainment or unclassifiable under Sections 107(d)(1)(A)(ii) or (iii) of the Clean Air Act.

2. The requirements of Subsections J-R of this Section apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this Section otherwise provides.

3. No new major stationary source or major modification to which the requirements of Subsection J-Paragraph R.5 of this Section apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The administrative authority has authority to issue any such permit.

4. The requirements of the program will be applied in accordance with the following principles.

a. Except as otherwise provided in Paragraph A.5 of this Section, and consistent with the definition of *major modification* contained in Subsection B of this Section, a project is a major modification for a regulated new source review (NSR) pollutant if it causes two types of emissions increases• a *significant* emissions increase, as defined in Subsection B of this Section, and a significant *net emissions increase*, as defined in Subsection B of this Section. 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.

b. The procedure for calculating, before beginning actual construction, whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to Subparagraphs A.4.c-f of this Section. The procedure for calculating, before beginning actual construction, whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is as defined in Subsection B.*Net Emissions Increase* of this Section. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

c. 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 Subsection B of

this Section, and the *baseline actual emissions*, as defined in Subparagraphs B.*Baseline Actual Emissions*.a and b of this Section, for each existing emissions unit, equals or exceeds the *significant* amount for that pollutant, as defined in Subsection B of this Section.

d. Actual-to-Potential Test for Projects That Only Involve Construction of a New Emissions Unit. 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 Subsection B of this Section, from each new emissions unit following completion of the project and the *baseline actual emissions*, as defined in Subparagraph B.*Baseline Actual Emissions*.c of this Section, of these units before the project equals or exceeds the *significant* amount for that pollutant, as defined in Subsection B of this Section.

e. Reserved.

f. 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 emissions increases for each emissions unit, using the method specified in Subparagraphs A.4.c-e of this Section as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the *significant* amount for that pollutant, as defined in Subsection B of this Section.

5. For any major stationary source for a plantwide applicability limit (PAL) for a regulated NSR pollutant, the major stationary source shall comply with the requirements under Subsection AA of this Section.

6. Reserved.

B. Definitions. For the purpose of this Section, the terms below shall have the meaning specified herein as follows.

Actual Emissions• the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with the following, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Subsection AA of this Section. Instead, Subsection B.*Projected Actual Emissions* and *Baseline Actual Emissions* of this Section shall apply for those purposes.

a. 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 24-month period that precedes the particular date and which is representative of normal source operation. The administrative authority 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.

b. The administrative authority may presume that source-specific allowable emissions for the unit are equivalent to the *actual emissions* of the unit.

c. 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.

Adverse Impact on Visibility• visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with:

a. times of visitor use of the federal Class I area; and

b. the frequency and timing of natural conditions that reduce visibility.

Allowable Emissions• the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits that 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; or

b. the applicable 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.

Baseline Actual Emissions• the rate of emissions, in tons per year, of a regulated NSR pollutant, determined as follows.

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 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator projects to begin actual construction of the project. The administrative authority 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 24-month period.

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

iv. The average rate shall not be based on any consecutive 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 Clause a.ii of this definition.

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 24-month period selected by the owner or operator within the 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 administrative authority for a permit required under this Section, except that the 10-year period shall not include any period earlier than November 15, 1990.

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 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 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the administrative authority 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 40 CFR 51.165(a)(3)(ii)(G).

iv. For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the *baseline actual emissions* for all the emissions units being changed. A different consecutive 24-month period may be used for each regulated NSR pollutant.

v. The average rate shall not be based on any consecutive 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 Clauses b.ii and iii of this definition.

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 stationary source, the *baseline actual emissions* shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in Subparagraph a of this definition, for other existing emissions units in accordance with the procedures contained in Subparagraph b of this definition, and for a new emissions unit in accordance with the procedures contained in Subparagraph c of this definition.

Baseline Area—

a. Any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section 107(d)(1) (D) or (E) of the Clean Air Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 $\mu g/m^3$ (annual average) of the pollutant for which the minor source baseline date is established.

b. Area redesignations under Section 107(d)(1) (D) or (E) of the Clean Air Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification that:

i. establishes a minor source baseline date; or

ii. is subject to 40 CFR 52.21 or under regulations approved in accordance with 40 CFR 51.166 and would be constructed in the same state as the state proposing the redesignation.

c. Any *baseline area* established originally for the total suspended particulates (TSP) increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that such *baseline area* shall not remain in effect if the administrative authority rescinds the corresponding minor source baseline date in accordance with Subparagraph B.*Baseline Date*.d of this Section.

Baseline Concentration• •

a. That ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A *baseline concentration* is determined for each pollutant for which a minor source baseline date is established and shall include:

i. the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in Subparagraph b of this definition;

ii. the allowable emissions of major stationary sources that commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date.

b. The following will not be included in the *baseline concentration* and will affect the applicable maximum allowable increase:

i. actual emissions from any major stationary source on which construction commenced after the major source baseline date; and

ii. actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

Baseline Date• •

a. *Major Source Baseline Date*• •

i. in the case of particulate matter (PM_{10}) and sulfur dioxide, January 6, 1975; and

ii. in the case of nitrogen dioxide, February 8, 1988.

b. *Minor Source Baseline Date*• the earliest date after the trigger date on which a major stationary source or a major modification subject to this Section submits a complete application under the relevant regulations. The trigger date is:

i. in the case of particulate matter (PM_{10}) and sulfur dioxide, August 7, 1977; and

ii. in the case of nitrogen dioxide, February 8, 1988.

c. The *baseline date* is established for each pollutant for which increments or other equivalent measures have been established if:

i. the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section 107(d)(i)(D) or (E) of the Clean Air Act for the pollutant on the date of its complete application under 40 CFR 52.21 or under regulations approved in accordance with 40 CFR 51.166; and

ii. in the case of a major stationary source, the pollutant would be emitted in significant amounts or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

d. Any *minor source baseline date* established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that the administrative authority shall rescind a *minor source baseline date* where it can be shown, to the satisfaction of the administrative authority, that the emissions increase from the major stationary source, or net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM_{10} emissions.

Begin Actual Construction• in general, initiation of physical on-site construction activities on an emissions unit that 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 operation, this term refers to those on-site activities, other than preparatory activities, that mark the initiation of the change.

Best Available Control Technology (BACT)• •

a. An emissions limitation, including a visible emission standard, based on the maximum degree of reduction for each pollutant subject to regulation under this Section that would be emitted from any proposed major stationary source or major modification that the administrative authority, 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.

b. In no event shall application of *best available control technology* result in emissions of any pollutant that would exceed the emissions allowed by an applicable standard under 40 CFR Parts 60 and 61. If the administrative authority determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of *best available control technology*. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation, and shall provide for compliance by means that achieve equivalent results.

Building, Structure, Facility, or Installation• all of the pollutant-emitting activities that 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* (i.e., which have the same first 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).

Clean Air Act• the federal Clean Air Act, as amended (42 U.S.C. Chapter 85).

Clean Coal Technology• any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen 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.

Clean Coal Technology Demonstration Project• 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 be at least 20 percent of the total cost of the demonstration project.

Clean Unit• Repealed.

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.

Complete• in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the administrative authority from requesting or accepting any additional information.

Construction• 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 actual emissions.

Continuous Emissions Monitoring System (CEMS)• all of the equipment that may be required to meet the data acquisition and availability requirements of this Section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

Continuous Emissions Rate Monitoring System (CERMS)• the total equipment required for the determination and recording of the pollutant mass emissions rate, in terms of mass per unit of time.

Continuous Parameter Monitoring System (CPMS)• all of the equipment necessary to meet the data acquisition and availability requirements of this Section, to monitor process and control device operational parameters (e.g., control device secondary voltages and electric currents) and other information (e.g., gas flow rate, O_2 or CO_2 concentrations), and to record average operational parameter values on a continuous basis.

Electric Utility Steam Generating Unit• 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 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.

Emissions Unit• 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 this Subsection. For purposes of this Section, there are two types of *emissions units*.

a. A *new emissions unit* is any emissions unit that is, or will be, newly constructed and that has existed for less than two years from the date such emissions unit first operated.

b. An *existing emissions unit* is any emissions unit that is not a new emissions unit. A *replacement unit*, as defined in this Subsection, is an *existing emissions unit*.

Federal Land Manager• with respect to any lands in the United States, the secretary of the department with authority over such lands.

Federally Enforceable• all limitations and conditions that are enforceable by the administrator, including those requirements developed in accordance with 40 CFR Parts 60, 61, and 63, requirements within any applicable State Implementation Plan, any permit requirements established in accordance with 40 CFR 52.21 or under regulations approved in accordance with 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.

Fugitive Emissions• those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

High Terrain• any area having an elevation 900 feet or more above the base of the stack of a source.

Indian Governing Body• the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

Indian Reservation• any federally-recognized reservation established by treaty, agreement, executive order, or act of Congress.

Innovative Control Technology• any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

Low Terrain• any area other than *high terrain*, as defined in this Subsection.

Lowest Achievable Emission Rate (LAER)• as defined in LAC 33:III.504.

Major Modification• •

a. Any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant, and a significant net emissions increase of that pollutant from the major stationary source.

b. Any significant emissions increase from any emissions unit or net emissions increase at a major stationary source that is significant for volatile organic compounds 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 any 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 in accordance with the Federal Power Act;

iii. use of an alternative fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act;

iv. use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

v. use by a source of an alternate fuel or raw material that:

(a). the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition that was established after January 6, 1975, in accordance with 40 CFR 52.21 or under regulations approved in accordance with 40 CFR Part 51, Subpart I or 40 CFR 51.166; or

(b). the source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved in accordance with 40 CFR 51.166;

vi. an increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition that was established after January 6, 1975, in accordance with 40 CFR 52.21 or under regulations approved in accordance with 40 CFR Part 51, Subpart I or 40 CFR 51.166;

vii. any change in source ownership;

viii. Reserved;

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

(a). the State Implementation Plan for the state in which the project is located; and

(b). other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated;

x. the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis;

xi. the reactivation of a very clean coal-fired electric utility steam generating unit.

d. This definition shall not apply with respect to a particular pollutant subject to regulation under this Section when the major stationary source is complying with the requirements under Subsection AA of this Section for a PAL for that pollutant. Instead, the definition at Subparagraph AA.2.g of this Section shall apply.

Major Stationary Source—

a. any of the stationary sources of air pollutants listed in Table A of this definition that emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under this Section;

b. for stationary source categories other than those listed in Table A of this definition, any stationary source that emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under this Section; or

c. any physical change that would occur at a source not otherwise qualifying as a major stationary source under Subparagraphs a and b of this definition if the change would constitute a major source by itself;

d. a major source that is major for volatile organic compounds shall be considered major for ozone;

e. the fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Section whether it is a *major stationary source*, unless the source is listed in Table A of this definition or, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act.

Table A• Stationary Sources of Air Pollutants	
1	Fossil fuel-fired steam electric plants of more than 250 million British thermal units (Btu) per hour heat input
2	Coal cleaning plants (with thermal dryers)
3	Kraft pulp mills
4	Portland cement plants
5	Primary zinc smelters
6	Iron and steel mill plants
7	Primary aluminum ore reduction plants
8	Primary copper smelters
9	Municipal incinerators capable of charging more than 250 tons of refuse per day
10	Hydrofluoric, sulfuric, and nitric acid plants
11	Petroleum refineries
12	Lime plants
13	Phosphate rock processing plants
14	Coke oven batteries
15	Sulfur recovery plants
16	Carbon black plants (furnace process)
17	Primary lead smelters
18	Fuel conversion plants
19	Sintering plants
20	Secondary metal production plants
21	Chemical process plants
22	Fossil fuel boilers (or combinations thereof) totaling more than 250 million Btu per hour heat input.
23	Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels
24	Taconite ore processing plants
25	Glass fiber processing plants
26	Charcoal production plants

Necessary Preconstruction Approvals or Permits• those permits or approvals required under all applicable air quality control laws and regulations.

Net Emissions Increase• •

a. 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 in accordance with Paragraph A.4 of this Section; 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 Clause shall be determined as provided in Subsection B.*Baseline Actual Emissions* of this Section, except that Clauses B.*Baseline Actual Emissions*.a.iii and b.iv of this Section shall not apply.

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

i. the date five 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 the administrative authority has not relied on it in issuing a permit for the source under this Section, which permit is in effect when the increase in actual emissions from the particular change occurs.

d. An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

e. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

f. 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; and

iii. it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

g. Reserved.

h. 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.

i. Subparagraph B.*Actual Emissions*.a of this Section shall not apply for determining creditable increases and decreases.

Pollution Control Project (PCP)• Repealed.

Pollution Prevention• 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.

Potential to Emit• 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 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.

Predictive Emissions Monitoring System (PEMS)• all of the equipment necessary to monitor process and control device operational parameters (e.g., control device secondary voltages and electric currents) and other information (e.g., gas flow rate, O_2 or CO_2 concentrations), and calculate and record the mass emissions rate (e.g., lb/hr) on a continuous basis.

Prevention of Significant Deterioration (PSD) Program• a major source preconstruction permit program that has been approved by the administrator and incorporated into the State Implementation Plan to implement the requirements of this Section or the program in 40 CFR 52.21. Any permit issued under such a program is a major NSR permit.

Project• a physical change in, or change in the method of operation of, an existing major stationary source.

Projected Actual Emissions• the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated 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. In determining the *projected actual emissions* before beginning actual construction, the owner or operator of the major stationary source:

a. 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 State Implementation Plan; and

b. shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and

c. 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 24-month period used to establish the *baseline actual emissions* as defined in this Subsection and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

d. in lieu of using the method set out in Subparagraphs a-c of this definition, may elect to use the emissions unit's *potential to emit*, in tons per year, as defined in this Subsection.

Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit• any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation, where the unit:

a. has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the administrative authority's emissions inventory at the time of enactment;

b. was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent;

c. is equipped with low-NO_x burners prior to the time of commencement of operations following reactivation; and

d. is otherwise in compliance with the requirements of the Clean Air Act.

Reasonably Available Control Technology (RACT)• devices, systems, process modifications, or other apparatus or techniques that are reasonably available taking into account:

a. the necessity of imposing such controls in order to attain and maintain a national ambient air quality standard;

b. the social, environmental, and economic impact of such controls; and

c. alternative means of providing for attainment and maintenance of such standard.

Regulated NSR Pollutant• •

a. any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the administrative authority (e.g., volatile organic compounds are precursors for ozone);

b. any pollutant that is subject to any standard promulgated under Section 111 of the Clean Air Act;

c. any Class I or II substance subject to a standard promulgated under or established by Title VI of the Clean Air Act; or

d. any pollutant that otherwise is subject to regulation under the Clean Air Act; except that any or all hazardous air pollutants either listed in Section 112 of the Clean Air Act or added to the list in accordance with Section 112(b)(2) of the Clean Air Act, which have not been delisted in accordance with Section 112(b)(3) of the Clean Air Act, are not *regulated NSR pollutants* unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under Section 108 of the Clean Air Act.

Replacement Unit• an emissions unit for which all the criteria listed in Subparagraphs a-d of this definition 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 emissions unit does not alter the basic design parameters of the process unit.

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*, as defined in this Subsection.

Repowering• replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the administrative authority, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

a. *Repowering* shall also include any oil and/or gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

b. The administrative authority shall give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under Section 409 of the Clean Air Act.

Reviewing Authority• Repealed.

Secondary Emissions• emissions that 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. For the purposes of this definition, *secondary emissions* must be specific, well defined, and quantifiable, and impact the same general areas as the stationary source modification that causes the secondary emissions. *Secondary emissions* include emissions from any offsite support facility that 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 that come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Significant• •

a. 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	Emission Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Particulate matter	25 tpy of particulate emissions
	15 tpy of PM_{10} emissions
Ozone	40 tpy of volatile organic compounds
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H_2S)	10 tpy
Total reduced sulfur (including H_2S)	10 tpy
Reduced sulfur compounds (including H_2S)	10 tpy
Municipal waste combustor organics[1]	0.0000035 tpy
Municipal waste combustor metals[2]	15 tpy
Municipal waste combustor acid gases[3]	40 tpy
Municipal solid waste landfills emissions[4]	50 tpy

[1]Measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.
[2]Measured as particulate matter.
[3]Measured as sulfur dioxide and hydrogen chloride.
[4]Measured as nonmethane organic compounds.

b. in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that Subparagraph a of this definition does not list, any emissions rate;

c. notwithstanding Subparagraph a of this definition, any emissions rate or any net emissions increase associated with a major stationary source or major modification that would construct within 10 kilometers of a Class I area and have an impact on such area equal to or greater than 1μg/m^3 (24-hour average).

Significant Emissions Increase• for a regulated NSR pollutant, an increase in emissions that is *significant*, as defined in this Subsection, for that pollutant.

Stationary Source• any building, structure, facility, or installation that emits or may emit any pollutant subject to regulation under this Section.

Temporary Clean Coal Technology Demonstration Project• a clean coal technology demonstration project that is operated for a period of five years or less, and that complies with the State Implementation Plans 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.

C. Ambient Air Increments. In areas designated as Class I, II, or III, increases in pollutant concentration over the baseline concentration shall be limited to the following.

Pollutant	Maximum Allowable Increase (Micrograms per Cubic Meter)[1]
Class I	
Particulate matter:	
PM10, annual arithmetic mean	4
PM10, 24-hr maximum	8
Sulfur dioxide:	
Annual arithmetic mean	2
24-hr maximum	5
3-hr maximum	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5
Class II	
Particulate matter:	
PM10, annual arithmetic mean	17
PM10, 24-hr maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	512
Nitrogen dioxide:	
Annual arithmetic mean	25
Class III	
Particulate matter:	
PM10, annual arithmetic mean	34
PM10, 24-hr maximum	60
Sulfur dioxide:	
Annual arithmetic mean	40
24-hr maximum	182
3-hr maximum	700
Nitrogen dioxide:	
Annual arithmetic mean	50

[1]For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

D. Ambient Air Ceilings. No concentration of a pollutant shall exceed:

1. the concentration permitted under the national secondary ambient air quality standard; or

2. the concentration permitted under the national primary ambient air quality standard; whichever concentration is lowest for the pollutant for a period of exposure.

E. Restrictions on Area Classifications

1. All of the following areas that were in existence on August 7, 1977, shall be Class I areas and may not be redesignated:

a. international parks;

b. national wilderness areas that exceed 5,000 acres in size;

c. national memorial parks that exceed 5,000 acres in size; and

d. national parks that exceed 6,000 acres in size.

2. Areas that were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I, but may be redesignated as provided in this Section.

3. Any other area, unless otherwise specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in this Section.

4. The following areas may be redesignated only as Class I or II:

a. an area that as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, or a national lakeshore or seashore; and

b. a national park or national wilderness area established after August 7, 1977, that exceeds 10,000 acres in size.

F. Reserved.

G. Redesignation

1. All areas, except as otherwise provided under Subsection E of this Section, are designated Class II as of December 5, 1974. Redesignation, except as otherwise precluded by Subsection E of this Section, may be proposed by the respective states or Indian governing bodies, as provided below, subject to approval by the administrative authority as a revision to the applicable State Implementation Plan.

2. The state may submit to the administrator a proposal to redesignate areas of the state Class I or Class II, provided that:

a. at least one public hearing has been held in accordance with procedures established in 40 CFR 51.102;

b. other states, Indian governing bodies, and federal land managers whose lands may be affected by the proposed redesignation were notified at least 30 days prior to the public hearing;

c. a discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

d. prior to the issuance of notice respecting the redesignation of an area that includes any federal lands, the state has provided written notice to the appropriate federal land manager and afforded adequate opportunity (not in excess of 60 days) to confer with the state respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any federal land manager had submitted written comments and recommendations, the state shall have published a list of any inconsistency between such redesignation and such comments and recommendations, together with the reasons for making such redesignation against the recommendation of the federal land manager; and

e. the state has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

3. Any area other than an area to which Subsection E of this Section refers may be redesignated as Class III if:

a. the redesignation would meet the requirements of Paragraph G.2 of this Section;

b. the redesignation, except any established by an Indian governing body, has been specifically approved by the governor of the state, after consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session (unless state law provides that the redesignation must be specifically approved by state legislation) and if general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation;

c. the redesignation would not cause, or contribute to, a concentration of any air pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any national ambient air quality standard; and

d. any permit application for any major stationary source or major modification, subject to review under Subsection L of this Section, which could receive a permit under this Section only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available insofar as was practicable for public inspection prior to any public hearing on redesignation of the area as Class III.

4. Lands within the exterior boundaries of Indian reservations may be redesignated only by the appropriate Indian governing body. The appropriate Indian governing body may submit to the administrative authority a proposal to redesignate areas Class I, Class II, or Class III, provided that:

a. the Indian governing body has followed procedures equivalent to those required of a state under Paragraph G.2 and Subparagraphs G.3.c and d of this Section; and

b. such redesignation is proposed after consultation with the states in which the Indian reservation is located and which border the Indian reservation.

H. Stack Heights

1. The degree of emission limitation required for control of any air pollutant under this Section shall not be affected in any manner by:

a. so much of the stack height of any source as exceeds good engineering practice; or

b. any other dispersion technique.

2. Paragraph H.1 of this Section shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

I. Exemptions

1. The requirements of Subsections J-R of this Section shall not apply to a particular major stationary source or major modification if:

a. the major stationary source would be a nonprofit health or nonprofit educational institution or a major modification that would occur at such an institution; or

b. the source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, were considered in calculating the potential to emit of the stationary source or modification and such source does not belong to any following categories:

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 250 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;

xxvii. any other stationary source category that, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act; or

c. the source or modification is a portable stationary source that has previously received a permit under requirements equivalent to those contained in Subsections J-R of this Section, if:

i. the source proposes to relocate and emissions of the source at the new location would be temporary; and

ii. the emissions from the source would not exceed its allowable emissions; and

iii. the emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

iv. reasonable notice is given to the administrative authority prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the administrative authority not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the administrative authority.

2. The requirements of Subsections J-R of this Section shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under Section 107 of the Clean Air Act.

3. The requirements of Subsections K, M, and O of this Section shall not apply to a proposed major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a modification, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

4. The requirements of Subsections K, M, and O of this Section as they relate to any maximum allowable increase for a Class II area shall not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each a regulated NSR pollutant from the modification after the application of best available control technology would be less than 50 tons per year.

5. The administrative authority may exempt a stationary source or modification from the requirements of Subsection M of this Section, with respect to monitoring for a particular pollutant, if:

a. the emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts:

Carbon monoxide	575 $\mu g/m^3$	8-hour average
Nitrogen dioxide	14 $\mu g/m^3$	annual average
Particulate matter	10 $\mu g/m^3$ of PM_{10}	24-hour average
Sulfur dioxide	13 $\mu g/m^3$	24-hour average
Ozone	No *de minimis* air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis including the gathering of ambient air quality data.	
Lead	0.1 $\mu g/m^3$	3-month average
Fluorides	0.25 $\mu g/m^3$	24-hour average
Total reduced sulfur	10 $\mu g/m^3$	1-hour average
Hydrogen sulfide	0.2 $\mu g/m^3$	1-hour average
Reduced sulfur compounds	10 $\mu g/m^3$	1-hour average

b. the concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in Subparagraph I.5.a of this Section; or

c. the pollutant is not listed in Subparagraph I.5.a of this Section.

6. Reserved.

7. Reserved.

8. The permitting requirements of Paragraph K.2 of this Section shall not apply to a stationary source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted an application for a permit under this Section before the provisions embodying the maximum allowable increase took effect as part of the applicable State Implementation Plan and the permitting authority subsequently determined that the application as submitted before that date was complete.

9. The permitting requirements of Paragraph K.2 of this Section shall not apply to a stationary source or modification with respect to any maximum allowable increase for PM_{10} if:

a. the owner or operator of the source or modification submitted an application for a permit under this Section before the provisions embodying the maximum allowable increases for PM_{10} took effect in a State Implementation Plan to which this Section applies; and

b. the permitting authority subsequently determined that the application as submitted before that date was complete. Instead, the applicable requirements equivalent to Paragraph K.2 of this Section shall apply with respect to the maximum allowable increases for TSP as in effect on the date the application was submitted.

J. Control Technology Review

1. A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable emission standard and standard of performance under 40 CFR Parts 60 and 61.

2. A new major stationary source shall apply best available control technology for each regulated NSR pollutant that it would have the potential to emit in significant amounts.

3. A major modification shall apply best available control technology for each regulated NSR pollutant for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

4. For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time that occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

K. Source Impact Analysis. The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions, including secondary emissions, would not cause or contribute to air pollution in violation of:

1. any national ambient air quality standard in any air quality control region; or

2. any applicable maximum allowable increase over the baseline concentration in any area.

L. Air Quality Models

1. All estimates of ambient concentrations required under this Subsection shall be based on applicable air quality models, databases, and other requirements specified in Appendix W of 40 CFR Part 51 (Guideline on Air Quality Models).

2. Where an air quality model specified in Appendix W of 40 CFR Part 51 (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific state program. Written approval of the administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures developed in accordance with Subsection Q of this Section.

M. Air Quality Analysis

1. Preapplication Analysis

a. Any application for a permit under this Section shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

i. for the source, each pollutant that it would have the potential to emit in a significant amount;

ii. for the modification, each pollutant for which it would result in a significant net emissions increase.

b. With respect to any such pollutant for which no national ambient air quality standard exists, the analysis shall contain such air quality monitoring data as the administrative authority determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

c. With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

d. In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceding receipt of the application, except that, if the administrative authority determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period.

e. For any application that became complete, except as to the requirements of Subparagraphs M.1.c and d of this Section, between June 8, 1981 and February 9, 1982, the data that Subparagraph M.1.c of this Section requires shall have been gathered over at least the period from February 9,

1981, to the date the application became otherwise complete, except:

i. if the source or modification would have been major for that pollutant under 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over at least the period required by those regulations;

ii. if the administrative authority determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four months), the data that Subparagraph M.1.c of this Section requires shall have been gathered over at least that shorter period;

iii. if the monitoring data would relate exclusively to ozone and would not have been required under 40 CFR 52.21 as in effect on June 19, 1978, the administrative authority may waive the otherwise-applicable requirements of this Subsection to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

f. The owner or operator of a proposed stationary source or modification of volatile organic compounds who satisfies all conditions of 40 CFR Part 51, Appendix S, Section IV may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under Paragraph M.1 of this Section.

g. For any application that became complete, except as to the requirements of Subparagraphs M.1.c and d of this Section pertaining to PM_{10}, after December 1, 1988 and no later than August 1, 1989, the data that Subparagraph M.1.c of this Section requires shall have been gathered over at least the period from August 1, 1988, to the date the application becomes otherwise complete, except that if the administrative authority determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that Subparagraph M.1.c of this Section requires shall have been gathered over that shorter period.

h. With respect to any requirements for air quality monitoring of PM_{10} under Subparagraphs I.9.a and b of this Section, the owner or operator of the source or modification shall use a monitoring method approved by the administrative authority and shall estimate the ambient concentrations of PM_{10} using the data collected by such approved monitoring method in accordance with estimating procedures approved by the administrative authority.

2. Post-Construction Monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the administrative authority determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

3. Operations of Monitoring Stations. The owner or operator of a major stationary source or major modification shall meet the requirements of 40 CFR Part 58, Appendix B during the operation of monitoring stations for purposes of satisfying the requirements of this Subsection.

N. Source Information. The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under this Section.

1. With respect to a source or modification to which Subsections J, L, N, and P of this Section apply, such information shall include:

a. a description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

b. a detailed schedule for construction of the source or modification;

c. a detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that best available control technology would be applied.

2. Upon request of the administrative authority, the owner or operator shall also provide information on:

a. the air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

b. the air quality impacts, and the nature and extent of, any or all general commercial, residential, industrial, and other growth that has occurred since August 7, 1977, in the area the source or modification would affect.

O. Additional Impact Analyses

1. The owner or operator shall provide an analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

2. The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification.

3. Visibility Monitoring. The administrative authority may require monitoring of visibility in any federal Class I area near the proposed new stationary source for major modification for such purposes and by such means as the administrative authority deems necessary and appropriate.

P. Sources Impacting Federal Class I Areas• Additional Requirements

1. Notice to Federal Land Managers. The administrative authority shall provide written notice of any permit application for a proposed major stationary source or major modification, the emissions from which may affect a Class I area, to the federal land manager and the federal official charged with direct responsibility for management of any lands within any such area. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in the federal Class I area. The administrative authority shall also provide the federal land manager and such federal officials with a copy of the preliminary determination required under Subsection Q of this Section, and shall make available to them any materials used in making that determination, promptly after the administrative authority makes such determination. Finally, the

administrative authority shall also notify all affected federal land managers within 30 days of receipt of any advance notification of any such permit application.

2. Federal Land Manager. The federal land manager and the federal official charged with direct responsibility for management of such lands have an affirmative responsibility to protect the air quality-related values, including visibility, of such lands and to consider, in consultation with the administrative authority, whether a proposed source or modification will have an adverse impact on such values.

3. Visibility Analysis. The administrative authority shall consider any analysis performed by the federal land manager, provided within 30 days of the notification required by Paragraph P.1 of this Section, that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in any federal Class I area. Where the administrative authority finds that such an analysis does not demonstrate to the satisfaction of the administrative authority that an adverse impact on visibility will result in the federal Class I area, the administrative authority must, in the notice of public hearing on the permit application, either explain his decision or give notice as to where the explanation can be obtained.

4. Denial• Impact on Air Quality-Related Values. The federal land manager of any such lands may demonstrate to the administrative authority that the emissions from a proposed source or modification would have an adverse impact on the air quality-related values, including visibility, of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the administrative authority concurs with such demonstration, then he shall not issue the permit.

5. Class I Variances. The owner or operator of a proposed source or modification may demonstrate to the federal land manager that the emissions from such source or modification would have no adverse impact on the air quality-related values of any such lands, including visibility, notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the federal land manager concurs with such demonstration and he so certifies, the administrative authority, provided that the applicable requirements of this Section are otherwise met, may issue the permit with such emission limitations as may be necessary to ensure that emissions of sulfur dioxide, particulate matter, and nitrogen oxides would not exceed the following maximum allowable increases over minor source baseline concentration for such pollutants.

Pollutant	Maximum Allowable Increase (Micrograms per Cubic Meter)
Particulate matter:	
PM_{10}, annual arithmetic mean	17
PM_{10}, 24-hr maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

6. Sulfur Dioxide Variance by Governor with Federal Land Manager's Concurrence. The owner or operator of a proposed source or modification that cannot be approved under Paragraph P.4 of this Section may demonstrate to the governor that the source cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of 24 hours or less applicable to any Class I area and, in the case of federal mandatory Class I areas, that a variance under this Paragraph would not adversely affect the air quality-related values of the area, including visibility. The governor, after consideration of the federal land manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the administrative authority may issue a permit to such source or modification in accordance with the requirements of Paragraph P.7 of this Section, provided that the applicable requirements of this Section are otherwise met.

7. Variance by the Governor with the President's Concurrence. In any case where the governor recommends a variance in which the federal land manager does not concur, the recommendations of the governor and the federal land manager shall be transmitted to the President. The President may approve the governor's recommendation if he finds that the variance is in the national interest. If the variance is approved, the administrative authority may issue a permit in accordance with the requirements of this Paragraph, provided that the applicable requirements of this Section are otherwise met.

8. Emission Limitations for Presidential or Gubernatorial Variance. In the case of a permit issued in accordance with Paragraph P.5 or 6 of this Section, the source or modification shall comply with such emission limitations as may be necessary to ensure that emissions of sulfur dioxide from the source or modification would not, during any day on which the otherwise applicable maximum allowable increases are exceeded, cause or contribute to concentrations that would exceed the following maximum allowable increases over the baseline concentration and to ensure that such emissions would not cause or contribute to concentrations that exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period.

Maximum Allowable Increase [Micrograms per Cubic Meter]		
Period of Exposure	Terrain Areas	
	Low	High
24-hr maximum	36	62
3-hr maximum	130	221

Q. Public Participation

1. The administrative authority shall notify all applicants within 60 days after receipt of the application as to the completeness of the application or any deficiency in the application or information submitted. In the event of such a deficiency, the date of receipt of the application shall be the date on which the administrative authority received all required information.

2. Within one year after receipt of a complete application, the administrative authority shall:

a. make a preliminary determination whether construction should be approved, approved with conditions, or disapproved;

b. make available in at least one location in each region in which the proposed source 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;

c. notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for comment at a public hearing as well as written public comment;

d. send a copy of the notice of public comment to the applicant, the administrator, and officials and agencies having cognizance over the location where the proposed construction would occur, as follows:

i. any other state or local air pollution control agencies;

ii. the chief executives of the city and parish where the source would be located;

iii. any comprehensive regional land use planning agency; and

iv. any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the source or modification;

e. provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations;

f. consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing in making a final decision on the approvability of the application. The administrative authority shall make all comments available for public inspection in the same locations where the administrative authority made available preconstruction information relating to the proposed source or modification;

g. make a final determination whether construction should be approved, approved with conditions, or disapproved;

h. notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the administrative authority made available preconstruction information and public comments relating to the source.

R. Source Obligation

1. Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted in accordance with 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 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The administrative authority may extend the 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 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 enforceable limitation that 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 Subsections J-S of this Section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

5. Reserved.

6. The provisions of this Paragraph apply to projects at an existing emissions unit 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 and the owner or operator elects to use the method specified in Subparagraphs B.*Projected Actual Emissions*.a-c of this Section for calculating projected actual emissions.

a. 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 emission units 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 Subparagraph B.*Projected Actual Emissions*.c of this Section and an explanation for why such amount was excluded, and any netting calculations, if applicable.

b. 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 Subparagraph R.6.a of this Section to the administrative authority. Nothing in this Subparagraph shall be construed to require the owner or operator of such a unit to obtain any determination from the administrative authority before beginning actual construction.

c. 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 unit identified in Clause R.6.a.ii of this Section, and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years

following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at such emissions unit.

d. If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the administrative authority within 60 days after the end of each year during which records must be generated under Subparagraph R.6.c of this Section setting out the unit's annual emissions during the calendar year that preceded submission of the report.

e. 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 administrative authority if the annual emissions, in tons per year, from the project identified in Subparagraph R.6.a of this Section, exceed the baseline actual emissions, as documented and maintained in accordance with Clause R.6.a.iii of this Section, by a significant amount, as defined in Subsection B.*Significant* of this Section, for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained in accordance with Clause R.6.a.iii of this Section. Such report shall be submitted to the administrative authority within 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 in accordance with Subparagraph R.6.c of this Section; and

iii. any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

7. The owner or operator of the source shall make the information required to be documented and maintained in accordance with Paragraph R.6 of this Section available for review upon a request for inspection by the administrative authority or the general public in accordance with the requirements contained in 40 CFR 70.4(b)(3)(viii).

S. Reserved.

T. Reserved.

U. Reserved.

V. Innovative Control Technology

1. An owner or operator of a proposed major stationary source or major modification may request the administrative authority in writing, no later than the close of the comment period under Subsection Q.2.e of this Section, to approve a system of innovative control technology.

2. The administrative authority may, with the consent of the governor of affected states, determine that the source or modification may employ a system of innovative control technology, if:

a. the proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

b. the owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Paragraph J.2 of this Section by a date specified by the administrative authority. Such date shall not be later than four years from the time of startup or seven years from permit issuance;

c. the source or modification would meet the requirements of Subsections J and K of this Section, based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the administrative authority;

d. the source or modification would not, before the date specified by the administrative authority:

i. cause or contribute to a violation of an applicable national ambient air quality standard; or

ii. impact any area where an applicable increment is known to be violated;

e. the provisions of Subsection P of this Section, relating to Class I areas, have been satisfied with respect to all periods during the life of the source or modification;

f. all other applicable requirements including those for public participation have been met.

3. The administrative authority shall withdraw any approval to employ a system of innovative control technology made under this Subsection, if:

a. the proposed system fails by the specified date to achieve the required continuous emissions reduction rate;

b. the proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

c. the administrative authority decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

4. If a source or modification fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with Paragraph V.3 of this Section, the administrative authority may allow the source or modification up to an additional three years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

W. Permit Rescission

1. Any permit issued under this Section or a prior version of this Section shall remain in effect, unless and until it expires under Subsection R of this Section or is rescinded.

2. Any owner or operator of a stationary source or modification who holds a permit for the source or modification that was issued under 40 CFR 52.21 as in effect on July 30, 1987, or any earlier version of this Section, may request that the administrative authority rescind the permit or a particular portion of the permit.

3. The administrative authority shall grant an application for rescission if the application shows that this Section, as it existed at the time the permit was issued, would not apply to the source or modification.

4. If the administrative authority rescinds a permit under this Subsection, the public shall be given adequate notice of the rescission. Publication of an announcement of rescission in a newspaper of general circulation in the affected region within 60 days of the rescission shall be considered adequate notice.

X. Reserved.

Y. Reserved.

Z. Reserved.

AA. Actuals PALs. The following provisions govern actuals PALs.

1. Applicability

a. The administrative authority may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements of this Subsection. The term "PAL" shall mean "actuals PAL" throughout this Subsection.

b. 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 of this Subsection, and complies with the PAL permit:

i. is not a major modification for the PAL pollutant;

ii. does not have to be approved through the PSD program; and

iii. is not subject to the provisions in Paragraph R.4 of this Section (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major NSR program).

c. Except as provided under Clause AA.1.b.iii of this Section, 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. For the purposes of this Subsection, the following definitions apply. When a term is not defined in this Paragraph, it shall have the meaning given in Subsection B of this Section or in the Clean Air Act.

a. *Actuals PAL*• a PAL for a major stationary source based on the *baseline actual emissions*, as defined in Subsection B of this Section, of all *emissions units*, as defined in Subsection B of this Section, at the source that emit or have the potential to emit the PAL pollutant.

b. *Allowable Emissions*• as defined in Subsection B of this Section, except for the following modifications.

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 Subsection B of this Section, except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

c. *Major Emissions Unit*• •

i. any emissions unit that emits or has the potential to emit 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 50 or more tons of VOC per year.

d. *Plantwide Applicability Limitation* (PAL)• 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 this Subsection.

e. *PAL Effective Date*• generally, the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

f. *PAL Effective Period*• the period beginning with the PAL effective date and ending 10 years later.

g. *PAL Major Modification*• 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, notwithstanding the definitions for *major modification* and *net emissions increase* in Subsection B of this Section.

h. *PAL Permit*• the major NSR permit, the minor NSR permit, or the state operating permit under a program that is approved into the State Implementation Plan or the Title V permit issued by the administrative authority that establishes a PAL for a major stationary source.

i. *PAL Pollutant*• the pollutant for which a PAL is established at a major stationary source.

j. *Significant Emissions Unit*• 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 Subsection B of this Section 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 Subparagraph AA.2.c of this Section.

k. *Small Emissions Unit*• 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 Subsection B of this Section or in the Clean Air Act, whichever is lower.

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 administrative authority 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 12-month rolling total for each month as required by Subparagraph AA.13.a of this Section.

4. General Requirements for Establishing PALs

a. The administrative authority is allowed to establish a PAL at a major stationary source, provided that at a minimum, the following requirements 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 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 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 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 AA.5 of this Section.

iii. The PAL permit shall contain all the requirements of Paragraph AA.7 of this Section.

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 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 AA.12-14 of this Section 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 that occur during the PAL effective period creditable as decreases for purposes of offsets under 40 CFR 51.165(a)(3)(ii) 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 Requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with 40 CFR 51.160 and 51.161. This includes the requirement that the administrative authority provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The administrative authority 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 Subparagraph AA.6.b of this Section, the actuals PAL level for a major stationary source shall be established as the sum of the *baseline actual emissions*, as defined in Subsection B of this Section, of the PAL pollutant for each emissions unit at the source, plus an amount equal to the applicable *significant* level for the PAL pollutant, as defined in Subsection B of this Section, or in the Clean Air Act, whichever is lower. When establishing the actuals PAL level for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The administrative authority shall specify a reduced PAL level (in tons/yr) in the PAL permit to become effective on the future compliance date of any applicable federal or state regulatory requirement that the administrative authority 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 60 ppm NO_x to a new rule limit of 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.

b. For newly-constructed units, which do not include modifications to existing units, on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in Subparagraph AA.6.a of this Section, 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 shall contain, at a minimum, the following information:

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 AA.10 of this Section before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period, but shall remain in effect until a revised PAL permit is issued by an administrative authority;

d. a requirement that emission calculations for compliance purposes must 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 AA.9 of this Section;

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 12-month rolling total as required by Subparagraph AA.13.a of this Section;

g. a requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Paragraph AA.12 of this Section;

h. a requirement to retain the records required under Paragraph AA.13 of this Section on site. Such records may be retained in an electronic format;

i. a requirement to submit the reports required under Paragraph AA.14 of this Section by the required deadlines;

j. any other requirements that the administrative authority deems necessary to implement and enforce the PAL.

8. PAL Effective Period and Reopening of the PAL Permit

a. PAL Effective Period. The administrative authority shall specify a PAL effective period of 10 years.

b. Reopening of the PAL Permit

i. During the PAL effective period, the administrative authority must reopen the PAL permit to:

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

(b). reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under 40 CFR 51.165(a)(3)(ii); and

(c). revise the PAL to reflect an increase in the PAL as provided under Paragraph AA.11 of this Section.

ii. The administrative authority shall have discretion to reopen the PAL permit in order to:

(a). reduce the PAL to reflect newly applicable federal requirements (e.g., NSPS) with compliance dates after the PAL effective date;

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

(c). reduce the PAL if the administrative authority 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 Subclause AA.8.b.i.(a) of this Section 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 AA.5 of this Section.

9. Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in Paragraph AA.10 of this Section shall expire at the end of the PAL effective period, and the following requirements 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 following procedures.

i. Within the time frame specified for PAL renewals in Subparagraph AA.10.b of this Section, 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 administrative authority, 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 Subparagraph AA.10.e of this Section, such distribution shall be made as if the PAL had been adjusted.

ii. The administrative authority 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 administrative authority determines is appropriate.

b. Each emissions unit shall comply with the allowable emission limitation on a 12-month rolling basis. The administrative authority may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

c. Until the administrative authority issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under Clause AA.9.a.ii of this Section, 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 major NSR requirements if such change meets the definition of *major modification* in Subsection B of this Section.

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 in accordance with Paragraph R.4 of this Section, but were eliminated by the PAL in accordance with the provisions in Clause AA.1.b.iii of this Section.

10. Renewal of a PAL

a. The administrative authority shall follow the procedures specified in Paragraph AA.5 of this Section 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 administrative authority.

b. Application Deadline. A major stationary source owner or operator shall submit a timely application to the administrative authority to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 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 following information:

i. the information required in Subparagraphs AA.3.a-c of this Section;

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 administrative authority to consider in determining the appropriate level for renewing the PAL.

d. PAL Adjustment. In determining whether and how to adjust the PAL, the administrative authority shall consider the options outlined in Clauses AA.10.d.i and ii of this Section. However, in no case may any such adjustment fail to comply with Clause AA.10.d.iii of this Section.

i. If the emissions level calculated in accordance with Paragraph AA.6 of this Section is equal to or greater than 80 percent of the PAL level, the administrative authority may renew the PAL at the same level without considering the factors set forth in Clause AA.10.d.ii of this Section.

ii. The administrative authority may set the PAL at a level that he or she determines to be more representative of the source's baseline actual emissions, or that he or she determines to be more 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 administrative authority in his or her written rationale.

iii. Notwithstanding Clauses AA.10.d.i and ii of this Section:

(a). if the potential to emit of the major stationary source is less than the PAL, the administrative authority shall adjust the PAL to a level no greater than the potential to emit of the source; and

(b). the administrative authority shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of Paragraph AA.11 of this Section regarding 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 administrative authority 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 administrative authority may increase a PAL emission limitation only if the major stationary source complies with the following provisions.

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 units 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 units, 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 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 shall obtain a major NSR permit for all emissions units identified in Clause AA.11.a.i of this Section, regardless of the magnitude of the emissions increase resulting from them (i.e., no significant levels apply). These emissions units shall comply with any emissions requirements resulting from the major NSR process (e.g., BACT), 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 administrative authority 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 Clause AA.11.a.ii of this Section, 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 in accordance with the public notice requirements of Paragraph AA.5 of this Section.

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 Clauses AA.12.b.i-iv of this Section and must be approved by the administrative authority.

iii. Notwithstanding Clause AA.12.a.ii of this Section, the owner or operator may also employ an alternative monitoring approach that meets the requirements of Clause AA.12.a.i of this Section if approved by the administrative authority.

iv. Failure to use a monitoring system that meets the requirements of this Paragraph 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 Subparagraphs AA.12.c-i of this Section:

i. mass balance calculations for activities using coatings or solvents;

ii. CEMS;

iii. CPMS or 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 shall use the highest value of the range to calculate the PAL pollutant emissions unless the administrative authority 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 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 parameters 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 15 minutes, or at another less frequent interval approved by the administrative authority, 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 months of PAL permit issuance, unless the administrative authority 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 Subparagraphs AA.12.c-g of this Section, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, the administrative authority shall, at the time of permit issuance:

i. establish default values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating points; or

ii. determine that operation of the emissions unitduring operating conditions when there is no correlation between monitored parameters and the PAL pollutant emissions is a violation of the PAL.

i. Revalidation. All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the administrative authority. Such testing must occur at least once every five 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 Subsection AA of this Section and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five 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 years:

i. a copy of the PAL permit application and any applications for revisions to the PAL; and

ii. each annual certification of compliance in accordance with Title V of the Clean Air Act and the data relied on in certifying the compliance.

14. Reporting and Notification Requirements. The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the administrative authority in accordance with the applicable Title V operating permit program. The reports shall meet the following requirements.

a. Semiannual Report. The semiannual report shall be submitted to the administrative authority within 30 days of the end of each reporting period. This report shall contain the following information:

i. the identification of the owner or operator and the permit number;

ii. total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded in accordance with Subparagraph AA.13.a of this Section;

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 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 Subparagraph AA.12.g of this Section;

vii. a signed statement by the responsible official, as defined by the applicable Title V operating permit program, 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 in accordance with 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 the owner or 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 the applicable Title V operating permit program, certifying the truth, accuracy, and completeness of the information provided in the report.

c. Revalidation Results. The owner or operator shall submit to the administrative authority the results of any revalidation test or method within three months after completion of such test or method.

15. Transition Requirements

a. No administrative authority may issue a PAL that does not comply with the requirements of this Subsection after the administrator has approved regulations incorporating these requirements into the State Implementation Plan.

b. The administrative authority may supersede any PAL that was established prior to the date of approval of the State Implementation Plan by the administrator with a PAL that complies with the requirements of this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:

Herman Robinson, CPM
Executive Counsel

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POTPOURRI

Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Barrett Properties	Joyce	S	Tremont	9	108622 (28)
Rollar Oil Co., Inc.	Paradis	L	Bowie Land & Lumber Company	1	139597 (28)
Rollar Oil Co., Inc.	Paradis	L	Bowie Land & Lumber Company	1D	140449 (28)
Charles W. Tschirn	Golden Meadow	L	PN & P et al	5	23052
Charles W. Tschirn	Golden Meadow	L	PN & P et al	7	23151
Plymouth Oil Company	Bayou Pigeon	L	Emily G Tilly	1	25051
W. L. Estis	South Bell City	L	Arvin Fonenot et al B Gas Unit	1	49486
W. L. Estis	Fausse Pointe	L	J D Broussard et al	2	054026 (30)
Techeland Oil Corporation	Charenton	L	W C Hertel et al	9	023408
Great Southern Oil & Gas Co., Inc.	Anse La Butte	L	Breaux et al	7	201390 (30)
Cardinal Drlg Co.	Monroe	M	Wd Evans	1	90750
Mitchell & Martin	Wildcat-So LA	L	Georgia-Pacific	1	175805
Southwest Oil Properties; Inc.	Port Barre	L	H L Garland (South) Swd	6	023986 (30)
Southwest Oil Properties; Inc.	Section 28	L	E C Stuart	2	187277
Dan Nitschke	Sligo	S	Rod Ra Sup; Welch A	1	208484
Kilroy Co. Of Texas; Inc.	Hog Bayou	L	Carter-Rutherford Heirs	1	100321

James H. Welsh
Commissioner

0509#029

POTPOURRI

Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et. seq., notice is given that 13 claims in the amount of $46,484.78 were received for payment during the period July 1, 2005 - August 31, 2005.