ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AIR DIVISION
ADMINISTRATIVE CODE

CHAPTER 335-3-14
AIR PERMITS

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335-3-14-.01 General Provisions.

(1) Air Permit.

(a) Any person building, erecting, altering, or replacing any article, machine, equipment, or other contrivance, the use of which may cause the issuance of or an increase in the issuance of air contaminants or the use of which may eliminate or reduce or control the issuance of air contaminants, shall submit an application for an Air Permit at least 10 days prior to construction.

(b) Before any article, machine, equipment, or other contrivance described in subparagraph (a) of this paragraph may be operated or used, authorization shall be obtained from the Director in the form of an Air Permit. No Permit shall be granted for any article, machine, equipment or contrivance described in subparagraph (a) of this paragraph, constructed or installed without notification as required by subparagraph (a) of this paragraph, until the information required is presented to the Director and such article, machine, equipment or contrivance is altered, if necessary, and made to conform to the standards established by the Department.

(c) Any article, machine, equipment, or other contrivance described in subparagraph (a) of this paragraph which is

presently operating (or which is not presently operating but which is capable of being operated) without an Air Permit may continue to operate (or may restart) only if its owner or operator obtains an Air Permit prior to a date to be set by the Director (or prior to restarting).

(d) Display of Air Permit. A person who has been granted an Air Permit for any article, machine, equipment, or other contrivance shall keep such permit under file or on display at all times at the site where the article, machine, equipment, or other contrivance is located and will make such a permit readily available for inspection by any and all persons who may request to see it.

(e) The Director shall have the authority to decide cases where an article, machine, equipment, or other contrivance is not clearly subject to nor exempt from the application of this Rule. In addition, the Director may rule that a particular article, machine, equipment, or other contrivance is subject to the application of this Rule even though it is exempt from the system according to subparagraph (a) of this paragraph and paragraph (5) of this Rule. The operator or builder of such an article, machine, equipment, or other contrivance may appeal the Director's classification to the Commission, which shall overrule the Director only if it is shown that he acted arbitrarily and contrary to the purposes of the Act.

(f) Upon completion of construction by a new facility, the Director shall, within a reasonable period of time, dispatch an inspector to the facility in question. If the inspector determines that the facility has been constructed according to the specifications as set forth under the Air Permit or that any changes to the facility would reduce or affect to an insubstantial degree that quantity of air contaminants emitted by the facility, and if a reviewing officer of the Division agrees with this conclusion, then the Director shall authorize initial operation of the facility until an official inspection of the facility under actual operating conditions can be made and the results reviewed or until the Air Permit is suspended or revoked by the Director. The Director may authorize initial operation of the facility without an inspection if upon completion of the construction, an owner or operator familiar with the application for an Air Permit submits a letter to the Director, testifying that the construction under application has been completed and is in accordance with the specification as set down in the Air Permit. The Director is empowered to reject that testimony if the Director decides that the owner or operator's qualifications are insufficient to allow him to accurately and completely assess the equipment in question. An owner or operator may appeal any such judgment to the Commission.

(g) The Director may issue an Air Permit subject to conditions which will bring the operation of any article, machine, equipment, or other contrivance within the standards of Rule 335-3-14-.03(1) in which case the conditions shall be specified in writing. Commencing construction or operation under such an Air Permit shall be deemed acceptance of all the conditions specified. The Director shall issue an Air Permit with revised conditions upon receipt of a new application, if the applicant demonstrates that the article, machine, equipment, or other contrivance can operate within the standards of Rule 335-3-14-.03(1) under the revised conditions.

(h) Reserved.

(i) Reserved.

(j) Reserved.

(k) An existing facility which holds a Synthetic Minor Operating Permit issued under Chapter 335-3-15 or an Operating Permit issued under Chapter 335-3-16 is exempt from the requirements of this chapter provided that:

1. the Synthetic Minor Operating Permit is modified as required by Chapter 335-3-15 prior to the initial operation of any new or modified sources, or

2. the Operating Permit is modified as required by Chapter 335-3-16 and any modifications are not subject to the requirements of Rule 335-3-14-.04, or

3. for a modification which is subject to the requirements of Rule 335-3-14-.04, the Operating Permit is issued prior to commencement of construction of the modification, and the Operating Permit fulfills all requirements of Rule 335-3-14-.04, or

4. the Operating Permit is modified as required by Chapter 335-3-16 and any modifications are not subject to the requirements of Rule 335-3-14-.05, or

5. for a modification which is subject to the requirements of Rule 335-3-14-.05, the Operating Permit is issued prior to commencement of construction of the modification, and the Operating Permit fulfills all requirements of Rule 335-3-14-.05.

(2) Provision of Sampling and Testing Facilities. A person operating or using any article, machine, equipment or other contrivance for which these rules and regulations require a permit shall provide and maintain such sampling and testing facilities as specified in the Air Permit.

(3) The holder of a Permit under this Rule shall comply with conditions contained in such Permit as well as all applicable provisions of these rules and regulations.

(4) Transfer. An Air Permit shall not be transferable whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another.

(5) Exemptions. From time to time the Director may specify certain classes or sizes of articles, machines, equipment, or other contrivances which would normally be subject to the requirements to apply for an Air Permit as being exempt from the requirement to apply for such permits. Exempt sources are subject in every other way to these rules and regulations.

(6) Delegation of Air Permit requirements to Local Air Pollution Control Programs.

(a) Local air pollution control programs may receive delegation of authority from the Director to administer the general Air Permit requirements of paragraph (1) of this Rule within their jurisdiction provided the local air pollution control program:

1. adopts regulations insuring applicants are required to satisfy the same requirements as contained in the Department's regulations; and

2. adopts regulations which require the Director to be provided with an opportunity to review the permit application, the analysis of the permit, and proposed permit conditions at least 10 days prior to issuance of an Air Permit.

(b) Local air pollution control programs may receive delegation of authority from the Director to administer the Air Permit requirements of Rules 335-3-14-.05 and 335-3-14-.04 within their jurisdiction provided:

1. the requirements of subparagraph (a)1. of this paragraph are met; and

2. the local air pollution control program demonstrates that it has the necessary manpower and technical expertise to implement the requirements of said regulations; and

3. the local air pollution control program adopts regulations which require that the local air pollution control program shall provide the Director a copy of preliminary determinations and public comment notices for

all permits issued pursuant to Rules 335-3-14-.05 and 335-3-14-.04 before the notice is issued.

(c) If the Director of ADEM determines that local program procedures for implementing all the portions of Rules 335-3-14-.01(1), 335-3-14-.04, and 335-3-14-.05 are inadequate, or are not being effectively carried out, any authority delegated to the local programs to administer Rules 335-3-14-.01(1), 335-3-14-.04, and 335-3-14-.05 may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the local air pollution control program.

(d) The Director reserves the authority contained in Rule 335-3-14-.02(4), to revoke any Air Permit issued pursuant to this Rule.

(e) Any Air Permit issued by a local air pollution control program, including all conditions contained therein, is enforceable by the ADEM.

(7) Public Participation.

(a) Notice shall be given under the following circumstances:

1. Construction at a Greenfield Site.

(i) For the purposes of this paragraph, a "Greenfield Site" shall mean a new development or the initial operation of a new facility.

2. The Director, at his discretion, may require Public Notification for any application received in accordance with subparagraph (1)(a) of this Rule.

(b) Notices issued in accordance with rule 335-3-14-.01(7) (a) shall be posted for the duration of the public comment period on the Department’s web site, and shall include:

1. A notice of availability of the proposed permit for public comment;

2. A link to the proposed permit; and,

3. Information on how to access the administrative record for the proposed permit on the Department’s web site.

(c) Notices issued in accordance with 335-3-14-.02(7)(a) shall also be transmitted to a list developed by the Department for persons desiring notice of permit action, including persons who have requested in writing to be on such a list.

(d) Public comments will be received by the Department for a period of 15 days following the posting of the public notice.

(e) Public Notice will be held in accordance with the requirements of Rules 335-3-14-.04, 335-3-14-.05, or 335-3-14-.06 for any application which is subject to the requirements of Rules 335-3-14-.04, 335-3-14-.05, or 335-3-14-.06, respectively.

(f) Construction of any article, machine, equipment, or other contrivance as described in subparagraph (1)(a) of this Rule shall not commence until after an Air Permit is issued if a public notice is required under this Rule.

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335-3-14-.02 Permit Procedure.

(1) Applications. Every application for an Air Permit required under Rule 335-3-14-.01(1) shall be filed in the manner and form prescribed by the Director and shall give all the information necessary to enable the Director to make the determination required by Rule 335-3-14-.03.

(a) Cancellation of Applications. An Air Permit authorizing construction shall expire and the application shall be canceled two years from the date of issuance of the Air Permit if the construction has not begun.

(2) Action on Application. The Director shall act, within a reasonable time, on an application for an Air Permit and shall notify the applicant in writing of its approval, conditional approval, or denial.

(3) Denial of Application. In the event of a denial of an Air Permit, the Director shall notify the applicant in writing of the reason therefor. Service of this notification may be made in person or by mail, and such service may be proved by the written acknowledgment of the persons served or affidavit of the person making the service. The Director shall not accept a further application unless the applicant has complied with the objections specified by the Director as its reasons for denial of the Air Permit.

(4) Revocation of Air Permits. Any Air Permit granted by the Director may be revoked for any of the following causes:

(a) failure to comply with any conditions of the permit;

(b) failure to notify the Director prior to intended use or operation of any article, machine, equipment, or other contrivance described in Rule 335-3-14-.01(1)(a);

(c) failure to establish and maintain such records, make such reports, install, use and maintain such monitoring equipment or methods; and sample such emissions in accordance with such methods at such locations, intervals and procedures as the Director may prescribe in accordance with Rule 335-3-1-.04(2);

(d) failure to comply with any provisions of any Departmental administrative order issued concerning the permitted source or facility.

(e) failure to allow employees of the Department upon proper identification:

1. to enter any premises where any article, machine, equipment, or other contrivance described in Rule 335-3-14-.01(1) is located or in which any records are required to be kept under provisions of the permit and/or the rules and regulations;

2. to have access to and copy any records required to be kept under provisions of the permit and/or the rules and regulations;

3. to inspect any monitoring equipment or practices being maintained pursuant to the permit and/or rules and regulations; and

4. to have access to and sample any discharge of air contaminants resulting directly or indirectly from the operation of any article, machine, equipment, or other contrivance described in Rule 335-3-14-.01(1).

(f) failure to comply with the rules and regulations of the Department.

(g) for any other cause, after a hearing which establishes, in the judgment of the Department, that continuance of the permit is not consistent with the purpose of the Alabama Air Pollution Control Act or regulations under it.

(5) Expiration of Air Permits. Air Permits shall expire immediately following:

(a) the issuance of a Synthetic Minor Operating Permit required by Chapter 335-3-15 or an Operating Permit required by Chapter 335-3-16 which pertains to the article, machine, equipment, or other contrivance regulated by the Air Permit.

(b) the final denial of a Synthetic Minor Operating Permit required by Chapter 335-3-15 or an Operating Permit required by Chapter 335-3-16 which pertains to the article, machine equipment, or other contrivance regulated by the Air Permit.

(c) the failure of a facility to apply for a Synthetic Minor Operating Permit or modification to an existing Synthetic Minor Operating Permit as required by Chapter 335-3-15 or the failure of a facility to apply for an Operating Permit or modification to an existing Operating Permit as required by Chapter 335-3-16.

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335-3-14-.03 Standards For Granting Permits.

(1) General Standards.

(a) The Director shall deny a permit if the applicant does not show that every article, machine, equipment, or other contrivance, the use of which may cause the issuance of air contaminants, is so designed, controlled, or equipped with such air pollution control equipment, that it may be expected to operate without emitting or without causing to be emitted air contaminants in violation of these rules and regulations.

(b) The Director shall deny a permit if the applicant does not present, in writing, a plan whereby the emission of air contaminants by every article, machine, equipment, or other contrivance described in the permit application, will be reduced during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency in accordance with the provisions of Chapter 335-3-2, where such a plan is required.

(c) Before an Air Permit is granted, the Director may require the applicant to provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity or

degree of air contaminants discharged into the atmosphere from the article, machine, equipment, or other contrivance described in the Air Permit. In the event of such a requirement, the Director shall notify the applicant in writing of the required size, number, and location of the sampling platform; the access to the sampling platform; and the utilities for operating and sampling and testing equipment.

(d) The Director may also require the applicant to install, use, and maintain such monitoring equipment or methods; sample such emissions in accordance with such methods, at such locations, intervals, and procedures as may be specified; and provide such information as the Director may require.

(e) Before acting on an application for an Air Permit, the Director may require the applicant to furnish further information or further plans or specifications.

(f) If the Director finds that the article, machine, or other contrivance has been constructed not in accordance with the Air Permit, and if the changes noted are of a substantial nature in that the amount of air contaminants emitted by the article, machine, equipment, or other contrivance may be increased, or in that the effect is unknown, then he shall revoke the Air Permit. The Director shall not accept any further application for an Air Permit until the article, machine, equipment, or other contrivance has been reconstructed in accordance with said Air Permit or until the applicant has proven to the satisfaction of the Director that the change will not cause an increase in the emission of air contaminants.

(g) The Director shall deny an Air Permit where he determines that the construction and operation of such source will interfere with attaining or maintaining any primary or secondary standard established by Rule 335-3-1-.03(1). A new source or modification will be considered to interfere with attaining or maintaining a standard when such source or modification would, at a minimum, exceed the following significance levels at any locality that does not or would not meet the NAAQS:

Pollutant	**Annual**	**24 hours**	**8 hours**	**3 hours**	**1 hour**
SO_2	1.0 $\mu g/m^3$	5 $\mu g/m^3$		25 $\mu g/m^3$	
PM_{10}	1.0 $\mu g/m^3$	5 $\mu g/m^3$			
$PM_{2.5}$	0.3 $\mu g/m^3$	1.2 $\mu g/m^3$			
NO_2	1.0 $\mu g/m^3$				
CO			0.5 mg/m^3		2 mg/m^3

1. A proposed major source or major modification subject to this Paragraph may reduce the impact of its emissions upon air quality by obtaining sufficient emissions reductions to, at a minimum, compensate for its adverse ambient impact where this impact would otherwise cause or contribute to a violation of any national ambient air quality standard or exceed the significance levels of subparagraph (g). of this paragraph above. In the absence of such emission reductions, the Director shall deny the proposed construction.

2. The requirements of subparagraph (g) of this paragraph 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 pursuant to Section 107 of the federal Clean Air Act.

(h) Exceptions to violations of emissions limits.

1. The Director may, in the Air Permit, exempt on a case by case basis any exceedances of emission limits which cannot reasonably be avoided, such as during periods of start-up, shut-down or load change.

2. Emergency provision.

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

(ii) Exceedances of emission limitations during emergencies (as defined above) at a facility may be exempted as being violations provided that:

(I) the permittee can identify the cause(s) of the emergency;

(II) the permitted facility was at the time being properly operated;

(III) during the period of the emergency, the permittee took all reasonable steps to minimize

levels of emissions that exceeded the emission standards, or other requirements of the permit;

(IV) the permittee submitted notice of the emergency to the Department within 2 working days of the time when the emissions limitations were exceeded due to the emergency; and

(V) the permittee immediately documented the emergency exceedance in an "Emergency Log", which shall be maintained for 5 years in a form suitable for inspection upon request by a representative of the Department.

(iii) The Director shall be the sole determiner of whether an emergency has occurred.

(iv) This provision is in addition to any emergency or upset provision contained in any applicable requirement.

(i) A determination may be made by the Director to deny a permit application if the applicant operates other permitted facilities or sources within the state which are in substantial noncompliance as determined by the Director, until such noncompliance is corrected or if the Director determines that a permit that results in compliance with applicable air pollution control standards could not be issued, or if issued, could not be complied with.

(2) Stack Heights.

(a) Definitions. For purposes of this paragraph, the following words and phrases, unless a different meaning is plainly required by the context, shall have the following meanings:

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

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

3. "A stack in existence" means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack

or (2) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

4. "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

(i) Using that portion of a stack which exceeds good engineering practice stack height;

(ii) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

(iii) Increasing final exhaust gas plume rise by manipulating source-process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

(iv) The preceding sentence does not include:

(I) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(II) The merging of exhaust gas streams where:

I. The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams:

II. After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

III. Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where

there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Director shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Director shall deny credit for the effects of such merging in calculating the allowable emissions for the source:

(III) Smoke management in agricultural or silvicultural prescribed burning programs:

(IV) Episodic restrictions on residential woodburning and open burning; or

(V) Techniques under subparagraph (a)4.(iii) of this paragraph which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

5. "Good engineering practice" (GEP) stack height means the greater of:

(i) 65 meters measured from the ground-1evel elevation at the base of the stack:

(ii) For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required under 40 CFR 51 and 52, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation;

$$H_g = 2.5H$$

(I) For all other stacks,

$$H_g = H + 1.5L$$

where:

H_g = good engineering practice stack height measured from the ground-1evel elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground-1evel elevation at the base of the stack,

L = lesser dimension, height or projected width of nearby structure(s), provided that the Director may require the use of a field study or fluid model to verify GEP stack height for the source; or

(iii) The height demonstrated by a fluid model or a field study approved by the Director, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

6. "Nearby" as used in subparagraph (a)5. of this paragraph is defined for a specific structure or terrain feature and

(i) for purposes of applying the formulas provided in subparagraph (a)5.(ii) of this paragraph means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (½ mile); and

(ii) for conducting demonstrations under subparagraph (a)5.(iii) of this paragraph means not greater than 0.8 km (½ mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (ht) of the feature, not to exceed 2 miles if such feature achieves a height (ht) 0.8 km from the stack that is at least 40 percent of the GEP stack height determined by the formula provided in subparagraph (a)5.(ii)(I) of this paragraph or 26 meters, whichever is greater, as measured from the ground-1evel elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-1evel elevation at the base of the stack.

7. "Excessive concentration" is defined for the purpose of determining GEP stack height under subparagraph (a)5. (iii) of this paragraph and means:

(i) for sources seeking credit for stack height exceeding that established under subparagraph (a)5. (ii) of this paragraph, a maximum ground-1evel concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects

produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than a NAAQS. For sources subject to the PSD program (Rule 335-3-14-.04), an excessive concentration alternatively means a maximum ground-1evel concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emissions rate to be used in making demonstrations under this Rule shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator;

(ii) for sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under subparagraph (a)5.(ii) of this paragraph, either:

(I) a maximum ground-1evel concentration due in whole or part to downwash, wakes, or eddy effects as provided in subparagraph (a)7.(i) of this paragraph, except that the emission rate specified elsewhere in these regulations (or, in the absence of such a limit, the actual emission rate) shall be used, or

(II) the actual presence of a local nuisance caused by the existing stack, as determined by the Director; and

(iii) for sources seeking credit after January 12, 1979, for a stack height determined under subparagraph (a)5.(ii) of this paragraph where the Director requires that use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the

equations in subparagraph (a)5.(ii) of this paragraph, a maximum ground-1evel concentration due in whole or part to downwash, wakes, or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(b) Before acting on any Air Permit, the Director shall require that the degree of emission limitation required of any source for control of any air pollutants shall not be affected by so much of any source's stack height that exceeds GEP or by any other dispersion technique, except as provided in subparagraph (c) of this paragraph below.

(c) The provisions of subparagraph (b) above shall not apply to stack heights in existence, or dispersion techniques implemented, prior to December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in Section 111(a)(3) of the Clean Air Act, which were constructed, or reconstructed or for which major modifications, as defined pursuant to Rules 335-3-14-.05(2)(d) and 335-3-14-.04(2)(b), were carried out after December 31, 1970.

(d) If any existing source, after appropriate application of the preceding limitations and provisions, is found to exceed or potentially exceed a NAAQS or PSD increment, when operating within previously established emission limitations, the emissions limitations applicable to that source shall be modified so as to eliminate and prevent the exceedance.

(e) If any new source or source modification, after appropriate application of the preceding limitations and provisions, is predicted to exceed a NAAQS or PSD increment when evaluated under emission limitations consistent with other applicable rules and regulations, the emission limitations considered shall be deemed inadequate and different emission limits, based on air quality considerations, shall be made applicable.

(f) If any source provides a field study or fluid modeling demonstration proposing a GEP stack height greater than that allowed by subparagraphs (a)5.(i) and (a)5.(ii) of this paragraph, then the public will be notified of the availability of the study and provided the opportunity for a public hearing before any new or revised emission limitation or permit is approved.

(g) The actual stack height used or proposed by a source shall not be restricted in any manner by requirements of this paragraph.

Author: James W. Cooper, John E. Daniel, Ronald Gore

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335-3-14-.04 Air Permits Authorizing Construction In Clean Air Areas [Prevention Of Significant Deterioration Permitting (PSD)].

(1) Applicability.

(a) The requirements of this Rule apply to the construction of any new major stationary source (as defined in subparagraph (2)(a) of this Rule) 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.

(b) The requirements of paragraphs (9) through (17) of this Rule apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this Rule otherwise provides.

(c) No new major stationary source or major modification to which the requirements of paragraphs (9) through (17)(c) of this Rule apply shall begin construction without a permit that states that the major stationary source or major modification will meet those requirements.

(d) Except as otherwise provided in subparagraph (1)(j) of this Rule, and consistent with the definition of major modification contained in subparagraph (2)(b) of this Rule, a project is a major modification for a regulated NSR pollutant only if it causes two types of emissions increases - a significant emissions increase [as defined in subparagraph (2)(mm) of this Rule], and a significant net emissions increase [as defined in subparagraphs (2)(c) and (2)(w) of this Rule].

(e) Before beginning actual construction, the procedure for calculating whether a significant emissions increase will occur depends upon the type of emissions units being modified, according to subparagraphs (1)(f) through (i) of this Rule.

The procedure for calculating whether a significant net emissions increase will occur at the major stationary source is contained in the definition in subparagraph (2)(c) of this Rule. Regardless of any such preconstruction projections, a major modification can result only if the project causes a significant emissions increase and a significant net emissions increase.

(f) 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(s) between the projected actual emissions [as defined in subparagraph (2)(nn) of this Rule] and the baseline actual emissions [as defined in subparagraphs (2)(uu)1. and 2. of this Rule], for each existing emissions unit, equals or exceeds the significant rate for that pollutant [as defined in subparagraph (2)(w) of this Rule].

(g) Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit [as defined in subparagraph (2)(d) of this Rule] from each new emissions unit following completion of the project and the baseline actual emissions [as defined in subparagraph (2)(uu)3. of this Rule] of these units before the project equals or exceeds the significant rate for that pollutant [as defined in subparagraph (2)(w) of this Rule].

(h) Actual-to-potential 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(s) between the potential to emit [as defined in subparagraph (2)(d) of this Rule] and the actual emissions [as defined in subparagraph (2)(u) of this Rule], for each existing emissions unit, equals or exceeds the significant rate for that pollutant [as defined in subparagraph (2)(w) of this Rule].

(i) 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 (1)(f) through (h) of this Rule as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant rate for that pollutant [as defined in subparagraph (2)(w) of this Rule].

(j) Any major stationary source subject to a plantwide applicability limit (PAL), as defined in subparagraph (23)

(b)5. of this rule, for a regulated NSR pollutant shall comply with the requirements under paragraph (23) of this Rule.

(k) Greenhouse gases (GHGs)

1. GHGs, as defined in Subparagraph (2)(zz) of this Rule, shall not be utilized in determining if a source is a major stationary source, as defined in Subparagraph (2)(a) of this Rule, or in determining if a modification is a major modification, as defined in Subparagraph (2)(b) of this Rule.

2. GHGs shall only be subject to the requirements of this Rule if:

(i) A new major stationary source or major modification causes a significant emissions increase of GHGs, as defined in subparagraph (2)(mm) of this rule, and a significant net emissions increase of GHGs, as defined in subparagraphs (2)(c) and (2)(w) of this rule, and

(ii) The new major stationary source or major modification is required to obtain a permit subject to the requirements of this Rule as a result of emissions of regulated NSR pollutants other than GHGs.

3. Reserved.

(2) Definitions. For the purposes of this Rule only, the following terms will have meanings ascribed in this paragraph:

(a) "Major Stationary Source" shall mean:

1. Any of the following stationary sources [see subparagraph (e) of this paragraph] of air pollutants which emits, or has the potential to emit [see subparagraph (d) of this paragraph], 100 tons per year or more of any regulated NSR pollutant:

- (i) carbon black plants (furnace process);
- (ii) charcoal production plants;
- (iii) chemical process plants;
- (iv) coal cleaning plants (with thermal dryers);
- (v) coke oven batteries;

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

- (vii) fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input;

- (viii) fuel conversion plants;

- (ix) glass fiber processing plants;

- (x) hydrofluoric acid plants;

- (xi) sulfuric acid plants;

- (xii) nitric aid plants;

- (xiii) iron and steel mill plants;

- (xiv) kraft pulp mills;

- (xv) lime plants;

- (xvi) municipal incinerators capable of charging more than 250 tons of refuse per day;

- (xvii) petroleum refineries;

- (xviii) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

- (xix) phosphate rock processing plants;

- (xx) portland cement plants;

- (xxi) primary aluminum ore reduction plants;

- (xxii) primary copper smelters;

- (xxiii) primary lead smelters;

- (xxiv) primary zinc smelters;

- (xxv) secondary metal production plants;

- (xxvi) sintering plants;

- (xxvii) sulfur recovery plants;

- (xxviii) taconite ore processing plants;

(I) Notwithstanding the stationary source size specified in subparagraph (a)1. of this paragraph, any stationary source which emits, or has the potential to emit, 250 tons per year or more of any regulated NSR pollutant; or

(II) Any physical change that would occur at a stationary source not otherwise qualifying under this Rule as a major stationary source, if the change would constitute a major stationary source by itself.

2. A stationary source that is considered major for VOC or NOx shall be considered major for ozone.

(b) "Major Modification" shall mean any physical change in or change in the method of operation of a major stationary source that would result in a significant [see subparagraph (w) of this paragraph] net emissions increase [see subparagraph (c) of this paragraph] of any regulated NSR pollutant.

1. Any net emissions increase that is significant for VOC or NOx shall be considered significant for ozone.

2. Any net emissions increase that is significant for SO2 or NOx shall be considered significant for $PM_{2.5}$.

3. 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 (P.L. 93-319, 15 U.S.C. 791 note) or any superseding legislation, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act (June 10, 1920, P.L. 280, 16 U.S.C. 791a);

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

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

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

(I) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit

condition which was established after January 6, 1975.

(II) The source is approved to use under any permit issued under the Federal Prevention of Significant Deterioration ("PSD") regulations (40 CFR 52.21) or under regulations of this Rule;

(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit condition which was established after January 6, 1975.

(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 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 NSR pollutant emitted by the unit. This exemption shall apply on a pollutant- by-pollutant basis.

4. This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under paragraph (23) of this Rule for a PAL for that pollutant. Instead, the definition at subparagraph (23)(b)8. of this Rule shall apply.

(c) "Net Emissions Increase" shall mean with respect to any regulated NSR pollutant, the amount by which the sum of the following exceeds zero:

1. Any increase in emissions as calculated pursuant to subparagraph (1)(e) through (i) of this Rule from a particular physical change or change in method of operation at a stationary source; and

2. Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this subparagraph shall be determined as provided

in subparagraph (2)(uu) of this Rule, except that subparagraphs (2)(uu)1.(iii) and (2)(uu)2.(iv) of this Rule shall not apply.

(i) 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 (5) years before construction [see subparagraph (h) of this paragraph] on the particular change commences [see subparagraph (i) of this paragraph]; and

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

(ii) An increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit for the source under this Rule, which is in effect when the increase in actual emissions from the particular change occurs.

(iii) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date [see subparagraph (n)2. of this paragraph] is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM_{10} and $PM_{2.5}$ emissions can be used to evaluate the net emissions increase for PM_{10}. Only $PM_{2.5}$ emissions can be used to evaluate the net emissions increase for $PM_{2.5}$.

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

(v) 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 [see subparagraph (p) of this paragraph], whichever is lower, exceeds the new level of actual emissions;

(II) It is enforceable [see subparagraph (q) of this paragraph], 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.

(vi) 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.

(d) "Potential To Emit" shall mean 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 enforceable. Secondary emissions [see Paragraph 335-3-14-.04(2)(r)] do not count in determining the potential to emit of a stationary source.

(e) "Stationary Source" shall mean any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

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

(g) "Emissions Unit" shall mean any part of a stationary source which emits or would have the potential to emit any regulated NSR pollutant including an electric utility steam generating unit as defined in subparagraph (2)(vv) of this Rule. For purposes of this Rule, there are two types of emissions units as described in subparagraphs (2)(g)1. and 2. of this Rule.

1. A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

2. An existing emissions unit is any emissions unit that does not meet the requirements in subparagraph (2)(g)1. of this Rule. A replacement unit, as defined in subparagraph (bbb) of this rule, is an existing emissions unit.

(h) "Construction" shall mean any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in emissions.

(i) "Commence" as applied to construction of a major stationary source or major modification shall mean that the owner or operator has all necessary preconstruction approvals or permits [see subparagraph (j) of this paragraph] and either has:

1. Begun, or caused to begin, a continuous program of actual on-site construction [see subparagraph (k) of this paragraph] of the source, to be completed within a reasonable time; or

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

(j) "Necessary Preconstruction Approvals or Permits" shall mean those permits or approvals required under Alabama air quality control laws and regulations which are part of the State Implementation Plan.

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

(l) "Best Available Control Technology (BACT)" shall mean an emissions limitation (including a visible emission standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems and techniques, including fuel cleaning or

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

(m) "Baseline Concentration" shall mean that ambient concentration level which exists in the baseline area [see subparagraph (o) of this paragraph] 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:

1. The actual emissions, as defined in paragraph (2)(u) of this Rule, representative of sources in existence on the applicable minor source baseline date, except as provided in subparagraph (m) 3. of this paragraph;

2. The allowable emissions of major stationary sources which commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

3. The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) Actual emissions, as defined in paragraph (2)(u) of this Rule, from any major stationary source on which construction commenced after the major source baseline date; and

(ii) Actual emissions increases and decreases, as defined in paragraph (2)(u) of this Rule, at any stationary source occurring after the minor source baseline date.

(n) "Major Source Baseline Date" means in the case of particulate matter less than 10 microns in diameter and sulfur dioxide, January 6, 1975; in the case of nitrogen dioxide, the major source baseline date is February 8, 1988, and in the case of particulate matter less than 2.5 microns in diameter, the major source baseline date is October 20, 2010.

1. "Minor Source Baseline Date" means the earliest date after the trigger date on which the first complete [see subparagraph (v) of this paragraph], application is submitted by a major stationary source or major modification subject to the requirements of Federal PSD regulations or this Rule. The trigger date is:

(i) In the case of particulate matter and sulfur oxides, August 7, 1977, and

(ii) In the case of nitrogen dioxide, February 8, 1988.

(iii) In the case of particulate matter less than 2.5 microns in diameter, October 20, 2011.

2. 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)(1)(A)(ii) or (iii) of the CAA for the pollutant on the date of its complete application under Federal PSD regulations or this rule.

(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.

3. 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 PM10 increments.

(o) "Baseline Area" shall mean any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section 107(d)(1)(A)(ii) or (iii) of the CAA 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 one (1) microgram per cubic meter (annual average) of the pollutant for which the minor source baseline date is established.

1. Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments.

(p) "Allowable Emissions" shall mean the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

1. The applicable standards as set forth in 40 CFR 60, 61, and 63;

2. The applicable State Implementation Plan emissions limitation, including those with a future compliance date; or

3. The emissions rate specified as an enforceable permit condition, including those with a future compliance date.

(q) "Enforceable" shall mean all limitations and conditions which are enforceable, including those requirements developed pursuant to 40 CFR 60, 61, and 63, requirements within the State Implementation Plan and any permit requirements established pursuant to Chapters 14, 15, or 16 of these regulations.

(r) "Secondary Emissions" shall mean 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 Rule, 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 may include, but are not limited to:

1. Emissions from ships or trains coming to or from the new or modified stationary source; and

2. Emissions from any off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(s) "Innovative Control Technology" shall mean 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.

(t) "Fugitive Emissions" shall mean those emissions which could not reasonably pass through a stack, chimney, vent, roof monitor, or other functionally equivalent opening.

(u) "Actual Emissions" shall mean the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with subparagraphs (u)1. through (u)3. below, except that this definition shall not apply for establishing a PAL under paragraph (23) of this Rule. Instead, subparagraphs (2)(nn) and (2)(uu) of this Rule shall apply for this purpose.

1. In general, actual emissions as of any given date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24- month period which precedes the given data and which is representative of normal source operation. The Director 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.

2. The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

3. For any emissions unit which has not begun normal operations on the given date as determined in subparagraph (u)1., actual emissions shall equal the potential to emit of the unit on that date.

(v) "Complete" shall mean, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

(w) "Significant" shall mean, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant	**Emissions Rate (tons per year)**
Carbon monoxide	100
Nitrogen oxides	40
Sulfur dioxide	40
Particulate matter	25
PM_{10}	15
$PM_{2.5}$	10 (of direct $PM_{2.5}$) 40 (of SO_2 or NO_x)
Ozone	40 (of VOC or NO_X)
Lead	0.6

Pollutant	**Emissions Rate (tons per year)**
Fluorides (excluding HF)	3
Sulfuric acid mist	7
Hydrogen sulfide (H_2S)	10
Total reduced sulfur (including H_2S)	10
Reduced sulfur compounds (including H_2S)	10
Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	3.5 x 10^-6
Municipal waste combustor metals (measured as particulate matter)	15
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)	40
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50
Greenhouse gases (GHGs) CO_{2e}	75,000

1. Significant means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that paragraph (2)(w) of this Rule does not list: 100 TPY.

2. Notwithstanding subparagraph (w) above, significant shall mean any emissions rate or any net emissions increase, excluding GHGs, associated with a major stationary source or major modification which would construct within ten(10) kilometers of a Class I area and have an impact on such area equal to or greater than one (1) microgram per cubic meter (24-hour average).

3. For GHGs, a source or modification would not be significant unless it results in:

(i) An emissions increase and a net emissions increase in GHGs on a total mass basis, and

(ii) A significant emissions increase and a significant net emissions increase in GHGs on a CO2e basis.

(x) "Federal Land Manager" shall mean, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.

(y) "High Terrain" shall mean any area having an elevation 900 feet or more above the base of the stack of a source.

(z) "Low Terrain" shall mean any area other than high terrain.

(aa) "Indian Governing Body" shall mean 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.

(bb) "Indian Reservation" shall mean any Federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(cc) "Adverse Impact on Visibility" means visibility impairment which 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 (1) times of visitor use of the Federal Class I area, and (2) the frequency and timing of natural conditions that reduce visibility.

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

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

(ff) "Environmentally Beneficial Activity" shall mean:

1. Any activity or project undertaken at an existing emissions unit which, as its primary purpose, reduces emissions of air pollutants from such unit, and is limited to the installation or modification of any of the following:

(i) Conventional or advanced flue gas desulfurization, or sorbent injection for SO2;

(ii) Electrostatic precipitators, baghouses, high efficiency multiclones, or scrubbers for particulate matter or other pollutants;

(iii) Flue gas recirculation, low-NOX burners, selective non-catalytic reduction or selective catalytic reduction for NOX;

(iv) Regenerative thermal oxidizers, catalytic oxidizers, condensers, thermal incinerators, flares, carbon adsorbers, or combustion devices installed or modified to comply with hazardous emission standards for volatile organic compounds or hazardous air pollutants;

(v) Activities or projects undertaken to accommodate switching to an inherently less polluting fuel, including but not limited to natural gas or coal reburning, or the cofiring of natural gas and other inherently less polluting fuels, for the purpose of controlling emissions, and including any activity that is necessary to accommodate switching to an inherently less polluting fuel;

(vi) Pollution prevention projects which the Director determines to be environmentally beneficial.

(vii) Installation or modification of a technology other than those listed in subparagraphs (ff)1.(i) through (v), for the purposes set forth in subparagraph (ff)1., which has demonstrated an effectiveness at reducing emissions and is determined by the Director to be environmentally beneficial.

2. Environmentally beneficial projects do not include:

(i) The replacement of an existing emissions unit with a newer or different unit;

(ii) Reconstruction of an existing emissions unit;

(iii) Pollution prevention projects which result in an increased risk from the release of hazardous air pollutants;

(iv) Any project which would result in the increased production of an existing emissions unit.

(v) Any project which reduces emissions solely by transferring them to or from another media.

(vi) Any project which would cause an exceedance of an existing enforceable emissions limitation which was established to avoid applicability of the requirements of this Rule.

(gg) "Pollution Prevention Projects" shall mean 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.

(hh) "Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or 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.

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

(jj) "Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which 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.

(kk) "Repowering" means 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 Administrator, 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.

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

(ll) Reserved.

(mm) "Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant

(as defined in subparagraph (2)(w) of this Rule) for that pollutant.

(nn) "Projected actual emissions" means

1. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (consecutive 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 that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

2. In determining the projected actual emissions under subparagraph (2)(nn)1. of this Rule (before beginning actual construction), the owner or operator of the major stationary source:

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

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

(iii) Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under subparagraph (2)(uu) of this Rule and that are not resulting from the particular project, including any increased utilization due to product demand growth; or

(iv) In lieu of using the method set out in subparagraphs (2)(nn)2.(i) through (iii), may elect to use the emissions unit's potential to emit, in tons per year, as defined under subparagraph (2)(d) of this Rule.

(oo) Reserved.

(pp) "Prevention of Significant Deterioration (PSD) program" means the preconstruction permit program in this Rule. Any permit issued under this program is a major NSR permit.

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

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

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

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

(uu) "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with subparagraphs (2)(uu)1. through 4. of this Rule.

1. 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 Director may 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 and shutdowns.

(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 subparagraph (2)(uu)1.(ii) of this Rule.

2. 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 Department for a permit required under this Rule, whichever is earlier, 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 and shutdowns.

(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 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 must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period can 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 subparagraphs (2)(uu)2.(ii) and (iii) of this Rule.

3. For a new emissions unit, as defined in subparagraph (2)(g)1. of this Rule, 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. During the first two years from the date which the emissions unit commenced operation, the baseline actual emissions shall equal the potential to emit for the unit. Thereafter, the unit will be considered an existing emissions unit and the baseline actual emissions will be determined in accordance with subparagraph (2)(uu)1. for an electric steam generating unit or subparagraph (2)(uu)2. for other emissions units.

4. 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 (2)(uu)1. of this Rule, for other existing emissions units in accordance with the procedures contained in subparagraph (2)(uu)2. of this Rule, and for a new emissions unit in accordance with the procedures contained in subparagraph (2)(uu)3. of this Rule.

(vv) Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 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.

(ww) "Regulated NSR pollutant", for purposes of this Rule, means the following:

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

2. Any pollutant that is subject to any standard promulgated under section 111 of the Clean Air Act;

3. Any Class I or II substance subject to a standard promulgated under or established by title VI of the Clean Air Act; or

4. 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, including compounds listed in 40 CFR Part 68 pursuant to Section 112(r) of the Clean Air Act, or added to the list pursuant to section 112(b)(2) of the Clean Air Act, which have not been delisted pursuant to 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.

5. $PM_{2.5}$ and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. Such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10}. Applicability determinations made prior to January 1, 2011 without accounting for condensable particulate matter shall not be considered invalid.

(xx) Reserved.

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

(zz) Greenhouse gases (GHGs) means the aggregate of: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(aaa) CO_2 equivalent emissions (CO_2e) shall represent the amount of GHGs emitted as computed by the following:

1. Multiplying the mass amount of emissions (TPY) for each of the six greenhouse gases in the pollutant GHGs by the gas's associated global warming potential as listed in Appendix I.

2. Sum the resultant value determined in subparagraph (aaa)1. for each gas to calculate the TPY of CO2e.

(bbb) Replacement unit means an emissions unit for which all the criteria listed in subparagraphs (2)(bbb)1. through 4. of this subparagraph are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced. A replacement unit is subject to all permitting requirements for modifications under this rule.

1. 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.

2. The emissions unit is identical to or functionally equivalent to the replaced emissions unit. A functionally equivalent unit would be a unit that serves the same purpose as the replaced unit. The Director shall be the determiner of whether a unit is functionally equivalent to the replaced unit.

3. The replacement does not alter the basic design parameters of the process unit. Basic design parameters shall include, but not be limited to, maximum hourly heat input, maximum hourly fuel utilization, or maximum hourly raw material feed, as appropriate. Basic design parameters of a replaced unit shall also include all source specific emission limits and/or monitoring requirements. The Director shall be the determiner of whether the basic design parameters of the replaced unit are altered.

4. 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.

5. A Replacement Unit as defined in this subparagraph shall be subject to the applicability test in subparagraph (1)(f) of this rule for any modification.

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

Area	**Pollutant**	**Maximum Allowable Increase (micrograms per cubic meter)**
	PM_{10}:	Annual arithmetic mean - 4 24-hour maximum - 8
Class I	$PM_{2.5}$:	Annual arithmetic mean - 1 24-hour maximum - 2
	Sulfur dioxide:	Annual arithmetic mean - 2 24-hour maximum - 5 3-hour maximum - 25

Area	**Pollutant**	**Maximum Allowable Increase (micrograms per cubic meter)**
	Nitrogen dioxide:	Annual arithmetic mean - 2.5
Class II	PM_{10}:	Annual arithmetic mean - 17 24-hour maximum - 30
	$PM_{2.5}$:	Annual arithmetic mean - 4 24-hour maximum - 9
	Sulfur dioxide:	Annual arithmetic mean - 20 24-hour maximum - 91 3-hour maximum - 512
	Nitrogen dioxide:	Annual arithmetic mean - 25
	PM_{10}:	Annual arithmetic mean - 34 24-hour maximum - 60

Area	**Pollutant**	**Maximum Allowable Increase (micrograms per cubic meter)**
Class III	$PM_{2.5}$:	Annual arithmetic mean - 8 24-hour maximum - 18
	Sulfur dioxide:	Annual arithmetic mean - 40 24-hour maximum - 182
	Sulfur dioxide:	3-hour maximum - 700
	Nitrogen dioxide:	Annual arithmetic mean - 50

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.

(4) Ambient Air Ceilings. No concentration of a pollutant shall exceed:

(a) The concentration permitted under the National Secondary Ambient Air Quality Standard, or

(b) The concentration permitted under the National Primary Ambient Air Quality Standard, whichever concentration is lowest for the pollutant for a period of exposure.

(5) Area Classifications.

(a) The following area, which was in existence on August 7, 1977, shall be a Class I area and may not be redesignated:

1. The Sipsey Wilderness Area, located in Franklin, Winston, and Lawrence counties, Alabama.

(b) Any other area is initially designated Class II:

(6) Exclusions from Increment Consumption.

(a) The following concentrations shall be excluded in determining compliance with a maximum allowable increase:

1. Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order;

2. Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan;

3. Concentrations of PM10 attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;

4. The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and

5. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, PM10, or nitrogen oxides from stationary sources which are affected by plan revisions approved by the EPA as being exempt from increment consumption.

(b) No exclusion of such concentrations shall apply for more than five (5) years after the effective date of the order to which subparagraph (a)1. of this paragraph or the plan to which subparagraph (a)2. of this paragraph refers, whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply for more than five (5) years after the later of such effective dates.

(7) Reserved.

(8) Review of Major Stationary Sources and Major Modification - Source Applicability and Exemptions.

(a) No major stationary source or major modification shall begin actual construction unless, as a minimum, requirements contained in paragraphs (9) through (17) of this Rule have been met.

(b) The requirements contained in paragraphs (9) through (17) shall apply to any major stationary source and any major modification with respect to each regulated NSR pollutant that it would emit, except as this Rule would otherwise allow.

(c) The requirements contained in paragraphs (9) through (17) apply only to any major stationary source or major modification that would be constructed in an area designated as attainment or unclassified under Section 107(d)(1)(A)(ii) or (iii) of the CAA.

(d) The requirements contained in paragraphs (9) through (17) shall not apply to a major stationary source or major modification, if:

1. Reserved.

2. Reserved.

3. Reserved.

4. Reserved.

5. Reserved.

6. The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution; or

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

(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 which, as of August 7, 1980, is being regulated under Section 111 or 112 of the CAA; or

8. The source is a portable stationary source which has previously received a permit under this Rule; and

(i) The owner or operator proposes to relocate the source 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 Director 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 Director not less than ten (10) days in advance of the proposed relocation unless a different time duration is previously approved by the Director.

(e) The requirements of paragraphs (9) through (17) of this Rule 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 CAA.

(f) The requirements of paragraphs (10), (12), and (14) of this Rule shall not apply to a major stationary source or major modification with respect to a particular pollutant if the allowable emissions of that pollutant from the source or the net emissions increase of that pollutant from the modification:

1. Would impact no Class I area and no area where an applicable increment is known to be violated, and

2. Would be temporary.

(g) The requirements of paragraphs (10), (12), and (14) of this Rule as they relate to any maximum allowable increase for a Class II area shall not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of BACT would be less than 50 tons per year.

(h) The Director may exempt a stationary source or modification from the requirements of paragraph (12) of this Rule with respect to monitoring for a particular pollutant if:

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

Carbon monoxide.....575 $\mu g/m^3$, 8-hour average;

Nitrogen dioxide.....14 $\mu g/m^3$, annual average;

PM_{10} .....10 $\mu g/m^3$, 24-hour average;

$PM_{2.5}$ .....4 $\mu g/m^3$, 24-hour average;

Sulfur dioxide.....13 $\mu g/m^3$, 24-hour average;

Ozone;1

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; or

2. The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in subparagraph (h)1. of this paragraph, or the pollutant is not listed in subparagraph (h)1. of this paragraph; or

3. The owner or operator of the stationary source or modification submits an application under this Rule that the Director determines is complete, except with respect to the requirements for monitoring PM10 in paragraph (12) of this Rule, on or before June 1, 1988. If a complete permit application is received after June 1, 1988, but

not later than December 1, 1988, the requirements for PM10 monitoring under paragraph (12) of this Rule apply in that data shall have been gathered over at least the period from February 1, 1988 to the date the complete application is received, except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four months) then the shorter period of data gathering will suffice to meet the requirements of paragraph (12) of this Rule.

(i) Reserved.

(j) Reserved.

(k) At the discretion of the Director, the requirements for air quality monitoring of PM_{10} in subparagraphs (12)(a)1. through 4. of this Rule may not apply to a particular source or modification when the owner or operator of the source or modification submits an application for a permit under this Rule on or before June 1, 1988 and the Director subsequently determines that the application as submitted before that date was complete, except with respect to the requirements for monitoring PM10 in subparagraphs (12)(a)1. through 4.

(l) The requirements for air quality monitoring of PM10 in subparagraphs (12)(a)2. and 4. and subparagraph (12)(c)

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[1] No de minimus air quality level is provided for ozone. However, any net increase of 100 tons per year or more of VOC or NO_x subject to Rule 335-3-14-.04 would be required to perform an ambient impact analysis including the gathering of ambient air quality data.

shall apply to a particular source or modification if the owner or operator of the source of modification submits an application for permit under this Rule after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions set forth under subparagraph (12)(a)8., except that if the Director 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 (12)(a)3. requires shall have been gathered over that shorter period.

(m) Any project which is an environmentally beneficial project as defined in subparagraph (2)(ff) of this Rule shall not be considered a major modification as defined in paragraph (2) of

this Rule and is exempt from all provisions of this Rule except paragraphs (10), (11), (13), (15), and (16).

(n) The requirements of paragraphs (10), (11), (12), (14), and (15) of this Rule shall not apply with respect to GHGs for any major stationary source or major modification.

(9) Control Technology Review.

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

(b) A new major stationary source shall apply BACT for each regulated NSR pollutant that it would have the potential to emit in significant amounts.

(c) A major modification shall apply BACT 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.

(d) For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than eighteen (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 BACT for the source.

(10) Source Impact Analysis.

(a) Required Demonstration. 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.

(b) Significant Impact Levels. The demonstration required in subparagraph (10)(a) is deemed to have been made if the emissions increase for the new stationary source alone or from

the modification alone would cause, in all areas, air quality impacts less than the following amounts:

Pollutant	**Averaging Time**	**Class I Significance Level**	**Class II Significance Level**
SO_2	3 hour		25 $\mu g/m^3$
	24 hour		5 $\mu g/m^3$
	Annual		1 $\mu g/m^3$
PM_{10}	24 hour		5 $\mu g/m^3$
	Annual		1 $\mu g/m^3$
$PM_{2.5}$	24 hour	0.07 $\mu g/m^3$	1.2 $\mu g/m^3$
	Annual	0.06 $\mu g/m^3$	0.3 $\mu g/m^3$
NO_2	Annual		1 $\mu g/m^3$
CO	1 hour		2,000 $\mu g/m^3$
	8 hour		500 $\mu g/m^3$

(11) Air Quality Models.

(a) All estimates of ambient concentrations required under this Rule shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models". (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711)

(12) Air Quality Analysis.

(a) Preapplication Analysis.

1. Any application for a permit under this Rule 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.

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

3. 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.

4. In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one (1) year and shall represent the year preceding receipt of the application, except that, if the Director determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year (but not to be less than four (4) months), the data that is required shall have been gathered over at least that shorter period.

5. Reserved.

6. The owner or operator of a proposed stationary source or modification of VOC who satisfies all conditions of Rule 335-3-14-.05 may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under subparagraph (a) of this paragraph.

7. For any application that becomes complete, except as the requirements of subparagraphs (a)3. and 4. of this paragraph pertaining to PM10, after December 1, 1988 and no later than August 1, 1989 the data that subparagraph (a)3. of this paragraph 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 Director 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 (a)3. of this paragraph requires shall have been gathered over that shorter period.

8. With respect to any requirements for air quality monitoring of PM10 under subparagraphs (8)(k) and (l) of this Rule, the owner or operator of the source or modification shall use a monitoring method approved by the Director and shall estimate the ambient concentrations of PM10 using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Director.

(b) 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 Director determines is necessary to determine the impact for said source or

modification may have, or is having, on air quality in any area.

(c) Operations of Monitoring Stations. The owner or operator of a major stationary source or major modification shall meet Federal monitoring quality assurance requirements during the operation of monitoring stations for purposes of satisfying this paragraph.

(d) Visibility Monitoring. The Director may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the Director deems necessary and appropriate.

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

(a) With respect to a source or modification to which Rules 335-3-14-.04(9), 335-3-14-.04(10), 335-3-14-.04(12), and 335-3-14-.04(14) apply, such information shall include:

1. 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;

2. A detailed schedule for construction of the source or modification;

3. 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 BACT would be applied.

(b) Upon request of the Director, the owner or operator shall also provide information on:

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

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

(14) Additional Impact Analyses.

(a) The owner or operator shall provide an analysis of the impact on 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.

(b) 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.

(15) Sources Impacting Federal Class I Areas - Additional Requirements.

(a) Notice to Federal Land Managers and to EPA. The Director shall provide notice of any permit application for a proposed major stationary source or major modification the emissions from which would affect a Class I area to EPA, the Federal Land Manager and the Federal official charged with direct responsibility for management of any lands within any such area. The Director shall provide such notice promptly after receiving the application. The Director shall also provide EPA, the Federal Land Manager and such Federal officials with notice of every action related to the consideration of such permit.

(b) The Director shall notify all affected Federal Land Managers within 30 days of receipt of an advance notification of any permit application for a proposed major stationary source or modification, the emissions from which may affect a Class I Area. The Director shall provide written notification to all affected Federal Land Managers within 30 days of receiving the permit application. At least 30 days prior to the publication of the notice for public comment on the application, the Director shall provide the Federal Land Manager with a copy of all information relevant to the permit application including an analysis provided by the source of the potential impact of the proposed source on visibility.

(c) Visibility analysis. The Director shall consider any analysis performed by the Federal Land Manager concerning visibility impairment if the analysis is received within 30 days of being provided the permit application information and analysis required by subparagraph (b) of this paragraph above. Where the Director finds that such an analysis does not demonstrate to the satisfaction of the Director that an adverse impact on visibility will result in the Federal Class I area, the Director must, in the notice of public comment on the permit application, either explain his decision or give notice as to where the explanation can be obtained.

(d) Denial - Impact on Air Quality Related Values. The Federal Land Manager of any such lands may demonstrate to the Director 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 which would exceed the maximum allowable increases for a Class I area. If the Director concurs with such demonstration, then he shall not issue the permit.

(e) 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 which 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 Director may issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide, $PM_{2.5}$, PM_{10}, 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)**
PM_{10}:	Annual arithmetic mean 17 24-hour maximum 30
$PM_{2.5}$:	Annual arithmetic mean 4 24-hour maximum 9
Sulfur dioxide:	Annual arithmetic mean 20 24-hour maximum 91 3-hour maximum 325
Nitrogen dioxide:	Annual arithmetic mean 25

provided, that the applicable requirements of this Rule are otherwise met.

(f) Sulfur Dioxide Variance by Governor with Federal Land Manager's Concurrence. The owner or operator of a proposed source or modification which cannot be approved under subparagraph (c) of this paragraph may demonstrate to the Governor that the source or modification cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of twenty-four (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 clause 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 Director shall issue a permit to such source or modification pursuant to the requirements of paragraph (16) of this Rule provided, that the applicable requirements of this Rule are otherwise met.

(g) 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 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 Director shall issue a permit pursuant to the requirements of paragraph (16) of this Rule provided, that the applicable requirements of this Rule are otherwise met.

(h) Emission Limitations for Presidential or Gubernatorial Variance. In the case of a permit issued pursuant to subparagraphs (f) or (g) of this paragraph, the source or modification shall comply with such emission limitations as may be necessary to assure 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 which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of twenty-four (24) hours or less for more than eighteen (18) days, not necessarily consecutive, during any annual period:

Period of exposure	**Maximum Allowable Increase (micrograms per cubic meter)**	
	Terrain areas	
	Low	**High**
24-hour maximum	35	62
3-hour maximum	130	221

(16) Public Participation.

(a) After receipt of an application for an Air Permit or any addition to such application, the Director shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this Rule, the date on which the Director received all required information.

(b) Within one (1) year after receipt of a complete application, the Director shall make a final determination of the application. This involves performing the following actions in a timely manner:

1. Make a preliminary determination whether construction should be approved, approved with conditions or disapproved.

2. Make available on the Department’s web site 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.

3. Notify the public, by posting on the Department’s web site for the duration of the comment period of 30 days, the preliminary determination, the degree of increment consumption that is expected from the source or modification, the opportunity to comment on the proposed permit, how to request and/or attend a public hearing on the proposed permit, a copy of the proposed permit, and information on how to access the administrative record for the proposed permit.

4. Send a copy of the notice of public comment to the applicant, to EPA and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: any other State or local air pollution control agencies, the chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency and any State, Federal Land

Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification.

5. 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 or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.

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

7. Make a final determination whether construction should be approved, approved with conditions or disapproved pursuant to this Rule.

8. Notify the applicant in writing of the final determination and make such notification available for public inspection at the same web site where the Director made available preconstruction information and public comments relating to the source or modification.

(17) Source Obligation.

(a) An Air Permit authorizing construction shall become invalid if construction is not commenced within twenty-four (24) months after receipt of such approval, if construction is discontinued for a period of twenty-four (24) months or more, or if construction is not completed within a reasonable time. The Director may extend the twenty-four (24) month period upon 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 twenty-four (24) months of the projected and approved commencement date.

(b) An Air Permit authorizing construction 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.

(c) 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 which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of paragraphs (9) through (17) of this Rule shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(d) The provisions of this subparagraph (17)(d) apply to projects at an existing emissions unit at a major stationary source (other than projects at a source with a PAL), that are not excluded from the definition of physical change or change in the method of operation, where there is not a reasonable possibility that the project is a part of a major modification and may result in a significant emissions increase and the owner or operator elects to use the method specified in subparagraphs (2)(nn)2.(i) through (iii) of this Rule for calculating projected actual emissions.

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

(i) A description of the project;

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

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under subparagraph (2)(nn)2.(iii) of this Rule and an explanation for why such amount was excluded, and any netting calculations, if applicable.

2. The owner or operator of the source shall make the information required to be documented and maintained pursuant to subparagraph (17)(d) of this Rule available for review upon a request for inspection by the Department or the general public.

3. Nothing in this subparagraph shall be construed to exempt the owner or operator of such a unit from obtaining any minor source Air Permit in accordance with the requirements of this Chapter.

(e) The provisions of this subparagraph (17)(e) 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, and that is not excluded from the definition of physical change or change in the method of operation, may result in a significant emissions increase and the owner or operator elects to use the method specified in subparagraphs (2)(nn)2.(i) through (iii) of this Rule for calculating projected actual emissions.

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

(i) A description of the project;

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

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under subparagraph (2)(nn)2.(iii) of this Rule and an explanation for why such amount was excluded, and any netting calculations, if applicable.

2. Before beginning actual construction, the owner or operator shall provide a copy of the information set out in subparagraph (17)(e)1. of this Rule to the Director. Nothing in this subparagraph shall be construed to require the owner or operator of such a unit to obtain any determination from the Director before beginning actual construction; however, nothing in this subparagraph shall be construed to exempt the owner or operator of such a unit from obtaining any minor source Air Permit in accordance with the requirements of this chapter.

3. 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 subparagraph (17)(e)1.(ii) of this Rule; 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 NSR pollutant at such emissions unit.

4. The owner or operator shall submit a report to the Director within 60 days after the end of each year during which records must be generated under subparagraph (17)(e)3. of this Rule. The report shall contain the following:

(i) All information required by subparagraph (17)(e)1. of this Rule.

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

(iii) The annual emissions as calculated pursuant to subparagraph (17)(e)3. of this Rule; and

(iv) Any other information that the owner or operator wishes to include in the report.

5. The owner or operator of the source shall make the information required to be documented and maintained pursuant to subparagraph (17)(e) of this Rule available for review upon a request for inspection by the Department.

6. All information submitted to the Department pursuant to the requirements of subparagraph (17)(e) of this Rule shall be available for review at the request of any member of the public in accordance with the Department's public records review procedures found in ADEM Admin. Code R. 335-1-1-.06.

(18) Innovative Control Technology.

(a) An owner or operator of a proposed major stationary source or major modification may request the Director in writing no later than the close of the comment period under paragraph (16) of this Rule to approve a system of innovative control technology.

(b) The Director shall determine that the source or modification may employ a system of innovative control technology, if:

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

2. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under subparagraph (9)(b) of

this Rule by a date specified by the Director. Such date shall not be later than four (4) years from the time of startup or seven (7) years from permit issuance;

3. The source or modification would meet the requirements of paragraphs (9) and (10) of this Rule 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 Director;

4. The source or modification would not before the date specified by the Director:

(i) Cause or contribute to a violation of an applicable National Ambient Air Quality Standard; or

(ii) Impact any Class I area; or

(iii) Impact any area where an applicable increment is known to be violated; and

5. The consent of the Governor of any other affected state is secured;

6. All other applicable requirements including those for public participation have been met.

(c) The Director shall withdraw any approval to employ a system of innovative control technology made under this Rule, if:

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

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

3. The Director 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.

(d) 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 subparagraph (c) of this paragraph, the Director may allow the source or modification up to an additional three (3) years to meet the requirement for the application of BACT through use of a demonstrated system of control.

(19) Permit Rescission.

(a) Any owner or operator of a stationary source or modification who holds a permit for the source or modification which was issued under this Rule as in effect on July 30, 1987 or any earlier version of this Rule, may request that the Director rescind the permit or a particular portion of the permit.

(b) The Director shall grant an application for rescission if the application shows that this Rule would not apply to the source or modification.

(c) If the Director rescinds a permit under this Rule, the public shall be given adequate notice of the rescission. Publication of an announcement of rescission on the Department's web site within sixty (60) days of the rescission shall be considered adequate notice.

(20) Reserved.

(21) Reserved.

(22) Reserved.

(23) Actuals PALs. The provisions in subparagraphs (23)(a) through (o) of this Rule govern actuals PALs.

(a) Applicability.

1. The Director may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in subparagraphs (23)(a) through (o) of this Rule. The term "PAL" shall mean "actuals PAL" throughout paragraph (23) of this Rule.

2. Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in subparagraphs (23)(a) through (o) of this Rule, 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;

3. 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.

(b) Definitions. For the purposes of this Rule, the definitions in subparagraphs (23)(b)1. through 11. of this

Rule apply. When a term is not defined in these paragraphs, it shall have the meaning given in paragraph (2) of this Rule or in the Clean Air Act.

1. "Actuals PAL" for a major stationary source means a PAL based on the baseline actual emissions (as defined in subparagraph (2)(uu) of this Rule) of all emissions units (as defined in subparagraph (2)(g) of this Rule) at the source, that emit or have the potential to emit the PAL pollutant.

2. "Allowable emissions" means "allowable emissions" as defined in subparagraph (2)(p) of this Rule, except as this definition is modified according to subparagraphs (23)(b)2.(i) and (ii) of this Rule.

(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 subparagraph (2)(d) of this Rule, except that the words "or enforceable as a practical matter" should be added after "enforceable."

3. "Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in subparagraph (2)(w) of this Rule or in the Clean Air Act, whichever is lower.

4. "Major emissions unit" means:

(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 has the potential to emit 75,000 tons per year of GHG as CO2e.

5. "Plantwide applicability limitation (PAL)" means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with subparagraphs (23)(a) through (o) of this Rule.

6. "PAL effective date" generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit

that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

7. "PAL effective period" means the period beginning with the PAL effective date and ending 10 years later.

8. "PAL major modification" means, notwithstanding subparagraphs (2)(b) and (2)(c) of this Rule (the definitions for major modification and net emissions increase), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

9. "PAL permit" means the major NSR permit, the minor NSR permit, or the title V permit issued by the Director that establishes a PAL for a major stationary source.

10. "PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

11. "Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in subparagraph (2)(w) of this Rule 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 (23)(b)4. of this Rule.

(c) 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 Director for approval:

1. 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.

2. 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 and shutdown.

3. 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 (23)(m)1. of this Rule.

(d) General requirements for establishing PALs.

1. The Director is allowed to establish a PAL at a major stationary source, provided that at a minimum, the requirements in subparagraphs (23)(d)1.(i) through (vii) of this Rule 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 total, 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 subparagraph (23)(e) of this Rule.

(iii) The PAL permit shall contain all the requirements of subparagraph (23)(g) of this Rule.

(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 subparagraphs (23)(l) through (n) of this Rule for each emissions unit under the PAL through the PAL effective period.

2. 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 Rule 335-3-14-.05 of this chapter 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.

(e) Public participation requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with those of this Rule and 40 CFR Parts 51.160 and 51.161. This includes the requirement that the Director 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 Director must address all material comments before taking final action on the permit.

(f) Setting the 10-year actuals PAL level. The actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in subparagraph (2)(uu) of this Rule) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under subparagraph (2)(w) of this Rule or under 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 shutdown after this 24-month period must be subtracted from the PAL level. Emissions from units on which actual construction began after the beginning of the 24-month period must be added to the PAL level in an amount equal to the potential to emit of the unit if the unit began operation less than 24 months prior to the submittal of the PAL application. Baseline actual emissions from units on which actual construction began after the beginning of the 24-month period and commenced operation 24 months or more prior to the submittal of the PAL application must be added to the PAL based upon any 24-month period since the unit commenced operation. The Director shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable Federal or State regulatory requirement(s) that the Director 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 NOX 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(s).

(g) Contents of the PAL permit. The PAL permit must contain, at a minimum, the information in subparagraphs (23)(g)1. through 10. of this Rule.

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

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

3. Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with subparagraph (23)(j) of this Rule before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Director.

4. A requirement that emission calculations for compliance purposes must include emissions from startups and shutdowns.

5. A requirement that, once the PAL expires, the major stationary source is subject to the requirements of subparagraph (23)(i) of this Rule.

6. 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 (23)(m)1. of this Rule.

7. A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under subparagraph (23)(l) of this Rule.

8. A requirement to retain the records required under subparagraph (23)(m) of this Rule on site. Such records may be retained in an electronic format.

9. A requirement to submit the reports required under subparagraph (23)(n) of this Rule by the required deadlines.

10. Any other requirements that the Director deems necessary to implement and enforce the PAL.

(h) PAL effective period and reopening of the PAL permit. The requirements in subparagraphs (23)(h)1. and 2. of this Rule apply to actuals PALs.

1. PAL effective period. The Director shall specify a PAL effective period of 10 years.

2. Reopening of the PAL permit.

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

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

(II) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Rule 335-3-14-.05 of this chapter; and

(III) Revise the PAL to reflect an increase in the PAL as provided under subparagraph (23)(k) of this Rule.

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

(I) Reduce the PAL to reflect newly applicable Federal requirements (for example, NSPS) with compliance dates after the PAL effective date;

(II) Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and is required by these regulations; and

(III) Reduce the PAL if the Director determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on a published 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 subparagraph (23)(h)2.(i)(I) of this Rule 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 subparagraph (23)(e) of this Rule.

(i) Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in subparagraph (23)(j) of this Rule shall expire at the end of the PAL effective period, and the requirements in subparagraphs (23)(i)1. through 5. of this Rule shall apply.

1. Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable

emission limitation under a revised permit established according to the procedures in subparagraphs (23)(i)1.(i) and (ii) of this Rule.

(i) Within the time frame specified for PAL renewals in subparagraph (23)(j)2. of this Rule, 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 Director) 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 (23)(j)5. of this Rule, such distribution shall be made as if the PAL had been adjusted.

(ii) The Director 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 Director determines is appropriate.

2. Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Director 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.

3. Until the Director issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subparagraph (23)(i)1.(ii) of this Rule, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

4. 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 subparagraph (2)(b) of this Rule.

5. The major stationary source owner or operator shall continue to comply with any State or Federal applicable requirements (BACT, RACT, NSPS, synthetic minor limit, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period.

(j) Renewal of a PAL.

1. The Director shall follow the procedures specified in subparagraph (23)(e) of this Rule 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 Director.

2. Application deadline. A major stationary source owner or operator shall submit a timely application to the Director 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.

3. Application requirements. The application to renew a PAL permit shall contain the information required in subparagraphs (23)(j)3.(i) through (iv) of this Rule.

(i) The information required in subparagraphs (23)(c)1. through 3. of this Rule.

(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 Director to consider in determining the appropriate level for renewing the PAL.

4. PAL adjustment. In determining whether and how to adjust the PAL, the Director shall consider the options outlined in subparagraphs (23)(j)4.(i) and (ii) of this Rule. However, in no case may any such adjustment fail to comply with subparagraph (23)(j)4.(iii) of this Rule.

(i) If the emissions level calculated in accordance with subparagraph (23)(f) of this Rule is equal to or greater than 80 percent of the PAL level, the Director may renew the PAL at the same level without considering the factors set forth in subparagraph (23)(j)4.(ii) of this Rule; or

(ii) The Director 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 Director in his or her written rationale.

(iii) Notwithstanding subparagraphs (23)(j)4.(i) and (ii) of this Rule:

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

(II) The Director shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of subparagraph (23)(k) of this Rule (increasing a PAL).

5. 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 Director 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.

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

1. The Director may increase a PAL emission limitation only if the major stationary source complies with the provisions in subparagraphs (23)(k)1.(i) through(iv) of this Rule.

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

(ii) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major

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

(iii) The owner or operator obtains a major NSR permit for all emissions unit(s) identified in subparagraph (23)(k)1.(i) of this Rule, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the major NSR process (for example, 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.

2. The Director 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 subparagraph (23)(k)1.(ii)), plus the sum of the baseline actual emissions of the small emissions units.

3. The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of subparagraph (23)(e) of this Rule.

(l) Monitoring requirements for PALs.

1. 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 subparagraphs (23)(l)2.(i) through (iv) of this Rule and must be approved by the Director.

(iii) Notwithstanding subparagraph (23)(l)1.(ii) of this Rule, an alternative monitoring approach that meets subparagraph (23)(l)1.(i) of this Rule may be employed if approved by the Director.

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

2. Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in subparagraphs (23)(l)3. through 9. of this Rule:

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

(ii) CEMS;

(iii) CPMS or PEMS; and

(iv) Emission factors.

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

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

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

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

4. 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.

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

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

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

6. 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 6

months of PAL permit issuance, unless the Director determines that testing is not required.

7. 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.

8. Notwithstanding the requirements in subparagraphs (23)(l)3. through 7. of this Rule, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Director shall, at the time of permit issuance:

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

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

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

(m) Recordkeeping requirements.

1. The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of paragraph (23) of this Rule and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record.

2. 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 5 years:

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

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

(n) Reporting and notification requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Director in accordance with the applicable title V operating permit. The reports shall meet the requirements in subparagraphs (23)(n)1. through 3. of this Rule.

1. Semi-annual report. This report shall contain the information required in subparagraphs (23)(n)1.(i) through (vii) of this Rule.

(i) The identification of owner and 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 pursuant to subparagraph (23)(m)1. of this Rule.

(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 (23)(l)7 of this rule.

(vii) A signed statement by a responsible official (as defined in Chapter 16 of these Regulations) certifying the truth, accuracy, and completeness of the information provided in the report.

2. Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted

pursuant to 335-3-16-.05(c)3.(ii) shall satisfy this reporting requirement. The reports shall contain the following information:

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

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

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

(iv) A signed statement by a responsible official (as defined in Chapter 16 of these Regulations) certifying the truth, accuracy, and completeness of the information provided in the report.

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

(o) Transition requirements.

1. The Director may not issue a PAL that does not comply with the requirements in subparagraphs (23)(a) through(o) of this Rule after the effective date of this Rule.

2. The Director may supersede any PAL that was established prior to the effective date of this Rule with a PAL that complies with the requirements of subparagraphs (23)(a) through (o) of this Rule.

(24) If any provision of this Rule, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Rule, 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.

Author: Marilyn G. Elliott, Ronald W. Gore

Statutory Authority: Code of Ala. 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.

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23, 2011. **Amended:** Filed April 24, 2012; effective May 29, 2012. **Amended:** Filed April 23, 2013; effective May 28, 2013. **Amended:** Filed October 21, 2014; effective November 25, 2014. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Filed August 21, 2018; effective October 5, 2018. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-14-.05 Air Permits Authorizing Construction In Or Near Nonattainment Areas.

(1) Applicability.

(a) The requirements of this Rule apply to the construction of any new major stationary source (as defined in subparagraph (2)(a) of this Rule) or any project at an existing major stationary source in or near an area designated as nonattainment under sections 107(d) of the Clean Air Act for which the source or modification is major for the pollutant or its precursors for which the area is designated as nonattainment. If the source is not major for the pollutant or its precursors for which the area is designated as nonattainment, it shall comply with the requirements of 335-3-14-.04 which would be applicable if the area were classified as attainment or unclassifiable under sections 107(d)(1)(A)(ii) or (iii) of the Clean Air Act.

(b) The requirements of paragraphs (3) through (17) of this Rule apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this Rule otherwise provides.

(c) No new major stationary source or major modification to which the requirements of paragraphs (3) through (17)(c) of this Rule apply shall begin construction without a permit that states that the major stationary source or major modification will meet those requirements.

(d) Except as otherwise provided in subparagraph (1)(j) of this Rule, and consistent with the definition of major modification contained in subparagraph (2)(b) of this Rule, a project is a major modification for a regulated NSR pollutant only if it causes two types of emissions increases - a significant emissions increase (as defined in subparagraph (2)(mm) of this Rule), and a significant net emissions increase (as defined in subparagraphs (2)(c) and (2)(w) of this Rule).

(e) Before beginning actual construction, the procedure for calculating whether a significant emissions increase will occur depends upon the type of emissions units being modified, according to subparagraphs (1)(f) through (i) of this Rule. The procedure for calculating whether a significant net

emissions increase will occur at the major stationary source is contained in the definition in subparagraphs (2)(c) and (2)(w) of this Rule. Regardless of any such preconstruction projections, a major modification can result only if the project causes a significant emissions increase and a significant net emissions increase.

(f) 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(s) between the projected actual emissions (as defined in subparagraph (2)(nn) of this Rule) and the baseline actual emissions (as defined in subparagraphs (2)(uu)1. and 2. of this Rule), for each existing emissions unit, equals or exceeds the significant rate for that pollutant (as defined in subparagraph (2)(w) of this Rule).

(g) Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in subparagraph (2)(d) of this Rule) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in subparagraph (2)(uu)3. of this Rule) of these units before the project equals or exceeds the significant rate for that pollutant (as defined in subparagraph (2)(w) of this Rule).

(h) Actual-to-potential 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(s) between the potential to emit (as defined in subparagraph (2)(d) of this Rule) and the actual emissions (as defined in subparagraph (2)(u) of this Rule), for each existing emissions unit, equals or exceeds the significant rate for that pollutant (as defined in subparagraph (2)(w) of this Rule).

(i) 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 (1)(f) through (h) of this Rule as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant rate for that pollutant (as defined in subparagraph (2)(w) of this Rule).

(j) Any major stationary source subject to a plantwide applicability limit (PAL), as defined in subparagraph (23)(b)5. of this Rule, for a regulated NSR pollutant shall comply with the requirements under paragraph (23) of this Rule.

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

1. Coal cleaning plants (with Thermal dryers);

2. Kraft pulp mills;

3. Portland cement plants;

4. Primary zinc smelters;

5. Iron and steel mills;

6. Primary aluminum ore reduction plants;

7. Primary copper smelters;

8. Municipal incinerators capable of charging more than 250 tons of refuse per day;

9. Hydrofluoric, sulfuric, or nitric acid plants;

10. Petroleum refineries;

11. Lime plants;

12. Phosphate rock processing plants;

13. Coke oven batteries;

14. Sulfur recovery plants;

15. Carbon black plants (furnace process);

16. Primary lead smelters;

17. Fuel conversion plants;

18. Sintering plants;

19. Secondary metal production plants;

20. Chemical processing plants (excluding ethanol production facilities that produce ethanol by natural fermentation);

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

22. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

23. Taconite ore processing plants;

24. Glass fiber processing plants;

25. Charcoal production plants;

26. Fossil fuel fired steam electric plants of more than 250 British thermal units per hour heat input; and

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

(2) Definitions. For the purposes of this Rule only, the following terms will have meanings ascribed in this paragraph:

(a) "Major Stationary Source" shall mean:

1. Any stationary source [see subparagraph (e) of this paragraph] that emits, or has the potential to emit [see subparagraph (d) of this paragraph] air pollutants at or above one or more of the following applicable thresholds:

Nonattainment Area Classification	**NO_x**	**VOC**	**CO**	**SO_2**	**PM_{10}**	**$PM_{2.5}$**
	All values expressed in tons per year (TPY)					
Ozone: Marginal and Moderate	100	100				
Ozone: Serious	50	50				
Ozone: Severe	25	25				
Ozone: Extreme	10	10				
CO (Other than Serious)			100			

Nonattainment Area Classification	**NO_x**	**VOC**	**CO**	**SO_2**	**PM_{10}**	**$PM_{2.5}$**
	All values expressed in tons per year (TPY)					
CO: Serious, where stationary sources do not contribute significantly to CO levels			100			
CO: Serious, where stationary sources do contribute significantly to CO levels			50			
PM_{10} (Other than Serious)					100	
PM_{10}: Serious					70	
$PM_{2.5}$	100			100		100
SO_2				100		
NO_x	100					

2. Any physical change that would occur at a stationary source not otherwise qualifying under this Rule as a

major stationary source, if the changes would constitute a major stationary source by itself.

3. A stationary source that is considered major for VOC or NOx shall be considered major for ozone.

(b) "Major Modification" shall mean any physical change in or change in the method of operation of a major stationary source that would result in a significant [see subparagraph (w) of this paragraph] net emissions increase [see subparagraph (c) of this paragraph] of any regulated NSR pollutant.

1. Any net emissions increase that is significant for VOC or NOx shall be considered significant for ozone.

2. 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 (P.L. 93-319, 15 U.S.C. 791 note) or any superseding legislation, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act (June 10, 1920, P.L. 280, 16 U.S.C. 791a);

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

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

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

(I) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any enforceable permit condition which was established after December 21, 1976.

(II) The source is approved to use under any permit issued under the Federal Prevention of Significant Deterioration ("PSD") regulations (40 CFR 52.21) or under regulations of this Chapter;

(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit condition which was established after December 21, 1976.

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

3. This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under paragraph (23) of this Rule for a PAL for that pollutant. Instead, the definition at subparagraph (23)(b)8. of this Rule shall apply.

(c) "Net Emissions Increase" shall mean with respect to any regulated NSR pollutant, the amount by which the sum of the following exceeds zero:

1. Any increase in emissions as calculated pursuant to subparagraphs (1)(e) through (i) of this Rule from a particular physical change or change in method of operation at a stationary source; and

2. Any other increases and decreases in actual emissions at a major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this subparagraph shall be determined as provided in subparagraph (2)(uu) of this Rule, except that subparagraphs (2)(uu)1.(iii) and (2)(uu)2.(iv) of this Rule shall not apply.

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

(I) The date up to five (5) years before construction [see subparagraph (h) of this paragraph] on the particular change commences [see subparagraph (i) of this paragraph]; and

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

(ii) An increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit for the source under this Rule, which is in effect when the increase in actual emissions from the particular change occurs.

(iii) With respect to particulate matter, only PM and 10PM emissions can be used to evaluate the net emissions increase 2.5 for PM . Only PM emissions can be used to evaluate the net 10 2.5 emissions increase for PM . 2.5

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

(v) 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 [see subparagraph (p) of this paragraph], whichever is lower, exceeds the new level of actual emissions;

(II) It is enforceable [see subparagraph (q) of this paragraph], 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.

(IV) The Director has not relied upon the decrease in demonstrating attainment or reasonable further progress.

(vi) 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.

3. Fugitive emission increases and decreases are not creditable for those emissions units located at a facility whose primary activity is not listed in 335-3-14-.05(1)(k) and for which the unit, itself, is not part of a listed source category in 335-3-14-.05(1)(k).

(d) "Potential to Emit" shall mean 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 enforceable. Secondary emissions as defined in subparagraph (2)(r) of this Rule do not count in determining the potential to emit of a stationary source.

(e) "Stationary Source" shall mean any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

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

(g) "Emissions Unit" shall mean any part of a stationary source which emits or would have the potential to emit any regulated NSR pollutant including an electric utility steam generating unit as defined in subparagraph (2)(vv) of this Rule. For purposes of this Rule, there are two types of emissions units as described in subparagraphs (2)(g)1. and 2. of this Rule.

1. A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

2. An existing emissions unit is any emissions unit that does not meet the requirements in subparagraph (2)(g)1. of this Rule.

(h) "Construction" shall mean any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in emissions.

(i) "Commence" as applied to construction of a major stationary source or major modification shall mean that the owner or operator has all necessary preconstruction approvals or permits [see subparagraph (2)(j) of this Rule] and either has:

1. Begun, or caused to begin, a continuous program of actual on-site construction [see subparagraph (2)(k) of this Rule] of the source, to be completed within a reasonable time; or

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

(j) "Necessary Preconstruction Approvals or Permits" shall mean those permits or approvals required under Alabama air quality control laws and regulations which are part of the State Implementation Plan.

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

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

(m) “Lowest achievable emission rate” (LAER) shall mean, for any source, the more stringent rate of emissions based on the following:

1. The most stringent emissions limitation which is contained in the implementation plan of any State for

such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

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

(n) Reserved.

(o) Reserved.

(p) "Allowable Emissions" shall mean the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, the hours of operation, or both) and the most stringent of the following:

1. The applicable standards as set forth in 40 CFR Parts 60, 61, or 63;

2. The applicable State Implementation Plan emissions limitation, including those with a future compliance date; or

3. The emissions rate specified as an enforceable permit condition, including those with a future compliance date.

(q) "Enforceable" shall mean all limitations and conditions which are enforceable, including those requirements developed pursuant to 40 CFR Parts 60, 61, and 63, requirements within the State Implementation Plan, and any permit requirements established pursuant to Chapters 14, 15, or 16 of these regulations.

(r) "Secondary Emissions" shall mean 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 Rule, 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 off-site support facility which would not otherwise be constructed or increase its emissions 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.

(s) "Innovative Control Technology" shall mean 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.

(t) "Fugitive Emissions" shall mean those emissions which could not reasonably pass through a stack, chimney, vent, roof monitor, or other functionally equivalent opening.

(u) "Actual Emissions" shall mean the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with subparagraphs (u)1. through (u)3. below, except that this definition shall not apply for establishing a PAL under paragraph (23) of this Rule. Instead, subparagraphs (2)(nn) and (2)(uu) of this Rule shall apply for this purpose.

1. In general, actual emissions as of any given date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the given data and which is representative of normal source operation. The Director 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.

2. The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

3. For any emissions unit which has not begun normal operations on the given date as determined in subparagraph (u)1. above, actual emissions shall equal the potential to emit of the unit on that date.

(v) "Complete" shall mean, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

(w) "Significant" shall mean, in reference to an emissions increase or a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of

emissions that would equal or exceed any of the following rates:

Pollutant	**Emissions Rate (tons per year)**
Carbon monoxide Marginal and Moderate Nonattainment Areas.... Serious Nonattainment Areas.....	 100 50*
Nitrogen oxides.....	40
Sulfur dioxide	40
PM_{10}.....	15
$PM_{2.5}$.....	10 (of direct PM2.5) 40 (of SO2 or NOx)
Ozone Marginal and Moderate Nonattainment Areas.... Serious and Severe Nonattainment Areas..... Extreme Nonattainment Areas.....	 40 (of VOC or NOx) 25 (of VOC or NOx) Any (of VOC or NOx)
Lead.....	0.6

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

(x) "Federal Land Manager" shall mean, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(y) "Nonattainment Area" shall mean any area designated by EPA as nonattainment for any national ambient air quality standard under Subpart C of 40 CFR part 81.301.

(z) Reserved.

(aa) Reserved.

(bb) Reserved.

(cc) Reserved.

(dd) Reserved.

(ee) Reserved.

(ff) Reserved.

(gg) "Pollution Prevention Projects" shall mean 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.

(hh) "Clean coal technology" shall mean any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or 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.

(ii) "Clean coal technology demonstration project" shall mean 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.

(jj) "Temporary clean coal technology demonstration project" shall mean a clean coal technology demonstration project that is operated for a period of 5 years or less, and which 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.

(kk) "Repowering" shall mean 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 Administrator, 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.

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

(ll) Reserved.

(mm) "Significant emissions increase" shall mean, for a regulated NSR pollutant, an increase in emissions that is

significant (as defined in subparagraph (2)(w) of this Rule) for that pollutant.

(nn) "Projected actual emissions" shall mean

1. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (consecutive 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 that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

2. In determining the projected actual emissions under subparagraph (2)(nn)1. of this Rule (before beginning actual construction), the owner or operator of the major stationary source:

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

(ii) Shall include fugitive emissions to the extent quantifiable, if appropriate under 335-3-14-.05(1)(k), and emissions associated with startups and shutdowns; and

(iii) Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under subparagraph (2)(uu) of this Rule and that are not resulting from the particular project, including any increased utilization due to product demand growth; or

(iv) In lieu of using the method set out in subparagraphs (2)(nn)2.(i) through (iii), may elect to use the emissions unit's potential to emit, in tons per year, as defined under subparagraph (2)(d) of this Rule.

(oo) "Nonattainment Major new source review (NSR) program" shall mean the preconstruction permit program in this Rule. Any permit issued under this program is a major NSR permit.

(pp) "Prevention of Significant Deterioration (PSD) program" shall mean the preconstruction permit program in 335-3-14-.04. Any permit issued under this program is a major NSR permit.

(qq) "Continuous emissions monitoring system (CEMS)" shall mean all of the equipment that may be required to meet the data acquisition and availability requirements of this Rule, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

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

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

(tt) "Continuous emissions rate monitoring system (CERMS)" shall mean the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

(uu) "Baseline actual emissions" shall mean the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with subparagraphs (2)(uu)1. through 4. of this Rule.

1. 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 Director may 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, if appropriate under 335-3-14-.05(1)(k), and emissions associated with startups and shutdowns.

(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 subparagraph (2)(uu)1.(ii) of this Rule.

2. 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 Department for a permit required under this Rule, whichever is earlier.

(i) The average rate shall include fugitive emissions to the extent quantifiable, if appropriate under 335-3-14-.05(1)(k), and emissions associated with startups and shutdowns.

(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 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 must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period can 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 subparagraphs (2)(uu)2.(ii) and (iii) of this Rule.

3. For a new emissions unit, as defined in subparagraph (2)(g)1. of this Rule, 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. During the first two years from the date which the emissions unit commenced operation, the baseline actual emissions shall equal the potential to emit for the unit. Thereafter, the unit will be considered an existing emissions unit and the baseline actual emissions will be determined in accordance with subparagraph (2)(uu)1. for an electric steam generating unit or subparagraph (2)(uu)2. for other emissions units.

4. 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 (2)(uu)1. of this Rule, for other existing emissions units in accordance with the procedures contained in subparagraph (2)(uu)2. of this Rule, and for a new emissions unit in accordance with the procedures contained in subparagraph (2)(uu)3. of this Rule.

(vv) "Electric utility steam generating unit" shall mean 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.

(ww) "Regulated NSR pollutant", for purposes of this Rule, shall mean the following:

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

2. PM2.5 and PM10 emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. Such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM2.5 and PM10. Applicability determinations made prior to January 1, 2011 without accounting for condensable particulate matter shall not be considered invalid.

(xx) Reserved.

(yy) "Project" shall mean a physical change in, or change in the method of operation of, an existing major stationary source.

(zz) "Offset ratio" shall mean the ratio of total actual emissions reductions to total allowable emissions increases of such pollutant from the new source.

(aaa) "Significant Impact" shall mean the following significant levels would be exceeded in the portion of the designated nonattainment area where the ambient air quality standards are actually violated.

Pollutant	**Annual**	**24-hour**	**8-hour**	**3-hour**	**1-hour**
PM_{10}		5 µg/m3			
$PM_{2.5}$	0.3 µg/m3	1.2 µg/m3			
SO_2	1 µg/m3	5 µg/m3		25 µg/m3	
NO_2	1 µg/m3				
CO			0.5 mg/m3		2 mg/m3

(3) Permitting requirements. No Air Permit shall be issued for the construction of a new major source or the major modification of an existing source that is major for any pollutant or its precursors for which an area is nonattainment if the source or modification would be located in the nonattainment area or would be located outside the nonattainment area but have a significant impact on the nonattainment area unless the following conditions are met, as applicable:

(a) The applicant demonstrates that the new source or the major modification would meet an emission limitation that would represent the lowest achievable emission rate (LAER) for that source or facility;

(b) The applicant certifies that all existing major sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with that person) within the state of Alabama are in compliance with all applicable air emission limits or are on an acceptable compliance schedule; and

(c) The applicant demonstrates that emission reductions from existing source(s) in the area of the proposed source/major modification (whether or not under the same ownership) meet the offset requirements of paragraph (4) of this rule.

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

(e) Requirements for sources located outside of a nonattainment area. Any new major stationary source or major modification undergoing a PSD permitting review near a nonattainment area which has a significant impact, as defined in 335-3-14-.05(2)(aaa), on the nonattainment area shall either:

1. Obtain offsets from within the nonattainment area in accordance with the requirements in paragraph (4) of this Rule, or

2. Obtain emissions reductions in or near the nonattainment area which will, at a minimum, reduce the impact of the project to below the significant impact level. All emissions reductions must be calculated in accordance with the requirements in paragraph (4) and be enforceable.

(f) The requirements of this Rule shall apply to all pollutants for which a nonattainment area has been designated as nonattainment and all precursors for those pollutants.

(g) Interpollutant trading may be utilized only for the purpose of satisfying offset requirements for PM2.5. Emissions reductions may only be utilized once in determining allowable offsets, i.e. the same reductions in SO2 may not be utilized to offset SO2 increases and PM2.5 increases. Any offsets utilized in interpollutant offset trading must meet the

requirements of paragraph (4). Interpollutant offsets shall be determined based upon the following ratios:

1. 200 tons of NOx to 1 ton of PM2.5,

2. 1 ton of PM2.5 to 200 tons of NOx,

3. 40 tons of SO2 to 1 ton of PM2.5,

4. 1 ton of PM2.5 to 40 tons of SO2.

(h) Exemptions. Temporary emission sources, such as pilot plants and portable facilities which will be relocated outside of the nonattainment area after a short period of time, are exempt from the requirements of subparagraphs (3)(c) through (e) of this Rule.

(i) The total amount of increased emissions resulting from a major modification that must be offset, in tons per year, shall be determined by summing the difference between the allowable emissions after the modification, as defined in 335-3-14-.05(2)(p), and the actual emissions before the modification, as defined in 335-3-14-.05(2)(u), for each emissions unit.

(4) Offset Standards.

(a) Where the emissions limit under these regulations allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential;

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

(c) Emissions reductions achieved by shutting down an existing emission unit or curtailing production or operating hours may be generally credited for offsets if they meet the following requirements:

1. Such reductions are surplus, permanent, quantifiable, and enforceable.

2. The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this paragraph, the Director may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units. No credit may be given for shutdowns that occurred before August 7, 1977.

(d) Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements in paragraph (4)(c)2. of this paragraph may be generally credited only if:

1. The shutdown or curtailment occurred on or after the date the construction permit application is filed; or

2. The applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit, and the emissions reductions achieved by the shutdown or curtailment are surplus, permanent, quantifiable, and enforceable.

(e) No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except that emissions credit may be allowed for the replacement with those compounds listed as having negligible photochemical reactivity in 40 CFR 51.100(s).

(f) All emission reductions claimed as offset credit shall be federally enforceable;

(g) Credit for an emissions reduction can be claimed provided that the Department has not relied on it in issuing any permit under 335-3-14-.04 or .05 or has not relied on it in a demonstration of attainment or reasonable further progress.

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

(i) Calculation of Emission Offsets.

1. The following procedure shall be followed to calculate emission offsets:

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

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

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

2. For any emissions unit that has been operating for a consecutive period of at least 12 months but less than 24 months on the base year inventory date, based on the unit's potential to emit, emissions shall be calculated equal to the amount needed to complete a 24 month period on the base year inventory date. The baseline for determining credit for emission offsets of any source shall be the allowable emissions of said source or the actual emissions of said source, not including any malfunctions, whichever is less.

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

1. The other area has an equal or higher nonattainment classification then the area in which the proposed source is located; and

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

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

1. Emissions increases in carbon monoxide (CO), nitrogen dioxide (NO2), sulfur dioxide (SO2), lead (Pb), and particulate matter (PM10 and PM2.5) nonattainment areas shall be offset at a ratio greater than 1 to 1.

2. Emissions increases in ozone nonattainment areas shall be offset for volatile organic compounds (VOC) and nitrogen oxides (NOx) in accordance with the following:

(i) Marginal 1.1 to 1

(ii) Moderate 1.15 to 1

(iii) Serious 1.2 to 1

(iv) Severe 1.3 to 1

(v) Extreme 1.5 to 1

(5) Banking of Emission Offsets. Offsets approved after January 16, 1979, which exceed the requirement of reasonable further progress may be "banked" for future use; likewise, reductions in emissions from existing sources which exceed the requirement of reasonable further progress may be "banked" for future use. The banking is subject to the following requirements:

(a) Application shall be made in writing to the Director, describing the emission offsets to be banked, such description to include location, source, and type of emissions.

(b) Emission offsets cannot be banked beyond the allowable emissions of said source or the existing emissions of said source, not including any malfunctions, whichever is less.

(c) Upon approval by the Director of said application, the banked emissions shall be credited to the facility submitting such application.

(d) No emission offsets banked in accordance with the provisions of this Paragraph shall be used unless written notice is provided to the Director thirty (30) days prior to submission of the necessary permit applications, to provide opportunity for review of the proposed use of the banked emission offsets.

(e) In the event that a determination is made that the banked emission offsets may not be used for the proposed construction, written notice shall be afforded the applicant, as provided in Rule 335-3-14-.02(3), herein.

(f) In the event that a determination under subparagraph (e) of this paragraph is made by the Director, construction may proceed if, and only if, emission offsets are obtained sufficient to satisfy the requirements of paragraph (4) of this Rule.

(g) Nothing contained in this Paragraph shall prohibit the transfer, assignment, sale, or otherwise complete disposition of said banked emission offsets, provided that written notice is provided to the Director, thirty (30) days prior to such disposition, describing in detail the recipient of the banked emissions.

(6) Area Classifications.

(a) The following area, which was in existence on August 7, 1977, shall be a Class I area and may not be redesignated:

1. The Sipsey Wilderness Area, located in Franklin, Winston, and Lawrence counties, Alabama.

(b) Any other area is initially designated Class II:

(7) Air Quality Models.

(a) All estimates of ambient concentrations required under this Rule shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models". (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711)

(8) Reserved.

(9) Control Technology Review.

(a) A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable limitation standard and standard of performance under 40 CFR Parts 60, 61, and 63.

(b) A new major stationary source shall apply LAER for each regulated NSR pollutant and precursors that it would have the potential to emit in significant amounts for which the area is designated as nonattainment.

(c) A major modification shall apply LAER for each regulated NSR pollutant and precursors for which it would result in a significant net emissions increase for which the area is designated as nonattainment. This requirement applies to each emissions unit at which a net emissions increase in the pollutant or precursors would occur as a result of a physical change or change in the method of operation in the unit.

(d) For phased construction projects, the determination of LAER shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than eighteen (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 LAER for the source.

(10) Reserved.

(11) Reserved.

(12) Air Quality Monitoring.

(a) 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 Director determines is necessary to determine the impact said source or modification may have, or is having, on air quality in any area.

(b) Operations of Monitoring Stations. The owner or operator of a major stationary source or major modification shall meet Federal monitoring quality assurance requirements during the operation of monitoring stations for purposes of satisfying this paragraph.

(c) Visibility Monitoring. The Director may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the Director deems necessary and appropriate.

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

(a) Such information shall include:

1. 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;

2. A detailed schedule for construction of the source or modification;

3. 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 LAER would be applied.

(b) Upon request of the Director, the owner or operator shall also provide information on:

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

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

(14) Reserved.

(15) Reserved.

(16) Public Participation.

(a) After receipt of an application for an Air Permit or any addition to such application, the Director shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this Rule, the date on which the Director received all required information.

(b) Within one (1) year after receipt of a complete application, the Director shall make a final determination of the application. This involves performing the following actions in a timely manner:

1. Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

2. Make available on the Department's web site 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.

3. Notify the public, by posting on the Department's web site for the duration of the commend period of 30 days, the preliminary determination, the opportunity to comment on the proposed permit, how to request and/or attend a public hearing on the proposed permit, a copy of the proposed permit, and information on how to access the administrative record for the proposed permit.

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

5. 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 or modification, alternatives to the source or modification,

the control technology required, and other appropriate considerations.

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

7. Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this Rule.

8. Notify the applicant in writing of the final determination and make such notification available for public inspection on the same web site where the Director made available preconstruction information and public comments relating to the source or modification.

(17) Source Obligation.

(a) An Air Permit authorizing construction shall become invalid if construction is not commenced within twenty-four (24) months after receipt of such approval, if construction is discontinued for a period of twenty-four (24) months or more, or if construction is not completed within a reasonable time. The Director may extend the twenty-four (24) month period upon 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 twenty-four (24) months of the projected and approved commencement date.

(b) An Air Permit authorizing construction 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.

(c) 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 which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of

paragraphs (9) through (17) of this Rule shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(d) The provisions of this subparagraph (17)(d) apply to projects at an existing emissions unit at a major stationary source (other than projects at a source with a PAL), that are not excluded from the definition of physical change or change in the method of operation, where there is not a reasonable possibility that the project is a part of a major modification and may result in a significant emissions increase and the owner or operator elects to use the method specified in subparagraphs (2)(nn)2.(i) through (iii) of this Rule for calculating projected actual emissions.

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

(i) A description of the project;

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

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under subparagraph (2)(nn)2.(iii) of this Rule and an explanation for why such amount was excluded, and any netting calculations, if applicable.

2. The owner or operator of the source shall make the information required to be documented and maintained pursuant to subparagraph (17)(d) of this Rule available for review upon a request for inspection by the Department or the general public.

3. Nothing in this subparagraph shall be construed to exempt the owner or operator of such a unit from obtaining any minor source Air Permit in accordance with the requirements of this Chapter.

(e) The provisions of this subparagraph (17)(e) 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, and that is not excluded from the definition of physical change or change in the method of operation, may result in a significant

emissions increase and the owner or operator elects to use the method specified in subparagraphs (2)(nn)2.(i) through (iii) of this Rule for calculating projected actual emissions.

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

(i) A description of the project;

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

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under subparagraph (2)(nn)2.(iii) of this Rule and an explanation for why such amount was excluded, and any netting calculations, if applicable.

2. Before beginning actual construction, the owner or operator shall provide a copy of the information set out in subparagraph (17)(e)1. of this Rule to the Director. Nothing in this subparagraph shall be construed to require the owner or operator of such a unit to obtain any determination from the Director before beginning actual construction; however, nothing in this subparagraph shall be construed to exempt the owner or operator of such a unit from obtaining any minor source Air Permit in accordance with the requirements of this chapter.

3. 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 subparagraph (17)(e)1.(ii) of this Rule; 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 NSR pollutant at such emissions unit.

4. The owner or operator shall submit a report to the Director within 60 days after the end of each year during which records must be generated under subparagraph (17)

(e)3. of this Rule. The report shall contain the following:

(i) All information required by subparagraph (17)(e)1. of this Rule.

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

(iii) The annual emissions as calculated pursuant to subparagraph (17)(e)3. of this Rule; and

(iv) Any other information that the owner or operator wishes to include in the report.

5. The owner or operator of the source shall make the information required to be documented and maintained pursuant to subparagraph (17)(e) of this Rule available for review upon a request for inspection by the Department.

6. All information submitted to the Department pursuant to the requirements of subparagraph (17)(e) of this Rule shall be available for review at the request of any member of the public in accordance with the Department's public records review procedures found in ADEM Admin. Code R-335-1-1-.06.

(18) Innovative Control Technology.

(a) An owner or operator of a proposed major stationary source or major modification may request in writing no later than the close of the comment period under paragraph (16) of this Rule that the Director approve a system of innovative control technology.

(b) The Director shall determine that the source or modification may employ a system of innovative control technology, if:

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

2. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under subparagraph (9)(b) of this Rule by a date specified by the Director. Such date shall not be later than four (4) years from the time of startup or seven (7) years from permit issuance;

3. The source or modification would meet the requirements of paragraph (9) of this Rule 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 Director;

4. The source or modification has obtained all emission reductions as required in paragraph (4) prior to initial startup of the source or modification.

5. The consent of the Governor of any other affected state is secured;

6. All other applicable requirements including those for public participation have been met.

(c) The Director shall withdraw any approval to employ a system of innovative control technology made under this Rule, if:

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

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

3. The Director 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.

(d) 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 subparagraph (c) of this paragraph, the Director may allow the source or modification up to an additional three (3) years to meet the requirement for the application of LAER through use of a demonstrated system of control.

(19) Reserved.

(20) Reserved.

(21) Reserved.

(22) Reserved.

(23) Actuals PALs. The provisions in subparagraphs (23)(a) through (o) of this Rule govern actuals PALs.

(a) Applicability.

1. The Director may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in subparagraphs (23)(a) through (o) of this Rule. The term "PAL" shall mean "actuals PAL" throughout paragraph (23) of this Rule.

2. Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in subparagraphs (23)(a) through (o) of this Rule, 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 nonattainment major NSR program;

3. 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.

(b) Definitions. For the purposes of this Rule, the definitions in subparagraphs (23)(b)1. through 11. of this Rule apply. When a term is not defined in these paragraphs, it shall have the meaning given in paragraph (2) of this Rule or in the Clean Air Act.

1. Actuals PAL for a major stationary source means a PAL based on the baseline actual emissions (as defined in subparagraph (2)(uu) of this Rule) of all emissions units (as defined in subparagraph (2)(g) of this Rule) at the source, that emit or have the potential to emit the PAL pollutant.

2. Allowable emissions means "allowable emissions" as defined in subparagraph (2)(p) of this Rule, except as this definition is modified according to subparagraphs (23)(b)2.(i) and (ii) of this Rule.

(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 subparagraph (2)(d) of this Rule, except that the words "or enforceable as a practical matter" should be added after "enforceable."

3. Small emissions unit means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in subparagraph (2)(w) of this Rule or in the Clean Air Act, whichever is lower.

4. Major emissions unit means:

(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.

5. Plantwide applicability limitation (PAL) means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with subparagraphs (23)(a) through (o) of this Rule.

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

7. PAL effective period means the period beginning with the PAL effective date and ending 10 years later.

8. PAL major modification means, notwithstanding subparagraphs (2)(b) and (2)(c) of this Rule (the definitions for major modification and net emissions increase), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

9. PAL permit means the major NSR permit, the minor NSR permit, or the title V permit issued by the Director that establishes a PAL for a major stationary source.

10. PAL pollutant means the pollutant for which a PAL is established at a major stationary source.

11. Significant emissions unit means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in subparagraph (2)(w) of this Rule 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 (23)(b)4. of this Rule.

(c) 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 Director for approval:

1. 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.

2. 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 and shutdown.

3. 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 (23)(m)1. of this Rule.

(d) General requirements for establishing PALs.

1. The Director is allowed to establish a PAL at a major stationary source, provided that at a minimum, the requirements in subparagraphs (23)(d)1.(i) through (vii) of this Rule 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 total, 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 subparagraph (23)(e) of this Rule.

(iii) The PAL permit shall contain all the requirements of subparagraph (23)(g) of this Rule.

(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 subparagraphs (23)(l) through (n) of this Rule for each emissions unit under the PAL through the PAL effective period.

2. 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 Rule 335-3-14-.05 of this chapter 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.

(e) Public participation requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with those of this Rule and 40 CFR Parts 51.160 and 51.161. This includes the requirement that the Director 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 Director must address all material comments before taking final action on the permit.

(f) Setting the 10-year actuals PAL level. The actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in subparagraph (2)(uu) of this Rule) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under subparagraph (2)(w) of this Rule or under 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 shutdown after this 24-month period must be subtracted from the PAL level. Emissions from units on which actual construction began after the beginning of the 24-month period must be added to the PAL level in an amount equal to the potential to emit of

the unit if the unit began operation less than 24 months prior to the submittal of the PAL application. Baseline actual emissions from units on which actual construction began after the beginning of the 24-month period and commenced operation 24 months or more prior to the submittal of the PAL application must be added to the PAL based upon any 24 month period since the unit commenced operation. The Director shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable Federal or State regulatory requirement(s) that the Director 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 NOX 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(s).

(g) Contents of the PAL permit. The PAL permit must contain, at a minimum, the information in subparagraphs (23)(g)1. through 10. of this Rule.

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

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

3. Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with subparagraph (23)(j) of this Rule before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Director.

4. A requirement that emission calculations for compliance purposes must include emissions from startups and shutdowns.

5. A requirement that, once the PAL expires, the major stationary source is subject to the requirements of subparagraph (23)(i) of this Rule.

6. 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 (23)(m)1. of this Rule.

7. A requirement that the major stationary source owner or operator monitor all emissions units in accordance

with the provisions under subparagraph (23)(l) of this Rule.

8. A requirement to retain the records required under subparagraph (23)(m) of this Rule on site. Such records may be retained in an electronic format.

9. A requirement to submit the reports required under subparagraph (23)(n) of this Rule by the required deadlines.

10. Any other requirements that the Director deems necessary to implement and enforce the PAL.

(h) PAL effective period and reopening of the PAL permit. The requirements in subparagraphs (23)(h)1. and 2. of this Rule apply to actuals PALs.

1. PAL effective period. The Director shall specify a PAL effective period of 10 years.

2. Reopening of the PAL permit.

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

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

(II) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Rule 335-3-14-.05; and

(III) Revise the PAL to reflect an increase in the PAL as provided under subparagraph (23)(k) of this Rule.

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

(I) Reduce the PAL to reflect newly applicable Federal requirements (for example, NSPS) with compliance dates after the PAL effective date;

(II) Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and is required by these regulations; and

(III) Reduce the PAL if the Director determines that a reduction is necessary to avoid causing or

contributing to a NAAQS or PSD increment violation, or to an adverse impact on a published 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 subparagraph (23)(h)2.(i)(I) of this Rule 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 subparagraph (23)(e) of this Rule.

(i) Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in subparagraph (23)(j) of this Rule shall expire at the end of the PAL effective period, and the requirements in subparagraphs (23)(i)1. through 5. of this Rule shall apply.

1. Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the procedures in subparagraphs (23)(i)1.(i) and (ii) of this Rule.

(i) Within the time frame specified for PAL renewals in subparagraph (23)(j)2. of this Rule, 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 Director) 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 (23)(j)5. of this Rule, such distribution shall be made as if the PAL had been adjusted.

(ii) The Director 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 Director determines is appropriate.

2. Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Director 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.

3. Until the Director issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subparagraph (23)(i)1.(ii) of this Rule, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

4. 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 subparagraph (2)(b) of this Rule.

5. The major stationary source owner or operator shall continue to comply with any State or Federal applicable requirements (BACT, RACT, NSPS, synthetic minor limit, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period.

(j) Renewal of a PAL.

1. The Director shall follow the procedures specified in subparagraph (23)(e) of this Rule 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 Director.

2. Application deadline. A major stationary source owner or operator shall submit a timely application to the Director 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.

3. Application requirements. The application to renew a PAL permit shall contain the information required in subparagraphs (23)(j)3.(i) through (iv) of this Rule.

(i) The information required in subparagraphs (23)(c)1. through 3. of this Rule.

(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 Director to consider in determining the appropriate level for renewing the PAL.

4. PAL adjustment. In determining whether and how to adjust the PAL, the Director shall consider the options outlined in subparagraphs (23)(j)4.(i) and (ii) of this Rule. However, in no case may any such adjustment fail to comply with subparagraph (23)(j)4.(iii) of this Rule.

(i) If the emissions level calculated in accordance with subparagraph (23)(f) of this Rule is equal to or greater than 80 percent of the PAL level, the Director may renew the PAL at the same level without considering the factors set forth in subparagraph (23)(j)4.(ii) of this Rule; or

(ii) The Director 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 Director in his or her written rationale.

(iii) Notwithstanding subparagraphs (23)(j)4.(i) and (ii) of this Rule:

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

(II) The Director shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of subparagraph (23)(k) of this Rule (increasing a PAL).

5. 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 Director 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.

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

1. The Director may increase a PAL emission limitation only if the major stationary source complies with the provisions in subparagraphs (23)(k)1.(i) through(iv) of this Rule.

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

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

(iii) The owner or operator obtains a major NSR permit for all emissions unit(s) identified in subparagraph (23)(k)1.(i) of this Rule, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the major NSR process (for example, 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.

2. The Director 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 subparagraph (23)(k)1.(ii)), plus the sum of the baseline actual emissions of the small emissions units.

3. The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of subparagraph (23)(e) of this Rule.

(l) Monitoring requirements for PALs.

1. 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 subparagraphs (23)(l)2.(i) through (iv) of this Rule and must be approved by the Director.

(iii) Notwithstanding subparagraph (23)(l)1.(ii) of this Rule, an alternative monitoring approach that meets subparagraph (23)(l)1.(i) of this Rule may be employed if approved by the Director.

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

2. Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in subparagraphs (23)(l)3. through 9. of this Rule:

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

(ii) CEMS;

(iii) CPMS or PEMS; and

(iv) Emission factors.

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

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

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

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

4. 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.

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

(i) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL

pollutant emissions across the range of operation of the emissions unit; and

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

6. 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 6 months of PAL permit issuance, unless the Director determines that testing is not required.

7. 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.

8. Notwithstanding the requirements in subparagraphs (23)(l)3. through 7. of this Rule, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Director shall, at the time of permit issuance:

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

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

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

(m) Recordkeeping requirements.

1. The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of paragraph (23) of this Rule and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record.

2. 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 5 years:

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

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

(n) Reporting and notification requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Director in accordance with the applicable title V operating permit. The reports shall meet the requirements in subparagraphs (23)(n)1. through 3. of this Rule.

1. Semi-annual report. This report shall contain the information required in subparagraphs (23)(n)1.(i) through (vii) of this Rule.

(i) The identification of owner and 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 pursuant to subparagraph (23)(m)1. of this Rule.

(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 (23)(l)7. of this rule.

(vii) A signed statement by a responsible official (as defined in Chapter 335-3-16 of these Regulations) certifying the truth, accuracy, and completeness of the information provided in the report.

2. Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to 335-3-16-.05(c)3.(ii) shall satisfy this reporting requirement. The reports shall contain the following information:

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

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

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

(iv) A signed statement by a responsible official (as defined in Chapter 335-3-16 of these Regulations) certifying the truth, accuracy, and completeness of the information provided in the report.

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

(o) Transition requirements.

1. The Director may not issue a PAL that does not comply with the requirements in subparagraphs (23)(a) through(o) of this Rule after the effective date of this Rule.

2. The Director may supersede any PAL that was established prior to the effective date of this Rule with a PAL that complies with the requirements of subparagraphs (23)(a) through (o) of this Rule.

(24) If any provision of this Rule, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Rule, 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.

Author: James W. Cooper, John E. Daniel; Larry W. Brown
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335-3-14-.06 Requirements For Control Technology [Determinations For Major Sources In Accordance With Clean Air Act Section 112(g)].

(1) Applicability.

(a) The requirements of paragraphs (1) through (4) of this Rule carry out Section 112(g)(2)(B) of the 1990 Clean Air Act Amendments (hereinafter, referred to as 'the Act' in this Rule).

(b) Overall requirements. The requirements of paragraphs (1) through (4) of this Rule apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after the effective date of this Rule unless the major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to Section 112(d), Section 112(h), or Section 112(j) and incorporated in another Subpart of Part 63 of the 40 Code of Federal Regulations or Chapter 335-3-11 of this Division, or the owner or operator of such major source has received all necessary air quality permits for such construction or reconstruction project before the effective date of this Rule.

(c) Exclusion for electric utility steam generating units. The requirements of this Rule do not apply to electric utility steam generating units unless and until such time as these units are added to the source category list pursuant to Section 112(c)(5) of the Act.

(d) Exclusion for stationary sources in deleted source categories. The requirements of this Rule do not apply to stationary sources that are within a source category that has been deleted from the source category list pursuant to Section 112(c)(9) of the Act.

(e) Exclusion for research and development activities. The requirements of this Rule do not apply to research and development activities, as defined in paragraph (2) below.

(f) Prohibition. After the effective date of this Rule, no person may begin actual construction or reconstruction of a major source of HAP unless:

1. The major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to Section 112(d), Section 112(h) or Section 112(j) in Part 63 [40 CFR 63, Subpart B, as incorporated by reference in Rule 335-3-11-.06(1)], and the owner and operator has fully complied with all procedures and requirements for preconstruction review established by that standard, including any applicable requirements set forth in Subpart A of Part 63; or

2. The Department has made a final and effective case-by-case determination pursuant to the provisions of this Rule such that emissions from the constructed or reconstructed major source will be controlled to a level no less stringent than the maximum achievable control technology emission limitation for new sources.

(2) Definitions. Terms used in this Rule that are not defined below have the meaning given to them in the Act and in 40 CFR Subpart A.

(a) "Affected Source" means the stationary source or group of stationary sources which, when fabricated (on site), erected, or installed meets the definition of "construct a major source" or the definition of "reconstruct a major source" contained in this paragraph.

(b) “Affected States" are all States:

1. Whose air quality may be affected and that are contiguous to the State in which a MACT determination is made in accordance with this Rule; or

2. Whose air quality may be affected and that are within 50 miles of the major source for which a MACT determination is made in accordance with this Rule.

(c) "Available Information" means, for purposes of identifying control technology options for the affected source, information contained in the following information sources as of the date of approval of the MACT determination by the Department:

1. A relevant proposed regulation, including all supporting information;

2. Background information documents for a draft or proposed regulation;

3. Data and information available from the Control Technology Center developed pursuant to Section 113 of the Act;

4. Data and information contained in the Aerometric Informational Retrieval System including information in the MACT data base;

5. Any additional information that can be expeditiously provided by the Director; and

6. For the purpose of determinations by the Department, any additional information provided by the applicant or others, and any additional information considered available by the Department.

(d) "Construct a Major Source" means:

1. To fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAPs, or

2. To fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAPs, unless the process or production unit satisfies criteria (i) through (vi) below:

(i) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of this Rule will be controlled by emission control equipment which was previously

installed at the same site as the process or production unit;

(ii) The Department has determined within a period of 5 years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented best available control technology (BACT), or lowest achievable emission rate (LAER) under Chapter 335-3-14; or the Department determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT or LAER determination);

(iii) The Department determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

(iv) The Department has provided notice and an opportunity for public comment concerning its determination that criteria in subparagraphs 2.(i), 2.(ii), and 2.(iii) of this definition apply and concerning the continued adequacy of any prior LAER or BACT determination;

(v) If any commenter has asserted that a prior LAER or BACT determination is no longer adequate, the Department has determined that the level of control required by that prior determination remains adequate; and

(vi) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the Department are predicated will be construed by the Department as applicable requirements under Section 504(a) and either have been incorporated into any existing Major Source Operating Permit for the affected facility or will be incorporated into such permit upon issuance.

(e) "Control Technology" means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants through process changes, substitution of materials or other modifications including, but not limited to, measures that:

1. Reduce the quantity of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications;

2. Enclose systems or processes to eliminate emissions;

3. Collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

4. Are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 U.S.C. 7412(h); or

5. Are a combination of subparagraphs 1. - 4. of this definition.

(f) "Department" means the Department as defined in this Division.

(g) "Effective Date of Section 112(g)(2)(B)" means the effective date of this Rule adopted by the Department.

(h) "Electric Utility Steam Generating Unit" means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that co-generates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

(i) "Greenfield Site" means a contiguous area under common control that is an undeveloped site.

(j) "Hazardous Air Pollutant or HAP" means any of the substances listed in Appendix G of this Division.

(k) "List of Source Categories" means the Source Category List required by Section 112(c) of the Act.

(l) "Maximum Achievable Control Technology (MACT) Emission Limitation for New Sources" means the emission limitation which is not less stringent than the emission limitation achieved in practice by the best controlled similar source, and which reflects the maximum degree of reduction in emissions that the Department, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.

(m) "Process or Production Unit" means any collection of structures and/or equipment, that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.

(n) "Reconstruct a Major Source" means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAPs, whenever:

1. The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and

2. It is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this Rule.

(o) "Research and Development Activities" means activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.

(p) "Similar Source" means a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology.

(3) Maximum Achievable Control Technology (MACT) Determinations for Constructed and Reconstructed Major Sources.

(a) Applicability. The requirements of this paragraph apply to an owner or operator who constructs or reconstructs a major source of HAP subject to a case-by-case determination of maximum achievable control technology pursuant to this Rule.

(b) Principles of MACT determinations. The following general principles shall govern preparation by the owner or operator of each permit application or other application requiring a case-by-case MACT determination concerning construction or reconstruction of a major source, and all subsequent review of and actions taken concerning such an application by the Department:

1. The MACT emission limitation or MACT requirements recommended by the applicant and approved by the Department shall not be less stringent than the emission control which is achieved in practice by the best controlled similar source, as determined by the Department.

2. Based upon available information, as defined in this Rule, the MACT emission limitation and control technology (including any requirements under subparagraph (b)3. below) recommended by the applicant and approved by the Department shall achieve the maximum degree of reduction in emissions of HAP which can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements associated with the emission reduction.

3. The applicant may recommend a specific design, equipment, work practice, or operational standard, or a combination thereof, and the Department may approve such a standard if the Department specifically determines that it is not feasible to prescribe or enforce an emission limitation under the criteria set forth in Section 112(h)(2) of the Act.

4. If the Administrator has either proposed a relevant emission standard pursuant to Section 112(d) or Section 112(h) of the Act or adopted a presumptive MACT determination for the source category which includes the constructed or reconstructed major source, then the MACT requirements applied to the constructed or reconstructed major source shall have considered those MACT emission limitations and requirements of the proposed standard or presumptive MACT determination.

(c) Application requirements for a case-by-case MACT determination.

1. An application for a MACT determination (whether a permit application under Chapter 335-3-16, or other permit specified by the Department under subparagraph (d) of this paragraph) shall specify a control technology selected by the owner or operator that, if properly operated and maintained, will meet the MACT emission limitation or standard as determined according to the principles set forth in subparagraph (b) of this paragraph.

2. In each instance where a constructed or reconstructed major source would require additional control technology or a change in control technology, the application for a

MACT determination shall contain the following information:

(i) The name and address (physical location) of the major source to be constructed or reconstructed;

(ii) A brief description of the major source to be constructed or reconstructed and identification of any listed source category or categories in which it is included;

(iii) The expected commencement date for the construction or reconstruction of the major source;

(iv) The expected completion date for construction or reconstruction of the major source;

(v) the anticipated date of start-up for the constructed or reconstructed major source;

(vi) The HAP emitted by the constructed or reconstructed major source, and the estimated emission rate for each such HAP, to the extent this information is needed by the Department to determine MACT;

(vii) Any enforceable emission limitations applicable to the constructed or reconstructed major source;

(viii) The maximum and expected utilization of capacity of the constructed or reconstructed major source, and the associated uncontrolled emission rates for that source, to the extent this information is needed by the Department to determine MACT;

(ix) The controlled emissions for the constructed or reconstructed major source in tons/yr at expected and maximum utilization of capacity, to the extent this information is needed by the Department to determine MACT;

(x) A recommended emission limitation for the constructed or reconstructed major source consistent with the principles set forth in subparagraph (d) of this paragraph;

(xi) The selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the Department);

(xii) Supporting documentation including identification of alternative control technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology; and

(xiii) Any other relevant information required pursuant to Subpart A, 40 CFR 63.

3. In each instance where the owner or operator contends that a constructed or reconstructed major source will be in compliance, upon startup, with case-by-case MACT under this Rule without a change in control technology, the application for a MACT determination shall contain the following information:

(i) The information described in subparagraphs (c)2. (i) through (c)2.(x) of this paragraph; and

(ii) Documentation of the control technology in place.

(d) Permit Content.

1. The Air Permit will contain a MACT emission limitation (or a MACT work practice standard if the Department determines it is not feasible to prescribe or enforce an emission standard) to control the emissions of HAP. The MACT emission limitation or standard will be determined by the Department and will conform to the principles set forth in subparagraph (3)(b) of this Rule.

2. The Air Permit will specify any notification, operation and maintenance, performance testing, monitoring, reporting and record keeping requirements, including:

(i) Additional emission limits, production limits, operational limits or other terms and conditions necessary to ensure enforceability of the MACT emission limitation;

(ii) Compliance certifications, testing, monitoring, reporting and record keeping requirements that are consistent with the requirements of 335-3-16-.07;

(iii) In accordance with Section 114(a)(3) of the Act, monitoring shall be capable of demonstrating continuous compliance during the applicable reporting period. Such monitoring data shall be of sufficient quality to be used as a basis for enforcing all

applicable requirements established under this Rule, including emission limitations;

(iv) A statement requiring the owner or operator to comply with all applicable requirements contained in Subpart A of 40 CFR 63;

3. All provisions contained in the Air Permit shall be enforceable upon the effective date of issuance of said permit, as provided by subparagraph (g) of this paragraph.

4. The Air Permit shall expire if construction or reconstruction has not commenced within 18 months of issuance, unless the Department has granted an extension which shall not exceed an additional 12 months.

(e) Public participation.

1. Notice shall be posted on the Department's web site for the duration of the comment period, and also transmitted to a list developed by the Department for persons desiring notice of permit action, including persons who have requested in writing to be on such a list;

2. The notice shall include a link to the proposed permit and information on how to access the administrative record for the proposed permit; identify the affected facility; the name and address of the permittee; the address of the Department; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person (or an email or web site address) from whom interested persons may obtain additional information, including the application, all relevant supporting materials, including any compliance plan, monitoring and compliance certification report, except for information entitled to be kept confidential, and all other materials available to the Department that are relevant to the permit decision; a brief description of the comment procedures required by this Chapter; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled);

3. The Department shall provide at least 30 days for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing; and

4. The Department shall keep a record of the comments made during the public participation process.

5. Exceptions.

(i) If the owner or operator obtains a Major Source Operating Permit prior to construction or reconstruction of a source subject to this Rule, then the requirements of this subparagraph do not apply.

(ii) If the owner or operator is concurrently applying for an Air Permit under Rules 335-3-14-.04 or 335-3-14-.05, the public participation requirements of those Rules shall substitute for the requirements of this paragraph.

(f) Prohibition of construction. An owner or operator applying for a MACT emission limitation for new sources under this Rule shall not begin construction until a permit has been issued pursuant to this Rule.

(g) Effective date. The effective date of a MACT determination shall be the date of issuance of a final Major Source Operating Permit incorporating a MACT determination (in those instances where the owner or operator either is required or elects to obtain such a permit before construction or reconstruction), or a permit issued pursuant to this Rule.

(h) Compliance date. On and after the date of start-up, a constructed or reconstructed major source which is subject to the requirements of this Rule shall be in compliance with all applicable requirements specified in the MACT determination.

(i) Compliance with MACT determinations.

1. An owner or operator of a constructed or reconstructed major source that is subject to a MACT determination shall comply with all requirements in the final Major Source Operating Permit (in those instances where the owner or operator either is required or elects to obtain such a permit before construction or reconstruction), or other permit issued pursuant to this Rule, including but not limited to any MACT emission limitation or MACT work practice standard, and any notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements.

2. An owner or operator of a constructed or reconstructed major source which has obtained a MACT determination shall be deemed to be in compliance with Section 112(g)(2)(B) of the Act and this Rule only to the extent that the constructed or reconstructed major source is in compliance with all requirements set forth in the final Major Source Operating Permit (in those instances where the owner or operator either is required or elects to obtain such a permit before construction or

reconstruction), or other permit issued pursuant to this Rule. Any violation of such requirements by the owner or operator shall be deemed by the Department and by EPA to be a violation of the prohibition on construction or reconstruction in Section 112(g)(2)(B) and this Rule for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action under the Act.

(4) Requirements for Constructed or Reconstructed Major Sources Subject to a Subsequently Promulgated MACT Standard or MACT Requirement.

(a) If the Administrator promulgates an emission standard under Section 112(d) or Section 112(h) of the Act or the Department issues a determination under Section 112(j) of the Act [40 CFR 63, Subpart B, as incorporated by reference in Rule 335-3-11-.06(1)] that is applicable to a stationary source or group of sources which would be deemed to be a constructed or reconstructed major source under this Rule before the date that the owner or operator has obtained a final and legally effective MACT determination pursuant to this Rule, the owner or operator of the source(s) shall comply with the promulgated standard or determination rather than any MACT determination under this Rule, and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

(b) If the Administrator promulgates an emission standard under Section 112(d) or Section 112(h) of the Act or the Department makes a determination under Section 112(j) of the Act [40 CFR 63, Subpart B, as incorporated by reference in Rule 335-3-11-.06(1)] that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this Rule and has been subject to a prior case-by-case MACT determination pursuant to this Rule, and the owner and operator obtained a final and legally effective case-by-case MACT determination prior to the promulgation date of such emission standard, then the Department shall (if the initial Major Source Operating Permit has not yet been issued) issue an initial operating permit which incorporates the emission standard or determination, or shall (if the initial Major Source Operating Permit has been issued) revise the operating permit according to the reopening procedures in Chapter 335-3-16 to incorporate the emission standard or determination.

1. The EPA may include in the emission standard established under Section 112(d) or Section 112(h) of the Act a specific compliance date for those sources which have obtained a final and legally effective MACT determination under this Rule and which have submitted

the information required by paragraph (3) of this Rule to the EPA before the close of the public comment period for the standard established under Section 112(d) of the Act. Such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but not longer than 8 years after such standard is promulgated. In that event, the Department shall incorporate the applicable compliance date in the Major Source Operating Permit.

2. If no compliance date has been established in the promulgated Section 112(d) or 112(h) standard or Section 112(j) determination [40 CFR 63, Subpart B, as incorporated by reference in Rule 335-3-11-.06(1)], for those sources which have obtained a final and legally effective MACT determination under this Rule, then the Department shall establish a compliance date in the permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than 8 years after such standard is promulgated or a Section 112(j) determination [40 CFR 63, Subpart B, as incorporated by reference in Rule 335-3-11-.06(1)] is made.

(c) Notwithstanding the requirements of subparagraphs (a) and (b) of this paragraph, if the Administrator promulgates an emission standard under Section 112(d) or Section 112(h) of the Act or the Department issues a determination under Section 112(j) of the Act [40 CFR 63, Subpart B, as incorporated by reference in Rule 335-3-11-.06(1)] that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this Rule and which is the subject of a prior case-by-case MACT determination pursuant to paragraph (3) of this Rule, and the level of control required by the emission standard issued under Section 112(d) or Section 112(h) or the determination issued under Section 112(j) [40 CFR 63, Subpart B, as incorporated by reference in Rule 335-3-11-.06(1)] is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the Department is not required to incorporate any less stringent terms of the promulgated standard in the Major Source Operating Permit applicable to such source(s) and may in its discretion consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such an operating permit.

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