CHAPTER 1200-3-9
CONSTRUCTION AND OPERATING PERMITS

1200-03-09-.01 CONSTRUCTION PERMITS

(1) Application for Construction Permit

(a) Except as specifically exempted in Rule 1200-3-9-.04, no person shall begin the construction of a new air contaminant source or the modification of an air contaminant source which may result in the discharge of air contaminants without first having applied for and received from the Technical Secretary a construction permit for the construction or modification of such air contaminant source.

(b) The application for a construction permit shall be made on forms available from the Technical Secretary not less than ninety (90) days prior to the estimated starting date of construction. Sources identified in paragraph (4) or (5) of this rule shall make application for a construction permit as provided in such paragraph not less than one hundred twenty (120) days prior to the estimated date of construction.

(c) In addition to the information provided in the construction permit application forms, the Technical Secretary may require submission, by the owner or operator of a source to be constructed or modified of such information on the nature and amounts of air contaminants to be emitted by the source or emitted by associated mobile sources, and any other information necessary to ensure compliance with the regulations of this Division, 1200-03, and the Board approved control strategy.

(d) Construction of a new air contaminant source or the modification of an air contaminant source which may result in the discharge of air contaminants must be in accordance with the approved construction permit application, the provisions and stipulations set forth in the construction permit, all provisions of the regulations of this Division 1200-03, any applicable measures of the control strategy, and all provisions of the Tennessee Air Quality Act.

(e) No construction permit shall be issued by the Technical Secretary if the approval to construct or modify an air contaminant source would result in a violation of the ambient air quality standards specified in Chapter 1200-03-03, would cause a violation of any other regulatory requirement under this Division, 1200-03, would result in a violation of applicable portions of the control strategy, or

would interfere with attainment or maintenance of a national ambient air quality standard in a neighboring state. In the case where a source or modification was constructed without first obtaining a construction permit, a construction permit may be issued to the source or modification to establish as conditions of the permit, the necessary emission limits and requirements to assure that these regulatory requirements are met. The appropriate enforcement action shall be pursued to ensure that ambient air quality standards and other regulatory requirements will be met. All emission limits and requirements of the construction permit must be met prior to issuance of an operating permit for the source or modification.

(f) In the issuance of construction pemits for new air contaminant sources, or modifications, source impact analysis shall demonstrate that allowable emission increases would not cause or contribute to air pollution in violation of any ambient air quality standard in Chapter 1200-3-3, of any national ambient air quality standard, or any applicable maximum allowable increase as defined in paragraph (4) of this rule. As required, all estimates of ambient concentrations shall be based on applicable air quality models and databases acceptable to the Technical Secretary and meeting the requirements specified in 40 CFR Part 51 Appendix W. The provisions of 40 CFR Part 51 Appendix W are hereby adopted by reference as published in the July 1, 2019 edition of the Code of Federal Regulations (CFR). Where an air quality impact model specified in 40 CFR Part 51 Appendix W is inappropriate, the Technical Secretary may approve use of a modified model or substitute model on a case-by-case basis after consultation with and upon written approval from the EPA Administrator.

(g) In the issuance of construction permits for new air contaminant sources or modifications, the degree of emission limitation required of any source for control of any air contaminant must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique except as provided for in Chapter 1200-3-24 of these regulations.

(h) The Department shall on a monthly basis notify the public, via electronic notice on the Department’s website of the applicants seeking to obtain a pem1it to construct or modify an air contaminant source. This notice shall specify the general vicinity or location of the proposed source or modification, the type of source or modification, and opportunity for public comment. Comments shall be in writing and submitted by U.S. mail or by email to the Technical Secretary within 30 days after the date of public notice. Unless otherwise specified in the general permit, the requirements of this subparagraph are considered to be met for notices of intent for general permits as described in Rule 1200-03-09-.06 by monthly publication on the Department’s website of a list of applicants for

coverage under a general permit for construction or modification of an air contaminant source.

(i) Reserved.

(2) Definitions. As used in this chapter all terms not defined herein or in subsequent parts of this chapter shall have the meaning given them in Chapter 1200-03-02.

(a) Reserved.

(b) "Control Strategy" means a combination of measures, approved by the Board, designated to achieve the aggregate reduction of emissions necessary for attainment and maintenance of the ambient air quality standards specified in the regulations under this Division 1200-03, or of the national ambient air quality standards including, but not limited to measures such as:

1. Emission limitations.

2. State emission charges or other economic incentives or disincentives.

3. Closing or relocation of residential, commercial, or industrial facilities.

4. Changes in schedules or methods of operation of commercial or industrial facilities or transportation systems, including, but not limited to, short term changes made in accordance with standby plans.

5. Periodic inspection and testing of motor vehicle emission control systems, at such time it is determined that such programs are feasible and practicable.

6. Emission control measures applicable to in-use motor vehicles, including, but not limited to, measures such as mandatory maintenance, installation of emission control devices, and conversion of gaseous fuels.

7. Any transportation control measures considered feasible and practicable.

8. Any variation of, or alternative to any measure delineated herein.

9. Control or prohibition of a fuel or fuel additive used in motor vehicles, if such control or prohibition is necessary to achieve a primary or secondary air quality standard, or national primary or secondary standard, and is approved by the Technical Secretary.

(c) "National Ambient Air Quality Standard" means any ambient standard for an air contaminant promulgated by the Administrator of the Environmental Protection Agency and published in the Code of Federal Regulations.

(d) "Best available control technology (BACT)" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under these rules which would be emitted from any proposed new or modified air contaminant source which the Technical Secretary, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under Chapters 1200-03-11 and 1200-03-16 of these rules. If the Technical Secretary determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, a design, equipment, work practice, or operational standard, or combination thereof, may be prescribed instead to require the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation, and shall provide for compliance by means which achieve equivalent results. This definition does not apply to major sources and major modifications, as defined in subparagraph (4)(b) of this rule, which are subject to the provisions of paragraph (4) of this rule.

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

1. The most stringent emissions limitation which is contained in the applicable standards under this Division 1200-03, or in any State Implementation Plan for such class or category of stationary source, unless the owner or operator of the proposed 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 source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source

to emit any air contaminant in excess of the amount allowable under applicable new source standards of performance.

3. This definition does not apply to major sources and major modifications, as defined in part (5)(b)1. of this rule, which are subject to the provisions of subparagraph (5)(b) of this rule. The definition at subpart (5)(b)1.(xviii) of this rule applies to major sources and major modifications in non-attainment areas

(3) Reserved.

(4) Prevention of Significant Air Quality Deterioration

(a) General Provisions

1. No new major stationary source or major modification, as defined in parts (b)1. and (b)2. of this paragraph, shall begin actual construction unless the requirements of this paragraph, as applicable, have been met.

2. The requirements of this paragraph shall only apply to a proposed major stationary source, or major modification with respect to any pollutant which is emitted in significant amounts or would result in a significant net emissions increase of the pollutant respectively. Also, the requirements of this paragraph do not apply to proposed pollutant emission sources or modifications in a nonattainment area as defined in Chapter 1200-03-02 for any pollutant to be emitted by the proposed source or modification for which the area is classified nonattainment.

3. Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this paragraph or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this paragraph who commences construction after June 3, 1981 without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

4. Approval to construct shall become invalid if construction is not commenced within 18 months after issuance of an approved permit, if construction is discontinued for a period of 18 months or more, or if construction is not completed within 18 months of the completion date specified on the construction permit application. The Tennessee Air Pollution Control Board may grant an extension to complete construction of the source provided adequate justification is presented. An extension shall not exceed 18 months in time. The provision does

not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

5. Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with the applicable provisions under this Division 1200-03 and any other requirements under local, State, or Federal law.

6. If 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 this paragraph shall apply to the source or modification as though construction had not yet commenced on the source or modification.

7. Permit Rescission

   (i) Any permit for a prevention of significant air quality deterioration (PSD) source or modification that was issued prior to June 2, 1990, will remain in effect and binding until such time as the permittee files a completed application to obtain rescission. This application for rescission may be filed at any time by the permittee.

   (ii) The Technical Secretary shall approve any application for rescission if the application shows that this paragraph 1200-03-09-.01(4), would not apply to the source or modification.

   (iii) If requested by the permittee, the Technical Secretary may rescind only certain elements required in a PSD permit issued on or before June 3, 1981.

   (iv) Those sources subject to PSD review before August 7, 1977 shall not be allowed to apply for a PSD permit rescission if construction had "commenced" by August 7, 1977.

   (v) If a source or modification whose permit is rescinded were later found to be causing or contributing to an increment violation, additional control may be required if determined necessary by the Technical Secretary.

(vi) If the Technical Secretary rescinds a permit under this paragraph, the public shall be given adequate notice of the rescission. Electronic notification of an announcement of permit rescission on the Department's website within 60 days of the rescission shall be considered adequate notice.

8. Reserved.

9. Reserved.

10. Reserved.

11. The following specific provisions apply to projects at existing emissions units at a major stationary source (other than projects at a source with a plantwide applicability limitation [PAL]) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in items (b)38.(i)(I) through (III) of this paragraph for calculating projected actual emissions.

(i) 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 item (b)38.(i)(III) of this paragraph and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(ii) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in subpart (a)11.(i) of this paragraph to the Technical Secretary. Nothing in this subpart (a)11.(ii) shall be construed

to require the owner or operator of such a unit to obtain any determination from the Technical Secretary before beginning actual construction.

(iii) 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 item (a)11.(i)(II) of this paragraph; 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.

(iv) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Technical Secretary within 60 days after the end of each year during which records must be generated under subpart (a)11.(ii) of this paragraph setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(v) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the Technical Secretary if the annual emissions, in tons per year, from the project identified in subpart (a)11.(i) of this paragraph, exceed the baseline actual emissions (as documented and maintained pursuant to item (a)11.(i)(III) of this paragraph) by a significant amount (as defined in part (b)24. of this paragraph) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to item (a)11.(i)(III) of this paragraph. Such report shall be submitted to the Technical Secretary within 60 days after the end of such year. The report shall contain the following:

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

(II) The annual emissions as calculated pursuant to subpart (a)11.(iii) of this paragraph; and

(III) Any other information that the owner or operator wishes to

include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

12. The owner or operator of the source shall make the information required to be documented and maintained pursuant to part (a)11. of this paragraph available for review upon request for inspection by the Technical Secretary or the general public.

(b) Definitions. As used in this paragraph, all terms not defined herein shall have the meaning given them in Chapter 1200-03-02.

1. Any of the following stationary sources, which emit or have the potential to emit, 100 tons per year or more of a regulated NSR pollutant.

   (I) Fossil-fuel fired steam electric plants of more than 250 million BTU per hour heat input.

   (II) Municipal incinerators (or combinations thereof) capable of charging more than 250 tons of refuse per day.

   (III) Fossil-fuel boilers (or combinations thereof) totaling more than 250 million BTU per hour heat input.

   (IV) Petroleum storage and transfer facilities with a total storage capacity exceeding 300,000 barrels.

   (V) Coal cleaning plants (with thermal dryers)

   (VI) Kraft pulp mills

   (VII) Portland cement plants

   (VIII) Primary zinc smelters

   (IX) Iron and steel mill plants

   (X) Primary aluminum ore reduction plants

   (XI) Primary copper smelters

(XII) Hydrofluoric acid plants

(XIII) Sulfuric acid plants

(XIV) Nitric acid plants

(XV) Petroleum refineries

(XVI) Lime plants

(XVII) Phosphate rock processing plants

(XVIII) Coke oven batteries

(XIX) Sulfur recovery plants

(XX) Carbon black plants (furnace process)

(XXI) Primary lead smelters

(XXII) Fuel conversion plants

(XXIII) Sintering plants

(XXIV) Secondary metal production plants

(XXV) Chemical process plants

(XXVI) Taconite ore processing plants

(XXVII) Glass fiber processing plants

(XXVIII) Charcoal production plants

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

(iii) Any physical change that would occur at a stationary source not otherwise qualifying under part (b)1. as a major stationary source if the change would constitute a major stationary source by itself.

2. "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase (as defined in part (b)34. of this paragraph) of a regulated NSR pollutant (as defined in part (b)47. of this paragraph); and a significant net emissions increase of that pollutant from the major stationary source.

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

(I) Routine maintenance, repair, or replacement;

(II) Use of an alternative fuel or raw material by reason of any order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to an applicable federal statute;

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

(IV) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste as determined by the Tennessee Division of Solid Waste Management.

(V) Use of an alternative fuel or raw material by a stationary source which the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under a legally enforceable permit condition which was established after January 6, 1975, or under regulations of this Division 1200-03, or under regulations approved by the Environmental Protection Agency pursuant to 40 CFR 51.160-51.166;

(VI) An increase in the hours of operation or in the production rate, unless such change would be prohibited under a legally enforceable permit condition which was established after January 6, 1975, or under regulations of this Division 1200-03.

(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:

I. The State Implementation Plan for the State in which the project is located, and

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

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

(ii) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under subparagraph (s) of this paragraph for a PAL for that pollutant. Instead, the definition at subpart (s)2.(viii) of this paragraph shall apply.

3. Major sources and modifications for ozone

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

(ii) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone.

4. Net emission increases

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

(I) The increase in emissions from a particular physical change or change in the method of operation at a stationary source, as calculated pursuant to part (c)4. of this paragraph; and

(II) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this item (b)4.(i)(II) shall be determined as provided in part (b)45., except that items (b)45.(i)(III) and (b)45.(ii)(IV) of this paragraph shall not apply.

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

(I) The date five years before a completed application for the particular change is submitted; and

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

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

(I) It occurs within the five years prior to the date a completed application for the particular change is submitted; and

(II) The Technical Secretary has not relied on it in issuing a permit for the source under regulations approved pursuant to this rule, which permit is in effect when the increase in actual emissions from the particular change occurs; and

(III) Reserved.

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

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

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

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

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

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

(IV) Reserved.

(vii) 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 as determined by the Technical Secretary, not to exceed 180 days.

(viii) Subpart (b)22.(i) of this paragraph shall not apply for determining creditable increases and decreases.

(5) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is legally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(6) "Stationary source" means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant - except the activities of any vessel.

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

(8) "Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit as defined in part (b)52. of this paragraph. For purposes of this paragraph, there are two types of emissions units as described in subparts (b)8.(i) and (ii) of this paragraph.

(I) 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.

(II) An existing emissions unit is any emissions unit that does not meet the requirements in subpart (b)8.(i) of this paragraph. A replacement unit, as defined in part (b)33. of this paragraph, is an existing emissions unit.

(9) "Construction" means 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 actual emissions.

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

(i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within the time frame as allowed in part 1200-03-09-.01(4)(a)4., or

(ii) 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 the time frame as allowed in part 1200-03-09-.01(4)(a)4.

(11) "Necessary preconstruction approvals or permits" means all permits or approvals required under air quality control laws and regulations.

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

(13) "Pollutant" means those air contaminants which fall under the categories of criteria and non-criteria pollutants. Criteria pollutants are those for which an ambient air quality standard has been established. The non-criteria pollutants are air contaminants that are not criteria pollutants.

(14) "Baseline area" means any intrastate area (and every part thereof) not designated as a nonattainment area in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: Equal to or greater than 1 $\mu g/m^3$ (annual average) for SO_2, NO_2, or PM_{10}; or equal to or greater than 0.3 $\mu g/m^3$ (annual average) for $PM_{2.5}$.

(i) Area redesignations under this Division, 1200-03, cannot intersect or be smaller than the area of impact of any major stationary source or major modification which establishes a minor source baseline date or is subject to the regulations in

this paragraph.

(15) "Baseline date":

(i) "Major source baseline date" means in the case of PM10 and sulfur dioxide, January 6, 1975, in the case of nitrogen dioxide, February 8, 1988; and in the case of $PM_{2.5}$, October 20, 2010.

(ii) "Minor source baseline date" means the earliest date after the trigger date on which a major stationary source or a major modification submits a complete application to the Technical Secretary or to the EPA administrator. The trigger date is:

(I) In the case of PM10 and sulfur dioxide, August 7, 1977;

(II) In the case of nitrogen dioxide, February 8, 1988; and

(III) In the case of $PM_{2.5}$, October 20, 2011.

(iii) 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 not designated as a nonattainment area for the pollutant on the date of its complete application.

(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.

(16) "Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) The actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in subpart (b)16.(iii); and

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

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

(I) Actual emissions from any major stationary source on which construction commenced after the major source baseline date; and

(II) Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

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

(i) The applicable standards under this Division 1200-03 or in the State Implementation Plan, including those with a future compliance date; or

(ii) The emissions rate specified as a legally enforceable permit condition established pursuant to this Rule 1200-03-09-.01, including those with a future compliance date.

(18) "Legally enforceable" means all limitations and conditions which are enforceable by the Technical Secretary and the EPA Administrator, including those under this Division 1200-03 and the State Implementation Plan, and any permit requirements established pursuant to this Rule 1200-03-09-.01.

(19) "Secondary emissions" means emissions which 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 offsite support facility which would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(20) "Innovative control technology" means 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.

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

(22) "Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with subparts (i) through (iii) below, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under subparagraph (s) of this paragraph. Instead, parts (b)38. and (b)45. of this paragraph shall apply for those purposes.

(i) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Technical Secretary may 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.

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

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

(23) "Complete" means, in reference to an application for a permit, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Technical Secretary from requesting or accepting any additional information.

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

(i) Pollutant and Emissions Rate

(I) Carbon monoxide: 100 tons per year (tpy)
(II) Nitrogen oxides: 40 tpy

(III) Sulfur dioxide: 40 tpy

(IV) Particulate matter: 25 tpy of particulate matter emissions; 15 tpy of PM10

emissions.

(V) Ozone: 40 tpy of either volatile organic compounds or nitrogen oxides.

(VI) Lead (elemental): 0.6 tpy

(VII) Fluorides: 3 tpy

(VIII) Sulfuric acid mist: 7 tpy

(IX) Total reduced sulfur (including H2S): 10 tpy

(X) Reduced sulfur compounds (including H2S):10 tpy

(XI) Municipal waste combustor organics (measured as total tetra-through octa- chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2 x 10-6 megagrams per year (3.5 x 10-6 tpy).

(XII) Municipal waste combustor metals (measured as particulate matter): 15 tpy

(XIII) Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tpy)

(XIV) Ozone depleting substances (listed under Section 602 of the federal Clean Air Act): 40 tpy

(XV) Hydrogen sulfide: 10 tpy

(XVI) Municipal solid waste landfill emissions (measured as non-methane organic compounds): 50 tpy

(XVII) $PM_{2.5}$: 10 tpy of direct $PM_{2.5}$ emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a $PM_{2.5}$ precursor under 40 CFR 51.166 and/or 40 CFR 51.165

(ii) "Significant" means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant subject to regulations of EPA under the Clean Air Act and that subpart (b)24.(i) does not list, any emissions rate.

(iii) Notwithstanding subpart (b)24.(i), "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a Class I area and have an impact on such area equal to or greater than 1 ug/m3 (24-hour average).

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

(26) "High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

(27) "Low terrain" means any area other than high terrain.

(28) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitors 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 the times of visitor use of the Federal Class I area, and with the frequency and timing of natural conditions that reduce visibility.

(29) "Volatile organic compounds (VOC)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions

(i)This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,l,2-trichloro-1 ,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1 ,2-dichloro I , 1,2,2-tetratluoroethane (CFC- I 14); chloropentafluoroethane (CFC-115); I,I,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro- l,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1 ,1,2,2-tetrafluoroethane (HFC- 134); 1 ,1 , l-trifluoroethane (HFC- 1 43a); 1 ,1-difluoroethane (HFC- I 52a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely metl1ylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichJoro-l,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1 ,2,2,3-pentafluoropropane (HCFC-225cb); I ,I ,1 ,2,3,4,4,5,5,5- decafluoropentane (HFC-43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); I , 1,2,2,3- pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); I ,I ,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-

pentatluoropropane (HFC- 245fa); I ,I ,1,2,3,3-hexafluoropropane (HFC-236ea); I ,I ,1,3,3- pcntafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-3 1); l-chloro-1-fluoroethane (HCFC-151 a); 1,2-dichloro- l,l ,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro -4-methoxy-butane (C4F9OCH3); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane (CF3)2CFCF2OCH3); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonatluorobutane (C4F90C2H5); 2-(ethoxydifluoromethyl)-1 , I , 1,2,3,3,3-heptafluoropropane ((CF3)2CFCF20C2H5); methyl acetate; I ,I ,1 ,2,2 ,3,3-heptafluoro-3-methoxy- propane (n-C3F70CH3,HFE-7000); 3-ethoxy-l,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500); 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea); methyl formate (HCOOCH3); and perfluorocarbon compounds which fall into these classes:

(I) Cyclic, branched , or linear, completely fluorinated alkanes;

(II) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(111) Cyclic, branched , or linear, completely fluorinated tertiary amines with no unsaturations ; and

(IV) Sulfur containing perfluorocarbons with no unsan1rations and with sulfur bonds only to carbon and fluorine.

(i) For purposes of determining compliance with emissions limits, VOC will be measured by the test methods in the approved State implementation plan (SIP) or 40 CFR part 60, Appendix A, as applicable. Where such a method also measures compounds with negligible photochemical react1v1ty, these negligibility-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the Technical Secretary.

(ii) As a precondition to excluding these compounds as VOC or at any time thereafter , the Technical Secretary may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Technical Secretary, the amount of negligibly-reactive compounds in the source's emissions.

(iii) For purposes of enforcement for a specific source, the test methods specified in these regulations, in the approved SIP, or in a permit issued pursuant to these regulations shall be used.

(iv) The following compound(s) are VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and shall be uniquely identified in emission
reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.

(29) Reserved.

(30) "Dispersion technique" shall have the meaning as provided in Chapter 1200-03-24.

(31) "Good engineering practice" (GEP) shall have the meaning as provided in Chapter 1200-03-24.

(32) "Welfare" all language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well- being, whether caused by transformation, conversion, or combination with other air pollutants.

(33) "Replacement unit" means an emissions unit for which all the criteria listed in subparts (b)33.(i) through (iv) of this paragraph are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

(i) The emissions unit is a reconstructed unit within the meaning of part 54. of this subparagraph, or the emissions unit completely takes the place of an existing emissions unit.

(ii) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(iii) The replacement does not change the basic design parameter(s) of the process unit.

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

(34) "Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in part (b)24. of this paragraph) for that pollutant.

35. Reserved

36. "Pollution prevention" means any activity that through process changes,

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

37. Reserved.

38. "Projected actual emissions" means the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit 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.

(i) In determining the projected actual emissions under part (b)38. of this paragraph (before beginning actual construction), the owner or operator of the major stationary source:

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

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

(III) Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under part (b)45. of this paragraph and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,

(IV) In lieu of using the method set out in items (b)(38.(i)(I) through (III) of this paragraph, may elect to use the emissions unit's potential to emit, in

tons per year, as defined under part (b)5. of this paragraph.

39. Reserved

40. "Prevention of Significant Deterioration Program" (PSD) program means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the State Implementation Plan (SIP) to implement the requirements of 40 CFR 51. 166. Any permit issued under such a program is a major NSR permit.

41. "Continuous emissions monitoring system (CEMS)" means all of the equipment that may be required to meet the data acquisition and availability requirements of tl1is section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

42. "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.

43. "Continuous parameter monitoring system (CPMS)" means all of the equipment necessary to meet the data acquisition and availability requirements of this paragraph, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other infom1ation (for example, gas flow rate, O2 or CO2 concentrations), and to record average operational parameter value(s) on a continuous basis.

44. "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).

45. “Baseline actual emissions” means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with subparts (b)45.(i) through (iv) of this paragraph.

(i) 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 Technical Secretary shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

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

(II) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an 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. However, the Technical Secretary is authorized to allow the use of multiple, pollutant specific consecutive 24-month baselines in determining the magnitude of a significant net emissions increase and the applicability of major new source review requirements if all of the following conditions are met:

I. Construction of a new source or modification would become subject to major new source review if a single 2-year baseline is used for all pollutants

II. One or more pollutants were emitted during such 2-year period in amounts that were less than otherwise permitted for reasons other than operations at a lower production or utilization rate. Quality examples include, but are not limited to, the voluntary use of:

A. A cleaner fuel than otherwise permitted in a fuel burning operation (e.g., natural gas instead of coal in a multi-fuel boiler),

B. A coating with a lower VOC content than otherwise permitted in a coating operation,

C. A voluntary improvement in the control efficiency of an air pollution control device or the voluntary addition of a control device where one did not exist before, and

D. Alternate production methods, raw materials, or products that result in lower emissions of one or more pollutants.

III. Use of alternate 2-year baselines for the pollutants described in subitem II above would result in the construction of the new source or modification not being subject to major new source review.

IV. The use of the multiple baselines is not prohibited by any applicable provision of the USEPA's new source review regulations

The burden for demonstrating that these conditions are met is upon the permit applicant. The demonstration and the Technical Secretary's approval will be made a part of the permit record.

(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 item (b)45.(i)(II) of this paragraph.

(ii) 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 Technical Secretary for a permit required either under this section or under a plan approved by the Administrator, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

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

(II) The average rate shall be adjusted downward to exclude any noncompliant 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 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.

(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 the emissions units being changed. However, the Technical Secretary is authorized to allow the use of multiple, pollutant specific consecutive 24-month baselines in determining the magnitude of a significant net emissions increase and the applicability of major new source review requirements if all of the following conditions are met:

I. Construction of a new source or modification would become subject to major new source review if a single 2-year baseline is used for all pollutants.

II. One or more pollutants were emitted during such 2-year period in amounts that were less than otherwise permitted for reasons other than operations at a lower production or utilization rate. Qualifying examples include, but are not limited to, the voluntary use of:

A. A cleaner fuel than otherwise permitted in a fuel burning operation (e.g., natural gas instead of coal in a multi-fuel boiler),

B. A coating with a lower VOC content than otherwise permitted in a coating operation,

C. A voluntary improvement in the control efficiency of an air pollution control device or the voluntary addition of a control device where one did not exist before, and

D. Alternate production methods, raw materials, or products that result in lower emissions of one or more pollutants.

III. Use of alternate 2-year baselines for the pollutants described in Subitem II above would result in the construction of the new source or modification not being subject to major new source review.

IV. The use of the multiple baselines is not prohibited by any applicable provision of the USEPA's new source review regulation.

The burden for demonstrating that these conditions are met is upon the permit applicant. The demonstration and the Technical Secretary's approval will be made a part of the permit record.

(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 items (b)45.(ii)(II) and (III) of this paragraph.

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

(iv) 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 subpart (b)45.(i) of this paragraph, for other existing emissions units in accordance with the procedures contained in subpart (b)45.(ii) of this paragraph, and for a new emissions unit in accordance with the procedures contained in subpart (b)45.(iii) of this paragraph.

46. "Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of Chapter I of Title 40 of the Code of Federal Regulations, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(i) Greenhouse gases (GHGs), the air pollutant defined in part 86.1818–12(a) of Chapter I of Title 40 of the Code of Federal Regulations as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in subparts (iv) through (v) of this part.

I. In the event that the U.S. Court of Appeals for the D.C. Circuit or the U.S. Supreme Court issues an order which would render GHG emissions not subject to regulation under the Prevention of Significant Deterioration, New Source Review provisions and/or the Title V operating permit

program of the Federal Act, then GHGs shall not be subject to regulation, nor shall GHG emissions be required to be included in any construction or operating permit under this regulation 1200-03, as of the effective date of the Federal Register notice of vacatur.

II. In the event that there is a change to Federal law that supersedes regulation of GHGs under the Prevention of Significant Deterioration, New Source Review provisions and/or the Title V operating permit program of the Federal Act, then GHGs shall not be subject to regulation, nor shall GHG emissions be required to be included in any construction or operating permit under this regulation 1200-03, as of the effective date of the change in Federal law.

(ii) For purposes of subparts (iii) through (v) of this part, the term tpy CO_2 equivalent emissions (CO_2e) shall represent an amount of GHGs emitted, and shall be computed as follows:

(I) 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 published at Table A–1 to subpart A of part 98 of Chapter I of Title 40 of the Code of Federal Regulations - Global Warming Potentials.

(II) Sum the resultant value from item (ii)(I) of this part for each gas to compute a tpy CO_2e.

(iii) The term emissions increase as used in subparts (iv) through (v) of this part shall mean that both a significant emissions increase (as calculated using the procedures in part (c)4. of this paragraph) and a significant net emissions increase (as defined in parts (b)4. and (b)24. of this paragraph) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO_2e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and "significant" is defined as 75,000 tpy CO_2e instead of applying the value in subpart (b)24.(ii) of this paragraph.

(iv) Beginning January 2, 2011, the pollutant GHGs is subject to regulation if:

(I) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO_2e or more; or

(II) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase

of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO_2e or more; and,

(v) Beginning July 1, 2011, in addition to the provisions in subpart (iv) of this part, the pollutant GHGs shall also be subject to regulation:

(I) At a new stationary source that will emit or have the potential to emit 100,000 tpy CO_2e; or

(II) At an existing stationary source that emits or has the potential to emit 100,000 tpy CO_2e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO_2e or more.

47. "Regulated NSR pollutant," for purposes of this paragraph, means the following:

(i) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this part as a constituent or precursor to such pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(I) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(II) Sulfur dioxide is a precursor to $PM_{2.5}$ in all attainment and unclassifiable areas.

(III) Nitrogen oxides are presumed to be precursors to $PM_{2.5}$ in all attainment and unclassifiable areas, unless the State has demonstrated to the satisfaction of the EPA Administrator or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

(IV) Volatile organic compounds are presumed not to be precursors to $PM_{2.5}$ in any attainment or unclassifiable area, unless the State has demonstrated to the satisfaction of the EPA Administrator or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

(ii) Any pollutant that is subject to any standard promulgated under section 111 of the Federal Clean Air Act;

(iii) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Federal Clean Air Act; or

(iv) Any pollutant that otherwise is subject to regulation under the Federal Clean Air Act as defined in part (b)46. of this paragraph.

(v) Notwithstanding subparts (b)47.(i) through (iv) of this paragraph, the term "regulated NSR pollutant" shall not include any or all hazardous air pollutants either listed in section 112 of the Federal Clean Air Act or added to the list pursuant to section 112(b)(2) of the Federal Clean Air Act, and which have not been delisted pursuant to section 112(b)(3) of the Federal Clean Air Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Federal Clean Air Act.

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

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

49. "Project" means a physical change in, or change in method of operation of, an existing major stationary source.

50. "Lowest achievable emission rate (LAER)" is as defined in subpart (5)(b)1.(xviii) of this rule.

51. Reserved.

52. 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.

53. "Best available control technology" (BACT) means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Technical Secretary, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR part 60 or 61. If the Technical Secretary 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.

54. "Reconstruction" means the replacement of components of an existing facility to such an extent that:

    (i) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, and

    (ii) It is technologically and economically feasible to meet the applicable standards set forth in this chapter.

    (iii) This part applies only in this chapter 1200-03-09 unless specified otherwise.

55. ”Clean coal technology” means any technology, including technologies applied at the pre-combustion, 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.

56. ”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.

57. ”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 plan for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during and after the project is terminated.

58. ”Re-powering” 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. Re-powering shall also include any oil and/or gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the U.S. Department of Energy. The Technical Secretary shall give expedited consideration to permit applications for any source that satisfies the requirements of this subsection and is granted an extension under section 409 of the Clean Air Act.

(c) Applicability.

1 . The requirements of this paragraph apply to the construction of any new major stationary source (as defined in part (b)1. of this paragraph) 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 Federal Clean Air Act.

2. The requirements of subparagraphs (j), (k), (l), and (n); parts (e) 1. 2., and 7.; and parts (a)5., 6., 8., 9., and 10. of this paragraph 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.

3. No new major stationary source or major modification to which the requirements of

subparagraphs (j), (k), (l), and (n); parts (e) 1. 2., and 7.; and parts (a)5., 6., 8., 9., and 10. of this rule apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements .

4. (i) Except as otherwise provided in subparts (c)5. and 6. of this paragraph, and consistent with the definition of major modification contained in part (b)2. of this paragraph, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases-a significant emissions increase (as defined in part (b)34. of this paragraph), and a significant net emissions increase (as defined in parts (b)4. and 24.of this paragraph). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(ii) The procedure for calculating (before beginning actual construction) whether a significant emissions increase *(i.e.,* the first step of the process) will occur depends upon the type of emissions units being modified, according to subparts (c)4.(iii) through (vi) of this paragraph. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source *(i.e.,* the second step of the process) is contained in the definition in part (b)4. of this paragraph. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(iii) Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in part (b)38. of this paragraph) and the baseline actual emissions (as defined in subparts (b)45.(i) and (ii) of this paragraph) for each existing emissions unit , equals or exceeds the significant amount for that pollutant (as defined in part (b)24. of this paragraph).

(iv) 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 part (b)5. of this paragraph) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in sub- part (b)45.(iii) of this paragraph) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in part (b)24. of this paragraph).

(v) Reserved.

(vi) 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 subparts (c)4.(iii) through (v) of this paragraph as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in part (b)24. of this paragraph).

5. For any major stationary source for a PAL for a regulated NSR pollutant, the major stationary source shall comply with requirements under subparagraph (s) of this paragraph.

6. Reserved

(d) Major stationary sources and major modifications are exempt from certain provisions of this paragraph in accordance with the following:

1. Major stationary sources or major modifications as defined in this paragraph shall not be subject to the requirements of this paragraph (except as provided in part (4)(a)7. of this paragraph) if:

(i) 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 such source does not belong to any of the categories listed under subpart (b)1 .(i), or any other stationary source category which, as of the (effective date of this rule) is being regulated under Chapters 1200-03-11 and 1200-03-16.

(ii) The source or modification was subject to the new construction rules and regulations as in effect before June 3, 1981, and the owner or operator:

(I) Obtained all final Federal, State, and local preconstruction approvals or permits necessary before June 3, 1981.

(II) Commenced construction within 18 months of receipt of all necessary Federal, State, and local preconstruction approvals or permits; and

(III) Did not discontinue construction for a period of 18 months or more and completed construction within the time frame as allowed in part 1200-03-09-.01(4)(a)4.

(iii) The source or modification was subject to the prevention of significant deterioration rules and regulations as in effect before June 3, 1981, and the owner or operator:

(I) Submitted a completed application before June 3, 1981.

(II) Commenced construction within 18 months of receipt of all necessary Federal, State, and local preconstruction approvals or permits; and

(III) Did not discontinue construction for a period of 18 months or more and completed construction within the time frame as allowed in part 1200-03-09-.0 I (4)(a)4.

(iv) The source or modification was not subject to this paragraph, with respect to particulate matter, as in effect before June 2, 1990 and the owner or operator:

(I) Obtained all final Federal, State, and local preconstruction approvals or permits necessary before June 2, 1990.

(II) Commenced construction within 18 months of receipt of all necessary Federal, State, and local preconstruction approvals or permits; and

(III) Did not discontinue construction for a period of 18 months or more and completed construction within the time frame as allowed in part 1200-03-09-.01(4)(a)4.

2. A major stationary source or modification as defined in this paragraph that was subject to the prevention of significant deterioration rules and regulations, with respect to particulate matter, as in effect before June 2, 1990 does not have to meet the PM10 requirements effective on June 2, 1990 if the owner or operator:

(i) Submitted a completed application (as determined by the Technical Secretary) before June 2, 1990.

(ii) Commenced construction within 18 months of receipt of all necessary Federal, State, and local preconstruction approvals or permits; and

(iii) Did not discontinue construction for a period of 18 months or more and completed construction within the time frame as allowed in part 1200-03-09-.01 (4)(a)4.

3. No major stationary source or major modification as defined in this paragraph shall be subject to the requirements of this paragraph 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 as defined in Rule 1200-03-02-.01.

4. Source impact and air quality analysis as required in parts (e)1., (e)3., and (e)7. of this paragraph shall not apply to a proposed major stationary source or major modification with

respect to a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a modification, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

5. Source impact and air quality analysis as required in parts (e)1., (e)3., and (e)7. of this paragraph as they relate to any maximum allowable increase for a Class II area do not apply to a major modification of 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 best available control technology would be less than 50 tons per year.

6. Air quality analysis as required in this paragraph may be exempted with respect to preconstruction monitoring for a particular pollutant by the Technical Secretary if:

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

   (I) Carbon monoxide - 575 ug/m3 8-hour average;

   (II) Nitrogen dioxide - 14 ug/m3, annual average;

   (III) Particulate matter:
   10 ug/m3of TSP, 24-hour average
   10 ug/m3of PM 10, 24-hour average;

   (IV) Sulfur dioxide - 13 ug/m3 24-hour average;

   (V) Ozone - no de minimis air quality level has been established. However, any net increase of 100 tons per year or more of either volatile organic compounds or nitrogen oxides subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.

   (VI) Lead (elemental) - 0.1 ug/m3, 3-month average;

   (VII) Fluorides - 0.25 ug/m3, 24-hour average;

   (VIII) Total reduced sulfur - 10 ug/m3, 1-hour average;

   (IX) Reduced sulfur compounds - 10 ug/m3, 1-hour average;

   (X) Hydrogen sulfide-0.2 ug/m3, 1-hour average; or

(ii) The pollutants are not listed in subpart (d)6.(i); or

(iii) Representative existing ambient air quality data, consistent with the requirements of the Ambient Monitoring Guideline for Prevention of Significant Deterioration (PSD), EPA-450/4-87-007, are available for any pollutant as emitted by a major stationary source, or major modification; or

(iv) The existing air pollutant levels are conservatively estimated to be less than the concentrations listed in subpart **(i)** of this part, and a monitoring network may not reliably measure the predicted background concentrations; or

(v) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in subpart (d)6.(i) of this paragraph.

7. A portable stationary source which has previously received construction approval under the requirements of this paragraph may relocate if:

   (i) Emissions from the source would be temporary and would not exceed its allowable emissions; and

   (ii) The emissions from the source would impact no Class 1 area and no area where an applicable increment is known to be violated; and

   (iii) Notice shall be given to the Technical Secretary 30 days prior to the relocation , giving the new temporary location and the probable length of operation at the new location.

8. Exclusions from Increment Consumption

   (i) Maximum allowable increases (ambient air increments) as specified in subparagraph 1200-03-09-.01(4)(f) shall not apply to concentrations as described below.

      (I) 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 sections 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;

      (II) 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 an applicable Federal law over the

emissions from such sources before the effective date of such plan ;

(Ill) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emissions-related activities of new or modified sources;

(IV) Concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate matter, or nitrogen oxides from stationary sources which are affected by plan revisions approved as meeting the criteria specified in subpart 7.(iii).

(ii) No exclusion of such concentrations shall apply more than five years after the effective date of the order to which item 7.(i)(I) refers or of the plan to which item 7.(i)(II) refers, whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply more than five years after the later of such effective dates.

(iii) For purposes of excluding concentrations pursuant to item 7.(i)(IV), the proposed plan revision shall:

(I) Specify the time over which the temporary emissions increase of sulfur dioxide, particulate matter, or nitrogen oxides would occur. Such time is not to exceed two years in duration.

(II) Specify that the time period for excluding certain contributions m accordance with item 7.(iii)(I) is not renewable.

(III) Allow no emission increase from a stationary source which would:

I. Impact a Class I area or an area where an applicable increment is known to be violated; or

II. Cause or contribute to the violation of a national ambient air quality standard ;

(IV) Require limitations to be in effect at the end of the time period specified in accordance with item 7.(iii)(l) which would ensure that the emissions levels from stationary sources affected by the plan revision would not exceed those levels occurring from such sources before the plan revision was approved.

9. With the approval of the Technical Secretary, the requirements for air quality

monitoring of PM10 in part (e)7. of this paragraph may not apply to a particular major stationary source or major modification if the owner or operator submitted an application for a permit on or before June 1, 1988 and the Technical Secretary determines that the application as submitted before that date was complete, except with respect to the particulate matter monitoring requirements in part (e)7. of this paragraph .

10. Preapplication air quality analysis for ozone as required in part (e)7. of this paragraph will not be necessary if the source owner or operator chooses to meet the lowest achievable emission rate (LAER) in lieu of meeting the requirements to apply best available control technology (BACT) for emissions of volatile organic compounds or nitrogen oxides and is required to conduct post-construction monitoring for ozone.

(e) The owner or operator of the proposed major stationary source or major modification:

1. Shall demonstrate by performing source impact analysis that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reduction (including secondary emissions) would not cause or contribute to air pollution in violation of:

(i) Any Tennessee ambient air quality standard in the source impact area.

(ii) Any applicable maximum allowable increase over the baseline concentration in any area.

2. Shall submit all data necessary to make the analyses and detem1inations required under this paragraph.

(i) The data shall include:

(I) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings needed for the review showing its design and plant layout.

(II) A detailed proposed schedule for construction of the source or modification.

(III) A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission

estimates, and any other information necessary to determine that best available control technology (BA.CT) would be applied where required by this paragraph.

(IV) Additional impact analysis

I. The impairment to visibility, soils, and vegetation that would occur as a result of the source or modification and the associated general commercial , residential, industrial, and other growth. Vegetation having no significant commercial or recreational value may be excluded from the analysis.

II. 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.

III. The Technical Secretary 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 Technical Secretary deems necessary and appropriate.

(ii) Upon request by the Technical Secretary, the owner or operator shall also provide information on:

I. The air quality impact of the source or modification, including meteorological and topographical data.

II. The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since the PSD baseline date in the area the source or modification would affect. Such data in the possession of the Division shall be made available to the owner or operator.

3. Shall, after construction of the stationary source or modification, conduct such post-construction monitoring as the Technical Secretary determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having on air quality in any area.

4. Shall meet the quality assurance requirements as specified in the Code of Federal Regulations, Title 40, Part 58, Appendix B, as published July 1, 199 1, during the operation of monitoring stations for purposes of satisfying parts (e)3. and (e)7. of this paragraph.

5. Shall insure that the major stationary source or the major modification be in compliance with all applicable emission limitations of this Division 1200-3.

6. Shall pay the cost of all publications required under this paragraph.

7. Shall perform the preapplication air quality analysis as outlined below:

   (i) Any application for a construction permit pursuant to the regulations of this paragraph 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 m a significant net emissions increase.

   (ii) For a pollutant for which an ambient air quality standard exists in these regulations (other than non-methane hydrocarbons), 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 unless specifically exempted in subparagraph 1200-3-9-.0I (4)(d).

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

   (iv) (Reserved)

   (v) With respect to any pollutant for which no Tennessee Ambient Air Quality Standard exists, the analysis shall contain such air quality monitoring data as is determined by the Technical Secretary and EPA to be necessary to assess ambient air quality for that pollutant in any area that the emissions of the

pollutant would affect.

(vi) The requirements for air quality monitoring of PM 10 in subparts (ii) and (iii) of this part shall apply to a particular source or modification if the owner or operator of the source or modification submits an application for a permit after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February I , 1988 to the date the application becomes otherwise complete in accordance with the provisions set forth under (i through v) of this part, except that if the Technical Secretary 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 required in (i through v) shall have been gathered over that shorter period.

(vii) For any application that becomes complete, except as to the requirements of subparts (ii) and (iii) of this part pertaining to PM 10, after December 1, 1988 and no later than August 1, 1989 the data that subpart (ii) 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 Technical Secretary 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 subpart (ii) of this part requires shall have been gathered over that shorter period.

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

MAXIMUM ALLOWABLE INCREASE
(Micrograms per cubic meter)

Pollutant	**Class I**	**ug/m3**
PM2.5:		
PM2.5, Annual arithmetic mean.		1
PM2.5, 24-hour maximum		2
PM-10:		
PM-10, Annual arithmetic mean.		4
PM-10, 24-hour maximum		8
Sulfur dioxide:		
Annual arithmetic mean		2
24-hour maximum		5

3-hour maximum	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5

Class II

PM2.5:	
Annual arithmetic mean	4
24-hour maximum	9
PM-10 :	
PM- 10-, Annual arithmetic mean.	17
PM- 10-, 24-hour maximum.	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	512
Nitrogen dioxide:	
Annual arithmetic mean	25

Class III

PM2.5:	
Annual arithmetic mean	8
24-hour maximum	18
PM-10-:	
PM-10-, Annual arithmetic mean	34
PM- 10-, 24-hour maximum	60
Sulfur dioxide:	
Annual arithmetic mean.	40
24-hour maximum	182
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.

(g) Area classifications - For the purpose of this paragraph, the following classifications

shall apply:

1. Class I Areas - Great Smoky Mountains National Park, Joyce Kilmer Slickrock National Wilderness Area, and the Cohutta Wilderness Area.

2. Class III Areas – None

3. Class II Areas - Remainder of the state

Areas in surrounding states are classified as specified in the EPA approved implementation plan for each adjoining state.

(h) Restrictions on area classifications.

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

(i) International parks,

(ii) National wilderness areas which exceed 5,000 acres in size,
(iii) National memorial parks which exceed 5,000 acres in size, and
(iv) National parks which exceed 6,000 acres in size.

2. Areas which were redesignated as Class I before August 7, 1977, shall remain Class I , but may be redesignated as provided in this section.

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

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

(i) An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and

(ii) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

5. In redesignation, the procedures specified in 40 CFR 51.166(g) as of July 1 , 1992, shall be applied.

(i) Ambient air ceilings

1. No concentration of a pollutant shall exceed the concentration permitted under the Tennessee secondary ambient air quality standard (Chapter 1200-3-3, Table 1), or the concentration permitted under the Tennessee primary ambient air quality standard (Chapter 1200-3-3, Table 1), whichever concentration is lowest for the pollutant for a period of exposure.

2. Except as permitted by Section 123 of the Clean Air Act Amendments of 1977, dispersion techniques which exceed good engineering practice, and which were implemented after December 31 , 1970, will not be considered when determining the emission limitations required for control of any pollutant.

(j) Control Technology Review

1. A major stationary source or major modification shall meet each applicable emissions limitation under this Division 1200-3 and the State Implementation Plan, and each applicable emission standard and standard of performance under 40 CFR parts 60 and 61.

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

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

4. For phased construction projects, the detem1ination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior Lo commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

(k) Air Quality Models.

As required under this paragraph, all estimates of ambient concentrations shall be based on applicable air quality models and databases acceptable to the Technical Secretary and meeting the requirements specified in 40 CFR Part 51 Appendix W. The provisions of 40 CFR Part 51 Appendix W are hereby adopted by reference as published in the July 1, 2019 edition of the Code of Federal Regulations (CFR). Where an air quality impact model

specified in 40 CFR Part 5 1 Appendix W is inappropriate, the Technical Secretary may approve us of a modified model or substitute model after consultation with the EPA Administrator. The use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures developed in accordance with subparagraph (I) of this paragraph.

(I) Public Participation

1. Within 30 days after receipt of an application to construct, or any addition to such application, the Technical Secretary 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 section, the date on which the Technical Secretary received all required information.

2. The Technical Secretary shall make a final determination on the application no later than 6 months after receipt of a complete application. If there is a need for a longer period of time for review, it shall be agreed upon by mutual consent. In no case may this review period be longer than 1 year. The review process involves performing the following actions:

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

(ii) Make available in at least one location in each air quality control region in which the proposed source or modification would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

(iii) Notify the public via electronic notice on the Department's website of the application, the preliminary determination, the degree of increment consumption that is expected from the proposed source construction or modification, and the opportunity for comment at a public beari11g as well as written public comment. The notice shall be available for the duration of the public comment period and shall include the notice of public comment, the draft permit, information on how to access the administrative record for the draft permit, and how to request and/or attend a public hearing on the draft permit.

(iv) Send a copy of the notice of public comment to the applicant and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: 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, the EPA

Administrator, and any State or Federal Land Manager whose lands may be affected by emissions from the source or modification.

(v) 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 it, the control technology required, and other appropriate considerations.

(vi) 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 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public or request an extension for this purpose. The Technical Secretary shall consider the applicant's response in making a final decision. The Technical Secretary shall make all comments available for public inspection in the same locations where the Technical Secretary made available preconstruction information relating to the proposed source or modification.

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

(viii) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Technical Secretary made available preconstruction information and public comments relating to the source or modification.

(ix) All public comments and written comments prepared by the Technical Secretary will be maintained in the public depositories for one year from the date of issuance of the final determination.

(m) Violations of Ambient Air Quality Increments or Standards

The Technical Secretary shall not issue a construction permit to a source or facility to construct in an area where the increment is known to be violated or the air quality review predicts a violation of the increment or the ambient air quality standards except in accordance with the following:

1. All new or modified facilities shall utilize good engineering practice as determined by the Technical Secretary in designing stacks. In no event shall that part of a stack which exceeds good engineering practice stack height be taken into account for the purpose of determining the degree of emission limitation required for the control of any pollutant for which there is an ambient air quality standard established in Chapter 1200-3-3, Table

1.

2. A major source or modification which would normally be required to meet BACT shall be required to meet the Lowest Achievable Emission Rate (LAER) for that type of source as determined at the time of the permit application. The term "lowest achievable emission rate" shall be defined as found in part 1200-3-9-.0 I (4)(b)50. of this rule.

3. If requirements of parts 1200-3-9-.0I (4)(m)1. and 2. are not adequate to protect the increment or the ambient air quality standards, the source shall obtain emission offsets, legally enforceable at or before the time of PSD permit issuance, sufficient to predict that the increment or air quality standard will no longer be violated. The offsets shall be accomplished on or before the time of the new source operation and demonstrated through a source test or through another method acceptable to the Technical Secretary.

4. A major stationary source or major modification will be considered to cause or contribute to a violation of an ambient air quality 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 applicable ambient air quality standard:

Pollutant	Annual	24 hour	8 hour	3 hour	1 hour
PM10	1	5			
Sulfur Dioxide	1	5		25	
Carbon Monoxide			500		2000
Nitrogen Dioxide	1				

(Levels are in units of micrograms per cubic meter.)

5. This rule does not exempt the source from meeting the requirements of paragraph 1200-3-9-.0I (5).

(n) Sources Impacting Class I Areas - Additional Requirements

1. Notice to Federal Land Managers and the EPA Administrator

The Technical Secretary shall promptly provide written notice of receipt of any permit application for a proposed major stationary source or major modification, the emissions from which may affect a Class I area or which may have an adverse impact on visibility in any Class I area to the EPA Administrator, the Federal Land Manager, and the Federal official charged with direct responsibility for management of any lands within any such area. The Technical Secretary shall transmit to the EPA Administrator and the Federal Land Manager a copy of each permit application relating to a major stationary source or

major modification which would affect a Class I area. This application shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt of the permit application, and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in the Federal Class I area. The Technical Secretary shall also provide the EPA Administrator, the Federal Land Manager and such Federal officials with a copy of the preliminary determination and shall make available to them any materials used in making that determination promptly after the Technical Secretary makes it. In addition, notification of public hearings, final determinations, and permits issued shall be provided. Finally, the Technical Secretary shall also notify all affected Federal Land Managers within 30 days of receipt of any advance notification of any such permit application.

2. Denial - Impact on Air Quality Related Values

   The Federal Land Manager of any such lands may demonstrate to the Technical Secretary 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 Technical Secretary concurs with such demonstration , then he shall not issue the permit.

3. 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 1 area. If the Federal Land Manager concurs with such demonstration and he so certifies, the Technical Secretary, provided that the applicable requirements of this paragraph are otherwise met, may issue the permit with such emission limitations as may be necessary as approved by the Tennessee Air Pollution Control Board to assure that emissions of sulfur dioxide, PM2.5, PM10, and nitrogen oxides would not exceed the following maximum allowable increases over baseline concentration for such pollutants:

Pollutant	Maximum allowable increase ug/m3

PM2.5:

Annual arithmetic mean……..4
24-hr maximum……9

PM-10-:
PM- 10-, Annual arithmetic mean. 17
PM-10-, 24 hr. maximum 30

Sulfur dioxide:
Annual arithmetic mean 20
24-hr. maximum 91
3-hr. maximum 325

Nitrogen dioxide:
Annual arithmetic mean 25

4. Visibility Analysis

The Technical Secretary shall consider any analysis performed by the Federal Land Manager, provided to the Technical Secretary within 30 days of the notification and analysis required in part 1. of this subparagraph, that a proposed new major stationary source or major modification may have an adverse impact on visibility in any Federal Class I area. If the Technical Secretary concurs with the analysis then he shall not issue the permit. Where the Technical Secretary finds that such an analysis does not demonstrate to the satisfaction of the Technical Secretary that an adverse impact on visibility will result in the Federal Class I area, the Technical Secretary must, in the notice of public hearing on the permit application, either explain his decision or give notice as to where the explanation can be obtained.

(o) Innovative Control Technology

1. The owner or operator of a proposed major stationary source or major modification may request that the Technical Secretary approve a system of innovative control technology.

2. The Technical Secretary, with the consent of the Governor(s) of the other affected State(s), may determine that the source or modification may employ a system of innovative control technology if:

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

(ii) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under part 1200-3-9-.01(4)(i) 1. by a date specified by the Technical Secretary. Such date shall not be later than 4 years from the time of startup, or 7 years from permit issuance.

(iii) The source or modification would meet the requirements of parts (e)1. and (j)1. based on the emission rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Technical Secretary.

(iv) The source or modification shall not:

(I) Cause or contribute to a violation of an applicable ambient air quality standard ; or

(II) Have an adverse impact on any Class 1area; or

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

(v) All other applicable requirements including those for public participation have been met.

3. The Technical Secretary shall withdraw any approval to employ a system of innovative control technology made under this subparagraph, if:

(i) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

(ii) The proposed system fails before the specified date so as to contribute to ambient air quality violations, or to an unreasonable risk to public health, welfare, or safety; or

(iii) The Technical Secretary decides at any time that the proposed system is unlikely to achieve the required level of control, or to protect the public health, welfare, or safety.

4. If a source or modification fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with part (o)3., the Technical Secretary may allow the source or modification up to an additional 3 years to meet the requirement for the application of best available control technology

through use of a demonstrated system of control.

(p) Reserved.

(r) Reserved.

(s) Actuals PALs.

1. Applicability.

(i) The Technical Secretary may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in parts (s) of this paragraph.

(ii) 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 parts (s)1. through 15. of this paragraph, 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 major NSR program; and

(III) Is not subject to the provisions in part (a)6. of this paragraph (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major NSR program).

(iii) Except as provided under item (s) l .(i i)(III) of this paragraph , a major stationary source shall continue to comply with all applicable Federal or State requirements, emission limitations, and work practice requirements tJ1at were established prior to the effective date of the PAL.

2. Definitions. When a term is not defined in these sub-parts, it shall have the meaning given in subparagraph (b) of this rule or in the Federal Clean Air Act.

(i) "Actuals PAL" for a major stationary source means a PAL based on the baseline actual emissions (as defined in part (b)45. of this paragraph) of all emissions units (as defined in part (b)8. of this paragraph) at the source, that emit or have the potential to emit the PAL pollutant.

(ii) "Allowable emissions" means "allowable emissions" as defined in part (b) l7. of this

paragraph, except as this definition is modified according to items (s)2.(ii)(I) and (II) of this paragraph.

(I) The allowable emissions for any em1ss1ons 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 part (b)5. of this paragraph, except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

(iii) "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 part (b)24. of this paragraph or in the Federal Clean Air Act, whichever is lower.

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

(v) "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 parts (s)l. through 15. of this paragraph.

(vi) "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.

(vii) "PAL effective period" means the period beginning with the PAL effective date and

ending 10 years later.

(viii) "PAL major modification" means, notwithstanding parts (b)2., 3., and 4. of this paragraph (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.

(ix) "PAL permit" means the major NSR permit, the minor NSR permit, or the State operating permit under a program that is approved into the plan, or the title V permit issued by the Technical Secretary that establishes a PAL for a major stationary source.

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

(xi) "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 part (b)24. of this paragraph or in the Federal 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 subpart (s)2.(iv) of this paragraph.

3. Permit application requirements. As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information in subparts (s)3.(i) through (iii) of this paragraph to the Technical Secretary for approval.

   (i) 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.

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

   (iii) 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 subpart (s) 13.(i) of this paragraph.

4. General requirements for establishing PALs.

   (i) The Technical Secretary may establish a PAL at a major stationary source, provided

that at a minimum, the requirements in items (s)4.(i)(l) through (VII) of this paragraph are met.

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

(II) The PAL shall be established in a PAL permit that meets the public participation requirements in part (s)5. of this paragraph.

(III) The PAL permit shall contain all the requirements of part (s)7. of this paragraph.

(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 parts (s) 12. through 14. of this paragraph for each emissions unit under the PAL through the PAL effective period.

(ii)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 sub-part (5)(b)2 .(v) of this rule unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

5. Public participation requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or increased, through a procedure that is consistent with 40 CFR 51.I 60 and 51.161, subparagraph (I) of this paragraph, part (5)(b)3. of this rule, or 1200-3-9-.02(11)(f)8. This includes the requirement that the Technical Secretary 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 Technical Secretary must address all material comments before taking final action on the permit.

6. Setting the 10-year actuals PAL level.
   (i) Except as provided in sub-part (s)6.(ii) of this paragraph, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in part (b)(45) of this paragraph) 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 part (b)24. of this paragraph or under the Federal 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. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Technical Secretary 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 Technical Secretary 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 30ppm, 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).

   (ii) For newly constructed units (which do not include modifications to ex1st111g units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in sub-part (s)6.(i) of this paragraph , the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

7. Contents of the PAL permit. The PAL permit shall contain, at a minimum, the information in sub-parts (s)7.(i) through (x) of this paragraph.

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

   (ii) The PAL pem1it effective date and the expiration date of the PAL (PAL effective period).

   (iii) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with part (s) l O. of this paragraph 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 Technical Secretary.

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

(v) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of part (s)9. of this paragraph.

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

(vii) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under part (s) 13. of this paragraph.

(viii) A requirement to retain the records required under part (s) 12. of this paragraph on site. Such records may be retained in an electronic format.

(ix) A requirement to submit the reports required under part (s) 14. of this paragraph by the required deadlines.

(x) Any other requirements that the Technical Secretary deems necessary to implement and enforce the PAL.

8. PAL effective period and reopening of the PAL permit.

(i) PAL effective period. The Technical Secretary shall specify a PAL effective period of 10 years.

(ii)Reopening of the PAL permit.

(I) During the PAL effective period, the Technical Secretary shall 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 sub-part (5)(b)2.(v) of this rule; and

(III) Revise the PAL to reflect an increase in the PAL as provided under part (s)11. of this paragraph.

(II) The Technical Secretary may 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 that the State may impose on the major stationary source under the plan; and

(III) Reduce the PAL if the Technical Secretary determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an AQRV 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 sub-item (s)8.(ii)(l)I of this paragraph for the correction of typographical/calculation errors that do not increase the PAL level, all re-openings shall be carried out in accordance with the public participation requirements of part (s)5. of this paragraph.

9. Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in part (s) l 0. of this paragraph shall expire at the end of the PAL effective period , and the requirements in sub-part (s)9.(i) through (v) of this paragraph shall apply.

(i) 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 items (s)9.(i)(l) and (II) of this paragraph.

(I) Within the time frame specified for PAL renewals in sub-part (s)10.(ii) of this paragraph , 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 Technical Secretary) 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 sub-part (s)10.(v) of this paragraph, such distribution shall be made as if the PAL had been adjusted.

(II) The Technical Secretary 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 Technical Secretary determines is appropriate.

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

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

(iv) 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 parts (b)2. and 3. of this paragraph.

(v) The major stationary source owner or operator shall continue to comply with any State or Federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to part (a)6. of this paragraph, but were eliminated by the PAL in accordance with the provisions in item (s)I .(ii)(IIJ) of this paragraph.

10. Renewal of a PAL.

(i) The Technical Secretary shall follow the procedures specified in part (s)5. of this paragraph 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 Technical Secretary.

(ii) Application deadline. A major stationary source owner or operator shall submit a timely application to the Technical Secretary 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 .

(iii) Application requirements. The application to renew a PAL permit shall contain the information required in items (s)10.(iii)(l) through (IV) of this paragraph.
(I) The information required in sub-parts (s)3.(i) through (iii) of this paragraph.

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

(iv)PAL adjustment. In determining whether and how to adjust the PAL, the Technical Secretary shall consider the options outlined in items (s) 10.(iv)(I) and (II) of this paragraph. However, in no case may any such adjustment fail to comply with item (s)10.(iv)(III) of this paragraph.

(I) If the emissions level calculated in accordance with part (s)6. of this paragraph is equal to or greater than 80 percent of the PAL level, the Technical Secretary may renew the PAL at the same level without considering the factors set forth in item (s) 10.(iv)(11) of this paragraph; or

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

(III) Notwithstanding items (s) I 0.(iv)(I) and (II) of this paragraph:

I. If the potential to emit of the major stationary source is less than the PAL, the Technical Secretary shall adjust the PAL to a level no greater than the potential to emit of the source; and

I. The Technical Secretary shall not approve a renewed PAL level higher

than the current PAL, unless the major stationary source has complied with the provisions of part (s) 1 1. of this paragraph (increasing a PAL).

(v) 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 Technical Secretary has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or title V permit renewal, whichever occurs first.

11. Increasing a PAL during the PAL effective period.

(i) The Technical Secretary may increase a PAL emission limitation only if the major stationary source complies with the provisions in items (s) 11.(i)(I) through (IV) of this paragraph.

(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 unit s 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 item (s) 1 1.(i)(l) of this paragraph, 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.

(ii) The Technical Secretary 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 detem1ined in accordance with item (s)11.(i)(II) of this paragraph), plus the sum of the baseline actual emissions of the small emissions units.

(iii) The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of part (s)5. of this paragraph.

12. Monitoring requirements for PALs

(i) 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 items (s)12.(ii)(I) through (IV) of this paragraph and must be approved by the Technical Secretary.

(III) Notwithstanding item (s)12.(i)(II) of this paragraph, you may also employ an alternative monitoring approach that meets item (s)12.(i)(I) of this paragraph if approved by the Technical Secretary.

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

(ii) Minimum perfom1ance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in sub-parts (s) 12 .(iii) through (ix) of this paragraph:

(I) Mass balance calculations for activities using coatings or solvents;
(II) CEMS;

(III) CPMS or PEMS; and

(IV) Emission factors.

(iii) 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 Technical Secretary determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(iv) 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.

(v) 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 Technical Secretary, while the emissions unit is operating.

(vi) 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 Technical Secretary determines that testing is not required.

(vii) 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.

(viii) Notwithstanding the requirements in sub-parts (s) 12.(iii) through (vii) of this paragraph, 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 Technical Secretary 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.

(ix) 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 Technical Secretary. Such testing must occur at least once every *5* years after issuance of the PAL.

13. Recordkeeping requirements.

(i) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of subparagraph (s) of this paragraph 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.

(ii) 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.

14. Reporting and notification requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Technical Secretary in accordance with the applicable title V operating permit program. The reports shall meet the requirements in sub-part s (s) 14.(i) through (iii) of this paragraph.

(i) Semi-annual report. The semi-annual report shall be submitted to the Technical Secretary within 30 days of the end of each reporting period. This report shall contain the information required in items (s)14.(i)(I) through (VII) of this paragraph.

(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 sub-part 13.(i) of this paragraph.

(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 sub-part (s) 12.(vii) of this paragraph.

(VII) A signed statement by the responsible official (as defined by the applicable title V operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(ii) 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 item .02(11)(e) 1.(iii)(III) of this chapter shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by item .02(11)(e) 1.(iii)(III) of this chapter. The reports shall contain the following information:

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

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

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

(IV) A signed statement by the responsible official (as defined by the applicable title V operating permit program) certifying the truth , accuracy, and completeness of the information provided in the report.

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

15. Transition requirements.

(i) The Technical Secretary may not issue a PAL that does not comply with the requirements in parts (s) I . through 15. of this paragraph after the Administrator has approved regulations incorporating these requirements into the State Implementation Plan (SIP).

(ii) The Technical Secretary may supersede any PAL which was established prior to the date of approval of the plan by the Administrator with a PAL that complies with the requirements of parts (s) I. through 15. of this paragraph.

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

(5) Growth Policy

(a) Attainment and Unclassified Areas

The Technical Secretary shall not grant a permit for the construction or modification of any air contaminant source in an attainment or unclassified area if such construction or modification will interfere with the maintenance of an air quality standard or PSD increment where applicable, or will violate any provisions of the Tennessee Air Quality Act, or section 165 (a)(3) of the Clean Air Act, Amendments of I 990.

(b) Nonattainment Areas

1. Definitions as used in this subparagraph are not alphabetized. All terms not defined herein shall have the meaning given them in Chapter 1200-3-2.

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

(ii) "Building, structure, facility, or installation" means all of the air contaminant 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). Air contaminant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i .e., which have the same two digit code) which is specified in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0065 and 003-005-00176-0 , respectively)).

(iii) "Potential to emit" means the maximum capacity of a stationary source to emit an air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit an air contaminant, including air contaminant control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is "legally enforceable." Secondary emissions do not count in determining the "potential to emit" of a stationary source.

(iv) "Major stationary source" means:

(I) Any stationary source of air contaminants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant, except that lower emissions thresholds shall apply in areas subject to subpart 2, subpart 3, or subpart 4 of part D, title I of the Clean Air Act, according to sub-items I through VI of this item.

I 50 tons per year of either volatile organic compounds or nitrogen oxides in any serious ozone non-attainment area.

II. 50 tons per year of either volatile organic compounds or nitrogen oxides in an area within an ozone transport region, except for any severe or extreme ozone nonattainment area.

III. 25 tons per year of either volatile organic compounds or nitrogen oxides in any severe ozone non-attainment area.

IV. 10 tons per year of either volatile organic compounds or nitrogen oxides in any extreme ozone nonattainment

V. 50 tons per year of carbon monoxide in any serious non-attainment area for carbon monoxide, where stationary sources contribute

significantly to carbon monoxide levels in the area (as determined under rules issued by the Administrator of the U.S. EPA).

VI. 70 tons per year of PM–10 in any serious nonattainment area for PM–10; or

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

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

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

I Coal cleaning plants (with thermal dryers);

II Kraft pulp mills;

III Portland cement plants;

IV Primary zinc smelters;

V Iron and steel mills;

VI Primary aluminum ore reduction plants;

VII Primary copper smelters;

VIII Municipal incinerators (or combination thereof) capable of charging more than 250 tons of refuse per day;

IV 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;

XIII 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;

XX.III Taconite ore processing plants;

XX.I V Glass fiber processing plants;

XXV Charcoal production plants;

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

XXVII Any other stationary source category which , as of August 7, 1980, is being regulated under Chapter 1200-3-16, New Source Performance Standards or Chapter 1200-3- 1 1, Hazardous Air Contaminants or Chapter 1200-3-31, Standards For Hazardous *Air* Contaminants For Source Categories.

(v) Major modification:

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

I. A significant emissions increase of a regulated NSR pollutant (as defined in sub-part 1(xlix) of this subparagraph).

II. A significant net emissions increase of that pollutant from the major stationary source.

(II) Any significant emissions increase (as defined in sub-part 1(xxxix) of this subparagraph) from any emissions units or net emissions increase (as defined in sub-part 1(vi) of this subparagraph) at a major stationary source that is significant for volatile organic compounds and/or nitrogen oxides shall be considered significant for ozone.

(III) A physical change or change m the method of operation shall not include:

I. Routine maintenance, repair, and replacement;

II. Use of an alternative fuel or raw material by reason of any order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the federal power act;

III. Use of an alternative fuel by reason of an order or Rule under Section 125 of the Clean Air Act Amendments, August 7, 1977;

IV. Use of an alternative fuel at a steam generating unit (burning equipment of 250 million BTU's per hour or larger) to the extent that the fuel is generated from municipal solid waste as determined by the Tennessee Division of Solid Waste Management.

V. Use of an alternative fuel or raw material by a stationary source which the source was capable of accommodating before December 12, 1976, unless such change would be prohibited under a legally enforceable permit condition which was established after December 12, 1976, pursuant to 40 CFR Part 52.21 (July 1, 1993), or under regulations approved pursuant to 40 CFR Part 51 Subpart I or 51.166 (July 1, 1993), or the source is approved to use under any pem1it issued pursuant to this paragraph;

VI. An increase in the hours of operation or in the production rate, unless such change would be prohibited under a legally enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR Part 52.2 I (July 1, 1993) or regulations approved pursuant to 40 CFR Part 51 Subpart I or 40 CFR Part 5I.166 (July 1, 1993).

VII. Any change in ownership at a stationary source.

VIII. Reserved.

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

A. The State Implementation Plan for the State in which the project is located, and

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

(IV) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under part 10. of this subparagraph for a PAL for that pollutant. Instead, the definition at item 10(ii)(VIII) of this subparagraph shall apply.

(V) Any physical change in, or change in the method of operation of, a major stationary source of volatile organic compounds that results in any increase in emissions of volatile organic compounds from any discrete operation, emissions unit, or other pollutant emitting activity at the source shall be considered a significant net emissions increase and a major modification for ozone, if the major stationary source is located in an extreme ozone non-attainment area that is subject to subpart 2, part D, title I of the Clean Air Act.

(VI) Any physical change in, or change in the method of operation of, a major stationary source of nitrogen oxides that results in any increase in emissions of nitrogen oxides from any discrete operation, emissions unit, or other pollutant emitting activity at the source shall be considered a significant net emissions increase and a major modification for ozone, if the major stationary source is located in an extreme ozone nonattainment area that is subject to subpart 2, part D, title I of the Clean Air Act.

(i) Net emission increases

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

The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to sub-parts 2.(xii) through (xvii) of this subparagraph ; and

11 Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this sub-item II shall be determined as provided in sub-part 1.(xlvii) of this subparagraph , except that sub-items I.(xlvii)(I)III and IV of this subparagraph shall not apply.

(II) An increase or decrease in the actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date tl1at the increase from the particular change occurs.

(Ill) An increase or decrease in actual emissions is creditable only if;

It occurs within a reasonable period to be specified by the Technical Secretary; and

II The Technical Secretary has not relied on it in issuing a permit for the source under regulations approved pursuant to 40 CFR Part 51 Subpart I , which permit is in effect when the increase in actual emissions from the particular change occurs; and

III Reserved

(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:

The old level of actual emission or the old level of allowable emissions which ever is the lower, exceeds the new level of actual emissions; and

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

III The Technical Secretary has not relied on it in issuing any permit under regulation approved pursuant to 40 CFR Part 51 Subpart I or the Technical Secretary has not relied on it in demonstrating attainment or reasonable further progress; and

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

V Reserved

(VI) An increase that results from a physical change at a stationary source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular air contami11ant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period as determined by the Technical Secretary, not to exceed 180 days.

(VII) Item I .(xiii)(l) of this subparagraph shall not apply for determining creditable increases and decreases or after a change.

(ii) "Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant. This definition includes an electric steam generating unit as defined in sub-part I .(lvi) of this subparagraph. For purposes of this section, there are two types of emissions units as described in items 1.(vii)(I) and (11) of this subparagraph .

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

(II) An existing emissions unit is any emissions unit that does not meet the requirements in item I .(vii)(I) of this subparagraph . A replacement unit, as defined in sub-part I .(xxxvi) of this subparagraph, is an existing emissions unit.

(iii) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes 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 except as a result of the construction or operation of the major stationary source of 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.

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

(v) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following air contaminants, a rate of emissions that would equal or exceed any of the following rates:

(I) Air Contaminant and Emissions Rate

I. Carbon monoxide: 100 tons per year (tpy)

II. Nitrogen Oxides: 40 tpy

III. Sulfur dioxide: 40 tpy

IV. Ozone: 40 tpy of an ozone precursor

V. Lead: 0.6 tpy

VI. PM10: 15 tpy

VII. PM2.5: 10 tpy of direct PM2.5 emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM2.5 precursor under 40 CFR 51.166 and/or 40 CFR 51.165.

(II) Notwithstanding the significant emissions rate for ozone in item (I) of this subpart, significant means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of either volatile organic compounds or nitrogen oxides that would result from any physical change in, or change in the method of operation of, a major stationary source located in a serious or severe ozone non-attainment area that is subject to subpart 2, part D, title I of the Clean Air Act, if such emissions increase of either volatile organic compounds or nitrogen oxides exceeds 25 tons per year.

(III) Reserved

(IV) Notwithstanding the significant emissions rate for carbon monoxide under item (I) of this subpart, significant means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of carbon monoxide that would result from any physical change in, or change in the method of operation of, a major stationary source in a serious non-attainment area for carbon monoxide if such increase equals or exceeds 50 tons per year, provided the Administrator of the U.S. EPA has determined that stationary sources contribute significantly to carbon monoxide levels in that area.

(V) Notwithstanding the significant emissions rates for ozone under items (I) and (II) of this subpart, any increase in actual emissions of either volatile organic compounds or nitrogen oxides from any emissions unit at a major stationary source of either volatile organic compounds or nitrogen oxides located in an extreme ozone non-attainment area that is subject to subpart 2, part D, title I of the Clean Air Act shall be considered a significant net emissions increase.

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

(I) The applicable standards set forth in:

The New Source Performance Standards (NSPS) or;

II The National Emission Standards for Hazardous Air Pollutants (NESHAP) contained in Chapter 1200-3-1 1 and Chapter 1200-3-31 or;

111 Limits established pursuant to the applicable standards under Division 1200-3 or;

IV In the State Implementation Plan, emissions rates, specified as a legally enforceable pem1jt condition established pursuant to this rule 1200-3-9-.01 including those with a future compliance date

(vii) "Legally enforceable" means all limitations and conditions which are enforceable by the Technical Secretary and the EPA Administrator and are included under this Division 1200-3 and the State Implementation Plan. All orders issued by the Tennessee Air Pollution Control Board, operating permits and their respective special conditions issued in accordance with the Act and Regulations , and any certificate authorized by the Act or the Regulations shall be taken to public hearing and made part of the State Implementation Plan by the Board to be legally enforceable.

(viii) "Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit , as determined in accordance with items 1.(xiii)(I) though (III) of this subparagraph, except that this definition shall not apply for calculating whether a significant emissions increase has occu1Ted, or for establishing a PAL under part I 0. of this subparagraph. Instead, sub-parts 1 .(xxxix) and (xlvii) of this subparagraph shall apply for those purposes.

(I) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the air contaminant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Technical Secretary may 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.

(11) In the absence of reliable data, the Technical Secretary may presume that pem1itted-specific allowable emissions for the emissions unit are equivalent to the actual emissions of the emissions unit.

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

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

(x) "Conm1ence Construction"

"Commence construction" as applied to a major stationary source or major modification means that the owner or operator has all necessary construction permits and either has begun, or caused to begin, a continuous program of actual on-site construction of the stationary source, to be completed within a reasonable time; or entered into binding agreements or contractual obligations, which cannot be canceled or modified witl1out substantial loss to the owner or operator, to undertake a program of actual construction of the stationary source to be completed within a reasonable time.

(xi) "Necessary Preconstruction permits" means those permits required under the Federal air quality control laws and regulations which are part of the approved SIP under Division 1200-3.

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

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

(I) The most stringent emissions limitation which is contained in the applicable standards under this Division 1200-3, or in any State

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

(II) 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 the stationary source. In no event shall the application of this term permit a proposed new or

modified stationary source to emit any pollutant in excess of the amount allowable under applicable New Source Standards of Performance.

(xiv) "Significantly impact" means the contribution by a new stationary source or modification to the air quality in a nonattainment area in concentrations equal to or greater than the amount as follows:

AVERAGING TIME AND APPLICABLE CON CONTRATION

Pollutant	Annual	24 Hour	3 Hour	8 Hour	1 Hour
Sulfur Dioxide	1 $\mu g/m^3$	5 $\mu g/m^3$	25 $\mu g/m^3$		
PM 10	1 $\mu g/m^3$	5 $\mu g/m^3$			
CO				0.5 mg/m^3	2mg/m^3
NO	1 $\mu g/m^3$				

(xv) "Minor stationary source" means any source which is not a major stationary source

(xvi) "Minor modification" means

(1) Any modification which is not a major modification; or

(Il) Any modification which is a physical change in or a change in the method of operation of a minor stationary source provided the change would not constitute a major stationary source by itself.

(xvii) "Reasonable stack heights" means a stack height which will minimize air quality impact, not to exceed the Tennessee ambient air quality standards in any case. The Technical Secretary shall on a case-by-case basis, taking into account the existing air quality in the area and the economic costs to the stationary source, determine the achievable stack height to be used by the stationary source or modification. ln no circumstance shall the stack height be less than 20 feet

above ground level, or be required to exceed stack height procedure. Stacks not emitting the nonattainment pollutants are not required to meet the minimum stack height requirement. Stationary sources which emit volatile organic compounds and nitrogen oxide and are located in ozone nonattainment areas will not be required to meet the minimum stack height requirement.

(xviii) "Reasonable Further Progress" (RFP) means such annual incremental reductions in emissions of the relevant air pollutant as are required by this pa11or may reasonably be required by the Technical Secretary or the EPA Administrator for the purpose of ensuring attainment of the applicable ambient air quality standard by the applicable date.

(xix) "Reasonable available control technology" (RACT) means devices, systems, process modifications, or other apparatus or techniques that are reasonably available taking into account:

(I) The necessity of imposing such controls in order to attain and maintain an ambient air quality standard,

(II) The social, environmental and economic impact of such controls, and

(III) Alternative means of providing for attainment and maintenance of such standard.

(xx) "Compliance schedule" means a chronology of actions to be taken by a noncomplying source to bring it into full compliance with Division 1200-3 or permits issued thereto. Generally speaking, compliance schedule increments will be divided into (1) engineering evaluation for problem solution, (2) procurement of the equipment and/or services necessary to solve the problem , (3) on-site delivery of the equipment, (4) completion of the equipment's installation including startup of said equipment and (5) source testing to establish the air contaminant emission levels of the completed installation if required by the Technical Secretary.

(xxi) "Air contaminant" is particulate matter, dust, fumes, gas, mist, smoke, or vapor, or any combinations thereof, total suspended particulates, PM10, sulfur dioxide, carbon monoxide, ozone, nitrogen oxides, lead, and gaseous fluorides expressed as HF.

(xxii) "Good Engineering Practice" (GEP)

(GEP) Stack height means the greater of:

(I) 65 meters, measured from the ground-level elevation at the base of the stack or,

(II) For a stack in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required under 40 CFR pan 51 and 52 (July 1, 1993)

Hg = 2.5 H,

provided the owner or operator produces evidence that this equation was actually relied on in

establishing an emission limitation;

II For all other stacks,

Hg = H + I.5L

where

Hg = good engineering practice stack height, measured from the ground- level elevation at the base of the stack. This is the height at which structural downwash no longer influences computer modeled ambient impacts.

H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack.

L = lesser dimension, height or projected width , of nearby structure(s)

provided that the Technical Secretary 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 Technical Secretary, 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.

(xxiii) "Nonattainment Area" means any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) any ambient air quality standard for the pollutant. As used in this chapter "nonattainment area" includes all the areas as defined by 1200-3-2-.0 l(l)(ffff) plus any areas determined as not meeting any ambient air quality standards as a result of required monitoring as part of a construction pem1it application. The demonstration required under section 165(a)(3) of the 1990 Clean Air Act, shall not apply to maximum allowable increases for Class II areas in the case of an expansion or modification of a major emitting facility which was in existence on the date of enactment of the Clean Air Act, Amendments of 1977, and whose allowable emissions of air pollutants is established as required in sub section 165(a)(4) of the 1990 Clean Air Act.

(xxiv)(Reserved)

(xxv) "Volatile Organic Compounds" and "exempt compounds" have the same meaning as defined in Division 1200-3-18-.01 Definitions.

(xxvi)"Ambient Air Quality Standard" (AAQS) means any Primary Ambient Air Quality Standard or Secondary Ambient Air Quality Standard or Tennessee Ambient Air Quality Standard as defined in Chapter 1200-3-3.

(xxvii) "Class I, Class II, or Class III" areas means areas of the state as defined by Division 1200-3-9-.01(4)(g).

(xxviii) "Ozone precursor" means volatile organic compounds and/or nitrogen oxides. A proposed new source or a net emissions increase at an existing source in an ozone transport region (or an ozone nonattainment area) can be classified as major based on either VOC or NO, emissions or botl1 (but not in combination). That is, the determination of major must be made individually for each pollutant, since VOC and NO, emissions cannot be added to meet the minimum level required for such a demonstration.

(I) Notwithstanding sub-part (xxxiii) of this part, NOx shall not be considered an ozone precursor when:

I. Additional NOx emissions reductions would not be expected to decrease ozone;

II. The Administrator of EPA determines, for certain classes or categories of sources (when the Administrator approves the Tennessee State Implementation Plan or Plan revision), that net air quality benefits would be greater in the absence of further nitrogen oxides reductions from sources concerned; and

III. The Administrator of the U.S. EPA has granted a NOx waiver applying the standards set forth under section 182(f) of the Clean Air Act and the waiver continues to apply.

(xxix)"Stack height procedures" means those procedures that must provide that the degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source's stack height that exceed good engineering practice or by any other dispersion technique, except as provided in 40 CFR Part 5 1.1 l 8(b) (July I , 1993). Such procedures must provide that before the Technical Secretary issues a permit to a source based on a good engineering practice stack height that exceeds the height allowed by 40 CFR Part 5I .IOO(ii) (I) or (2)(July I , 1993), the Technical Secretary must notify the public of the availability of the demonstration study and must provide opportunity for public hearing on it. This subpart does not require such procedures to restrict in any manner the actual stack height of any source.

(xxx) "Portable Stationary Source" means any source that is mounted on any chassis or skids and may be moved by the application of a lifting or pulling force. In addition, there shall be no cable, chain, turnbuckle, bolt or other means (except electrical connections) by which any piece of equipment is attached or clamped to any anchor, slab, or structure, including

bedrock that must be removed prior to the application of a lifting or pulling force for the purpose of transporting the unit, except that such connection as deemed appropriate by the Technical Secretary may be exempted for safety considerations from the specified restrictions on a qualifying source.

(xxxi)Replacement unit means an emissions unit for which all the criteria listed in items I .(xxxvi)(I) through (IV) of this subparagraph are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

(I) The emissions unit is a reconstructed unit within the meaning of part (4)(b)54 . of this rule, or the emissions unit completely takes the place of an existing emissions unit.

(II) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(III) The replacement does not alter the basic design parameters of the process unit.

(IV) 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.

(xxxii) Reserved

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

(xxxix) "Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in sub-part I .(x) of this subparagraph) for that pollutant.

(xl)"Projected actual emissions" means, the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project , or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated 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.

(I) I n determining the projected actual emissions under sub-part I.(xl) of this subparagraph before beginning actual construction, the owner or operator of the major stationary source:

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

II Shall include fugitive emissions to the extent quantifiable, and emissions associated witJ1 startups, shutdowns, and malfunctions; and

Ill Shall exclude, in calculating any increase in emissions tJ1at results from the particular project, that portion of the unit's emissions following the project tJ1at an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under sub-part l.(xlvii) of this subparagraph and tJ1at are also unrelated to the particular project, including any increased utilization due to product demand growtJ1; or,

(II) In lieu of using the method set out in sub-items l.(xl)(I)I through lll of this subparagraph, may elect to use the emissions unit's potential to emit, in tons per year, as defined under sub-part I.(iii) of this subparagraph.

(xli) Reserved

(xlii) "Nonattainment major new source review (NSR) program" means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the SIP to implement the requirements of this subparagraph, or a program that implements 40 CFR 51, append ix S, Sections I through VI. Any permit issued under such a program is a major NSR permit.

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

(xliv) "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, 02 or C02 concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

(xlv) "Continuous parameter monitoring system" (CPMS) means all of the equipment

necessary to meet the data acquisition and availability requirements of this section, 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, 02 or C02 concentrations), and to record average operational parameter value(s) on a continuous basis.

(xlvi) "Continuous emissions rate monitoring system" (CERMS) means the total equipment required for the detem1ination and recording of the pollutant mass emissions rate (in tem1s of mass per unit of time).

(xlvii) "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as detem1ined in accordance with items I.(xlvii)(I) through (IV) of this subparagraph.

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

The average rate shall include fugitive emissions to the extent quantifiable, and em1ss1ons associated with startups, shutdowns, and malfunctions.

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

III For a regulated NSR pollutant, when a project involves multiple emissions units, one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. However, the Technical Secretary is authorized to allow the use of multiple, pollutant specific consecutive 24-month baselines in determining the magnitude of a significant net emissions increase and the applicability of major new source review requirements if all of the following conditions are met.

A. Construction of a new source or modification would become subject to major new source review if a single 2-year baseline is used for all pollutants.

B. One or more pollutants were emitted during such 2-year period in amounts that were less than otherwise permitted for reasons other than operations at a lower production or utilization rate. Qualifying examples include but are not limited to,

the voluntary use of:

(A) A cleaner fuel than otherwise permitted in a fuel burning operation (e.g., natural gas instead of coal in a multi-fuel boiler),

(B) A coating with a lower VOC content than otherwise permitted in a coating operation

(C) A voluntary improvement in the control efficiency of an air pollution control device or the voluntary addition of a control device where one did not exist before, and

(D) Alternate production methods, raw materials, or products that result in lower emissions of one or more pollutants.

C. Use of alternate 2-year baselines for the pollutants described in subitem II, above would result in the construction of the new source or modification not being subject to major new source review.

D. The use of the multiple baselines is not prohibited by any applicable provision of the USEPA's new source review regulations.

The burden for demonstrating that these conditions are met is upon the permit applicant. The demonstration and the Technical Secretary's approval will be made a part of the permit record.

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 sub-item l .(xlvii)(l)Il of this subparagraph.

b. For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the l 0-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 Technical Secretary for a pem1it required either under this subparagraph or under a plan approved by the Administrator, whichever is earlier, except that the I0-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 en11ss10ns

associated with startups, shutdowns, and malfunctions.

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

III The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission !mutation 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 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 item 2.(v)(VII) of this subparagraph.

IV For a regulated NSR pollutant , when a project involves multiple emissions units, only one consecutive 24-month period must be used to determined the baseline actual emissions for the emissions units being changed. However, the Technical Secretary is authorized to allow the use of multiple, pollutant specific consecutive 24-month baselines in determining the magnitude of a significant net emissions increase nd the applicability of major new source review requirements if all of the following conditions are met:

A Construction of a new source or modification would become subject to major new source review if a single 2-year baseline is used for all pollutants.

B. One or more pollutants were emitted during such 2-year period in amounts that were less than otherwise permitted for reasons other than operations at a lower production or utilization rate. Qualifying examples include, but are not limited to, voluntary use of:

(A) A cleaner fuel that otherwise permitted in a fuel burning operation (e.g., natural gas instead of coal in a multi-fuel boiler),

(B) A coating with a lower VOC content than otherwise permitted in a coating operation,

(C) A voluntary improvement in the control efficiency of an air pollution control device or the voluntary addition of a control device where one did not exist before, and

(D) Alternate production methods, raw materials, or products that result in lower emissions of one or more pollutants.

C. Use of alternate 2-year baselines for the pollutants described in section B above would result in the construction of the new source or modification no being subject to major new source review.

D. The use of the multiple baselines is not prohibited by any applicable provision of the USEPA's new source review regulations.

The burden for demonstrating that these conditions are met is upon the permit applicant. The demonstration and the Technical Secretary's approval will be made a part of the permit record.

V The average rate shall not be based on any consecutive 24- mont11 period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by sub-items I .(xlvii)(II)II and Ill of this subparagraph .

(III) For a new emissions unit, the baseline actual emissions for purposes of detem1ining the emissions increase tl1at will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the w1it's potential to emit.

(IV) For a PAL for a major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in item 1.(xlvii)(I) of this subparagraph, for other existing emissions units in accordance with the procedures contained in item l .(xlvii)(II) of this subparagraph, and for a new emissions unit in accordance with the procedures contained in item J .(xlvii)(III) of this subparagraph.

(xlviii) Reserved

(xlix) "Regulated NSR pollutant," for purposes of this subparagraph , means the following:

(I) Nitrogen oxides or any volatile organic compounds;

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

(III) Any pollutant that is a constituent or precursor of a general pollutant listed under items 1.(xlix)(I) or (II) of this subparagraph, provided that a constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors for purposes of NSR are the following:

I Volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone

nonattainment areas.

II Sulfur dioxide is a precursor to PM2.5 in all PM2.5 nonattainment areas.

III Nitrogen oxides are presumed to be precursors to PM2.5 in all PM2.5 nonattainment areas, unless the State demonstrates to the satisfaction of the EPA Administrator or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that areas ambient PM2.5 concentrations.

IV Volatile organic compounds and ammonia are presumed not to be precursors to PM2.5 in any PM2.5 nonattainment area, unless the State demonstrates to the satisfaction of the EPA Administrator or EPA demonstrates that emissions of volatile organic compounds or ammonia from sources in a specific area are a significant contributor to that area's ambient PM2.5 concentrations; or

(IV) PM2.5 emissions and PM10 emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM2.5 and PM10 in nonattainment major NSR permits. Compliance with emissions limitations for PM2.5 and PM10 issued prior to this date shall not shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the (Tennessee) State Implementation Plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this rule unless the State Implementation Plan required condensable particulate matter to be included.

(I) "Reviewing authority" means the State air pollution control agency, local agency, other State agency, Indian tribe, or other agency authorized by the Administrator to carry out a permit program under this subparagraph and 40 CFR 51.166, or the Administrator in the case of EPA-implemented permit programs under 40 CFR 52.21.

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

(Iii) "Best available control technology" (BACT) means an enuss10ns limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Technical Secretary, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or

innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR part 60 or 6l. If the Technical Secretary 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. This definition does not apply to minor stationary sources and minor modifications proposing to construct in a nonattainment area. For these sources, the defu1ition in subparagraph (2)(d) of tJ1is rule applies.

(liii) "Prevention of Significant Deterioration (PSD) permit" means any pem1it that is issued under a major source preconstruction permit program that has been approved by the Administrator and incorporated into the SIP to implement the requirements of 40 CFR 51 .166. Any permit issued under such a program is a major NSR pem1it.

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

(Iv) Reserved

(Ivi) "Electric utility steam generating unit" (EUSGU) 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 detem1ining the electrical energy output capacity of the affected facility.

(Ivii) “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 Plan for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

(Iviii) “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.

(Iix) 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.

2. No major stationary source or major modification to which the requirements of this subparagraph apply shall begin actual construction without a permit that states that the stationary source or modifications will meet the requirements of this Paragraph.

The requirements of this subparagraph shall apply to any new stationary source or major modification that is major for a regulated NSR pollutant , or precursor to a regulated NSR pollutant as applicable, if the stationary source or modification would be constructed anywhere in an area designated nonattainment (as of the date of the permit issued in accordance with this subparagraph) for such pollutant pursuant to the Clean Air Act Title I Part A Section 107(d).

The requirements of tJ1is subparagraph shall apply to each nonattainment pollutant (and in some cases each precursor to the nonattainment pollutant) that the source will emit, or will have the potential to emit, in major amounts. In the case of a modification , the requirements shall apply to the significant net emissions increase of each nonattainment pollutant (and each precursor to the nonattainment pollutant, as applicable) for which the source is major.

(i) All new stationary sources or modifications shall utilize "stack height procedures."

(ii) All minor stationary sources, and minor modifications proposing to construct in a nonattainment area shall utilize best available control technology (BACT), as defined in subparagraph (2)(d) of this rule, for the nonattainment pollutant as specified by the Technical Secretary at the time of the completed permit application, but all major stationary sources and major modifications are required to install LAER in nonattainment areas for the nonattainment pollutant.

(iii) Major stationary sources or major modifications shall meet the following criteria :

(I) A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable requirement for sources subject to the New Source Perfom1ance Standards, and the National Emission

Standards for Hazardous Air Pollutants.

(II) A new major stationary source shall apply the lowest achievable emission rate for each contaminant for which the area is designated nonattainment that it would have the potential to emit in an amount sufficient to make the source or modification a major stationary source or modification. This provision applies to each new emissions unit at which emissions would occur.

(III) A major modification shall apply the lowest achievable emission rate for each air contaminant for which the area is designated nonattainment and 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 air contaminant would occur as the result of a physical change or change in the method of operation in the unit.

(IV) f or phased construction projects, the detem1ination of lowest achievable emission rate shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous detem1ination of the lowest achievable emission rate.

(V) The Technical Secretary shall, for each new major source and major modification , submit to the RACT/BACT/LAER Clearinghouse within 60 days of issuance of the permit, all information on the emissions prevention or control technology for the new major source or major modification.

(iv) Reasonable Further Progress (RFP)

(I) Timing and exemptions:

By the time tJ1at the proposed source or modification is to commence operation, sufficient offsetting emissions reductions shall be in effect such tJ1at the total emissions from existing sources in the area, from new or modified sources which are not major stationary sources, and from the proposed source will be sufficiently less than total emissions from existing sources prior to the application for such permit to construct or modify so as to represent (when considered together with the plan provisions required under the Clean Air Act Title I Part D Subpart I Section 172 (as amended November 15,1990) reasonable further progress; or

11 In the case of a new major stationary source or major modification which is located in a zone (witJ1in the nonattainment area) identified by the Administrator of EPA, in

consultation witJ1 the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted, the emissions of such air contaminant resulting from the proposed new or modified major stationary source will not cause or contribute to emissions levels which exceed the allowance permitted as contained in the State's approved Implementation Plan pursuant to the Clean Air Act Title I Part D Subpart I Section l 72(c)(4) (as amended November 15, 1990).

(II) For the purposes of satisfying the requirements of sub-item (iv)(I)I. of this sub-part, the determination of total emissions at both the time prior to the application for a permit subject to the requirements of this sub- part and the time such permitted source or modification would commence operation, shall be made by the Technical Secretary in a manner consistent with the assumptions in the applicable implementation plan approved by the Administrator of EPA concerning baseline emissions for the demonstration of reasonable further progress and attainment of the ambient air quality standards for the particular air contaminant subject to review under this sub-part.

(v) Emissions Offsets. In meeting the emission offset requirements of this paragraph, the ratio of total actual emissions reductions to the emissions increase shall be at least 1:1 unless an alternative ratio is provided for the applicable nonattainment area in items (III), (IV) and (XIV) of this subpart.

(I) Prior to the issuance of a permit under this sub-part , legally enforceable emission offsets shall be obtained from the same source or other sources in the same non-attainment area, except that such emissions reduction may be obtained from a source in another non-attainment area if:

I. The other area has an equal or higher non-attainment classification than the area in which the source is located; and,

II. Emissions from such other area contribute to a violation of an air quality standard in the non-attainment area in which the proposed new or modified source would construct.

(II) By the time that the new or modified source commences operation, such reductions shall be in place such that the total tonnage of emissions of any applicable non-attainment air contaminant allowed from the proposed new source, or net emissions increase from the modification, shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air contaminant from the same or other sources.

(III) In meeting the requirements of item (v)(II) of this sub-part for ozone non-attainment areas that are subject to subpart 2 of part D, title I of the Clean Air Act, the ratio of total actual

emission reductions of Volatile Organic Compounds and/or Nitrogen Oxides to the net emissions increase of Volatile Organic Compounds and/or Nitrogen Oxides shall be as follows:

I. In any Marginal non-attainment area for ozone - at least 1.1 to 1;

II. In any Moderate non-attainment area for ozone - at least 1:15 to 1;

III. In any Serious non-attainment area for ozone - at least 1.2 to 1;

IV. In any Severe non-attainment area for ozone - at least 1.3 to 1;

V. In any Extreme non-attainn1ent area for ozone - at least 1.5 to 1.

(IV) Within an ozone transport region that is subject to subpart 2 of part D, title I of the Clean Air Act, for any area designated for ozone attainment, unclassified, or Marginal non-attainment, the ratio of total actual emission reductions of Volatile Organic Compounds and/or Nitrogen Oxides to net emissions increase of Volatile Organic Compounds and/or Nitrogen Oxides shall be at least 1.15 to 1.

(V) I. Emissions reductions achieved by shutting down an existing emission unit or curtailing production or operating hours may be generally credited if for offsets if they meet the requirements in sections IA and B of this item.

A. Such reductions are surplus, permanent, quantifiable, and legally enforceable.
B. The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this paragraph, the Technical Secretary 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. However, in no event may credit be given for shutdowns that occurred before August 7, 1977.

II. Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements in section IB of this item may be generally credited only if:

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

B. 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 met the requirements of section IA of this item.

(VI) With respect to a proposed increase in VOC emissions, no emissions credit shall be allowed for reductions in any organic compound specifically excluded from the definitions of "VOC" in this Division 1200-3.

(VII) Credit for an emissions reduction may be claimed to the extent that the reduction has not been relied on in any permit already issued under regulations approved pursuant to 40 CFR Parts 51, 52, and 70,(July 1, 1993) or the State has not relied on it in demonstrating attainment or reasonable further progress. Incidental emissions reductions which are not otherwise required under the federal Clean Air Act (As amended November 15, 1990) may be credible as emissions reductions for such purposes if such emissions reductions meet the applicable requirements of this part.

(VIII) Procedures relating to the permissible locat ions of offsetting emissions shall be followed which are at least as stringent as those set out in 40 CFR Part 51 , Appendix S, Section JV.D. (July I , 1993).

(IX) Reserved

(X) Reserved

(XI) The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset in accordance with section 173 of the Federal Clean Air Act shall be detern1ined by summing the difference between the allowable emissions after the modification (as defined by sub-part I .(xi) of this subparagraph) and the actual emissions before the modification (as defined in sub-part I .{xiii) of this subparagraph) for each emissions unit.

(XII) Where the emissions limit under this division 1200-3 allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential;

(XIII) For an existing fuel combustion source, credit shall be based on the allowable emissions under this division 1200-3 for the type of fuel being burned at the tin1e 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. The Technical Secretary shall ensure that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel switches

(XIV) Within an ozone non-attainment area that is subject to subpart 1, part D, title I of the Clean Air Act (but is not subject to subpart 2, part D, title I of the Act, including 8-hour ozone nonattainment areas subject to 40 CFR 51.902(b)), the ratio of total actual emissions reductions of either volatile organic compound or nitrogen oxides to the emissions increase of either volatile organic compounds or nitrogen oxides shall be at least 1:1.

(XV) In meeting the emissions offset requirements of this subpart for fine particulate matter (PM2.5), the emissions offsets obtained shall be for the same regulated NSR pollutant unless interprecursor trading is allowed in the approved State Implementation Plan (SIP) for the affected PM2.5 nonattainment area. For those nonattainment areas in which interprecursor trading is allowed by the approved SIP, the offset requirements for direct PM2.5 emissions or emissions of precursors of PM2.5 to may be satisfied by offsetting reductions in direct PM2.5 emissions or emissions of any PM2.5 precursor identified under item (b)1.(xlix)(III) of this paragraph if such offsets comply with the interprecursor trading hierarchy and ratio established in the approved SIP for the affected nonattainment area.

(vi) In a nonattainment area, prior to the issuance of a permit to a new major stationary source or major modification an analysis of alternate sites, sizes, production processes, and environmental control techniques for the proposed source shall be made. A permit shall .only be issued if the benefits of the proposed source significantly outweigh the environmental and social costs imposed on the public as a result of the sources location, construction, or modification in the nonattainment area. The Technical Secretary shall require the submittal of such infom1ation as he deems necessary for this analysis.

(vii) The Technical Secretary shall not issue a permit to any major stationary source or major modification locating in or significantly impacting a nonattainment area unless all other sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) anywhere in the State are in compliance or on an approved compliance schedule.

(viii) If the nonattainment area is designated as attainment by the EPA Administrator between the date construct ion is approved under this subparagraph and before the new source start up date, the source has the option of applying for a new construction permit and relief from the requirements of this subparagraph.

(I) Any permit issued under this part shall remain in effect, unless it expires under subpart (xi)

of this part or is rescinded.

(Il) The Technical Secretary shall grant an application for rescission if the application shows that this part would not apply to the source or modification.

(III) If the Technical Secretary rescinds a permit under this subparagraph, the public shall be given adequate notice of the rescission. Electronic notice of an announcement of permit rescission on the Department's website within 60 days of the rescission shall be considered adequate notice.

(ix) 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 "legally 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 Subparagraph 1200-3-9-.0 l (5)(b) shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(x) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the plan and any oilier requirements under local, state or federal law.

(xi) approval to construct shall become invalid if construction is not commenced within 18 montJ1s after issuance of an approved construction permit , if construction is discontinued for a period of 18 months or more, or if construction is not completed within 18 months of the completion date specified on the construction permit application unless an extension has been granted from the Tennessee Air Pollution Control Board. Also, each phase of a phased construction project must meet the requirements stated above. An extension of time for a phased construction project may be requested for each phase or for the whole project. The above requirements do not apply to the time period between the construction of the approved phases of a phased construction project. The Tennessee Air Pollution Control Board may issue a variance granting an extension to complete construction of a source provided adequate justification is presented. Each extension shall not exceed 12 months in time.

(xii) Except as otherwise provided in sub-parts 2.(xviii) and 2.(xix) of this subparagraph , and consistent with the definition of major modification contained in item l .(v)(I) of this subparagraph, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases-a significant emissions increase (as defined in sub-part 1.(xxxix) of this subparagraph), and a significant net emissions increase (as defined in sub-parts I .(vi) and l .(x) of this subparagraph). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant

emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(xiii) The procedure for calculating (before beginning actual construction) whether a significant emissions increase *(i.e.,* the first step of the process) will occur depends upon the type of emissions units being modified, according to sub-parts 2.(xiv) and 2.(xvii) of this subparagraph. The procedure for calculating (before beginning actual construct ion) whether a significant net emissions increase will occur at the major stationary source *(i.e.,* the second step of the process) is contained in the definition in sub-part I .(vi) of this subparagraph . Regardless of any such preconstruction projections , a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(xiv) Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in sub-part I .(xi) of this subparagraph) and the baseline actual emissions (as defined in items I .(xlvii)(I) and (ll) of this subparagraph, as applicable), for each existing emissions unit , equals or exceeds the significant amount for that pollutant (as defined in sub-part J .(x) of this subparagraph).

(xv) 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 sub-part I .(iii) of this subparagraph) from each new emissions unit following completion of the project and the basel ine actual emissions (as defined in item I .{xlvii){Ill) of tJ1is subparagraph) of these units before the project equals
or exceeds the significant amount for that pollutant (as defined in sub-part I .{x) of this subparagraph).

(xvi) Reserved

(xvii) 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 metJ1od specified in subparts 2.(xiv) through (xv) of this subparagraph as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in subpart 1.(x) of this subparagraph.

(xviii)Any major stationary source with a PAL for a regulated NSR pollutant shall comply with the requirements under part 10. of this subparagraph.

(xix) Reserved

3. Public Participation

(i) The Technical Secretary shall provide opportunity for public comment on infom1ation submitted by owners and operators. The public information must include the agency's analysis of the effect of construction or modification on ambient air quality, including the agency's proposed approval or disapproval. The opportunity for public comment shall include, as a minimum -

(I) Availability for public inspection in at least one location in the area affected of the information submitted by the owner or operator and of the Technical Secretary's analysis of the effect on air quality;

(II) A 30-day period for submittal of public comment; and

(III) Electronic notice on the Department’s website of the source information and analysis specified in Item (I) of this subpart. Should newspaper publication of the notice be deemed necessary by the Technical Secretary, the applicant shall bear the cost of publishing such publication in a newspaper of general circulation in the area where the source is located. The electronic notice shall be available for the duration of the public comment period and any notice under this item shall include the notice of public comment, the draft permit, information on how to access the administrative record for the permit, and how to request and/or attend a public hearing on the draft permit.

(ii) Where the 30-day comment period required in Item II of Sub-part (i) would conflict with existing requirements for acting on requests for permission to construct or modify, the Technical Secretary may submit for approval a comment period which is consistent with such existing requirements.

(iii) The Technical Secretary shall provide a copy of the notice required by Sub-part (i) of this part to the Administrator through the appropriate Regional Office, and to all other State and local air pollution control agencies having jurisdiction in the region in which such new or modified installation will be located. The notice also must be sent to any other agency in the region having responsibility for implementing the procedures required under this part. For lead, a copy of the notice is required for all point sources. The definition of point source for lead is given in 40 CFR Part 51.1OO(k)(2). (July I , 1993).

4. Emissions banking for an air contaminant for which an area is designated nonattainment

must be conducted in accordance with the EPA Part III , Emissions Tradi1Jg Policy Statement..., Federal Register *I* Vol. 51, No. 233 *I* Thursday, December 4, 1986.

5. The following specific provisions apply to projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the metl10d specified in sub-items I .(x))(l)I through I(J of this subparagraph for calculating projected actual emissions.

6. The owner or operator of the source shall make the information required to be documented and maintained pursuant to part 5. of this subparagraph available for review upon a request for inspection by the Technical Secretary or the general public pursuant to the requirements contained in sub-part .02(l l)(e) I .(iii)of this chapter.

7. Reserved

8. Reserved

9. Reserved

(i)

10. Actuals PALs.

(i) Applicability.

(I) The Technical Secretary may approve the use of an actuals PAL for any existing major stationary source (except as provided in item 10.(i)(II) of this subparagraph) if the PAL meets the requirements in sub-parts I 0.(i) through (xv) of this subparagraph. The tem1"PAL" shall mean "actual s PAL" throughout part I 0. of this subparagraph.

(II) The Technical Secretary shall not allow an actuals PAL for VOC or NOx for any major stationary source located in an extreme ozone nonattainment area.

(Ill) Any physical change in or change in the method of operation of a major stationary sow-ce that maintains its total source-wide emissions below the PAL level, meets the requirements in sub-parts I 0.(i) through (xv) of this subparagraph , and complies with the PAL pem1it:

Is not a major modification for the PAL pollutant;

II Does not have to be approved through the nonattainment major NSR program; and

III Is not subject to the provisions in sub-part 2.(ix) of this subparagraph (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the nonattainment major NSR program).

(IV) Except as provided under sub-item 10.(i)(III)III of this subparagraph, 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.

(ii) Definitions. When a term is not defined in these paragraphs, it shall have the meaning given in part 1. of this subparagraph or in the Federal Clean Air Act.

(I) Actuals PAL for a major stationary source means a PAL based on the baseline actual emissions (as defined in sub-part l .(xlvii) of this

subparagraph) of all emissions units (as defined in sub-part I .(vii) of this subparagraph) at the source, that emit or have the potential to emit the PAL pollutant.

(II) Allowable emissions means "allowable emissions" as defined in sub- part I .(xi) of this subparagraph, except as this definition is modified according to sub-items I O.(ii)(II)I through II of this subparagraph.

The allowable emissions for any emissions unit shall be calculated considering any emission l imitations 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 sub-part I .(iii) of this subparagraph, except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

(III) Small emissions unit means an emissions unit that emits or has the potential to em.it the PAL pollutant in an amount Jess than the significant level for that PAL pollutant, as defined in sub-part I .(x) of this subparagraph or in the Federal Clean Air Act, whichever is lower.

(IV) Major emissions unit means:

Any emissions unit that emits or has the potential to emit I 00 tons per year or more of the PAL pollutant in an attainment area; or

II Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount

that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Federal Clean Air Act for nonattainment areas.

(V) 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 sub-parts I 0.(i) through (xv) of this subparagraph.

(VI) PAL effective date generally means the date of issuance of the PAL pem1it. However, the PAL effective date for an increased PAL is the date any emissions unit which is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

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

(VIII) PAL major modification means, notwithstandi11g sub-parts l.(v) and l .(vi) of this subparagraph (the definitions for major modification and net emissions increase), any physical change in or change in the metl1od of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

(IX) PAL permit means the major NSR permit, the minor NSR permit, or the State operating permit under a program that is approved into the plan, or the title V permit issued by the Technical Secretary that establishes a PAL for a major stationary source.

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

(XI) 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 sub-part I .(x) of this subparagraph or in the Federal 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 item 10.(ii)(IV) of this subparagraph.

(iii) 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 Technical Secretary for approval:

(I) 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.

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

(IJI) 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 item IO.(xiii)(l) of this subparagraph.

(iv) General requirements for establishing PALs.

(I) The Technical Secretary may establish a PAL at a major stationary source, provided that at a minimum, the requirements in sub-items I O.(iv)(I)I through VII of this subparagraph are met.

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

II The PAL shall be established in a PAL permit that meets the public participation requirements in sub-part I O.(v) of this subparagraph.

Ill The PAL pem1it shall contain all the requirements of sub-part I 0.(vii) of this subparagraph.

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 sub-parts 10.(xii) through (xiv) of this subparagraph for each emissions unit under the PAL through the PAL effective period.

(II) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of offsets under sub-part 2.(v) of tJ1is subparagraph 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.

(v) Public participation requirement for PALs. PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with 40 CFR 51.160 and 51.161, part 3. of this subparagraph, subparagraph (4)(1) of this rule, or 1200-3-9-.02(1 1)(t)8. This includes the requirement that the Technical Secretary 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 Technical Secretary must address all material comments before taking final action on the permit.

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

(I) Except as provided in item I O.(vi)(II) of this subparagraph, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in sub-part l.(xlvii) of this subparagraph) 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 sub-part 1.(x) of this subparagraph or under the Federal Clean Air Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-monili period must be used to determine the baseline actual emissions for all existing emissions units. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Technical Secretary 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 Technical Secretary is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce enuss1ons 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).

(II) For newly constructed units (which do not include modifications to existing units) on which actual construction began after the 24-month period , in lieu of adding the baseline actual emissions as specified in item 10.(vi)(I) of this subparagraph, the emissions must be

added to the PAL level in an amount equal to the potential to emit of the units.

(vii) Contents of the PAL permit.

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

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

(III) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with sub-part 10.(x) of this subparagraph 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 Technical Secretary.

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

(V) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of sub-part I O.(ix) of this subparagraph.

(VI) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by item I O.(xiii)(I) of this subparagraph.

(VII) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under sub-part I O.(xii) of this subparagraph.

(VIII) A requirement to retain the records required under sub-part I 0.(xiii) of this subparagraph on site. Such records may be retained in an electronic format.

(IX) A requirement to submit the reports required under sub-part 1O.(xiv) of this subparagraph by the required deadlines.

(X) Any other requirements that the Technical Secretary deems necessary to implement and enforce the PAL.

(viii) PAL effective period and reopening of the PAL permit.

(I) PAL effective period. The Technical Secretary shall specify a PAL effective period of 10 years.

(II) Reopening of the PAL permit.

I During the PAL effective period, the Technical Secretary shall reopen the PAL permit to:

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

B Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under sub-part 2.(v) of this subparagraph.

C Revise the PAL to reflect an increase in the PAL as provided under sub-part 10.(xi) of this subparagraph.

II The Technical Secretary may reopen the PAL permit for the following:

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

B Reduce the PAL consistent with any other requirement , that is enforceable as a practical matter, and that the State may impose on the major stationary source under the plan.

C Reduce the PAL if the Technical Secretary determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an air quality related value that has been identified for a Federal Class 1 area by a Federal Land Manager and for which information is available to the general public.

III Except for the permit reopening in section 10.(viii)(lI)IA of this subparagraph 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 sub-part I O.(v) of this subparagraph.

(ix) Expiration of a PAL. Any PAL which is not renewed in accordance with the procedures in sub-part I 0.(x) of this subparagraph shall expire at the end of the PAL effective period, and the requirements in items I O.(ix)(I) through (V) of this subparagraph shall apply.

(I) 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 sub- items I 0.(ix)(I)I through II of this subparagraph.

I Within the time frame specified for PAL renewals in item I O.(x)(JI) of this subparagraph ,

the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions unit s, if such a distribution is more appropriate as decided by the Technical Secretary) 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 item I 0.(x)(V) of this subparagraph, such distribution shall be made as if the PAL had been adjusted.

II The Technical Secretary 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 Technical Secretary detem1ines is appropriate.

(II) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Technical Secretary 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 l imitation.

{III) Until the Technical Secretary issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under sub-item 10.(ix)(I)I of this subparagraph, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

{IV) Any physical change or change in the method of operation at the major stationary source will be subject to the nonattainment major NSR requirements if such change meets the definition of major modification in sub-part l .(v) of this subparagraph.

(V) The major stationary source owner or operator shall continue to comply with any State or Federal applicable requirements {BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to sub-part 2.(ix) of this subparagraph, but were eliminated by the PAL in accordance with the provisions in sub-item 1O.(i)(Ill)III of this subparagraph.

(x) Renewal of a PAL.

(1) The Technical Secretary shall follow the procedures specified in sub- part I 0.(v) of this subparagraph 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 Technical Secretary.

(II) Application deadline. A major stationary source owner or operator shall submit a timely application to the Technical Secretary to request renewal of a PAL A timely application is one that is submitted at least 6 months prior to, but not earlier tl1an 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 pem1it with the renewed PAL is issued.

(Ill) Application requirements. The application to renew a PAL pem1it shall contain the information required in sub-items I 0.(x)(II1)1 through J V of this subparagraph.

The information required in items I 0.(iii)(J) through (Ill) of this subparagraph.

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 Technical Secretary to consider in determining the appropriate level for renewing the PAL.

(IV) PAL adjustment. In determining whether and how to adjust the PAL, the Technical Secretary shall consider the options outlined in sub-items I 0.(x)(IV)J and 11 of this subparagraph. However, in no case may any such adjustment fail to comply with sub-item 10.(x)(IV)I11 of this subparagraph .

If the emissions level calculated in accordance with sub-part I 0.(vi) of tl1is subparagraph is equal to or greater than 80 percent of the PAL level, the Technical Secretary may renew the PAL at the same level without considering the factors set forth in sub-item 10.(x)(IV)II of this subparagraph; or

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

III Notwithstanding sub-items 10.(x)(IV)I and II of this subparagraph,

A If the potential to emit of the major stationary source is less than the PAL, the Technical Secretary shall adjust the PAL to a level no greater than the potential to emit of the source; and

B The Technical Secretary shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of sub-part I 0.(xi) of this subparagraph (increasing a PAL).

(V) 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 Technical Secretary has not already adjusted for such requirement , the PAL shall be adjusted al the time of PAL pem1il renewal or title V permit renewal , whichever occurs first.

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

(]) The Technical Secretary may increase a PAL emission limitation only if the major stationary source complies with the provisions in sub-items I 0.(xi)(l)I through IV of this subparagraph.

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 I O 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 sub-item 10.(xi)(l)I of this subparagraph, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the nonattainment major NSR program process (for example, LAER), even though they have also become subject to

the PAL or continue to be subject to the PAL.

IV The PAL pem1it 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.

(11) The Technical Secretary 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 sub-item 10.(xi)(l)I), plus the sum of the baseline actual emissions of the small emissions units.

(Ill) The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of sub-part I0.(v) of this subparagraph.

(xii) Monitoring requirements for PALs

(I) General requirements.

Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in tem1s 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 sub-items 1O.(xii)(Il)I through IV of this subparagraph and must be approved by the Technical Secretary.

III Notwithstanding sub-item 10.(xii)(I)II of this subparagraph, you may also employ an alternative monitoring approach that meets sub-item 1O.(xii)(I)l of this subparagraph if approved by the Technical Secretary.

IV Failure to use a monitoring system that meets the requirements of this section renders the PAL invalid.

(II) Minimum Perfom1ance Requirements for Approved Monitoring Approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in items 10.(xii)(III) through (IX) of this subparagraph:

Mass balance calculations for activities using coatings or solvents;

II CEMS;

III CPMS or PEMS; and

IV Emission Factors.

(Ill) 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:

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 foe! 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 foe!, 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 Technical Secretary determines there is site-specific data or a site-specific monitoring program to support another content within the range.

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

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.

(V) 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 I 5 minutes, or at another less frequent interval approved by the Technical Secretary, while the emissions unit is operating.

(VI) 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 pem1it issuance, unless the Technical Secretary determines that testing is not required.

(VII) 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 detem1ining emissions during such periods is specified in the PAL permit.

(VIII) Notwithstanding the requirements in items 10.(xii)(III) through (VII) of this subparagraph, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored pararmeter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Technical Secretary shall, at the time of permit issuance:

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.

(IX) 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 Technical Secretary. Such testing must occur at least once every 5 years after issuance of the PAL.

(xiii) Recordkeeping requirements.

(I) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of part I 0. of this subparagraph 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.

(II) 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:

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.

(xiv) Reporting and notification requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Technical Secretary in accordance with the applicable title V operating permit program. The reports shall meet the requirements in items 1O.(xiv)(I) through (III).

(I) Semi-Annual Report. The semi-annual report shall be submitted to the Technical Secretary within 30 days of the end of each reporting period. This report shall contain the information required in sub-items 10.(xiv)(I)I through VTI of this subparagraph.

I The identification of owner and operator and the permit number.

11 Total annual em1ss1ons (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to item 10.(xiii)(I) of this subparagraph.

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.

I V 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 tJ1at 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 item 1O.(xii)(VII) of this subparagraph.

V II A signed statement by the responsible official (as defined by the applicable title V operating pem1it program) certifying the truth, accuracy, and completeness of the information provided in t11e report.

(II) 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 item .02(1l)(e) l.(iii)(III) of this chapter shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by item .02(1 1)(e) 1.(iii)(III) of this chapter. The reports shall contain the following information:

The identification of owner and operator and the permit number;

II The PAL requirement that experienced the deviation or that was exceeded;

Ill Emissions resulting from the deviation or the exceedance; and

IV A signed statement by the responsible official (as defined by the applicable title V operating permit program) certifying the truth , accuracy, and completeness of the information provided in the report.

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

(xv) Transition requirements.

(I) The Technical Secretary may not issue a PAL that does not comply with the requirements in sub-parts 1O.(i) through (xv) of this subparagraph after the Administrator has approved regulations incorporating these requirements into the SIP.

(II) The Technical Secretary may supersede any PAL which was established prior to the date of approval of the plan by the Administrator with a PAL that complies with the requirements of sub-parts 1O.(i) through (xv) of this subparagraph.

11 . If any provision of this section, or the application of such provision to any person or circumstance, is held invalid, the remainder of this section, or the application of such

provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

12. The requirements of this subparagraph applicable to major stationary sources and major modifications of PM_{10} shall also apply to major stationary sources and major modifications of PM_{10} precursors, except where the Administrator of the U.S. EPA determines that such sources do not contribute significantly to PM_{10} levels that exceed the PM_{10} ambient standards in the area.

(3) Construction pern1its issued under this rule are based on the control of air contaminants only and do not in any way affect the applicant's obligation to obtain necessary pern1its from other governmental agencies.

(4) The applicant for a construction permit (or its equivalent by Board order) shall pay the cost of publication of any notices required by state or federal law or regulations to effectuate the rights applied for.

(5) Visibility Protection

(a) Definitions - Unless specifically defined in this part, all terms shall have the meaning given them in Chapter 1200-3-2, paragraph 1200-3-9-.01(4) and Chapter 1200-3-23.

I . "Visibility protection area" means any of the mandatory Federal Class I areas listed below. These areas are tl1ose mandatory Federal Class I areas where visibility values may be impacted by sources in Tennessee:

(i) Great Smoky Mountains National Park (NP) , TN-NC.

(ii) Joyce Kilmer-Slickrock National Wilderness Area(NWA), TN-NC.

(iii) Cohutta National Wilderness Area , TN-GA.

(iv) Linville Gorge National Wilderness Area, NC.

(v) Shirting Rock National Wilderness Area, NC.

(vi) Sipsey National Wilderness Area, AL

(vii) Manunoth Cave National Park, KY.

(viii) Mingo National Wilderness Area, MO.

2. (Reserved)

3. Class II areas in Tennessee are those areas not already designated as mandatory Federal Class I areas. This corresponds to all areas of the State which are not part of Cohutta NWA or Great Smoky Mountains N .P., or Joyce Kilmer-Slickrock National Wilderness Area(NWA).

(b) Review of major stationary sources and major modifications - source applicability and exemptions.

1. No stationary source or modification to which the requirements of this part apply shall begin actual construction without a perm it which states that the stationary source or modification would meet the applicable requirements.

2. The requirements of this part shall apply to construction of any new major stationary source or major modification that would be constructed in an area classified as nonattainment and potentially have an impact on visibility in any visibility protection area.

3. The requirements of this part shall apply to any major stationary source and any major modification with respect to each air contaminant that it would emit, except as this part otherwise provides.

4. The requirements of th is part shall not apply to a particular major stationary source or major modification, if:

(i) The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the governor of the State in which the source or modification would be located requests that it be exempt from those requirements; or

(ii) The source or modification that 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;

(XVI) Fuel conversion plants;

(XVII) Sintering plants;

(XIX) Secondary metal production plants;

(XX) Chemical process plants;

(XX I) 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 hear input;

(XXVII)Any other stationary source category which, as of August 7, 1980, is being regulated under Chapter 1200-3- 16, New Source Performance Standards, or Chapter 1200-3-11, Hazardous Air Contaminants. or Chapter 1200-3-31 , Standards For Hazardous Air Contaminants For Source Categories, or 40 CFR Part 60 and 61 (July 1, 1993).

(iii) The source is a portable stationary source which has previously received a permit under this part; and

(I) The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary (a two year period); and

(II) The emissions from the source would not exceed its allowable emissions; and

(III) The emissions from the source would impact no visibility protection area and no area where an applicable increment is known to be violated; and

(IV) Reasonable notice is given to the Technical Secretary 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 Technical Secretary not less than I O days in advance of the proposed relocation unless a different time duration is previously approved by the Technical Secretary.

5. The requirements of this part 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 attainment.

6. The requirements of this part shall not apply to a major stationary source or major modification witJ1 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:

(i) Would impact no visibility protection area and no area where an applicable increment is known to be violated, and

(ii) Would be temporary.

(c) Visibility impact analyses.

The owner or operator of a source shall provide an analysis of the impairment to visibility 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.

(d) Federal land manager notification.

I. The Federal Land Manager (FLM) and the Federal official charged with direct responsibility for management of Federal Class I areas have an affirmative responsibility to protect the air quality related values (including visibility) of such lands and to consider, in consultation with the Technical Secretary whether a proposed source or modification will have an adverse impact on such values.

2. The Technical Secretary shall provide written notification to all affected Federal Land Managers of any permit application for any proposed new major stationary source or major modification that may affect visibility in any visibility protection area. The Technical Secretary shall also provide such notification to the Federal official charged with direct responsibility for management of any lands within any such area. Such notification shall include a copy of all information relevant to the pem1it application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in any visibility protection area. The Technical Secretary shall also notify all affected FLM's within 30 days of receipt of any advance notification of any such pem1it application.

3. The Technical Secretary shall consider any analysis perfom1ed by the Federal Land Manager provided within 30 days of the notification and analysis required by part 2. of this subparagraph , that such proposed new major stationary source or major modification may have an adverse impact on visibility in any visibility protection area. Where the Technical Secretary finds that such an analysis does not demonstrate to the satisfaction of the Technical Secretary that an adverse impact on visibility will result in the visibility protection area, the Technical Secretary must, in the notice of public hearing, either explain his decision or give notice as to where the explanation can be obt ained.

(e) National visibility goal.

The Technical Secretary shall only issue pen11its to those sources whose emissions will be consistent with making reasonable further progress toward the national goal of preventing any future, and remedying any existing, impaim1ent of visibility in visibility protection areas in which impairment results from man-made air pollution. I n making the decision to issue a permit the Technical Secretary may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the useful life of the source.

(f) Monitoring.

The Technical Secretary may require monitoring of visibility in any visibility protection area near the proposed new stationary source or major modification for such purposes and by such means as the Technical Secretary deems necessary and appropriate.

Authority: T.C.A. §§68-20 1-105 and 4-5-202 et. seq. Administrative History: Original rule certified June 4, 1974. Amended effective February 9, 1977. Amended April 12, 1978. Amended June 16, 1978.

Amended March 21, 1979. Amended June 2 1, 1979. Amended November 16, 1979. Emergency rule effective June 3, 1981 through October I , 1981. Revised effective July 3 1, 1981. Amended effective October 2, 1981. Amended effective January 22, 1982. Amended effective March 2, 1983. Amended effective August 22, 1983. Amended effective November 6, 1988. Amendment filed April 19, 1990; effective June 2, 1990. Amendment filed May 17, 1990; effective July I , 1990. Amendment filed May 12, 1993; effective June 26, 1993. Amendment filed September 7, 1993; effective November 2 1, 1993. Amendment filed April 18, 1994; effective July 2, 1994. Amendment filed June 2, 1994 ; effective August 15, 1994. Amendment filed March 29, 1995; effective June 14, 1995. Amendment filed June 3, 1996; effective August 14, 1996. Amendment filed June 7, 1996, effective August 18, 1996. Amendment filed October 14, 1996; effective December 28, 1996. Amendment filed November 12, 1998; effective January 26, 1999. Amendment filed June 8, 1999; effective August 22, 1999. Amendment filed December 30, 1999; effective March 14, 2000. Repeal and new rule filed December 1, 2005; effective February 14, 2006. Amendment filed February 24, 2009; effective May 10, 2009. Amendment filed February 24, 2009; effective May 10, 2009. Amendments filed February 24, 2009; effective May 10, 2009. Amendment filed May 12, 2010; effective August 10, 2010. Amendments filed November 10, 2010; effective February 8, 2011. Amendments filed March 29, 2011; effective June 27, 2011. Amendment filed August 29, 2011; effective November 27, 2011. Amendment filed November 5, 2012; effective February 3, 2013. Amendments filed January 24, 2013; effective April 24, 2013. Amendment filed April 1, 2015; effective June 30, 2015. Amendment filed September 11, 2015; effective December 10, 2015. Amendments filed January 5, 2017; effective April 5, 2017. Amendments filed May 17, 2017; effective August 15, 2017. Amendments filed October 23, 2020; effective January 21,

2021. Amendments filed January 22, 2021; effective April 22, 2021.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JAN 27, 1972	MAY 31, 1972	37 FR 10840
1st Revision	JUN 22, 1978	JUN 07, 1979	44 FR 32681
2nd Revision	APR 12, 1979	APR 24, 1980	45 FR 27757
3rd Revision	OCT 25, 1979	APR 24, 1980	45 FR 27757
4th Revision	NOV 23, 1979	JUN 24, 1982	47 FR 27269
5th Revision	AUG 26, 1981	JUN 24, 1982	47 FR 27269
6th Revision	DEC 09, 1981	FEB 26, 1985	50 FR 7777
7th Revision	JAN 22, 1982	JUN 21, 1982	47 FR 26622
8th Revision	APR 22, 1983	FEB 25, 1985	50 FR 7778
9th Revision	SEP 01, 1983	FEB 25, 1985	50 FR 7778
10th Revision	SEP 01, 1993	JUL 29, 1996	61 FR 39332
11th Revision	AUG 17, 1994	APR 11, 1995	60 FR 7913
12th Revision	JAN 17, 1995*	JUL 18, 1996	61 FR 37387
13th Revision	JUN 10, 1996	JUL 29, 1996	61 FR 39332
14th Revision	FEB 27, 1997	JUL 29, 1997	62 FR 40458
15th Revision	FEB 11, 1999	JUL 19, 1999	64 FR 38580
16th Revision	FEB 23, 2006	SEP 14, 2007	72 FR 52472
17th Revision	MAY 28, 2009	FEB 7, 2012	77 FR 6016
18th Revision	JAN 11, 2012	FEB 28, 2012	77 FR 11744
19th Revision	JAN 11, 2012	MAR 1, 2012	77 FR 12484
20th Revision	JUL 29, 2011	JUL 30, 2012	77 FR 44481
21st Revision	SEP 3, 1999	MAY 17, 2013	78 FR 29032
22nd Revision	MAY 10, 2013	JUL 25, 2013	78 FR 44886
23rd Revision	MAY 28, 2009	SEP 24, 2018	83 FR 48245
24th Revision	MAR 23, 2021	SEP 30, 2022	87 FR 59322
25th Revision	APR 9, 2021	OCT 24, 2022	87 FR 64165

1200-3-9-.02 OPERATING PERMITS

(1) Any person planning to operate an air contaminant source constructed or modified in accordance with a construction permit and/or waiver issued by the Technical Secretary in rule .01 of this chapter shall apply for and receive an operating permit from the Technical Secretary within sixty (60) days after commencement of the operation of said air contaminant source.

(2) Any person operating an existing air contaminant source shall obtain an operating permit by the Final Compliance Date as shown in Table 1 and shall submit a Compliance Plan as shown in Table 1. An air contaminant source can readily determine which dates are applicable by reading Chapters V, VI, VII, and VIII.

1. Each compliance plan must provide for periodic increments of progress towards compliance. The dates for achievement of such increments shall be specified. Increments of progress shall include but not be limited to: Letting of necessary contracts for construction or process changes, if applicable; initiation of construction; completion and startup of control system; performance tests; and submittal of performance test analysis and results.

2. Any owner or operator required to submit a compliance schedule pursuant to this paragraph shall, within 10 days after the deadline for each increment of progress, certify to the Director whether or not the required increment of the approved compliance schedule has been met.

TABLE 1

Compliance Schedule for Existing Air Contaminant Sources

Final Compliance Date	Compliance Plan Due
Aug. 9, 1973	Feb. 9, 1971
July 1, 1975	Jan 1, 1973
July 1, 1977	Jan 1, 1973

C. Any person operating an air contaminant source constructed after August 9, 1969, and prior to April 3, 1972, must have an operating permit by October 3, 1972.

(3) Application for an operating permit shall be made on forms available from the Technical Secretary and signed by the applicant. Such application for an operating permit shall be filed with the Technical Secretary not less than thirty (30) days prior to the expiration of an existing operating permit.

(4) The operating permit shall only be issued on evidence satisfactory to the Technical

Secretary that the operation of said air contaminant source is in compliance with any standards or rules and regulations promulgated by the Board and that the operation of said air contaminant source will not interfere with the attainment or maintenance of the secondary air quality standard. Such evidence may include a requirement that the applicant conduct such tests as are necessary in the opinion of the Technical Secretary to determine the kind and/or amount of air contaminants emitted from the source. Standard operating permits shall be valid for a period of one (l) year or for such time as deemed appropriate by the Technical Secretary. A permit issued for less than one year shall be designated as a temporary permit.

(5) Any person in possession of an operating permit shall maintain said operating permit readily available for inspection by the Technical Secretary or his designated representative on the operating premises.

(6) Operation of each air contaminant source shall be in accordance with the provisions and stipulations set forth in the operating permit.

(11) MAJOR STATIONARY SOURCE OPERATING PERMITS

(a) Statement of Purpose and General Intent. The requirements of paragraph 1200-3-9-.02(11) are promulgated in order to fulfill the requirements of Title B of the Federal Clean Air Act(42 U.S.C. 7661a-7661e) and the federal regulations promulgated thereunder at 40 CFR Part 70. (FR Vol. 57, No. 140, Tuesday, July 21, 1992 p.32295-32312). The federal law and regulations require unique approaches pertaining to federal involvement in the permitting activities specified in this paragraph. the federal government, acting by and through the United States Environmental Protection Agency (EPA), is a key party in the review, issuance, and revisions of permits issued under the provisions of this paragraph. It is the intent of the Board to comply with these federal requirements to the full extent allowed under the laws of the State of Tennessee. In the event that the federal law or regulations should require something that the Board has not yet promulgated as a rule, the permit applicant and the Technical Secretary may mutually agree to be governed by whatever emission limitations and/or procedural requirements that the federal rules require and that shall become a binding condition of the applicant's permit to operate. In addition, sources that are subject to this paragraph 1200-3-9-.02(11) may opt out of being subject to the provisions of paragraph 1200-3-9-.02(11) by limiting their potential to emit such that they are below the applicability threshold. In order to exercise this option, the source must agree to be bound by a permit which specifies the more restrictive limit and to be subject to detailed monitoring, reporting and recordkeeping requirements that prove the source is abiding by its more restrictive emission and/or production limits. The permit shall have a term not to exceed 10 years and shall be subjected to the opportunity for comment and hearing by EPA, affected states and the public consistent with the provisions of this paragraph. The permit shall contain a statement of basis comparing the source's potential to emit with the synthetic limit to emit and the procedures to be followed that will insure that the more restrictive limit is not exceeded. If the source later decides to increase its potential

to emit, the new source review permit procedures of rule 1200-3-9-.01 shall apply.

Authority: *T.C.A. Section 68-25-105. Administrative History. Original Rule certified June 7, 1974. Amended effective February 9, 1977. Amended effective March 21, 1979.*

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JAN 27, 1972	MAY 31, 1972	37 FR 10840
1st Revision	JAN 10, 1995	FEB 13, 1997	62 FR 6724
2nd Revision	MAY 28,2009	FEB 7, 2012	77 FR 6016 (EPA did not act on this section in this notice, the regulatory text reflects that it was) Error.
3rd Revision	MAR 23, 2021	SEP 30, 2022	87 FR 59322

1200-3-9-.03 GENERAL PROVISIONS

(1) Irrespective of the provisions of the preceding paragraphs of this Chapter, the owner or operator of any air contaminant source shall be responsible for complying with emission regulations as contained in Chapter V, VI, VII, VIII of these regulations at the earliest practicable time and for this purpose the Board shall have the authority and responsibility to require compliance with these regulations at an earlier date than indicated where such earlier compliance may reasonably be accomplished.

(2) No person shall use any plan, activity, device or contrivance which the Technical Secretary determines will, without resulting in an actual reduction of air contaminants, conceal or appear to minimize the effects of an emission which would otherwise constitute a violation of these Regulations.

(3) No person shall discharge from any source whatsoever such quantities of air contaminant, uncombined water, or other materials which cause or have a tendency to cause a traffic hazard or an interference with normal means of public transportation.

(4) Any person affected by any of these regulations shall file emissions data, as a minimum once a year with the Technical Secretary on forms available from the Secretary.

(5)

(6) An operation and/or construction permit is not transferable from one person to another person, nor from one air contaminant source to another air contaminant source, nor from one location to another location.

(7) The Technical Secretary may suspend or revoke any construction or operating permit or waiver if the permit holder fails to comply with the provisions, stipulations, or compliance schedules specified in the permit. Upon permit suspension or revocation, if the permit holder fails to take remedial action, he shall become immediately subject to enforcement actions prescribed by law.

Authority: *T.C.A. Section 68-25-105. Administrative History. Original Rule certified June 7, 1974. Amended effective February 9, 1977.*

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JAN 27, 1972	MAY 31, 1972	37 FR 10840
1st revision		MAR 29, 1985	50 FR 12540
2nd Revision	MAY 28, 2009	FEB 7, 2012	77 FR 6016

1200-3-9-.04 EXEMPTIONS

The exemptions listed in paragraph (4) of this rule do not apply if an air contaminant source is subject to a standard or requirement contained in the following except where specifically stated:

Chapter 1200-3-11
Chapter 1200-3-18
Chapter 1200-3-19
Chapter 1200-3-22
Chapter 1200-3-27
Paragraph 1200-3-31-.05(2)

In addition, the exemption provided for the air contaminant sources in paragraph (4) of this rule does not exempt them from inclusion in determining if a major stationary source or major modification construction permit is required under paragraph 1200-3-9-.01(4) and paragraph 1200-3-9-.01(5).

(2) Notwithstanding the exemptions granted in paragraph l above, no person shall discharge, from any source whatsoever, such quantities of air contaminants or other materials which cause or have a tendency to cause injury, detriment, annoyance, or adverse effect to the public.

(3) Any person may request that a federally enforceable permit be issued for any of the air contaminant sources that are exempted in paragraph 1200-3-9-.04(4). “Federally enforceable” shall have the meaning as provided in paragraph 1200-3-9-.02(11).

(4) The list of exempted air contaminant sources contained in this paragraph shall not be used as “insignificant activities” or “insignificant emission units” when applying for a major source operating permit under paragraph 1200-3-9-.02(11). Otherwise, no person shall be required to obtain or file a request for a State permit due to ownership, operation, construction, or modification of the following air contaminant sources unless specifically required to do so by the Board or as provided for in paragraph (3) of this rule:

(a)Fuel burning equipment of less than 500,000 Btu per hour capacity. This exemption shall not apply where the total capacity of such equipment operated by one person exceeds 2.00 million Btu per hour.

(b) A single stack of an air contaminant source that emits no gaseous, or hazardous air contaminants or pollutants, and which does not have the potential for emitting more than 0.50 pounds per hour of nonhazardous particulates (particulates not defined as hazardous air contaminants or pollutants), provided that the total potential particulate emissions from the air contaminant source amounts to less than two (2) pounds per hour. For the purpose of this subparagraph, an air contaminant source includes all sources located within a contiguous

area, and under common control.

(c) Any air contaminant source constructed and operated at a domestic residence for domestic use except where Chapter 1200-3-4, Open Burning, requires permit issuance, or where open burning is expressly prohibited.

(d) Equipment used exclusively to store, hold, or distribute natural gas excluding all associated fuel burning equipment not specifically exempted.

(e) Brazing, soldering, or welding equipment except those which emit lead in amounts equal to or greater than 0.6 tons per year.

(f) Sources within the counties of Shelby, Davidson, Hamilton, and Knox until such time as the Board shall determine that air pollution is not being controlled in such county to a degree at least as stringent as the substantive provisions of the Tennessee Air Quality Act and regulations adopted pursuant thereto. This exemption does not apply to any air contaminant soursce in those counties if the local regulation is less stringent than the applicable state regulation.

(g) Automobile body shops - including paint spraying, grinding and polishing operations. This exemption does not apply to sources in ozone nonattainment areas which emit more than 15 pounds per day of volatile organic compounds.

(h) Any process emission source emitting less than 0.1 pounds per hour of a pollutant excluding hazardous air contaminants or pollutants.

(i) Any air contaminant source with the potential to emit radionuclides which will result in a dose to the most exposed member of the public of less than 0.1 millirem per year. Even though radionuclide air contaminant sources are regulated under Chapter 1200-3-11, this exemption is still valid except that recordkeeping and reporting requirements must be met.

(j) The air contaminant sources listed in parts 1200-3-9-.04(5)(f) 1. through 120. excluding parts 17., 81., 87., and 88.

(k) The air contaminant sources listed in parts 1200-3-9-.04(5)(g) 3. through 22.

(l) Any modification (as defined in Rule 1200-3-2-.01) to an existing process emission source, incinerator, or fuel-burning installation to add sources of equipment leaks (e.g. valves, flanges, pumps, compressors, etc.) as long as the estimated increase in annual emissions attributable to the modification does not exceed 5 tons per year. However, such emissions increases shall be considered when making major modification determinations pursuant to paragraphs 1200-3-9-.01(4) and (5).

Authority: *T.C.A. Section 68-25-105. Administrative History. Original rule certified June 7, 1974. Amended effective February 9, 1977.*

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JAN 27, 1972	MAY 31, 1972	37 FR 10840
1ST Revision	AUG 28, 1995	OCT 28, 2002	67 FR 55320

1200-3-9-.05 Reserved

1200-3-9-.06APPEAL OF PERMIT APPLICATION DENIALS AND PERMIT CONDITIONS

(1) In any case where the Technical Secretary or the Department denies a permit application, this denial is appealable to the Board if a petition of appeal is received by the Technical Secretary within thirty (30) days of receipt of the denial letter by the owner or operator.

(2) The letter of denial of the application shall include the basis for denial and notify the party of their right to appeal and of the right to legal counsel.

(3) The reasons the petitioner feels the permit should have been granted must be filed as part of the petition. Additionally a party may request prehearing discovery, as provided in TCA, Sections 4-5l6-517, by filing and detailing the request with the petition.

(4) Within thirty (30) days a receipt of the petition for appeal of a permit denial, the Technical Secretary shall notify the petitioner of the time and place for the hearing.

(5) In any case where a condition is placed on a permit, the imposition of that permit condition may be appealed by filing with the Technical Secretary within thirty (30) days after the mailing date of the permit a petition for reconsideration of permit conditions. The Technical Secretary shall schedule an administrative hearing to be held within forty-five days of receipt of the petition to be conducted in the same manner as hearings under 53-3414(H) with the resulting determination or order being appealable in the same manner. The petition for reconsideration of permit conditions shall specify which conditions and portions of conditions are objected to and specifying in detail the objections.

(6) All applicable provisions of Chapter 1200-3-17 on contested cases shall apply to the hearing before the Board on such appeals.

(7) The denial of a permit application by the Technical Secretary stands, unless the majority of a quorum of the Board votes to overturn the denial after the hearing.

(8) A permit condition specified by the Technical Secretary after the hearing provided for in paragraph (5) stands unless on appeal the Board votes to modify or delete the condition by a majority of a quorum of the Board.

Authority: *T.C.A. Section 68-25-105. Administrative History. Original Rule certified November 16, 1979*

Date Submitted Date Approved Federal

	to EPA	by EPA	Register
Original Reg	NOV 23, 1979	JUN 24, 1982	47 FR 27269