

## **Chapter 01. Common Provisions**

### **Section 02. Authority.**

(a) In accordance with Chapter 9.1, Articles 1-11, Wyoming Statutes, 1973 Cumulative Supplement, the following Air Quality Standards and Regulations are hereby promulgated by the Wyoming Environmental Quality Council.

### **Section 03. Definitions.**

## **FOR INCLUSION IN WYOMING STATE IMPLEMENTATION PLAN FROM WYOMING AIR QUALITY STANDARDS AND REGULATIONS**

### **Common Provisions CHAPTER 1 Section 3. Definitions.**

(a) The definitions contained in Section 35-502.3, Wyoming Environmental Quality Act shall be Applicable, where appropriate. The following terms as used in these standards and regulations shall, Unless the context otherwise requires, have the following meanings:

**"Administrator"** means Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality.

**"Air contaminant"** shall mean dust, fumes, mist, smoke, other particulate matter, vapor, gas or any combination of the foregoing, but shall not include steam or water vapor.

**"Air pollution"** shall mean the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is materially injurious to human health or welfare, animal or plant life or property, or unreasonably interferes with the enjoyment of life or property.

**"Animal matter"** shall mean any product or derivative of animal life.

**"Board"** shall mean the Air Quality Advisory Board.

**"Control equipment"** shall mean any device, contrivance, or system which prevents or reduces emissions.

**"Control officer"** shall mean the Director of the State Department of Environmental Quality, or the Administrator of the Air Quality Division, or any employee of the Division designated by the Administrator, or any local health officer or employee designated by the Administrator.

**"Council"** shall mean the Environmental Quality Council.

**"Department"** shall mean the Wyoming Department of Environmental Quality.

**"Director"** shall mean the Director of the Wyoming Department of Environmental Quality.

**"Division"** shall mean the Air Quality Division, Wyoming Department of Environmental Quality.

**"Emission"** shall mean a release into the outdoor atmosphere of air contaminants.

**"Equivalent method"** shall mean any procedure, practice, policy, system or device which can be demonstrated to produce a result adequate for the purpose required in these regulations and consistent with specified reference methods.

**"Existing equipment"** shall mean equipment installed prior to the effective date of an applicable regulation.

source. **"Existing source"** means any stationary or portable source other than a new

**"Facility"** shall mean any property, real or personal, which may incorporate one or more sources of air pollution and shall include but not be limited to processing plants, manufacturing plants, power generator plants, refining plants, mining operations, lumber mills, ore processing plants, construction material processing operations, etc.

**"Fuel burning equipment"** shall mean any furnace, boiler apparatus, stack, or appurtenances thereto used in the process of burning fuel or other combustible material for the purpose of producing heat or power by indirect heat transfer.

**"Greenhouse gases (GHGs)"** means the air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

**"Incinerator"** shall mean any equipment, device or contrivance used for the destruction of garbage, rubbish or other wastes by burning, but not wood wastes burned in devices commonly called tepee burners, silos, truncated cones, wigwam burners and other such burners used commonly by the wood products industry.

**"Initial start-up"** shall mean that point in time when a source or group of sources actually begins operation for the purpose of generating goods or services as an end product or as an intermediate product. Start-up of a source to check functional operation of the "machinery" shall not be construed as initial start-up.

**"Installation"** shall mean any property, real or personal, including but not limited to processing equipment, manufacturing equipment, fuel burning equipment, incinerators, or any other equipment, or construction, capable of creating or causing emissions.

**"Maximum design production rate"** shall mean the maximum production rate at which a source is designed for continuous or batch operation and for which the permit is applied.

**"Modification"** shall mean any physical change in, or change in the method of operation of, an affected facility which increases the amount of any air pollutant (to which any state standards applies) emitted by such facility or which results in the emission of any such air pollutant not previously emitted.

**"Motor vehicle"** shall mean those vehicles carrying people or goods on public streets or highways.

**"Multiple chamber incinerator"** shall mean any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of two or more combustion furnaces in series physically separated by walls, interconnected by gas passage ports or ducts and employing adequate parameters necessary for maximum combustion of the material to be burned.

**"New equipment"** shall mean:

- (i) Any equipment, installation, construction article, machine or contrivance ordered, constructed or installed after the effective date of an applicable regulation;
- (ii) Any equipment replaced or altered or processes changed in such a manner after the effective date of an applicable regulation as to have an effect of increasing the production of air contaminants;
- (iii) Any equipment moved after the effective date of this regulation to another premise involving a change of address when said move will cause or would be expected to cause an increase in the production of air contaminants;
- (iv) Any equipment purchased and to be operated after the effective date of this regulation by a new owner or when a new lessee desires to operate such equipment.

**"New source"** shall mean any stationary or portable source, the construction or modification of which is commenced after the effective date of regulations prescribing a standard of performance applicable to such source.

**"Odor"** shall mean that property of an emission which stimulates the sense of smell.

**"Open burning"** shall mean a fire where any material is burned in the open or in a receptacle other than a furnace, incinerator, or other equipment connected to a stack or chimney.

**"Owner or operator"** shall mean any person who owns, leases, operates, controls, or supervises a facility, building, structure, or installation which directly or indirectly result or may result in emissions of any air contaminant.

**"Particulate matter":**

- (i) "Particulate matter" shall mean any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.
- (ii) "Particulate matter emissions" shall mean all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, specified in 40 CFR part 60, Appendix A.

(iii) "PM10" shall mean particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J of 40 CFR part 50, and designated in accordance with 40 CFR part 53.

(iv) "PM10 emissions" shall mean finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method approved by the Administrator.

(v) "Total suspended particulates (TSP)" shall mean particulate matter as measured by the method described in Appendix B to 40 CFR part 50.

**"Person"** means any individual, partnership, firm, association, municipality, public or private corporation, sub-division or agency of the state, trust, estate or any other legal entity.

**"Premises"** shall mean any property, piece of land or real estate or building.

**"Process weight"** shall mean the total weight of all materials introduced into any specific process which may cause emissions. Solid fuels charged will be considered as part of the process weight but liquids and gaseous fuels, combustion air, and water will not. However, water included as part of the normal charge to a beet pulp dryer process shall be considered as part of the process weight.

**"Reduction"** shall mean any heated process, including rendering, cooking, drying, dehydrating, digesting, evaporating, and protein concentrating.

**"Salvage operation"** shall mean any operation conducted in whole or in part for the salvaging or reclaiming of any product or material.

**"Source"** shall mean any property, real or personal, or person contributing to air pollution.

**"Stack or chimney"** shall mean any flue, conduit or duct arranged to conduct emissions.

**"Standard conditions"** shall mean a temperature of 68° Fahrenheit and pressure reduced to 29.92 inches of mercury at sea level.

**"Trade wastes"** shall mean solid, liquid, or gaseous material resulting from construction or the prosecution of any business, trade or industry, or any demolition operation including but not limited to wood, plastics, cartons, grease, oil, chemicals and cinders.

**"Wood waste burners"** shall mean devices commonly called tepee burners, silos, truncated cones, wigwam burners, and other such burners commonly used by the wood product industry for the disposal by burning of wood wastes.

#### Section 04. Diluting and concealing emissions.

(a) No person shall cause or permit the installation or use of any device, contrivance or operational schedule which, without resulting in reduction of the total amount of air contaminant released to the atmosphere, shall dilute or conceal an emission from a source.

(b) Subsection (a) of this regulation shall not apply to the control of odors.

#### Section 05. Unavoidable equipment malfunction.

##### Section 5. Unavoidable equipment malfunction.

##### **(a) Unavoidable Equipment Malfunction.**

**(i)** Any source believing that any emissions in excess of established regulation limits or standards resulted from an unavoidable equipment malfunction shall notify the Division within 24 hours of the incident via telephone, electronic mail, fax, or other similar method. A detailed description of the circumstances of the incident as described in paragraph 5(a)(i)(A) of this section, including a corrective program directed at preventing future such incidents, must be submitted within 14 days of the onset of the incident.

**(A)** In the incident report noted above, the source shall include any relevant evidence, including, but not necessarily limited to, evidence that (1) there was an equipment malfunction beyond the reasonable control of the owner or operator; (2) the excess emissions could not have been avoided by better operation, maintenance or improved design of the malfunctioning component; (3) to the maximum extent

practicable, the source maintained and operated the air pollution control equipment and process equipment, in a manner consistent with good practice for minimizing emissions, including minimizing any bypass emissions; (4) any necessary repairs were made as quickly as practicable, using off-shift labor and overtime as needed and possible; (5) all practicable steps were taken to minimize the potential impact of the excess emissions on ambient air quality; and (6) the excess emissions are not part of a recurring pattern that may have been caused by inadequate operation or maintenance, or inadequate design of the malfunctioning component.

**(ii)** The burden of proof is on the owner or operator of the source to provide sufficient information to demonstrate that an unavoidable equipment malfunction occurred.

**(b) Enforcement Discretion.**

**(i)** The Division may elect not to pursue enforcement after considering whether excess emissions resulted from an unavoidable equipment malfunction. The Division will evaluate, on a case-by-case basis, the information submitted pursuant to paragraph (a)(i)(A) of this section to determine whether to pursue enforcement action. The Administrator may extend the 14-day time period for the submission of the incident report for cause.

**Section 06. Credible evidence.**

(a) For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in the Wyoming state implementation plan, nothing in the Wyoming state implementation plan shall preclude the use, including the exclusive use, of any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed.

**Section 07. Greenhouse gases.**

(a) Sources that directly emit, or have the potential to emit the pollutant Greenhouse Gases (GHGs) shall be subject to operating permit requirements as specified in Chapter 6, Section 3, and subject to prevention of significant deterioration (PSD) permit requirements as specified in Chapter 6, Section 4.

(b) Notwithstanding the requirements of Chapter 6, Section 2(a)(i) and (iii), a preconstruction permit under Chapter 6, Section 2 is not required for the pollutant Greenhouse Gases (GHGs) unless the facility or source is also required to obtain a permit for GHGs under Chapter 6, Section 4.

## **Chapter 2**

### **Ambient Standards**

#### **Section 2. Ambient Standards for Particulate Matter.**

- (a) PM<sub>10</sub>: The ambient air standards for PM<sub>10</sub> particulate matter are:
  - (i) 150 micrograms per cubic meter — 24-hour average concentration with not more than one expected exceedance per year.
    - (A) Attainment of the 24-hour standard is determined in accordance with Appendix K of 40 CFR Part 50.
  - (ii) 50 micrograms per cubic meter — annual arithmetic mean.
    - (A) Attainment of the annual standard is determined in accordance with Appendix 1 of this chapter.
  - (iii) For the purpose of determining attainment of the standards, particulate matter shall be measured in the ambient air as PM<sub>10</sub> (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers), by a reference method based on 40 CFR Part 50, Appendix J and designated in accordance with 40 CFR Part 53 or an equivalent or alternate method designated in accordance with 40 CFR Part 53.
- (b) PM<sub>2.5</sub>: The primary ambient air quality standards for PM<sub>2.5</sub> particulate matter are:
  - (i) 12.0 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) annual arithmetic mean concentration and 35  $\mu\text{g}/\text{m}^3$  24-hour average concentration measured in the ambient air as PM<sub>2.5</sub> (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) by either:
    - (A) A reference method based on 40 CFR Part 50, Appendix L, and designated in accordance with 40 CFR Part 53; or
    - (B) An equivalent method designated in accordance with 40 CFR Part 53.
  - (ii) The primary annual PM<sub>2.5</sub> standard is met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR Part 50, Appendix N, is less than or equal to 12.0  $\mu\text{g}/\text{m}^3$ .

(iii) The primary 24-hour PM<sub>2.5</sub> standard is met when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR Part 50, Appendix N, is less than or equal to 35 µg/m<sup>3</sup>.

(c) PM<sub>2.5</sub>: The secondary ambient air quality standards for PM<sub>2.5</sub> particulate matter are:

(i) 15 micrograms per cubic meter (µg/m<sup>3</sup>) annual arithmetic mean concentration and;

(ii) 35 micrograms per cubic meter (µg/m<sup>3</sup>) — 98th percentile 24-hour average concentration.

(iii) Attainment of the annual and 24-hour standards is determined in accordance with Appendix N of 40 CFR Part 50.

(iv) For the purpose of determining attainment of the standards, particulate matter shall be measured in the ambient air as PM<sub>2.5</sub> (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers), by a reference method based on 40 CFR Part 50, Appendix L and designated in accordance with 40 CFR Part 53, or an equivalent or alternate method designated in accordance with 40 CFR Part 53.

(d) Ambient air, for the area bounded by Townships 40 through 52 North, and Ranges 69 through 73 West, inclusive, of the Sixth Principal Meridian, Campbell and Converse Counties, in the Powder River Coal Basin, is defined as that portion of the atmosphere, external to buildings, to which the general public has access. For surface mining operations, the application of this definition will be limited to only those lands that are necessary to conduct mining operations as determined by the Administrator of the Wyoming Air Quality Division.

### **Section 3. Ambient Standards for Nitrogen Oxides.**

(a) The level of the primary annual ambient air quality standard for oxides of nitrogen is 53 parts per billion (ppb, which is 1 part in 1,000,000,000), annual average concentration, measured in the ambient air as nitrogen dioxide.

(b) The level of the primary 1-hour ambient air quality standard for oxides of nitrogen is 100 ppb, 1-hour average concentration, measured in the ambient air as nitrogen dioxide.

(c) The level of the secondary ambient air quality standard for nitrogen dioxide is 0.053 parts per million (ppm, which is 1 part in 1,000,000), annual arithmetic mean concentration.

(d) The levels of the standards shall be measured by:

(i) A reference method based on 40 CFR Part 50, Appendix F; or

(ii) A Federal equivalent method (FEM) designated in accordance with 40 CFR Part 53.

(e) The annual primary standard is met when the annual average concentration in a calendar year is less than or equal to 53 ppb, as determined in accordance with Appendix S of 40 CFR Part 50 for the annual standard.

(f) The 1-hour primary standard is met when the three-year average of the annual 98th percentile of the daily maximum 1-hour average concentration is less than or equal to 100 ppb, as determined in accordance with Appendix S of 40 CFR Part 50 for the 1-hour standard.

(g) The secondary standard is attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm must be rounded up). To demonstrate attainment, an annual mean must be based upon hourly data that are at least 75 percent complete or upon data derived from manual methods that are at least 75 percent complete for the scheduled sampling days in each calendar quarter.

#### **Section 4. Ambient Standards for Sulfur Oxides.**

(a) The level of the primary 1-hour annual ambient air quality standard for oxides of sulfur is 75 parts per billion (ppb, which is 1 part in 1,000,000,000), measured in the ambient air as sulfur dioxide (SO<sub>2</sub>).

(i) The 1-hour primary standard is met at an ambient air quality monitoring site when the three-year average of the annual (99th percentile) of the daily maximum 1-hour average concentrations is less than or equal to 75 ppb, as determined in accordance with Appendix T of 40 CFR Part 50.

(ii) The level of the standard shall be measured by a reference method based on 40 CFR Part 50, Appendix A or A-1, or by a Federal Equivalent Method (FEM) designated in accordance with 40 CFR Part 53.

(b) The level of the secondary 3-hour ambient air quality standard for oxides of sulfur is 0.5 parts per million (ppm, which is 1 part in 1,000,000), not to be exceeded more than once per calendar year. The 3-hour averages shall be determined from successive nonoverlapping 3-hour blocks starting at midnight each calendar day and shall be rounded to 1 decimal place (fractional parts equal to or greater than 0.05 ppm shall be rounded up).

(i) Sulfur oxides shall be measured in the ambient air as sulfur dioxide by the reference method described in Appendix A of 40 CFR Part 50 or by an equivalent method designated in accordance with 40 CFR Part 53.

(ii) To demonstrate attainment, the second-highest 3-hour average must be based upon hourly data that are at least 75 percent complete in each calendar quarter. A 3-hour

block average shall be considered valid only if all three hourly averages for the 3-hour period are available. If only one or two hourly averages are available, but the 3-hour average would exceed the level of the standard when zeros are substituted for the missing values, subject to the rounding rule of paragraph (b) of this section, then this shall be considered a valid 3-hour average. In all cases, the 3-hour block average shall be computed as the sum of the hourly averages divided by 3.

#### **Section 5. Ambient Standards for Carbon Monoxide.**

(a) The ambient air standard for carbon monoxide, measured by nondispersive infrared spectrometry, as described in 40 CFR Part 50, Appendix C, or by an equivalent method designated in accordance with 40 CFR Part 53, is:

(i) 10 milligrams per cubic meter (9 ppm) — maximum 8-hour concentration not to be exceeded more than once per year;

(ii) 40 milligrams per cubic meter (35 ppm) — maximum 1-hour concentration not to be exceeded more than once per year.

#### **Section 6. Ambient Standards for Ozone.**

(a) The level of the 8-hour primary and secondary ambient air quality standards for ozone (O<sub>3</sub>) is 0.070 parts per million (ppm, which is 1 part in 1,000,000), daily maximum 8-hour average, measured by a reference method based on Appendix D to 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or an equivalent method designated in accordance with 40 CFR Part 53.

(b) The 8-hour primary and secondary standard ozone ambient air quality standards are met at an ambient air quality monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.070 ppm, as determined in accordance with 40 CFR Part 50, Appendix P.

#### **Section 8. Ambient Standards for Suspended Sulfates.**

(a) The ambient air standards for suspended sulfate measured as a sulfation rate by the lead peroxide method are:

(i) 0.25 milligrams SO<sub>3</sub> per 100 square centimeters per day, maximum annual average;

(ii) 0.50 milligrams SO<sub>3</sub> per 100 square centimeters per day, maximum 30-day value.

#### **Section 10. Ambient Standards for Lead.**

(a) The primary and secondary ambient air quality standards for lead (Pb) and its

compounds are 0.15 micrograms per cubic meter, arithmetic mean concentration over a 3-month period, measured in the ambient air as Pb either by:

(i) A reference method based on 40 CFR Part 50, Appendix G (Reference Method for the Determination of Lead in Suspended Particulate Matter Collected From Ambient Air), and designated in accordance with 40 CFR Part 53 or;

(ii) An equivalent method designated in accordance with 40 CFR Part 53.

(b) The primary and secondary ambient air quality standards for Pb are met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with Appendix R (Interpretation of the National Ambient Air Quality Standards for Lead) of 40 CFR Part 50, is less than or equal to 0.15 micrograms per cubic meter.

## **Section 12. Incorporation by Reference.**

(a) Code of Federal Regulations (CFR). All Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices, revised and published as of July 1, 2023, not including any later amendments, are incorporated by reference. Copies of the CFR are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: <https://deq.wyoming.gov>. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at: <https://ecfr.gov>.

### **Chapter 3**

#### **General Emission Standards**

##### **Section 2. Emission Standards for Particulate Matter.**

(a) Visible emissions of any contaminant discharged into the atmosphere from any single new source of emission whatsoever as determined by a qualified observer shall be limited to 20 percent opacity;

Provided, that:

(i) An owner or operator of an affected facility of the type described in Chapter 3, Section 2(h)(i) that has a heat input of not less than  $2500 \times 10^6$  Btu per hour, may request the Wyoming Department of Environmental Quality, Air Quality Division Administrator (Administrator) to determine opacity of emissions from such affected facility during initial performance tests required by Chapter 3, Section 2(i) or during other performance tests thereafter.

(ii) Upon receipt from such owner or operator of the written report of the results of the performance tests required by WAQSR Chapter 6, Section 2(i) or later performance tests, the Administrator will make a finding concerning compliance with opacity and other applicable standards. If the Administrator finds that the affected facility is in compliance with all applicable standards for which performance tests are conducted but fails to meet an applicable opacity standard, he shall notify the owner or operator and advise him that he may petition the Administrator within ten days of receipt of notification to make appropriate adjustment to the opacity standard for such affected facility.

(iii) The Administrator will grant a petition upon a satisfactory demonstration by the owner or operator that the affected facility and associated air pollution control equipment was operated and maintained in a manner to minimize the opacity of emissions during the performance tests; that the performance tests were performed under the conditions prescribed by the Administrator; and that the affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard at or near the facility's designed capacity.

(iv) The Administrator will establish an opacity standard for such affected facility meeting the above requirements at a level at which the source will be able, as indicated by the performance and opacity tests, to meet the opacity standard at all times during which the source is meeting the mass or concentration emission standard and during which the facility and air pollution equipment is being operated properly and maintained to minimize the opacity of emissions and mass emission rate.

(b) Visible emissions of any contaminant discharged into the atmosphere from any single existing source of emission whatsoever as determined by a qualified observer shall be limited to 40 percent opacity. This limitation shall not apply to existing incinerators or wood waste burners.

(c) The emissions of visible air pollutants from gasoline engines shall be eliminated except for periods not exceeding five consecutive seconds.

(d) The emissions of visible air pollutants from stationary or portable diesel engines as determined by a qualified observer shall be limited to 30 percent opacity below 7500 feet elevation except for periods not exceeding ten consecutive seconds.

(e) Unless restricted by more stringent emission limits established elsewhere in the WAQSR or permit conditions, any single source may discharge for a period or periods aggregating not more than 6 minutes in any hour contaminants;

(i) Having an equivalent opacity of not more than 40 percent as determined by a qualified observer.

(f) Fugitive Dust. Sources operating within the State of Wyoming are required to control fugitive dust emissions. The following control measures or any equivalent method approved by the Administrator shall be considered appropriate for minimizing fugitive dust:

(i) Construction/Demolition Activities.

(A) Any person engaged in clearing or leveling of land, earthmoving, excavation, or movement of trucks or construction equipment over access haul roads or cleared land shall take steps to minimize fugitive dust from those activities. Such control measures may include frequent watering and/or chemical stabilization.

(B) Any person engaged in demolition activities including razing of homes, buildings, or other structures; or removing paving material from roads and/or parking areas shall take steps to minimize fugitive dust from such activities. Such control measures may include frequent watering and/or chemical stabilization.

(C) Any person who is engaged in construction or demolition activities which tracks earth or other materials onto paved streets shall promptly remove such material by water or other means.

(D) Any person engaged in sandblasting or similar operations shall take steps to minimize fugitive dust from such activities. Such control measures may include the installation and use of hoods, fans and fabric filters to enclose and vent the handling of dusty materials.

(ii) Handling and Transporting of Materials.

(A) Any person owning, operating or maintaining a new or existing material storage, handling and/or hauling operation shall minimize fugitive dust from such an operation. Control measures may include the application of asphalt, oil, water or suitable chemicals on unpaved roads, material stockpiles and other surfaces which can give rise to airborne dusts. Control measures for material handling may also include installation and use of hoods, fans and fabric filters to enclose and vent dusty materials.

(B) When transporting materials likely to give rise to airborne dust, open bodied trucks shall be covered when in motion.

(iii) Agricultural Practices.

(A) Any person engaged in agricultural practices, such as tilling of land and application of fertilizers shall operate in a manner to minimize fugitive dust emissions.

(g) The emission of particulate matter from any new source shall be limited as indicated in Table I. The emission of particulate matter from any existing source shall be limited as indicated in Table II.

(i) Process weight per hour means the total weight of all materials introduced into any specific process that may cause any emissions of particulate matter, including solid fuels, but excluding liquids or gases and used solely as fuels, and excluding air introduced for purposes of combustion, and excluding the weight of any water, water vapor or steam that may be introduced as part of the total materials. However, water contained as part of the normal input to a beet pulp dryer process shall be included as part of the process weight per hour. The process weight rate per hour referred to in this section shall be based upon the maximum design production rate of the equipment unless otherwise restricted by enforceable limits on potential to emit.

(ii) For a cyclical or batch operation, the process weight per hour is derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.

(iii) For a continuous operation, the process weight per hour is derived by dividing the process weight for a typical period of time.

(iv) Emission tests related to this regulation shall be measured in accordance with the requirements of Chapter 3, Section 2(h)(iv).

| TABLE I                               |                              |
|---------------------------------------|------------------------------|
| PROCESS<br>WEIGHT<br>RATE<br>(lbs/hr) | EMISSION<br>RATE<br>(lbs/hr) |
| 50                                    | 0.36                         |

|           |       |
|-----------|-------|
| 100       | 0.55  |
| 500       | 1.53  |
| 1,000     | 2.25  |
| 5,000     | 6.34  |
| 10,000    | 9.73  |
| 20,000    | 14.99 |
| 60,000    | 29.60 |
| 80,000    | 31.19 |
| 120,000   | 33.28 |
| 160,000   | 34.85 |
| 200,000   | 36.11 |
| 400,000   | 40.35 |
| 1,000,000 | 46.72 |

Interpolation of the data in Table I for the process weight rates up to 60,000 lbs/hr shall be accomplished by the use of the equation:

$$E = 3.59 P^{0.62} \quad P \leq 30 \text{ tons/hr}$$

and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lbs/hr shall be accomplished by use of the equation:

$$E = 17.31 P^{0.16} \quad P > 30 \text{ tons/hr}$$

Where: E = Emissions in pounds per hour.  
P = Process weight rate in tons per hour.

| TABLE II            |         |                  |                     |         |                  |
|---------------------|---------|------------------|---------------------|---------|------------------|
| PROCESS WEIGHT RATE |         | RATE OF EMISSION | PROCESS WEIGHT RATE |         | RATE OF EMISSION |
| lb/hr               | tons/hr | lb/hr            | lb/hr               | tons/hr | lb/hr            |
| 100                 | 0.05    | 0.551            | 16,000              | 8       | 16.5             |
| 200                 | 0.10    | 0.877            | 18,000              | 9       | 17.9             |
| 400                 | 0.20    | 1.40             | 20,000              | 10      | 19.2             |
| 600                 | 0.30    | 1.83             | 30,000              | 15      | 25.2             |
| 800                 | 0.40    | 2.22             | 40,000              | 20      | 30.5             |
| 1,000               | 0.50    | 2.58             | 50,000              | 25      | 35.4             |
| 1,500               | 0.75    | 3.38             | 60,000              | 30      | 40.0             |
| 2,000               | 1.00    | 4.10             | 70,000              | 35      | 41.3             |
| 2,500               | 1.25    | 4.76             | 80,000              | 40      | 42.5             |
| 3,000               | 1.50    | 5.38             | 90,000              | 45      | 43.6             |
| 3,500               | 1.75    | 5.96             | 100,000             | 50      | 44.6             |
| 4,000               | 2.00    | 6.52             | 120,000             | 60      | 46.3             |
| 5,000               | 2.50    | 7.58             | 140,000             | 70      | 47.8             |

|        |      |      |           |       |      |
|--------|------|------|-----------|-------|------|
| 6,000  | 3.00 | 8.56 | 160,000   | 80    | 49.0 |
| 7,000  | 3.50 | 9.49 | 200,000   | 100   | 51.2 |
| 8,000  | 4.00 | 10.4 | 1,000,000 | 500   | 69.0 |
| 9,000  | 4.50 | 11.2 | 2,000,000 | 1,000 | 77.6 |
| 10,000 | 5.00 | 12.0 | 6,000,000 | 3,000 | 92.7 |
| 12,000 | 6.00 | 13.6 |           |       |      |

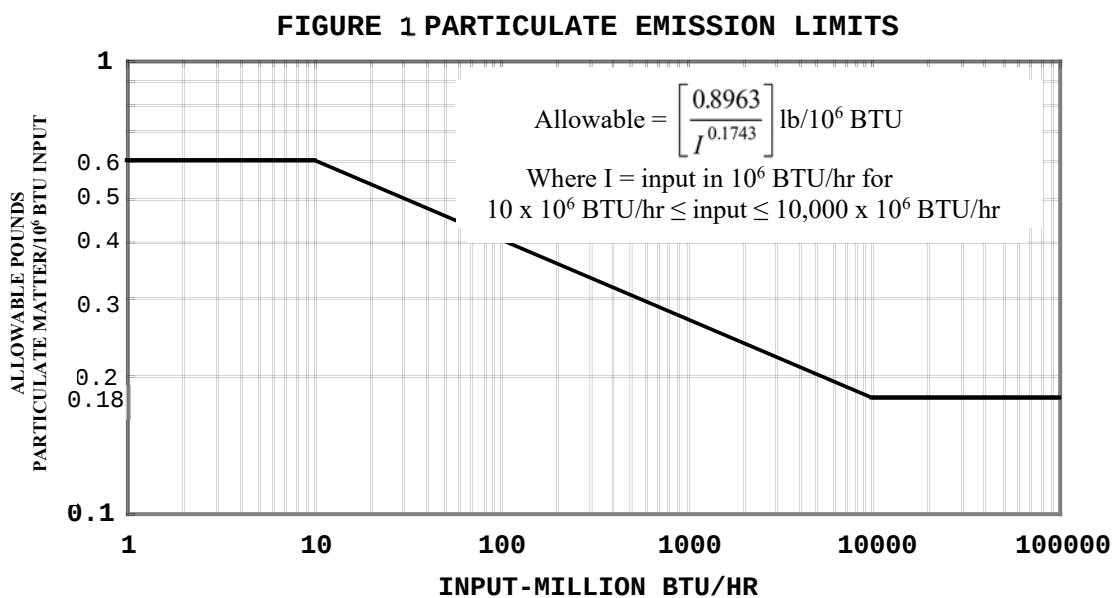
Interpolation of the data in Table II for process weight rates up to 60,000 lb/hr shall be accomplished by use of the equation  $E = 4.10 P^{0.67}$ , and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr shall be accomplished by use of the equation:

$$E = 55.0 P^{0.11} - 40, \text{ where } E = \text{rate of emission in lb/hr}$$

and  $P$  = process weight rate in tons/hr

Notwithstanding any other provision of Table II, any existing air contaminant source utilizing an air pollution control device having a collection efficiency of 99.5 percent or better, shall be deemed to be in compliance with all provisions of this regulation. Such efficiency shall be determined by a professional engineer licensed to practice in Wyoming and all expenses incurred in such determination shall be defrayed by the person responsible for the emission.

(h) The emissions of particulate matter from existing sources where fuel burning equipment is used for indirect heating shall be limited as shown in Figure 1 and shall be applicable to equipment burning solid fuel.



The emissions of particulate matter from new sources where fuel burning equipment is used for

indirect heating shall be limited to 0.10 pound per million Btu input (0.18 grams per million calories) maximum 2-hour average. Except to the extent that an opacity standard has been established for an affected facility pursuant to Chapter 3, Section 2(a)(i) through (iv) hereof, the visible emissions of particulate matter from new sources where fuel burning equipment is used for indirect heating shall be no greater than 20 percent opacity, except that 40 percent opacity shall be permitted for not more than 2 minutes in any hour. This regulation is not applicable to residential or commercial fuel burning equipment with a heat input of less than  $10 \times 10^6$  Btu/hr and used exclusively to produce building heat.

(i) This regulation applies to installations in which fuel is burned for the primary purpose of producing steam, hot water, or hot air or other indirect heating of liquids, gases, or solids, and, in the course of doing so, the products of combustion do not come into direct contact with process materials. Fuels include those such as coal, coke, lignite, fuel oil, and wood, but do not include refuse. When any products or byproducts of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

(ii) For purposes of this regulation, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or stacks, or the heat input value used shall be the equipment manufacturer or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel burning units at a plant or on a premise shall be used for determining the maximum allowable amount of particulate matter which may be emitted.

(iii) The amount of particulate matter emitted shall be measured by test Methods 1 through 5, Appendix A, 40 CFR part 60. The Administrator may require that variations to said methods be included or that entirely different methods be utilized if he determines that such variations or different methods are necessary in order for the test data to reflect the actual emission rate of particulate matter.

(i) The emission of particulate matter from any incinerator shall be limited to:

(i) 0.20 pound per 100 pounds (2 grams per kilogram) of refuse charged as determined by a source test method approved by the Administrator for stationary sources as described in Section 2(h)(ii) of this chapter; and

(ii) A shade or density equal to but not greater than 20 percent opacity as determined by a qualified observer.

### **Section 3. Emission Standards for Nitrogen Oxides.**

(a) The emission standards for nitrogen oxides, measured in accordance with Method 7 of 40 CFR Part 60, Appendix A-4, or by an equivalent method are:

(i) The emission of nitrogen oxides from new gas fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.20 pound per million Btu (0.36

grams per million gram calories) of heat input.

(ii) The emission of nitrogen oxides from existing gas fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.23 pound per million Btu (0.41 grams per million gram calories) of heat input.

(iii) The emission of nitrogen oxides from new oil fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.30 pounds per million Btu (0.54 grams per million gram calories) of heat input for units having a heat input of 1.0 million Btu per hour (250 million gram calories/hour) or greater and 0.60 pounds per million Btu (1.08 grams per million gram calories) of heat input for units having a heat input less than 1.0 million Btu per hour (250 million gram calories/hour).

(iv) The emission of nitrogen oxides from existing oil fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.46 pound per million Btu (0.83 grams per million gram calories) of heat input for units having a heat input of 250 million Btu per hour (62.5 billion gram calories/hour) or greater and 0.60 pound per million Btu (1.08 grams per million gram calories) of heat input for units having a heat input less than 250 million Btu per hour (62.5 billion gram calories/hour).

(v) The emission of nitrogen oxides from new nitric acid manufacturing plants, calculated as nitrogen dioxide shall be limited to 3 pounds per ton (1.5 kilograms per metric ton) of acid produced, maximum 2-hour average.

(vi) The emission of nitrogen oxides from new solid fossil fuel (except lignite) fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.70 pounds per million Btu (1.26 grams per million gram calories) heat input.

(vii) The emission of nitrogen oxides from existing solid fossil fuel (except lignite) fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.75 pounds per million Btu (1.35 grams per million gram calories) heat input.

#### **Section 4. [Reserved].**

#### **Section 5. Emission Standards for Carbon Monoxide.**

(a) The emission of carbon monoxide in stack gases from any stationary source shall be limited as may be necessary to prevent ambient standards described in WAQSR Chapter 2, Section 5 from being exceeded. Measures considered appropriate for such control are:

(i) Treatment of the waste gas stream by installation and use of a direct flame afterburner or other means which will achieve the required reduction as approved by the Administrator.

#### **Section 6. Emission Standards for Volatile Organic Compounds.**

(a) The term “**volatile organic compounds**” (**VOCs**) is defined in 40 CFR Part 51.100(s), 51.100(s)(1), and 51.100(s)(5), incorporated by reference under Section 9(a) of this chapter.

(b) VOC emissions shall be limited through the application of Best Available Control Technology (BACT) in accordance with Chapter 6, Section 2 of these regulations. Notwithstanding the above, whenever acceptable control of VOC emissions from vapor blowdown, emergency relief systems, or VOC emissions generated from oil and gas production, storage, exploration, development, or processing operations is specified pursuant to these regulations as a flare, the flare shall not exceed a 20 percent opacity emission standard. If acceptable control of VOC emissions is specified as a smokeless flare, the definition given in subsection (i) of this section applies.

(i) For the purposes of this section, “**smokeless flare**” means a flare designed for and operated with no visible emissions except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.

(ii) Each flare subject to Chapter 3, Section 6(b) must be equipped and operated with an automatic igniter or a continuous burning pilot which must be maintained in good working order.

## **Section 9. Incorporation by Reference.**

(a) Code of Federal Regulations (CFR). All Code of Federal Regulations (CFR), including their Appendices, cited in this Chapter, revised and published as of July 1, 2023, not including any later amendments, are incorporated by reference. Copies of the CFR are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: <http://deq.wyoming.gov/>. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at <https://ecfr.gov>.

(b) American Society for Testing and Materials (ASTM). All ASTM standards cited in this Chapter, revised and published as of July 1, 2023, not including any later amendments, are incorporated by reference. Copies of the ASTM standards are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: <http://deq.wyoming.gov/>. Copies can also be obtained at cost from the American Society for Testing and Materials, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428-2959, or online at [http://www.astm.org/DIGITAL\\_LIBRARY/index.html](http://www.astm.org/DIGITAL_LIBRARY/index.html).

## **Chapter 4**

### **State Performance Standards for Specific Existing Sources**

#### **Section 2. Existing Sulfuric Acid Production Units.**

(a) Sulfuric Acid Mist. Any existing facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides, mercaptans, or acid sludge shall limit the atmospheric discharge of acid mist in the effluent to not more than 0.50 pounds per ton of acid produced (0.25 kgm per metric ton)--maximum 2-hour average, expressed as  $\text{H}_2\text{SO}_4$ . Reference method: Method 8, Appendix A, 40 CFR Part 60 or an equivalent method.

(b) Sulfur Dioxide. Any existing facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides, mercaptans, or acid sludge shall limit the atmospheric discharge of sulfur dioxide in the effluent to not more than 2,000 ppm--maximum 2-hour average.

#### **Section 3. Existing Nitric Acid Manufacturing Plants.**

(a) The emission of nitrogen oxides from existing nitric acid manufacturing plants, calculated as nitrogen dioxide shall be limited to 5.5 pounds per ton (2.8 kilograms per metric ton) of acid produced, maximum 2-hour average.

## **Chapter 06 Permitting Requirements**

### **Section 2. Permit requirements for construction, modification, and operation.**

#### **(a)**

**(i)** Any person who plans to construct any new facility or source, modify any existing facility or source, or to engage in the use of which may cause the issuance of or an increase in the issuance of air contaminants into the air of this state shall obtain a construction permit from the State of Wyoming, Department of Environmental Quality before any actual work is begun on the facility.

**(ii)** Any facility or source required to obtain a permit for construction or modification under this section must, if subject to the provisions of Chapter 6, Section 3 of these regulations, submit an application to the Division for a Chapter 6, Section 3 operating permit within twelve (12) months of commencing operation.

**(iii)** Facilities or sources not subject to the provisions of Chapter 6, Section 3 of these regulations shall obtain a Chapter 6, Section 2 operating permit from the Department, pursuant to this section, for operation after a 120-day start-up period.

**(iv)** A permit to operate is also required for the operation of an existing portable source in each new location. However, a permit to construct is required for each new location that is a new source or facility and for each new or modified portable source or facility.

**(v)** Permit fees: Persons applying for a permit under this section, or waiver from permit requirements under Chapter 6, Section 2(k)(viii), shall pay a fee to cover the Department's cost of reviewing and acting on permit applications in accordance with paragraph (o) of this section.

**(vi)** Facilities or sources subject to the provisions of Chapter 6, Section 5 or Chapter 6, Section 6 shall submit the permit application as required by Chapter 6, Section 5(a)(iii) or by Chapter 6, Section 6(h)(iv) as part of the permit application submitted in accordance with Chapter 6, Section 2(b)(i).

#### **(b)**

**(i)** The owner of the facility or the operator of the facility authorized to act for the owner is responsible for applying for and obtaining a permit to construct and/or operate. The application shall be made on forms provided by the Division of Air Quality and each application shall be accompanied by site information, plans, descriptions, specifications, and drawings showing the design of the source, the nature and amount of the emissions, and the manner in which it will be operated and controlled. A detailed schedule for the construction or modification of the facility shall be included. A separate application is required for each source. Any additional information, plans, specifications, evidence, or documentation that the Administrator of the Division of Air Quality may require shall be furnished upon request. The applicant shall conduct such continuous Ambient Air Quality monitoring analyses as may be determined by the Administrator to be necessary in order to assure that adequate data are available for purposes of establishing existing concentration levels of all affected pollutants. As a guideline, such data should be gathered continuously over a period of one calendar year preceding the date of application. Upon petition of the applicant, the Administrator will review the proposed monitoring programs and advise the applicant if such is approvable or modifications are required.

**(ii)** For portable sources or facilities, the Division may authorize the owner or operator to utilize a "self-issuance" operating permit system for new locations which are not new sources or facilities. For purposes of this paragraph, a new source or facility is a source or facility for which operation or construction commenced after May 29, 1974, and for which a permit has not previously been issued.

The Division shall provide to authorized owners or operators of portable sources, forms upon which the self-issued permits are to be recorded. The owner or operator shall, at a minimum provide, as appropriate the permit number previously issued to the portable source or facility, the new location for which the permit is issued, the duration of operation of the new location, the production rate at the new location and the production at the new location in addition to any other information that the Administrator may require. Such permit shall be executed and a copy provided to the Air Quality Division prior to operation at the new location.

All conditions previously issued for the operation of the portable facility continue as applicable conditions for operation at subsequent locations.

(c) No approval to construct or modify shall be granted unless the applicant shows, to the satisfaction of the Administrator of the Division of Air Quality that:

(i) The proposed facility will comply with all rules and regulations of the Wyoming Department of Environmental Quality, Division of Air Quality, and with the intent of the Wyoming Environmental Quality Act.

(ii) The proposed facility will not prevent the attainment or maintenance of any ambient air quality standard.

(A) A facility will be considered to cause or contribute to a violation of an ambient air quality standard if the projected impact of emissions from the facility exceed the following significance levels at any locality that does not or would not meet the applicable standard:

| Pollutant        | AVERAGING TIME (HOURS)                 |                                    |                                      |                                   |                                 |
|------------------|----------------------------------------|------------------------------------|--------------------------------------|-----------------------------------|---------------------------------|
|                  | Annual<br>( $\mu\text{g}/\text{m}^3$ ) | 24<br>( $\mu\text{g}/\text{m}^3$ ) | 8<br>( $\text{mg}/\text{m}^3$ )<br>) | 3<br>( $\mu\text{g}/\text{m}^3$ ) | 1<br>( $\text{mg}/\text{m}^3$ ) |
| SO <sub>2</sub>  | 1.0                                    | 5                                  | ---                                  | 25                                | ---                             |
| PM <sub>10</sub> | 1.0                                    | 5                                  | ---                                  | ---                               | ---                             |
| NO <sub>x</sub>  | 1.0                                    | ---                                | ---                                  | ---                               | ---                             |
| CO               | ---                                    | ---                                | 0.5                                  | ---                               | 2                               |
| TSP              | ---                                    | 5                                  | ---                                  | ---                               | ---                             |

(B) Notwithstanding the provisions of Chapter 6, Section 2(c)(ii)(A) above, no facility with the potential to emit 100 tons per year or more of PM<sub>10</sub> (including sources of fugitive dust) shall be allowed to construct within the City of Sheridan designated PM<sub>10</sub> nonattainment area until such time as the area is redesignated to an attainment area for PM<sub>10</sub> ambient standards in accordance with section 107 of the Clean Air Act. In addition, no existing facility with the potential to emit 100 TPY or more of PM<sub>10</sub> within the Sheridan designated PM<sub>10</sub> nonattainment area shall be allowed to modify operations to increase potential PM<sub>10</sub> emissions by 15 tons per year or more (including sources of fugitive dust), until such time as the area is redesignated by EPA as an attainment area for PM<sub>10</sub> ambient standards. For the purpose of this paragraph, "potential to emit" shall have the same meaning as in Chapter 6, Section 4.

(c) No approval to construct or modify shall be granted unless the applicant shows, to the satisfaction of the Administrator of the Division of Air Quality that:

(iii) The proposed facility will not cause significant deterioration of existing ambient air quality in the Region as defined by any Wyoming standard or regulation that might address significant deterioration.

(iv) The proposed facility will be located in accordance with proper land use planning as determined by the appropriate state or local agency charged with such responsibility.

(v) The proposed facility will utilize the Best Available Control Technology with consideration of the technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from the facility. For large mining operations, specific measures normally required and to be considered include but are not limited to:

(A) The paving of access roads.

(B) The treating of major haul roads with a suitable dust suppressant.

(C) The treatment of temporary haul roads.

(D) The use of silos, trough barns, or similar enclosed containers for the storage of large volumes of material awaiting load out and shipment.

(E) The treatment of active work areas.

(F) The treatment of temporary ore stockpiles.

(vi) The proposed facility will have provisions for measuring the emissions of significant air contaminants as determined by the Administrator of the Division of Air Quality.

**(vii)** The proposed facility will achieve the performance specified in the application for the permit to construct or modify.

**(viii)** The proposed facility will not emit any air pollutant in amounts which will (i) prevent attainment or maintenance by any other state of any such national primary or secondary Ambient Air Quality Standard or (ii) interfere with measures required by the Federal Clean Air Act to be included in the applicable Implementation Plan for any other state to prevent significant deterioration of air quality or to protect visibility.

**(d)** In meeting the requirements of Chapter 6, Section 2(c) above pertaining to compliance with an applicable Ambient Air Quality Standard or increment, the degree of emission limitation required shall not be affected by (a) so much of the stack height of any source as exceeds good engineering practice stack height or (b) any other dispersion technique.

**(i)** For purposes of this requirement, "good engineering practice stack height" means the height equal to or less than:

(A) 30 meters as measured from the ground-level elevation at the base of the stack, or

(B)  $H + 1.5L$  where H is the height of nearby structure(s) measured from the ground level elevation at the base of the stack and L is the lesser dimension (height or width) of, the source, or nearby structure, provided that the Administrator may require the use of a field study or fluid model to verify good engineering practice stack height for the source, or

(C) Such other height as is demonstrated by a fluid model or a field study approved by the Administrator, which ensures that emissions from a stack do not result in excessive concentrations in the immediate vicinity of the source as a result of atmospheric downwash, eddies, or wakes which may be created by the source, nearby structures or nearby terrain features.

**(ii)** For purposes of this requirement, "dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

(A) Using that portion of a stack which exceeds good engineering practice stack height, or

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

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

**(iii)** For purposes of this requirement, "dispersion technique" does not include:

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

(B) The merging of exhaust gas streams where the source owner or operator demonstrates that the facility was originally designed and constructed with such merged streams.

**(iv)** For the purposes of this requirement, "emission limitation" means a requirement established by the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

**(v)** "Nearby" as used in Chapter 6, Section 2(d)(i) is defined for a specific structure or terrain feature, and

(A) For purposes of applying the formula provided in Chapter 6, Section 2(d)(i)(B) means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than one half mile (0.8 km), and

(B) For conducting demonstrations under Chapter 6,

Section 2(d)(i)(C) means not greater than one half mile (0.8 km), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if such feature achieves a height one half mile from the stack that is at least 40 percent of the GEP stack height determined by the formula provided in Chapter 6, Section 2(d)(i)(B) or 26 meters, whichever is greater, as measured from the ground-level elevation at the

base of the stack. The height of the structure of terrain feature is measured from the ground-level elevation at the base of the stack.

**(vi) "Excessive concentration"** is defined for the purpose of determining good engineering practice stack height under Chapter 6, Section 2(d)(i)(C) and means

(A) For sources seeking credit for stack height exceeding that established under Chapter 6, Section 2(d)(i)(B), a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration (Chapter 6, Section 4), an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this section shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Administrator, an alternative emission rate shall be established in consultation with the source owner or operator.

**(vii)** After the Administrator has reached a proposed decision to approve or disapprove a permit application in which the source relies on a good engineering practice stack height that exceeds the height allowed by Chapter 6, Section 2(d)(i)(A) or (B) the Administrator will notify the public of the availability of the demonstration study and provide the opportunity for public hearing. Specific notification of the Administrator's decision, availability of the demonstration and opportunity for public hearing will be included as part of the public notice required in Chapter 6, Section 2(m) of these regulations.

**(e)** No permit to operate may be granted until the applicant demonstrates to the satisfaction of the Administrator of the Division of Air Quality that:

**(i)** The facility is complying with the Wyoming Air Quality Standards and Regulations applicable at the time the permit to construct or modify was granted and with the intent of the Wyoming Environmental Quality Act, 1973.

**(ii)** The facility has been constructed or modified in accordance with the requirements and conditions contained in the permit to construct or modify.

**(f)** The Administrator of the Division of Air Quality may impose any reasonable conditions upon an approval to construct, modify, or operate including, but not limited to, conditions requiring the source to be provided with:

**(i)** Sampling and testing facilities as the Administrator may require.

**(ii)** Safe access to the sampling facilities.

**(iii)** Instrumentation to monitor and record emission data.

**(iv)** Ambient Air Quality monitoring which, in the judgment of the Administrator, is necessary to determine the effect which emissions from a source may have, or is having, on air quality in any area which may be affected by emissions from such source.

**(g)** The Administrator will review each application within 30 days and notify the applicant as to whether or not the application is complete. If the application is complete, the Administrator will propose approval, conditional approval or denial and will publish such proposal within 60 days of the determination that the application is complete. If the application is not complete, the application will be considered inactive and additional information as necessary will be requested. A complete application shall include all materials and analyses which the Administrator determines are necessary for the Division to review the facility as a source of air pollution.

**(h)** A permit to construct or modify shall remain in effect until the permit to operate the facility for which the application was filed is granted or denied or the application is canceled. However, an approval to

construct or modify shall become invalid if construction is not commenced within 24 months after receipt of such approval or if construction is discontinued for a period of 24 months or more. The Administrator may extend such time period(s) upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; however, each phase must commence construction within 24 months of the projected and approved commencement date for such phase. Notwithstanding the above, a permit containing a case-by-case MACT determination pursuant to Chapter 6, Section 6 shall expire if construction or reconstruction has not commenced within 18 months of issuance, unless the Division has granted an extension which shall not exceed an additional 12 months.

**(i)** Any owner or operator subject to the provisions of this regulation shall furnish the Administrator written notification as follows:

**(i)** A notification of the anticipated date of initial start-up of each source not more than 60 days or less than 30 days prior to such date.

**(ii)** A notification of the actual date of initial start-up of each source within 15 days after such date.

**(j)** Within 30 days after achieving the maximum design production rate for which the permit is approved and at which each source will be operated, but not later than 90 days after initial start-up of such source, the owner or operator of such source shall conduct a performance test(s) in accordance with methods and under operating conditions approved by the Administrator and furnish the Administrator a written report of the results of each performance test.

**(i)** Such test shall be at the expense of the owner or operator.

**(ii)** The Administrator may monitor such test and may also conduct performance tests.

**(iii)** The owner or operator of a source shall provide the Administrator 15 days prior notice of the performance test to afford the Administrator the opportunity to have an observer present.

**(iv)** The Administrator may waive the requirement for performance tests if the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the source is being operated in compliance with all State and Federal Regulations which are part of the applicable plan.

**(v)** If the maximum design production rate for which the permit is approved is not achieved within 90 days of initial start-up, testing will be conducted on a schedule to be defined by the Administrator. This schedule may require that the source be tested at the production rate achieved within 90 days of initial start-up and again when maximum design production rate is achieved.

**(k)** Approval to construct or modify shall not be required for:

**(i)** The installation or alteration of an air pollutant detector, air pollutants recorder, combustion controller, or combustion shutoff.

**(ii)** Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment.

**(iii)** Fuel burning equipment other than a smokehouse generator which has a heat input of not more than 25 million BTU per hour (6.25 billion gm-cal/hr) and burns only gaseous fuel containing not more than 20 grains total sulfur per 100 std. ft<sup>3</sup>; has a heat input of not more than 10 million BTU/hr (2.5 billion gm-cal/hr) and burns any other fuel.

**(iv)** Mobile internal combustion engines.

**(v)** Laboratory equipment used exclusively for chemical or physical analyses.

**(vi)** The installation of air pollution control equipment.

**(vii)** Gasoline storage tanks at retail establishments.

**(viii)** Such other minor sources which the Administrator determines to be insignificant in both emission rate and ambient air quality impact.

Notwithstanding the above exemptions, any facility which is a major emitting facility pursuant to the definition in Chapter 6, Section 4 shall comply with the requirements of both Chapter 6, Sections 2 and 4.

**(l)** Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, state and federal rules and regulations.

**(m)** After the Administrator has reached a proposed decision based upon the information presented in the permit application to construct or modify, the Division of Air Quality will advertise such proposed decision in a newspaper of general circulation in the county in which the source is proposed. This advertisement will indicate the general nature of the proposed facility, the proposed approval/disapproval of the permit, and a location in the region where the public might inspect the information submitted in support of the requested permit and the Air Quality Division's analysis of the effect on air quality. A copy of the public notice required above will be sent as appropriate to (a) the applicant, (b) the U.S. EPA, (c) any affected comprehensive regional land use planning agency, (d) affected county commissioners, (e) any state or federal land manager or Indian governing body whose lands may be significantly affected by emissions from the proposed facility. The public notice will include notification of the opportunity for a public hearing and will indicate the anticipated degree of increment consumption if the source is subject to Chapter 6, Section 4 of these Regulations. The public will be afforded a 30-day period in which to make comments and recommendations to the Division of Air Quality. A public hearing may be called if sufficient interest is generated or if any aggrieved party so requests in writing within the 30-day comment period. After considering all comments, including those presented at any hearings held, the Administrator will reach a decision and notify the appropriate parties.

**(n)**

**(i)** Within 30 days of receipt of a permit application for a new major emitting facility or major modification which is subject to the provisions of Chapter 6, Section 4, but not later than 60 days prior to public notice issued under Chapter 6, Section 2(m) above, the Administrator shall provide written notification to all Federal Class I Area Federal Land Managers of such proposed new major emitting facility or major modification whose emissions may affect the Federal Class I Area or affect visibility in such Area. This notification must contain a copy of all information relevant to the permit application including an analysis of the anticipated impacts on air quality and visibility in any Federal Class I Area.

**(ii)** Within 30 days of receipt of advance notification of a permit application for a new source or facility which may be subject to Chapter 6, Section 4, and which may affect visibility in a Federal Class I Area, the Administrator shall notify the affected Federal Land Manager of such advance notification.

**(o)** A permit fee will be assessed on the owner or operator (applicant), based on the cost to the Department in reviewing and acting on permit applications submitted to the Division under this section.

**(i)** Fees for reviewing the application: The Department shall provide written notice of the fee to the applicant at such time as the Administrator of the Division reaches a proposed decision on the application under paragraph (m) of this section.

**(A)** The fee shall include all costs incurred by the Department in reviewing the application to this point in the permit process including the costs of advertising such decision and providing public notice.

**(B)** The fee is due upon receipt of the written notice unless the fee assessment is appealed pursuant to W.S. 35-11-211(d).

**(C)** Payment of this fee shall be required before the issuance of any permit under this Section.

**(ii)** Fees for issuing permit: An additional fee shall be assessed and written notice provided to the applicant for any additional costs incurred by the Department (after the date of public notice) in reaching a final decision, including the costs of holding public hearings, reviewing public comments, and issuing permits.

**(iii)** Portable sources or facilities shall be assessed a fee of \$100.00 for operation in each new location. This fee shall be submitted with each "self-issuance" permit submitted to the Division for operation under Chapter 6, Section 2(a)(iv) and Chapter 6, Section 2(b) of these regulations. For portable sources or facilities which are not authorized to use the "self-issuance" permits, the fee assessment shall be \$250.00 for operation at each new location.

[Section 04. Prevention of significant deterioration.](#)

**FOR INCLUSION IN WYOMING STATE IMPLEMENTATION PLAN FROM WYOMING AIR QUALITY STANDARDS AND REGULATIONS**

**Permitting Requirements CHAPTER 6 Section 4. Prevention of significant deterioration.**

(a) Definitions. For purposes of this section:

**"Actual emissions"** means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (i) through (iii) of this definition, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under paragraph (b)(xv) of this section. Instead, the definitions for "Projected actual emissions" and "Baseline actual emissions" of this section 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 Division shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(ii) The Division 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.

**"Administrator"** means Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality.

**"Allowable emissions"** means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both) and the most stringent of the following:

(i) Applicable standards set forth in Chapter 5, Section 2 or Section 3 of these regulations and other new source performance standards and national emission standards for hazardous air pollutants promulgated by the EPA but not yet adopted by the State of Wyoming.

(ii) Any other applicable emission limit in these regulations.

(iii) The emission rate agreed to by the owner or operator as an enforceable permit condition.

**"Baseline actual emissions"** means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with paragraphs (i) through (iv) of this definition.

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

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

(B) 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.

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

(D) 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 paragraph (i)(B) of this definition.

(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 Division for a Chapter 6, Section 4 permit, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

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

(B) 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.

(C) 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 EPA Administrator proposed or promulgated under 40 CFR 63, the baseline actual emissions need only be adjusted if the Division has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

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

(E) 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 paragraphs (ii)(B) and (C) of this definition.

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

**"Baseline area"** means any intrastate area (and every part thereof) designated as attainment or unclassifiable under the Federal Clean Air Act in which a 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  $1 \mu\text{g}/\text{m}^3$  (annual average) for  $\text{SO}_2$ ,  $\text{NO}_2$ , or  $\text{PM}_{10}$ ; or equal to or greater than  $0.3 \mu\text{g}/\text{m}^3$  (annual average) for  $\text{PM}_{2.5}$ .

(i) The following baseline areas have been designated as separate particulate matter attainment areas under section 107 of the Clean Air Act:

(A) The Powder River Basin Area, described as that area bounded by Township 40 through 52 North, and Range 69 through 73 West, inclusive of the Sixth Principal Meridian, Campbell and Converse Counties, excluding the areas defined as the Pacific Power and Light attainment area and the Hampshire Energy attainment area.

(B) The Pacific Power and Light Area, described as that area bounded by the NW $\frac{1}{4}$  of Section 27, T50N, R71W, Campbell County, Wyoming.

(C) The Hampshire Energy Area, described as that area bounded by Section 6 excluding the SW $\frac{1}{4}$ ; E $\frac{1}{2}$  Section 7; Section 17 excluding the SW $\frac{1}{4}$ ; Section 14 excluding the SE $\frac{1}{4}$ ; Sections 2, 3, 4, 5, 8, 9, 10,

11, 15, 16 of T48N, R70W and Section 26 excluding the NE¼; SW¼ Section 23; Sections 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, 35 of T49N, R70W, Campbell County, Wyoming.

(D) The Kennecott-Puron Area, described as the area bounded by the W½SW¼ Section 18, W½NW¼, NW¼SW¼ Section 19, T47N, R70W, S½ Section 13, N½, N½SW¼, N½SE¼ Section 24 T47N, R71W, Campbell County, Wyoming.

(E) The remainder of the State of Wyoming.

(ii) Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM10 increments.

**"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, as defined in this section, representative of sources in existence on the applicable minor source baseline date, except as provided in paragraph (iv) of this definition;

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

(iii) Contributions due to emissions from any emitting source or modification which (1) is not listed in Chapter 6, Section 4(a) under the definition for "Major stationary source", item (a) and qualified as "major" prior to August 7, 1980 only because fugitive emissions were included in determining potential to emit, (2) submitted a complete permit application under Chapter 6, Section 4(b) or the Federal Clean Air Act prior to August 7, 1980, and (3) was in existence as of the minor source baseline date;

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

(A) Actual emissions, as defined in this section, from any major stationary source on which construction commenced after the major source baseline date; and

(B) Actual emissions increases and decreases, as determined in accordance with the definition for "Actual emissions" in this section, at any stationary source occurring after the minor source baseline date.

**"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 onsite activities, other than preparatory activities, which mark the initiation of the change.

**"Best available control technology"** means an emission limitation (including a visible emission standard) based on the maximum degree of reduction of each pollutant subject to regulation under these Standards and Regulations or regulation under the Federal Clean Air Act, which would be emitted from or which results for any proposed major stationary source or major modification which the Administrator, 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 or production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emission standard infeasible, he may instead prescribe a design, equipment, work practice or operational standard or combination thereof to satisfy the requirement 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. Application of BACT shall not result in emissions in excess of those allowed under Chapter 5, Section 2 or Section 3 of

these regulations and any other new source performance standard or national emission standards for hazardous air pollutants promulgated by the EPA but not yet adopted by the State of Wyoming.

**"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 reduction in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

**"Clean coal technology demonstration project"** 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.

**"Commenced"**, as applied to construction of a major stationary source or major modification, means that the owner or operator has obtained a Construction Permit required by Chapter 6, Section 2 and either has (i) begun, or caused to begin, a continuous program of actual on-site construction of the source 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 construction of the source to be completed within a reasonable time.

**"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 Division from requesting or accepting any additional information.

**"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 emissions.

**"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.

**"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).

**"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, O<sub>2</sub> or CO<sub>2</sub> concentrations), and to record average operational parameter value(s) on a continuous basis.

**"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 utility steam generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

**"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 this section. For purposes of this section, there are two types of emissions units as described in paragraphs (i) and (ii) of this definition.

(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 paragraph (i) of this definition.

**"Enforceable"** means all limitations and conditions which are enforceable under provisions of the Wyoming Environmental Quality Act and/or are federally enforceable by the Administrator of the EPA, including those requirements developed pursuant to 40 CFR parts 60 and 61, requirements within the State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 51.166.

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

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

**"Greenhouse gases (GHGs)"**, the air pollutant defined 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 paragraph (iii) of this definition.

(i) For purposes of paragraphs (ii) and (iii) of this definition, the term "*tpy CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e)*" shall represent an amount of GHGs emitted, and shall be computed as follows:

(A) 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 40 CFR part 98--Global Warming Potentials. Table A-1 to Subpart A of 40 CFR part 98 is adopted by reference.

(B) Sum the resultant value from paragraph (i)(A) of this definition for each gas to compute a tpy CO<sub>2</sub>e.

(C) Prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

(ii) The term "*emissions increase*" as used in paragraph (iii) of this definition shall mean that both a significant emissions increase (as calculated using the procedures in (b)(i)(J) of this section) and a significant net emissions increase (as "net emissions increase" and "significant" are defined in this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO<sub>2</sub>e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and "significant" is defined as 75,000 tpy CO<sub>2</sub>e instead of applying the provisions in paragraphs (ii) or (iii) of the definition of "significant" in this section.

(iii) The pollutant GHGs is subject to regulation if the stationary source is:

(A) 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<sub>2</sub>e or more; or

(B) 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<sub>2</sub>e or more; or,

(C) A new stationary source that will emit or have the potential to emit 100,000 tpy CO<sub>2</sub>e; or

(D) An existing stationary source that emits or has the potential to emit 100,000 tpy CO<sub>2</sub>e, 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<sub>2</sub>e or more.

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

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

**"Indian Reservation"** means any federally recognized reservation established by treaty, agreement, executive order, or act of Congress.

**"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.

**"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 implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or
- (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 a stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

**"Low terrain"** means any area other than high terrain.

**"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 the definition for "Significant emissions increase" in this section) of a regulated NSR pollutant (as defined in the definition for "Regulated NSR pollutant" in this section); and a significant net emissions increase of that pollutant from the major stationary source. Any significant emissions increase (as defined in the definition for "Significant emissions increase" in this section) from any emissions units or net emissions increase (as defined in the definition for "Net emissions increase" in this section) at a major stationary source that is significant for volatile organic compounds or NO<sub>x</sub> shall be considered significant for ozone.

- (i) A physical change or change in the method of operation shall not include:
  - (A) Routine maintenance, repair and replacement.
  - (B) Use of an alternative fuel by reason of an order under section 125 of the Federal Clean Air Act;
  - (C) An increase in the hours of operation or in the production rate, if such increase does not exceed the operating design capacity of the major stationary source unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division;
  - (D) Use of an alternative fuel or raw material 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), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;
  - (E) Use of an alternative fuel or raw material, if prior to January 6, 1975, the source was capable of accommodating such fuel or material unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division, or if the source is approved to use such fuel or material through an enforceable permit issued under these regulations;
  - (F) Change in ownership of the stationary source;
  - (G) The use of municipal solid waste as an alternative fuel at a steam generating plant;

- (H) The installation, operation, cessation or removal of a temporary clean coal technology demonstration project, provided that the project complies with:
- (I) The Wyoming State Implementation Plan, and
- (II) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.
- (I) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.
- (J) The reactivation of a very clean coal-fired electric utility steam generating unit.
- (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 paragraph (b)(xv) of this section for a PAL for that pollutant. Instead, the definition in paragraph (b)(xv)(B) for "PAL major modification" of this section shall apply.

**"Major source baseline date"** means:

- (i) In the case of PM<sub>10</sub> and sulfur dioxide, January 6, 1975; and
- (ii) In the case of nitrogen dioxide, February 8, 1988.
- (iii) In the case of PM<sub>2.5</sub>, October 20, 2010.

**"Major stationary source"** means (a) any of the following stationary sources of air pollutants which emit, or have the potential to emit, one hundred tons per year or more of any air pollutant for which standards are established under these Standards and Regulations or under the Federal Clean Air Act, except for sources of GHGs addressed separately under (e) of this definition: fossil fuel-fired steam electric plants of more than two hundred and fifty million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, Portland Cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than two hundred and fifty tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil fuel boilers (or combinations thereof) of more than two hundred and fifty million British thermal units per hour heat input, petroleum storage and transfer plants with a capacity exceeding three hundred thousand barrels, taconite ore processing plants, glass fiber processing plants, charcoal production plants. (b) Such term also includes any stationary source which emits, or has the potential to emit, two hundred and fifty tons per year or more of any air pollutant for which standards are established under these Standards and Regulations or under the Federal Clean Air Act, except for sources of GHGs addressed separately under (e) of this definition. (c) Such term also includes any physical change that would occur at a stationary source not otherwise qualifying under this definition if the change would constitute a major stationary source by itself. (d) A major source which is major for volatile organic compounds or NO<sub>x</sub> is considered to be major for ozone. (e) Such term also includes any source of greenhouse gases as defined in Chapter 6, Section 4(a), but only if: the greenhouse gases are subject to regulation under subsection (iii) of that definition, and the source's potential to emit greenhouse gases exceeds 100 tpy on a mass basis if listed under (a) of this definition of "Major stationary source" or 250 tpy on a mass basis if listed under (b) of this definition of "Major stationary source."

**"Minor source baseline date"** means the earliest date after August 7, 1977 for PM<sub>10</sub> and sulfur dioxide, and after February 8, 1988 for nitrogen oxides, and after October 20, 2011 for PM<sub>2.5</sub> on which a major

stationary source or major modification submits a complete permit application under Chapter 6, Section 4(b) or under the Federal Clean Air Act.

(i) The minor source baseline date for sulfur dioxide for the State of Wyoming is February 2, 1978.  
(ii) The minor source baseline date for nitrogen oxides for the State of Wyoming is February 26, 1988.

(iii) The minor source baseline date for PM<sub>10</sub> is as follows:

- (A) For the Powder River Basin Area - March 6, 1997;
- (B) For the Pacific Power and Light Area - June 18 1980;
- (C) For the Hampshire Energy Area- September 30, 1982;
- (D) For the Kennecott-Puron Area - February 27, 1995;
- (E) For the rest of the State of Wyoming- February 22, 1979.

(iv) The minor source baseline date for PM<sub>2.5</sub> is as follows:

- (A) For Laramie County - March 1, 2012;
- (B) For the City of Cheyenne - March 1, 2012;
- (C) For Carbon County - May 1, 2012;
- (D) For Sweetwater County - December 12, 2012.

(v) The baseline date is not established by the permit application for an emitting source or modification which (1) is not listed in Chapter 6, Section 4(a) under the definition for "Major stationary source", item (a), (2) qualified as "major" prior to August 7, 1980 only because fugitive emissions were included in determining potential to emit, and (3) submitted a complete permit application under Chapter 6, Section 4(b) or the Federal Clean Air Act prior to August 7, 1980.

(vi) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM<sub>10</sub> increments.

**"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 paragraph (b)(i)(J) of this section;

(ii) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this paragraph (ii) shall be determined as provided in the definition for "Baseline actual emissions", except that paragraphs (i)(C) and (ii)(D) of the definition for "Baseline actual emissions" shall not apply.

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

- (A) The date five years before construction on the particular change commences; and
- (B) The date that the increase from the particular change occurs.

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

(A) The Division has not relied on it in issuing a Chapter 6, Section 4 permit for the source, which is in effect when the increase in actual emissions from the particular change occurs.

(v) 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.

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

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

- (A) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
- (B) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;
- (C) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and
- (viii) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
- (ix) The definition of "Actual emissions" of this section, shall not apply for determining creditable increases and decreases.

**"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 the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the affect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

**"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, O<sub>2</sub> or CO<sub>2</sub> concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

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

**"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 the above paragraph of this section (before beginning actual construction), the owner or operator of the major stationary source:

- (A) Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans approved by the Division;
- (B) Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions;
- (C) Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under the definition for "Baseline actual emissions" of this section and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,
- (D) In lieu of using the method set out in paragraphs (i)(A) through (C) of this definition, may elect to use the emissions unit's potential to emit, in tons per year, as defined under the definition of "Potential to emit" of this section.

**"Reactivation of a very clean coal-fired electric utility steam generating unit"** means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

- (i) Has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the State of Wyoming's emissions inventory at the time of enactment;
- (ii) Was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of not less than 98 percent;
- (iii) Is equipped with low-NOx burners prior to the time of commencement of operations following reactivation; and
- (iv) Is otherwise in compliance with the requirements of the Clean Air Act.

**"Regulated NSR pollutant"**, for purposes of this section, means the following:

- (i) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this paragraph as a constituent or precursor to such pollutant. Precursors identified by the EPA Administrator for purposes of NSR are the following:
  - (A) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.
  - (B) Sulfur dioxide is a precursor to PM<sub>2.5</sub> in all attainment and
  - (C) Nitrogen oxides are presumed to be precursors to PM<sub>2.5</sub> in all attainment and unclassifiable areas, unless the State demonstrates to the EPA Administrator's satisfaction 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<sub>2.5</sub> concentrations.
  - (D) Volatile organic compounds are presumed not to be precursors to PM<sub>2.5</sub> in any attainment or unclassifiable area, unless the State demonstrates to the EPA Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient PM<sub>2.5</sub> 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;
- (iv) Any pollutant that otherwise is subject to regulation under the Federal Clean Air Act; except that 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, which have not been delisted pursuant to section 112(b)(3) of the Federal Clean Air Act, are not regulated NSR pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Federal Clean Air Act.
- (v) [Reserved.]
- (vi) Particulate matter (PM) emissions, PM<sub>2.5</sub> emissions, and PM<sub>10</sub> 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, PM<sub>2.5</sub> and PM<sub>10</sub> in PSD permits. Compliance with emissions limitations for PM, PM<sub>2.5</sub> and PM<sub>10</sub> issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.

**"Replacement unit"** means an emissions unit for which all the criteria listed in this section 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 40 CFR part 60.1S(b)(1), 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) (as discussed in 40 CFR part 51.166(y)(2)) 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.

**"Repowering"** means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator of EPA, 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.

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

**"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 purposes of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or modification 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 or from a train.

**"Significant"** means:

- (i) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

**POLLUTANT AND EMISSIONS RATE**

|                     |                                                  |
|---------------------|--------------------------------------------------|
| Carbon monoxide:    | 100 tons per year (tpy)                          |
| Nitrogen oxides:    | 40 tpy                                           |
| Sulfur dioxide:     | 40 tpy                                           |
| Particulate matter: | 25 tpy of particulate matter                     |
|                     | Emissions; 15 tpy of PM <sub>10</sub> emissions  |
| PM <sub>2.5</sub>   | 10 tpy of direct PM <sub>2.5</sub> emissions;    |
|                     | 40 tpy of sulfur dioxide emissions;              |
|                     | 40 tpy of nitrogen oxide emissions               |
|                     | unless demonstrated not to be a                  |
|                     | PM <sub>2.5</sub> precursor under the definition |

|                                                                                                                                   |                                                                                     |
|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
|                                                                                                                                   | of "Regulated NSR pollutant" in<br>Section 4(a) of this chapter                     |
| Ozone:                                                                                                                            | 40 tpy of volatile organic compounds<br>or nitrogen oxides                          |
| Lead:                                                                                                                             | 0.6 tpy                                                                             |
| Fluorides:                                                                                                                        | 3 tpy                                                                               |
| Sulfuric acid mist:                                                                                                               | 7 tpy                                                                               |
| Hydrogen sulfide (H <sub>2</sub> S):                                                                                              | 10 tpy                                                                              |
| Total reduced sulfur (including H <sub>2</sub> S):                                                                                | 10 tpy                                                                              |
| Reduced sulfur compounds (including H <sub>2</sub> S):                                                                            | 10 tpy                                                                              |
| Municipal waste combustor organics<br>(measured as total tetra- through octa-chlorinated<br>dibenzo-p-dioxins and dibenzofurans): | 3.2 x 10 <sup>-6</sup> megagrams per year (3.5<br>x 10 <sup>-6</sup> tons per year) |
| Municipal waste combustor metals<br>(measured as particulate matter):                                                             | 14 megagrams per year (15 tons per<br>year)                                         |
| Municipal waste combustor acid gases<br>(measured as sulfur dioxide and hydrogen chloride):                                       | 36 megagrams per year (40 tons per<br>year)                                         |
| Municipal solid waste landfill emissions<br>(measured as nonmethane organic compounds):                                           | 45 megagrams per year (50 tons per<br>year)                                         |

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

(iii) Notwithstanding paragraph (i) above, "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 µg/m<sup>3</sup> (24-hour average).

**"Significant emissions increase"** means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in paragraph (i) of the definition of "Significant" in this section) for that pollutant.

**"Stationary source"** means any structure, building, facility, equipment, installation or operation (or combination thereof) which emits or may emit any air pollutant subject to these regulations or regulations under the Federal Clean Air Act.

**"Structure, building, facility, equipment, installation, or operation"** 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., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005- 00176-0, respectively).

**"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 Wyoming State Implementation Plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

**"Volatile organic compounds (VOCs)"** is defined in Chapter 3, Section 6(a) of these regulations.

(b) Any person who plans to construct any major stationary source or undertake a major modification of an existing stationary source shall be subject to the conditions outlined below.

(i) (A) (I) The review of the stationary source for the construction or modification permit(s) required under Chapter 6, Section 2 of these regulations shall apply and shall be expanded so as to include analysis of the predicted impact of the allowable and secondary emissions from the stationary source on the ambient air quality in areas affected by such emissions. An analysis of the predicted impact of emissions from the stationary source is required for all pollutants for which standards have been established under these regulations or under the Federal Clean Air Act and which are emitted in significant amounts. An analysis of the impact of other pollutants may be required by the Administrator. Such analysis shall identify and quantify the impact on the air quality in the area of all emissions not included in the baseline concentrations including, but not limited to, those emissions resulting from the instant application and all other permits issued in the area. The purpose of this analysis is to determine the total deterioration of air quality from the baseline concentrations; however, projections of deterioration due to general non-stationary source growth in the area predicted to occur after the date of application is not required. A permit to construct pursuant to Chapter 6, Section 2 shall be issued only if the conditions of Chapter 6, Section 2 are complied with and if the predicted impact (over and above the baseline concentration) of emissions defined above is less than the maximum allowable increment shown in Table 1 for the classification of the area in which the impact is predicted, and if the ambient standard for the pollutant(s) is not exceeded.

Table 1

Maximum Allowable Increments of Deterioration -  $\mu\text{g}/\text{m}^3$

| Pollutant                                  | Class I | Class II |
|--------------------------------------------|---------|----------|
| Particulate Matter:                        |         |          |
| PM <sub>2.5</sub> , annual arithmetic mean | 1       | 4        |
| PM <sub>2.5</sub> , 24-hr maximum          | 2       | 9        |
| PM <sub>10</sub> , annual arithmetic mean  | 4       | 17       |
| PM <sub>10</sub> , 24-hour maximum         | 8       | 30       |
| Sulfur Dioxide:                            |         |          |
| Annual arithmetic mean                     | 2       | 20       |
| 24-hour maximum*                           | 5       | 91       |
| 3-hour maximum*                            | 25      | 512      |
| Nitrogen Dioxide                           |         |          |
| Annual arithmetic mean                     | 2.5     | 25       |

\*Maximum allowable increment may be exceeded once per year at any receptor site.

(1.) For purposes of PM<sub>2.5</sub>, the demonstration required in paragraph (b)(i)(A)(I) of this section is deemed to have been made if the emissions increase from the new stationary source alone or from the modification alone would cause, in all areas, air quality impacts less than the amounts specified in Table 2.

Table 2

PM<sub>2.5</sub> Significant Impact Levels

| Pollutant         | Averaging Time | Class I                       | Class II                     |
|-------------------|----------------|-------------------------------|------------------------------|
| PM <sub>2.5</sub> | Annual         | 0.06 $\mu\text{g}/\text{m}^3$ | 0.3 $\mu\text{g}/\text{m}^3$ |
|                   | 24-hour        | 0.07 $\mu\text{g}/\text{m}^3$ | 1.2 $\mu\text{g}/\text{m}^3$ |

(II) Notwithstanding the provisions of paragraph (b)(i)(A)(I) above, the following concentrations shall be excluded in determining compliance with maximum allowable increases:

(1.) Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under 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. No such exclusion shall apply for more than five years after the later of such effective dates;

(2.) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan. No such exclusion shall apply for more than 5 years after the later of such effective date;

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

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

(5.) Concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate matter, or nitrogen oxides from stationary sources as specified below.

a. The temporary emissions do not occur for more than 2 years.

b. The 2-year time period is not renewable.

c. Such temporary emissions are not eligible for exclusion if they would impact a Class I Area or an area where the applicable increment is known to be violated or an area where they would cause or contribute to a violation of the applicable ambient air quality standard.

d. At the end of the temporary emission time frame, emissions from the stationary source causing these temporary emissions shall not exceed those levels occurring at such source prior to such temporary emission.

(B) In addition to the analyses required under Chapter 6, Section 4(b)(i)(A) above,

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

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

(C) The requirements for demonstration of compliance with applicable increments of Chapter 6, Section 4(b)(i)(A)(I), the additional analysis requirements of Chapter 6, Section 4(b)(i)(B) and the ambient air quality analysis requirements of Chapter 6, Section 4(b)(i)(E) shall not apply to a proposed major stationary source or modification with respect to a particular pollutant if the Administrator determines that:

(I) The increase in allowable emissions of that pollutant from the stationary source or the net emissions increase of that pollutant from a modification would be temporary and would impact no Class I Area and no area where an applicable increment is known to be violated; or

(II) The stationary source was in existence on March 1, 1978, and that the maximum allowable emission increases only impact Class II Areas, and that after application of BACT, the increase in allowable emissions of each pollutant would be less than 50 tons per year.

(D) Fugitive emissions, to the extent quantifiable, will be considered in calculating the potential to emit of the stationary source or modification only for:

(I) Sources listed in Chapter 6, Section 4(a) under the definition of "Major stationary source", item (a).

- (II) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Clean Air Act.
- (III) And such other sources as the Environmental Quality Council may later determine.
- (E) An application subject to this section shall contain an analysis of ambient air quality in the area that would be affected by the stationary source or modification as required below:
- (I) For each pollutant that the source would have the potential to emit in a significant amount.
- (II) For the modification, each pollutant for which it would result in a significant net emissions increase.
- (III) For pollutants for which National Ambient Air Quality Standards have been established, 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.
- (IV) In general, the required continuous air quality monitoring data shall have been gathered over a period of one year immediately preceding receipt of the application. The Administrator may provide that the monitoring period specification may be reduced to a minimum of four months if he is satisfied that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year.
- (V) All monitoring conducted pursuant to the requirements of this section shall meet the requirements of Appendix B of 40 CFR part 58.
- (VI) The requirements for pre-construction monitoring specified above and under Chapter 6, Section 2(b) with respect to monitoring for a particular pollutant may be waived by the Administrator upon petition from an applicant if:
- (1.) The emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts:
- Carbon Monoxide -  $575 \mu\text{g}/\text{m}^3$ , 8-hour average
  - Nitrogen Dioxide -  $14 \mu\text{g}/\text{m}^3$ , annual average
  - PM<sub>2.5</sub> -  $4 \mu\text{g}/\text{m}^3$ , 24-hour average;
  - PM<sub>10</sub> -  $10 \mu\text{g}/\text{m}^3$  of PM<sub>10</sub>, 24-hour average
  - Sulfur Dioxide -  $13 \mu\text{g}/\text{m}^3$ , 24-hour average
  - Ozone (No *de minimis* air quality level is provided for ozone; however, any net emissions increase of 100 tons per year or more of volatile organic compounds or nitrogen oxides subject to PSD would be required to perform an ambient impact analysis, including the gathering of air quality data.)
  - Lead -  $0.1 \mu\text{g}/\text{m}^3$ , 3-month average;
  - Fluorides -  $0.25 \mu\text{g}/\text{m}^3$ , 24-hour average;
  - Total Reduced Sulfur -  $10 \mu\text{g}/\text{m}^3$ , 1-hour average
  - Hydrogen Sulfide -  $0.2 \mu\text{g}/\text{m}^3$ , 1-hour average
  - Reduced Sulfur Compounds -  $10 \mu\text{g}/\text{m}^3$ , 1-hour average; or
- (2.) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in paragraph (b)(i)(E)(VI)(1.) of this section; or
- (3.) The pollutant is not listed in paragraph (b)(i)(E)(VI)(1.) of this section.
- (F) The Administrator may require an applicant subject to the provisions of this section to conduct an approved visibility monitoring program in any Class I Area which may be impacted by emissions from the proposed stationary source.
- (G) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, then all of the

provisions of Chapter 6, Sections 2 and 4 shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(H) 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 the owner or operator elects to use the method specified in paragraphs (i)(A) through (C) of the definition for "Projected actual emissions" 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:

(1.) A description of the project;

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

(3.) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph (i)(C) of the definition for "Projected actual emissions" in Section 4(a) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(II) Before beginning actual construction, the owner or operator shall provide the information set out in paragraph (b)(i)(H)(I) of this section to the Division as a Chapter 6, Section 2 permit application.

(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 paragraph (b)(i)(H)(I)(2.) of this section; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.

(IV) The owner or operator shall submit a report to the Division within 60 days after the end of each year during which records must be generated under paragraph (b)(i)(H)(III) of this section setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(I) The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph (b)(i)(H) of this section available for review upon request for inspection by the Division or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).

(J) (I) Except as otherwise provided in paragraph (b)(xv) of this section, and consistent with the definition of "Major modification" contained in Section 4(a), a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases - a significant emissions increase (as defined in the definition for "Significant emissions increase" in Section 4(a)), and a significant net emissions increase (as defined in the definitions for "Net emissions increase" and "Significant" in Section 4(a)). 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 paragraphs (b)(i)(J)(III) through (V) of this section. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition for "Net emissions increase" in Section 4(a). 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 the definition for "Projected actual emissions" in Section 4(a)) and the baseline actual emissions (as defined in paragraphs (i) and (ii) in the definition of "Baseline actual emissions" in Section 4(a)) for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in the definition of "Significant" in Section 4(a)).

(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 the definition for "Potential to emit" in Section 4(a)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in paragraph (iii) for the definition of "Baseline actual emissions" in Section 4(a)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in the definition of "Significant" in Section 4(a)).

(V) 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 paragraphs (b)(i)(J)(III) and (IV) of this section as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in the definition of "Significant" in Section 4(a)).

(ii) (A) The required permit shall not be issued unless the proposed major stationary source or major modification would meet an emission limit(s) or equipment standard(s) specified by the Administrator to represent the application of Best Available Control Technology for each pollutant regulated under these Standards and Regulations and under the Federal Clean Air Act and having the potential to emit in significant amounts. For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest, most reasonable time no later than 18 months prior to commencement of each phase of the proposed 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 stationary source.

(B) In the case of a major modification, the requirements for Best Available Control Technology shall apply only to each new or modified emissions unit at which a net emissions increase of the pollutant would occur.

(C) (I) The applicant for a permit for a source subject to this section may petition the Administrator to approve a system of innovative control technology.

(II) The Administrator, with the approval of the governor(s) of other affected state(s) may approve the employment of a system of innovative control technology if:

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

(2.) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under paragraphs (ii)(A) and (B) above by a date specified by the Administrator. Such date shall not be later than 4 years from the time of startup or 7 years from permit issuance.

(3.) The major stationary source or major modification would meet the requirements equivalent to those in paragraphs (b)(i)(A)(I), (b)(ii)(A), and (b)(ii)(B) above 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 Administrator.

(4.) The source or modification would not before the date specified by the Administrator:

a. Cause or contribute to any violation of an applicable National Ambient Air Quality Standard, or

b. Impact any Class I Area, or

c. Impact any area where an applicable increment is known to be violated.

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

(III) The approval to employ a system of innovative control technology shall be withdrawn by the Administrator if:

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

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

(3.) The Administrator 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.

(IV) If the source or modification fails to meet the required level of continuous emissions reduction within the specified time period or if the approval is withdrawn in accordance with (III) above, the Administrator may allow the source or modification up to an additional three years to meet the requirement for the application of BACT through use of a demonstrated system of control.

(iii) Temporary particulate matter emissions such as those associated with the construction phase of the source shall not be included in the determination on the issuance or denial of a required permit and shall not be taken into account when determining compliance with the maximum allowable increments in Table 1; however, Best Available Control Technology shall be applied to abate such temporary emission.

(iv) All applications of air quality modeling required under paragraph (b)(i) above shall be based on the applicable models, databases, and other requirements specified in Appendix W of 40 CFR part 51 (Guideline on Air Quality Models). Where an air quality model specified in Appendix W of 40 CFR part 51 (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific State of Wyoming program. Written approval of the EPA Administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures set forth in Chapter 6, Section 2(g).

(v) In any case where the federal official charged with direct responsibility for management of any lands within a Class I Area, or the Administrator of EPA or the governor of an adjacent state containing such a Class I Area, files a notice alleging that emissions from a proposed source or major modification may cause or contribute to a change in the air quality in such area and identifying the potential adverse impact of such change, a permit shall not be issued unless the owner or operator of such source demonstrates to the satisfaction of the Administrator that emissions of particulate matter, sulfur dioxide, and nitrogen oxides will not cause or contribute to concentrations which exceed the maximum allowable increases for the Class I Area in question.

(vi) (A) In any case where a Federal Land Manager demonstrates to the satisfaction of the Administrator that the emissions from such source will have an adverse impact on the air quality-related values (including visibility) of such Class I Areas, notwithstanding the fact that the change in air quality resulting from emissions from such source will not cause or contribute to concentrations which exceed the maximum allowable increases for Class I Areas, a permit shall not be issued.

(B) However, in the case where the Federal Land Manager provides to the Division at least 30 days prior to the Public Notice issued pursuant to Chapter 6, Section 2(m) of these regulations, an analysis of the impact of the emissions on visibility in a Federal Class I Area, the Division must consider such analysis in making its proposed decision. If the Federal Land Manager's analysis concludes that an adverse impact on visibility in the Federal Class I Area will occur but the Administrator determines that the analysis does not demonstrate to his satisfaction that such an adverse impact on visibility will occur, the Administrator

shall in the Public Notice issued pursuant to the requirements of Chapter 6, Section 2(m), explain his decision or give notice as to where the explanation can be obtained.

(vii) In any case where the owner or operator of such source demonstrates to the satisfaction of the Federal Land Manager, and the Federal Land Manager so certifies, that the emissions from such source will have no adverse impact on the air quality-related values of such Class I Areas (including visibility) notwithstanding the fact that the change in air quality resulting from emissions from such source will cause or contribute to concentrations which exceed the maximum allowable increases for Class I Areas, the Administrator may issue a permit.

(viii) In the case of a permit issued pursuant to subsection (vii), such source shall comply with such emission limitation under such permit as may be necessary to assure that emissions of sulfur oxides, particulate matter, and nitrogen oxides from such source, will not cause or contribute to concentrations of such pollutant which exceeds the following maximum allowable increases over the baseline concentration for such pollutants:

| Particulate matter:                        | Maximum Allowable Increase (micrograms per cubic meter) |
|--------------------------------------------|---------------------------------------------------------|
| PM <sub>2.5</sub> , annual arithmetic mean | 4                                                       |
| PM <sub>2.5</sub> , 24-hr maximum          | 9                                                       |
| PM <sub>10</sub> , annual arithmetic mean  | 17                                                      |
| PM <sub>10</sub> , 24-hour maximum         | 30                                                      |
| Sulfur dioxide:                            |                                                         |
| Annual arithmetic mean                     | 20                                                      |
| Twenty-four-hour maximum                   | 91                                                      |
| Three-hour maximum                         | 325                                                     |
| Nitrogen dioxide:                          |                                                         |
| Annual arithmetic mean                     | 25                                                      |

(ix) (A) In any case where the owner or operator of a proposed major stationary source or major modification who has been denied a certification under subparagraph (vii) demonstrates to the satisfaction of the Governor of Wyoming (hereinafter the Governor), after notice and public hearing, and the Governor finds, that the source cannot be constructed by reason of any maximum allowable increases for sulfur dioxide for periods of twenty-four hours or less applicable to any Class I Area and, in the case of federal Mandatory Class I Areas, that a variance under this clause will not adversely affect the air quality related values of the area (including visibility), the Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may grant a variance from such maximum allowable increase. If a variance is granted, a permit may be issued to such source pursuant to the requirements of this subparagraph provided other requirements of this section are met.

(B) In the case of a permit issued pursuant to subparagraph (ix)(A), such source shall comply with such emission limitations under such permit as may be necessary to assure that emissions of sulfur oxides from such source will not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which exceed the following maximum allowable increases for such areas over the baseline concentration for such pollutant and to assure that such emissions will not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less on more than 18 days during any annual period.

| Period of exposure: | Maximum Allowable Increase (micrograms per cubic meter) |
|---------------------|---------------------------------------------------------|
| Low terrain areas:  |                                                         |
| 24-hr maximum       | 36                                                      |
| 3-hr maximum        | 130                                                     |
| High terrain areas: |                                                         |

24-hr. maximum

62

3-hr maximum

221

(x) Notwithstanding other requirements of this section, a portable source which is a major stationary source and which has otherwise received a construction permit under Chapter 6, Sections 2 and 4 shall not be required to obtain additional relocation permits under this section if:

(A) Emissions from the source would not exceed allowable emissions; and

(B) Such relocation would impact no Class I Area and no area where an applicable increment is known to be violated; and

(C) Notice is given to the Division at least 10 days prior to such relocation identifying the proposed new location and the probable duration of operation at such location; and

(D) Emissions at the new location will be temporary.

(xi) After a final decision is made on an application for a source subject to this section, the final decision will be transmitted in writing to the applicant and the final decision and all comments received by the Division during the public comment period will be made available for public inspection in the same location where the application and analysis was posted. A copy of each permit application for each source or modification subject to this section and impacting a Federal Class I Area will be transmitted to EPA. EPA will be provided with notice of each action taken by the Division on such application.

(xii) [Reserved.]

(xiii) [Reserved.]

(xiv) [Reserved.]

(xv) Actuals Plantwide Applicability Limitations (PALs).

(A) Applicability.

(I) The Division may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in paragraphs (b)(xv)(A) through (0) of this section. The term "PAL" shall mean "actuals PAL" throughout paragraph (b)(xv) of this section.

(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 paragraphs (b)(xv)(A) through (0) of this section, and complies with the PAL permit:

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

(2.) Does not have to be approved through a Chapter 6, Section 4 permit; and

(3.) Is not subject to the provisions in paragraph (b)(i)(G) of this section (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of Chapter 6, Section 4).

(III) Except as provided under paragraph (b)(xv)(A)(II)(3.) of this section, a major stationary source shall continue to comply with all applicable Federal or State of Wyoming requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

(B) Definitions. The following definitions shall be used for actuals PALs consistent with paragraphs (b)(xv)(A) through (0) of this section. When a term is not defined in these paragraphs, it shall have the meaning given in Section 4(a) of this section or in the Clean Air Act.

**"Actuals PAL/or a major stationary source"** means a PAL based on the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 4(a)) of all emissions units (as defined in the definition for "Source" in Section 4(a)) at the source, that emit or have the potential to emit the PAL pollutant.

**"Allowable emissions"** has the same meaning as in the definition for "Allowable emissions" in Section 4(a), except as this definition is modified according to paragraphs (i) and (ii) of this definition.

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

(ii) An emissions unit's potential to emit shall be determined using the definition of "Potential to emit" in Section 4(a), except that the words "or enforceable as a practical matter" should be added after "enforceable".

**"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 Clean Air Act for nonattainment areas. (For example, in accordance with the definition of major stationary source in section 182(c) of the Clean Air Act, an emissions unit would be a major emissions unit for VOC if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOC per year.)

**"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.

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

**"PAL major modification"** means, notwithstanding the definitions for "Major modification" and "Net emissions increase" of Section 4(a), 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.

**"PAL permit"** means the Chapter 6, Section 2 or Section 4 permit issued by the Division that establishes a PAL for a major stationary source.

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

**"Plantwide applicability limitation (PAL)"** means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with paragraphs (b)(xv)(A) through (O) of this section.

**"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 the definition for "Significant" in Section 4(a) or in the Clean Air Act, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in paragraph (b)(xv)(B) for the definition of "Major emissions unit" of this section.

**"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 the definition for "Significant" in Section 4(a) or in the Clean Air Act, whichever is lower.

(C) Permit Application Requirements. As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information in paragraphs (b)(xv)(C)(I) through (III) of this section to the Division 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 of Wyoming 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 paragraph (b)(xv)(M)(I) of this section.

(D) General Requirements For Establishing PALs.

(I) The Division may establish a PAL at a major stationary source, provided that at a minimum, the requirements in paragraphs (b)(xv)(D)(1)(1.) through (7.) of this section are met.

(1.) 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.

(2.) The PAL shall be established in a PAL permit that meets the public participation requirements in paragraph (b)(xv)(E) of this section.

(3.) The PAL permit shall contain all the requirements of paragraph (b)(xv)(G) of this section.

(4.) 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.

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

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

(7.) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in paragraphs (b)(xv){L} through (N) of this section 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 40 CFR part 51.165(a)(3)(ii) unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

(E) Public Participation Requirements For PALs. PALs for existing major stationary sources shall be established, renewed, or increased, through a procedure that is consistent with Chapter 6, Section 2. This includes the requirement that the Division 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 Division must address all material comments before taking final action on the permit.

(F) Setting the 10-Year Actuals PAL Level.

(I) Except as provided in paragraph (b)(xv)(F)(II) of this section, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 4(a)) 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 the definition of "Significant" in Section 4(a) or under the Clean Air Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units; however, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Division 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 of Wyoming regulatory requirement(s) that the Division is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO<sub>x</sub> 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 paragraph (b)(xv)(F)(I) of this section, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

(G) Contents of the PAL Permit. The PAL permit shall contain, at a minimum, the information in paragraphs (b)(xv)(G)(I) through (X) of this section.

(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 paragraph (b)(xv)(J) of this section before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Division.

(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 paragraph (b)(xv)(I) of this section.

(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 paragraph (b)(xv)(C)(I) of this section.

(VII) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under paragraph (b)(xv)(M) of this section.

(VIII) A requirement to retain the records required under paragraph (b)(xv)(M) of this section on site. Such records may be retained in an electronic format.

(IX) A requirement to submit the reports required under paragraph (b)(xv)(N) of this section by the required deadlines.

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

(H) PAL Effective Period and Reopening of the PAL Permit.

(I) PAL Effective Period. The PAL effective period shall be 10 years.

(II) Reopening of the PAL Permit.

(1.) During the PAL effective period, the Division 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 40 CFR part 51.165(a)(3)(ii); and

c. Revise the PAL to reflect an increase in the PAL as provided under paragraph (b)(xv)(K) of this section.

(2.) The Division 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 Division may impose on the major stationary source; and

c. Reduce the PAL if the Division 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.

(3.) Except for the permit reopening in paragraph (b)(xv)(H)(II)(1.)a. of this section for the correction of typographical/calculation errors that do not increase the PAL level, all reopenings shall be carried out in accordance with the public participation requirements of paragraph (b)(xv)(E) of this section.

(I) Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in paragraph (b)(xv)(J) of this section shall expire at the end of the PAL effective period, and the requirements in paragraphs (b)(xv)(I)(I) through (V) of this section 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 paragraphs (b)(xv)(I)(I)(I.) and (2.) of this section.

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

(2.) The Division 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 Division determines is appropriate.

(II) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Division 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 Division issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (b)(xv)(I)(I)(2.) of this section, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(IV) Any physical change or change in the method of operation at the major stationary source will be subject to Chapter 6, Section 4 requirements if such change meets the definition of "Major modification" in Section 4(a).

(V) The major stationary source owner or operator shall continue to comply with any State of Wyoming or Federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to paragraph (b)(i)(G) of this section, but were eliminated by the PAL in accordance with the provisions in paragraph (b)(xv)(A)(II)(3.) of this section.

(J) Renewal of a PAL.

(I) The Division shall follow the procedures specified in paragraph (b)(xv)(E) of this section in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Division.

(II) Application Deadline. A major stationary source owner or operator shall submit a timely application to the Division 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 paragraphs (b)(xv)(J)(III)(1.) through (4.) of this section.

(1.) The information required in paragraphs (b)(xv)(C)(I) through (III) of this section.

(2.) A proposed PAL level.

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

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

(IV) PAL Adjustment. In determining whether and how to adjust the PAL, the Division shall consider the options outlined in paragraphs (b)(xv)(J)(IV)(1.) and (2.) of this section; however, in no case may any such adjustment fail to comply with paragraph (b)(xv)(J)(IV)(3.) of this section.

(1.) If the emissions level calculated in accordance with paragraph (b)(xv)(F) of this section is equal to or greater than 80 percent of the PAL level, the Division may renew the PAL at the same level without considering the factors set forth in paragraph (b)(xv)(J)(IV)(2.) of this section; or

(2.) The Division 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 Division in its written rationale.

(3.) Notwithstanding paragraphs (b)(xv)(J)(IV)(1.) and (2.) of this section:

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

b. The Division shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of paragraph (b)(xv)(K) of this section (increasing a PAL).

(V) If the compliance date for a State of Wyoming or Federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Division has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or Chapter 6, Section 3 operating permit renewal, whichever occurs first.

(K) Increasing a PAL During the PAL Effective Period.

(I) The Division may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (b)(xv)(K)(I)(1.) through (4.) of this section.

(1.) 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.

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

(3.) The owner or operator obtains a Chapter 6, Section 4 permit for all emissions unit(s) identified in paragraph (b)(xv)(K)(I)(1.) of this section, 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 Chapter 6, Section 4 process (for example, BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.

(4.) 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 Division shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with paragraph (b)(xv)(K)(I)(2.) of this section), 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 paragraph (b)(xv)(E) of this section.

(L) Monitoring Requirements for PALs.

(I) General Requirements.

(1.) 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.

(2.) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in paragraphs (b)(xv)(L)(II)(1.) through (4.) of this section and must be approved by the Division.

(3.) Notwithstanding paragraph (b)(xv)(L)(I)(2.) of this section, you may also employ an alternative monitoring approach that meets paragraph (b)(xv)(L)(I)(1.) of this section if approved by the Division.

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

(II) Minimum Performance Requirements For Approved Monitoring Approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (b)(xv)(L)(III) through (IX) of this section:

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

(2.) CEMS;

(3.) CPMS or PEMS; and

(4.) 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:

(1.) 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;

(2.) 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

(3.) 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 Division 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:

(1.) CEMS must comply with applicable Performance Specifications found in 40 CFR part 60, Appendix B; and

(2.) 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:

(1.) 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

(2.) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Division, 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:

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

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

(3.) 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 Division 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 paragraphs (b)(xv)(L)(III) through (VIII) of this section, 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 Division shall, at the time of permit issuance:

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

(2.) 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 Division. Such testing must occur at least once every 5 years after issuance of the PAL.

(M) 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 paragraph (b)(xv) of this section 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:

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

(2.) Each annual certification of compliance pursuant to Chapter 6, Section 3 and the data relied on in certifying the compliance.

(N) Reporting and Notification Requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Division in accordance with the applicable Chapter 6, Section 3 operating permit program. The reports shall meet the requirements in paragraphs

(b)(xv)(N)(I) through (III) of this section.

(I) Semi-annual Report. The semi-annual report shall be submitted to the Division within 30 days of the end of each reporting period. This report shall contain the information required in paragraphs

(b)(xv)(N)(I)(1.) through (7.) of this section.

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

(2.) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to paragraph (b)(xv)(M)(I) of this section.

(3.) 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.

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

(5.) 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.

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

(7.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 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 Chapter 6, Section 3(h)(i)(C)(III)(2.) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by Chapter 6, Section 3(h)(i)(C)(III)(2.). The reports shall contain the following information:

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

(2.) The PAL requirement that experienced the deviation or that was exceeded

(3.) Emissions resulting from the deviation or the exceedance; and

(4.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 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 Division the results of any re-validation test or method within three months after completion of such test or method.

(0) Transition Requirements.

(I) The Division shall not issue a PAL that does not comply with the requirements in paragraphs (b)(xv)(A) through (0) of this section after the Administrator has approved regulations incorporating these requirements into Chapter 6, Section 4.

(II) The Division may supersede any PAL which was established prior to the date of approval of this regulation by the Administrator of EPA with a PAL that complies with the requirements of paragraphs (b)(xv)(A) through (0) of this section.

(xvi) 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.

(xvii) Transition:

(A) The requirements for BACT in Chapter 6, Section 4(b)(ii) and the requirements for air quality analysis in Chapter 6, Section 4(b)(i) shall not apply to a major stationary source or major modification that was subject to Chapter 6, Section 4, as effective on January 25, 1979, if the owner or operator of the source submitted an application for a permit under these regulations before August 7, 1980, and the Administrator subsequently determines that the application submitted before that date was complete. Instead, the requirements of Chapter 6, Section 4 as in effect on January 25, 1979, apply to any such source or modification.

(B) The requirements for air quality monitoring in paragraph (b)(i)(E) shall not apply to a particular source or modification that was subject to Chapter 6, Section 4, as effective on January 25, 1979, if the owner or operator of the source or modification submits an application for a permit under these regulations on or before June 8, 1981, and the Administrator subsequently determines that the application submitted before that date was complete with respect to the requirements for ambient air quality data analyses as in effect on January 25, 1979. Instead, the latter requirements shall apply to such source or modification.

(C) The requirements for air quality monitoring in paragraph (b)(i)(E) shall not apply to a particular source or modification that was not subject to Chapter 6, Section 4, as effective on January 25, 1979, if the owner or operator of the source or modification submits an application for a permit under these regulations before June 8, 1981, and the Administrator subsequently determines that the application as submitted before that date was complete except with respect to the requirements in paragraph (b)(i)(F).

(D) The requirements for air quality monitoring for PM<sub>10</sub> in paragraphs (b)(i)(E)(I) through (IV) of this section, effective February 13, 1989, shall not apply to a particular source or modification, if the owner or operator of the source or modification submits an application for a permit under Chapter 6, Section 4 on or before June 1, 1988 and the Administrator subsequently determines that the application submitted before that date was complete, except with respect to the requirements for monitoring particulate matter.

(E) The requirements for air quality monitoring of PM<sub>10</sub> in paragraphs (b)(i)(E)(IV) through (b)(i)(E)(V) of this section, effective February 13, 1989, shall apply to a particular source or modification if the owner or operator of the source or modification submits an application for a permit under this section after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions set forth under paragraph (b)(xvii)(G) of this section, except that the Administrator may provide that the monitoring period specification may be reduced to a minimum of four months if he is satisfied that a complete and adequate analysis can be accomplished with monitoring data gathered over that shorter period of time.

(F) For any application under this section that becomes complete except as to the requirements of paragraphs (b)(i)(E)(III) and (b)(i)(E)(IV) pertaining to PM<sub>10</sub>, after December 1, 1988 and no later than August 1, 1989, the data that paragraph (b)(i)(E)(III) requires will have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete. The Administrator may provide that the monitoring period specification may be reduced to a minimum of four months if he is satisfied that a complete and adequate analysis can be accomplished with monitoring data gathered over that shorter period of time.

(G) With respect to any requirements for air quality monitoring of PM<sub>10</sub> specified under paragraphs (b)(xvii)(D) and (b)(xvii)(E) of this section, effective February 13, 1989, the owner or operator of the

source or modification shall use a monitoring method approved by the Administrator and shall estimate the ambient concentrations of PM<sub>10</sub> using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Administrator.

(H) The requirement to demonstrate compliance with the maximum allowable increment for nitrogen dioxide shall not apply to a major stationary source or major modification that was subject to Chapter 6, Section 4, as effective on February 8, 1988, if the owner or operator of the source or modification submits an application for a permit under these regulations on or before October 30, 1990 and the Administrator subsequently determines that the application submitted before that date was complete.

(I) The requirement to demonstrate compliance with the maximum allowable increment for PM<sub>10</sub> shall not apply to a major stationary source or major modification that was subject to Chapter 6, Section 4, as effective on June 3, 1993, if the owner or operator of the source or modification submits an application for a permit under these regulations on or before the effective date of this regulation revision and the Administrator subsequently determines that the application submitted before that date was complete. Instead, the requirement to demonstrate compliance with the maximum allowable increment for TSP, as in effect at the time the application was submitted, shall apply:

Maximum Allowable Increments of Deterioration -  $\mu\text{g}/\text{m}^3$

| Pollutant                  | Class I | Class II |
|----------------------------|---------|----------|
| Particulate Matter:        |         |          |
| TSP, Annual geometric mean | 5       | 19       |
| TSP, 24-hour maximum*      | 10      | 37       |

\*Maximum allowable increment may be exceeded once per year at any receptor site.

(c) All national parks, national wilderness areas, and national memorial parks in Wyoming as of January 25, 1979, shall be designated Class I and may not be redesignated. All other areas of the State of Wyoming shall be designated Class II as of the effective date of this regulation.

(d) Redesignation. All redesignation of areas within the State of Wyoming shall be accomplished through the process of establishment of Standards and Regulations set forth in the Wyoming Environmental Quality Act.

(i) The following areas may be redesignated only as Class I or Class II areas:

(A) An area which exceeds 10,000 acres in size and is 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; and

(B) A national park or national wilderness area which exceeds 10,000 acres in size and is established after the effective date of this regulation.

(ii) Except as provided in paragraph (c) above, any area may be redesignated as Class I or II, with the approval of the Administrator of the Environmental Protection Agency, in accordance with the provisions of paragraph (iii) below; provided, however, that lands within the exterior boundaries of reservations of federally recognized Indian tribes may be redesignated to any class, but only by the appropriate Indian governing body.

(iii) (A) At least one public hearing must be held in accordance with the provisions for adoption of regulations as set forth in the Administrative Procedures Act and the Wyoming Environmental Quality Act.

(B) At least 30 days prior to the public hearing, a description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation shall be prepared and made available for public inspection. Any person petitioning the Department or Council to redesignate an area shall be responsible for preparing or submitting such description and analysis. Such persons shall also be responsible for revising this required documentation to the extent necessary to satisfy the

Administrator of the U.S. EPA. The notice of the public hearing shall contain appropriate notification of the availability of the description and analysis of the proposed redesignation.

(C) Agencies from neighboring states, Indian governing bodies, Federal Land Managers, and local governments whose land may be affected by the proposed redesignation shall be notified at least 30 days prior to the hearing.

(D) Prior to proposing a redesignation, the Division and the Air Quality Advisory Board shall consult with the elected leadership of local and other substate general purpose governments in the area covered by the redesignation.

(E) Prior to public notice of the proposed redesignation the Division shall provide written notice to any Federal Land Manager who may be responsible for any federal lands within the area proposed for such redesignation and shall afford adequate opportunity (but not in excess of 60 days) to confer with the State respecting the intended notice of designation. The Federal Land Manager shall be offered the opportunity to submit written comments and recommendations with respect to such intended notice of redesignation. In redesignating any area with respect to which the federal land manager has submitted written comments and recommendations, the Division will publish a list of any inconsistency between such redesignation and such recommendation with an explanation of such inconsistency (together with the reasons for making such redesignation against the recommendation of the Federal Land Manager).

(F) The Council shall review and examine the description and analysis prepared pursuant to subparagraph (iii)(B) above prior to any redesignation.

(iv) (A) If an area has been proposed for redesignation to a more stringent class, no permit to construct may be granted to a source which may cause an impact in the area proposed for redesignation and for which an application to construct is received by the Division after the filing of the petition for redesignation with the Environmental Quality Council until the proposed redesignation has been acted upon; however, approval may be granted if, in the Administrator's judgment, the proposed source would not violate the applicable increments of the proposed redesignation. Such approval shall be withheld only so long as in the Administrator's judgment, the petitioner is expeditiously proceeding toward development of the "description and analysis" required under (iii)(B) above, and provided that such "description and analysis" is complete and submitted to the Council for action on the petition within 18 months of the filing of the initial petition. Upon good cause shown, the Council may extend the foregoing deadline.

(B) Where an application for a permit to construct a source has been received by the Division prior to the receipt by the Council of a petition for redesignation of an area to a more stringent class and where such source may cause an impact in the area proposed for redesignation, the permit application shall be processed considering the classification of an area which existed at the time of permit application. For purposes of establishing a priority date under this Chapter 6, Section 4(d)(vi)(B), (1) such permit application is not required to meet the provisions for completeness in Chapter 6, Section 2, and (2) the time frames in Chapter 6, Section 2(g) for action on applications shall not apply.

However, a priority date established under Chapter 6, Section 4(d)(vi)(B), shall remain in effect only so long as in the Administrator's judgment, the applicant is expeditiously proceeding toward the development and submittal of such other information and data as required to make the application complete under the provisions of Chapter 6, Section 2, and provided that such other information and data is submitted to, and judged to be complete by the Administrator within 18 months of the filing of the initial permit application. Upon good cause shown, the Administrator may extend the foregoing deadline.

[Section 13. Nonattainment new source review permit requirements.](#)

**Permitting Requirements CHAPTER 6 Section 13. Nonattainment new source review permit requirements.**

(a) This section applies to new major stationary sources or major modifications to existing major stationary sources located in areas of the state which are designated as nonattainment pursuant to Section 107 of the Clean Air Act for any regulated NSR pollutant.

(b) Definitions. For purposes of this section:

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

**“Actual emissions”** means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (i) through (iii) of this definition, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a plantwide applicability limitation (PAL) under paragraph (g)(i) of this section. Instead, the definitions for “Projected actual emissions” and “Baseline actual emissions” of this section 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 Division shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit’s actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(ii) The Division 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.

**“Administrator”** means Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality.

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

(i) Applicable standards set forth in Chapter 5, Section 2 or Section 3 of these regulations and other new source performance standards and national emission standards for hazardous air pollutants promulgated by the EPA but not yet adopted by the State of Wyoming;

(ii) Any other applicable, SIP-approved emission limit, including those with a future compliance date; or

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

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

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

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

(B) 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.

(C) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions

units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(D) 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 paragraph (i)(B) of this definition.

(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 Division for a Chapter 6, Section 13 permit, or under a plan approved by the EPA Administrator, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

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

(B) 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.

(C) 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 EPA Administrator proposed or promulgated under 40 CFR 63, the baseline actual emissions need only be adjusted if the Division has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of (e)(vii) of this section.

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

(E) 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 paragraphs (ii)(B) and (C) of this definition.

(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 major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (i) of this definition, for other existing emissions units in accordance with the procedures contained in paragraph (ii) of this definition, and for a new emissions unit in accordance with the procedures contained in paragraph (iii) of this definition.

**“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 onsite activities, other than preparatory activities, which mark the initiation of the change.

**“Best available control technology”** means an emission limitation (including a visible emission standard) based on the maximum degree of reduction of each pollutant subject to regulation under these Standards and Regulations or regulation under the Act, which would be emitted from or which results

from any proposed major stationary source or major modification which the Administrator, 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 and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emission standard infeasible, he may instead prescribe a design, equipment, work practice or operational standard or combination thereof to satisfy the requirement 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. Application of BACT shall not result in emissions in excess of those allowed under Chapter 5, Section 2 or Section 3 of these regulations and any other new source performance standard or national emission standards for hazardous air pollutants promulgated by the EPA but not yet adopted by the State of Wyoming.

**“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 reduction in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

**“Clean coal technology demonstration project”** 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.

**“Commence”**, as applied to construction of a major stationary source or major modification, means that the owner or operator has obtained a Construction Permit required by Chapter 6, Section 2 and either has (i) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time 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 construction of the source to be completed within a reasonable time.

**“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 emissions.

**“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.

**“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).

**“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, O<sub>2</sub> or CO<sub>2</sub> concentrations), and to record average operational parameter value(s) on a continuous basis.

**“Division”** means the Air Quality Division of the Wyoming Department of Environmental Quality.

**“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 utility steam generator that

would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

**“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 this section. For purposes of this section, there are two types of emissions units as described in paragraphs (i) and (ii) of this definition.

(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 paragraph (i) of this definition. A replacement unit, as defined in this section, is an existing emissions unit.

**“Enforceable”** means all limitations and conditions which are enforceable under provisions of the Wyoming Environmental Quality Act and/or are federally enforceable by the Administrator of the EPA, including those requirements developed pursuant to 40 CFR parts 60 and 61, requirements within the State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I, including operating permits issued under Chapter 6, Section 3 of these regulations.

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

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

**“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 implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

(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 a stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

**“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 the definition for “Significant emissions increase” in this section) of a regulated NSR pollutant (as defined in the definition for “Regulated NSR pollutant” in this section); and a significant net emissions increase of that pollutant from the major stationary source. Any significant emissions increase (as defined in the definition for “Significant emissions increase” in this section) from any emissions units or net emissions increase (as defined in the definition for “Net emissions increase” in this section) at a major stationary source that is significant for volatile organic compounds (VOCs) or NO<sub>x</sub> shall be considered significant for ozone.

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

(A) Routine maintenance, repair and replacement;

(B) Use of an alternative fuel or raw material 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), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

(C) Use of an alternative fuel by reason of an order under section 125 of the Act;

(D) The use of municipal solid waste as an alternative fuel at a steam generating plant;

- (E) Use of an alternative fuel or raw material, if prior to December 21, 1976, the source was capable of accommodating such fuel or material unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division, or if the source is approved to use such fuel or material through an enforceable permit issued under these regulations;
- (F) An increase in the hours of operation or in the production rate, if such increase does not exceed the operating design capacity of the major stationary source unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division;
- (G) Change in ownership of the stationary source;
- (H) The installation, operation, cessation or removal of a temporary clean coal technology demonstration project, provided that the project complies with:
- (I) The Wyoming State Implementation Plan; and
- (II) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.
- (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 paragraph (g)(i) of this section for a PAL for that pollutant. Instead, the definition in paragraph (g)(i)(B) for "PAL major modification" of this section shall apply.
- (iii) For the purposes of applying the requirements of paragraph (f)(i) of this section to modifications at major stationary sources of nitrogen oxides located in ozone nonattainment areas or in ozone transport regions, whether or not subject to subpart 2, part D, title I of the Act, any significant net emissions increase of nitrogen oxides is considered significant for ozone.
- (iv) Any physical change in, or change in the method of operation of, a major stationary source of VOCs that results in any increase in emissions of VOCs 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 Act.

**"Major stationary source"**

- (i) Means:
- (A) Any stationary source of air pollutants that 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 Act, according to paragraphs (I) through (VI) below:
- (I) 50 tons per year of VOCs in any serious ozone nonattainment area.
- (II) 50 tons per year of VOCs in an area within an ozone transport region, except for any severe or extreme ozone nonattainment area.
- (III) 25 tons per year of VOCs in any severe ozone nonattainment area.
- (IV) 10 tons per year of VOCs in any extreme ozone nonattainment area.
- (V) 50 tons per year of carbon monoxide in any serious nonattainment area for carbon monoxide, where stationary sources contribute significantly to carbon monoxide levels in the area (as determined under rules issued by the EPA Administrator).
- (VI) 70 tons per year of PM<sub>10</sub> in any serious nonattainment area for PM<sub>10</sub>;
- (B) For the purposes of applying the requirements of paragraph (f)(i) of this section to stationary sources of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, any stationary source which emits, or has the potential to emit, 100 tons per year or more of nitrogen oxides emissions, except that the emission thresholds in paragraphs (I) through (VI) below shall apply in areas subject to subpart 2 of part D, title I of the Act:

- (I) 100 tons per year or more of nitrogen oxides in any ozone nonattainment area classified as marginal or moderate.
- (II) 100 tons per year or more of nitrogen oxides in any ozone nonattainment area classified as a transitional, submarginal, or incomplete or no data area, when such area is located in an ozone transport region.
- (III) 100 tons per year or more of nitrogen oxides in any area designated under section 107(d) of the Act as attainment or unclassifiable for ozone that is located in an ozone transport region.
- (IV) 50 tons per year or more of nitrogen oxides in any serious nonattainment area for ozone.
- (V) 25 tons per year or more of nitrogen oxides in any severe nonattainment area for ozone.
- (VI) 10 tons per year or more of nitrogen oxides in any extreme nonattainment area for ozone; or
- (C) Any physical change that would occur at a stationary source not qualifying under paragraphs (i)(A) or (B) of this definition as a major stationary source, if the change would constitute a major stationary source by itself.
  - (ii) A major stationary source that is major for VOCs shall be considered major for ozone.
  - (iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this paragraph whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:  
coal cleaning plants (with thermal dryers); kraft pulp mills; Portland cement plants; primary zinc smelters; iron and steel mills; primary aluminum ore reduction plants; primary copper smelters; municipal incinerators capable of charging more than 250 tons of refuse per day; hydrofluoric, sulfuric, or nitric acid plants; petroleum refineries; lime plants; phosphate rock processing plants; coke oven batteries; sulfur recovery plants; carbon black plants (furnace process); primary lead smelters; fuel conversion plants; sintering plants; secondary metal production plants; chemical process plants--the term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140; fossil- fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input; petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels; taconite ore processing plants; glass fiber processing plants; charcoal production plants; fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

**“Net emissions increase”** means,

- (i) With respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:
  - (A) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to paragraph (c)(ii)(B) of this section;
  - (B) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this paragraph (ii) shall be determined as provided in the definition for “Baseline actual emissions”, except that paragraphs (i)(C) and (ii)(D) of the definition for “Baseline actual emissions” 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:
  - (A) The date five years before construction on the particular change commences; and
  - (B) The date that the increase from the particular change occurs.
- (iii) An increase or decrease in actual emissions is creditable only if:

- (A) It occurs within a reasonable period specified by the Division;
- (B) The Division has not relied on it in issuing a Chapter 6, Section 13 permit for the source, which is in effect when the increase in actual emissions from the particular change occurs; and
- (C) As it pertains to an increase or decrease in fugitive emissions (to the extent quantifiable), it occurs at an emissions unit that is part of one of the source categories listed in paragraph (iii) in the definition of “Major stationary source” of this section or it occurs at an emissions unit that is located at a major stationary source that belongs to one of the listed source categories. Fugitive emission increases or decreases are not creditable for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in paragraph (iii) in the definition of “Major stationary source” of this section and are not, by themselves, part of a listed source category.
- (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:
  - (A) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
  - (B) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;
  - (C) The Division has not relied on it in issuing any permits approved pursuant to 40 CFR part 51 subpart I or in demonstrating attainment or reasonable further progress;
  - (D) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and
- (vi) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
- (vii) The definition of “Actual emissions” of this section, shall not apply for determining creditable increases and decreases after a change.

**“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 the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the affect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

**“Predictive emissions monitoring system (PEMS)”** 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, O<sub>2</sub> or CO<sub>2</sub> concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

**“Project”** means a physical change in, or change in method of operation of, an existing major stationary source.

**“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 the above paragraph of this section (before beginning actual construction), the owner or operator of the major stationary source:

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

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

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

(D) In lieu of using the method set out in paragraphs (i)(A) through (C) of this definition, may elect to use the emissions unit's potential to emit, in tons per year, as defined under the definition of "Potential to emit" of this section.

**"Regulated NSR pollutant"**, for purposes of this section, means the following:

(i) Nitrogen oxides or any VOCs.

(ii) Any pollutant for which a national ambient air quality standard has been promulgated.

(iii) Any pollutant identified under this paragraph as a constituent or precursor to a pollutant listed above under paragraphs (i) and (ii) of this definition, provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors identified by the EPA Administrator for purposes of NSR are the following:

(A) VOCs and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(B) Sulfur dioxide is a precursor to PM<sub>2.5</sub> in all PM<sub>2.5</sub> nonattainment areas.

(C) Nitrogen oxides are presumed to be precursors to PM<sub>2.5</sub> in all nonattainment areas, unless the State demonstrates to the EPA Administrator's satisfaction 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<sub>2.5</sub> concentrations.

(D) VOCs and ammonia are presumed not to be precursors to PM<sub>2.5</sub> in any nonattainment area, unless the State demonstrates to the EPA Administrator's satisfaction or EPA demonstrates that emissions of VOCs from sources in a specific area are a significant contributor to that area's ambient PM<sub>2.5</sub> concentrations.

(iv) PM<sub>2.5</sub> emissions and PM<sub>10</sub> emissions. PM<sub>2.5</sub> emissions and PM<sub>10</sub> 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<sub>2.5</sub> and PM<sub>10</sub> in Chapter 6, Section 13 permits. Compliance with emissions limitations for PM<sub>2.5</sub> and PM<sub>10</sub> 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 subsection unless the applicable implementation plan required condensable particulate matter to be included.

**"Replacement unit"** means an emissions unit for which all the criteria listed below in this definition 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 40 CFR part 60.15(b)(1), 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).
- (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.

**“Reviewing Authority”** means Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality.

**“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 section, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or modification 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 or from a train, or from a vessel.

**“Significant”** means:

- (i) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

**POLLUTANT AND EMISSIONS RATE**

|                     |                                                                                                                                                                                                                                                          |
|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Carbon monoxide:    | 100 tons per year (tpy)                                                                                                                                                                                                                                  |
| Nitrogen oxides:    | 40 tpy                                                                                                                                                                                                                                                   |
| Sulfur dioxide:     | 40 tpy                                                                                                                                                                                                                                                   |
| PM <sub>10</sub> :  | 15 tpy of PM <sub>10</sub> emissions                                                                                                                                                                                                                     |
| PM <sub>2.5</sub> : | 10 tpy of direct PM <sub>2.5</sub> emissions;<br>40 tpy of sulfur dioxide emissions;<br>40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM <sub>2.5</sub> precursor under the definition of “Regulated NSR pollutant” in this section |
| Ozone:              | 40 tpy of VOCs or nitrogen oxides                                                                                                                                                                                                                        |
| Lead:               | 0.6 tpy                                                                                                                                                                                                                                                  |

- (ii) Notwithstanding the significant emissions rate for ozone in paragraph (i) of this definition, “significant” means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of VOCs that would result from any physical change in, or change in the method of operation of, a major stationary source locating in a serious or severe nonattainment area that is subject to subpart 2, part D, title I of the Act, if such emissions increase of VOCs exceeds 25 tons per year.
- (iii) For the purpose of applying the requirements of paragraph f(i) of this section to modifications at major stationary sources of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, the significant emission rates and other requirements for VOCs in paragraphs (i), (ii) and (v) of this definition shall apply to nitrogen oxide emissions.
- (iv) Notwithstanding the significant emissions rate for carbon monoxide under paragraph (i) of this definition, “significant” means, in reference to an emissions increase or 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 area for carbon monoxide if such increase equals or exceeds 50 tons per year, provided the EPA Administrator has determined that stationary sources contribute significantly to carbon monoxide levels in the area.
- (v) Notwithstanding the significant emission rates for ozone under paragraphs (i) and (ii) of this definition, any increase in actual emissions of VOCs from any emissions unit at a major stationary source

of VOCs located in an extreme ozone nonattainment area that is subject to subpart 2, part D, title I of the Act shall be considered a significant net emissions increase.

**“Significant emissions increase”** means, for a regulated NSR pollutant, an increase in emissions that is significant (according to the definition of “Significant” in this section) for that pollutant.

**“Stationary source”** means any structure, building, facility, equipment, installation or operation (or combination thereof) which emits or may emit any air pollutant subject to these regulations or regulations under the Act.

**“Structure, building, facility, equipment, installation, or operation”** 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., which have the same two-digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

**“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 Wyoming State Implementation Plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

**“Volatile organic compounds (VOCs)”** is defined in Chapter 3, Section 6(a) of these regulations.

(c) Non-attainment New Source Review (NNSR) Permit Required.

(i) New major stationary sources or major modifications to existing major stationary sources must obtain an NNSR permit before beginning actual construction if they are located in an area designated nonattainment for any national ambient air quality standard if the source is major for the pollutant for which the area is designated nonattainment. Notwithstanding the source category-based exemptions set forth under Chapter 6, Section 2(k), any new major stationary facility or major stationary source undergoing a major modification under this Section will not be granted any of the Section 2(k) exemptions.

(ii) Except as provided by a PAL under paragraph (g) of this section, a proposed project is considered a major modification (as defined in the definition for “Major modification” in Section 13(b)) to an existing major source if the proposed project meets the criteria outlined in paragraphs in Section 13(c)(ii)(A) through (E) below:

(A) A project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases--a significant emissions increase (as defined in the definition for “Significant emissions increase” in Section 13(b)), and a significant net emissions increase (as defined in the definitions for “Significant emissions increase”, “Net emissions increase” and “Significant” in Section 13(b)). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(B) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (C) through (E) below. 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 for “Net emissions increase” in Section 13(b). Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(C) Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the

difference between the projected actual emissions (as defined in the definition for “Projected actual emissions” in Section 13(b)) and the baseline actual emissions (as defined in the definition for “Baseline actual emissions” in Section 13(b), as applicable), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in the definition for “Significant” in Section 13(b)).

(D) 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 the definition for “Potential to emit” in Section 13(b)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in the definition for “Baseline actual emissions” in Section 13(b)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in the definition for “Significant” in Section 13(b)).

(E) 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 paragraphs (C) through (D) above 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 the definition for “Significant” in Section 13(b)).

(d) NNSR Permit.

(i) Requirements for construction or modification of a source specified under Chapter 6, Section 2 of these regulations shall apply.

(ii) 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 the owner or operator elects to use the method specified in paragraphs (i)(A) through (C) of the definition for “Projected actual emissions” for calculating projected actual emissions.

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

(I) A description of the project;

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

(III) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph (i)(C) of the definition for “Projected actual emissions” in Section 13(b) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(B) Before beginning actual construction, the owner or operator shall provide the information set out in paragraph (d)(ii)(A) of this section to the Division as a Chapter 6, Section 2 permit application.

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

(D) The owner or operator shall submit a report to the Division within 60 days after the end of each year during which records must be generated under paragraph (d)(ii)(C) of this section setting out the unit’s annual emissions during the calendar year that preceded submission of the report.

(iii) The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph (d)(ii) of this section available for review upon request for inspection by the Division or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).

(iv) All requirements for construction or modification of a major source listed under 40 CFR 51, Appendix S, Section IV (A) shall apply. Notwithstanding the requirements of Chapter 6, Section 2(c)(v), the BACT analysis requirement is hereby superseded by the Appendix S, Section IV(A), Condition 1, LAER analysis requirement.

(v) Approval to construct does not relieve an owner or operator of the responsibility to comply with applicable provisions of this section, the Act or any other requirements under local, state or federal law.

(vi) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, then all the provisions of Chapter 6, Section 2 and 13 shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(e) Determining Credit for Emission Offsets. The baseline for determining credit for emission offsets is the emission limit in effect at the time the application to construct is filed, except that the offset baseline is the actual emission of the unit from which offset credit is obtained if the demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emission of sources located within a designated nonattainment area; or if there is no applicable emission limit. In determining credit for emission offsets, the following criteria shall be met:

(i) If the emissions limit allows greater emissions than the potential to emit of the unit, the emission offset credit is allowed only for the control below the potential to emit of the unit;

(ii) For an existing fuel combustion unit, credit shall be based on the emission limit for the type of fuel being burned at the time the application to construct is filed. If the existing source agrees to switch to a cleaner fuel at some future date, emission offset credits based on the allowable or actual emissions for the fuels involved may be allowed only if permit conditions specify an alternative control measure that would achieve the same degree of emission reduction if the source switched back to the dirtier fuel at some later date. The owner or operator will submit a demonstration to ensure that adequate long-term supplies of the new fuel are available before the Division grants emission offset credit for fuel switches;

(iii) Emission reductions achieved by shutting down an existing unit or curtailing production or operating hours below baseline levels may be credited if the reductions are surplus, permanent, quantifiable, federally enforceable, and the area has a federally-approved attainment plan. In addition, the shutdown or curtailed production must occur after August 7, 1977, or less than one year before the date of submitting the permit application, whichever is earlier.

Emission reductions may be credited in the absence of a federally-approved attainment plan if the shutdown or curtailment occurred on or after the date the application is filed for a new unit or if the applicant can establish that the proposed new unit is a replacement for the shutdown or curtailed unit, and the shutdown or curtailment occurred after August 7, 1977, or less than one year before the date of submitting the permit application, whichever is earlier;

(iv) Emission offset credit may not be allowed for replacing one hydrocarbon compound with another of lesser reactivity except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314, July 8, 1977);

(v) All emission reductions claimed as offset credit must be federally enforceable;

(vi) The permissible location of offsetting emissions shall be conducted in accordance with 40 CFR 51, Appendix S, section IV. D;

(vii) Credit for emissions reduction may be claimed to the extent that the Division has not relied on it in issuing a permit or in its demonstration of attainment or reasonable further progress;

- (viii) The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emission unit;
- (ix) External offsets or those emission limitations from sources not owned, operated, or controlled by an applicant for a permit shall be made through a revision of the permit conditions of the participating source or sources. At no time may the baseline be exceeded;
- (x) The offset ratio of total actual emissions reductions to the emissions increase shall be at least 1 to 1 unless an alternative ratio is provided in accordance with the ozone nonattainment offset requirements listed below in (x)(A) through (D):
- (A) The Administrator may impose an alternative ratio that is more stringent than the applicable numerical ratios listed in (B) through (D).
- (B) For ozone nonattainment areas subject to subpart 2, part D, title I of the Act, the ratio of total actual emissions reductions of VOCs to the emission increase of VOCs shall be as follows:
- (I) In any marginal nonattainment area for ozone--at least 1.1:1;
- (II) In any moderate nonattainment area for ozone--at least 1.15:1;
- (III) In any serious nonattainment area for ozone--at least 1.2:1;
- (IV) In any severe nonattainment area for ozone--at least 1.3:1 (except that the ratio may be at least 1.2:1 if the approved State Implementation Plan also requires all existing major sources in such nonattainment area to use BACT for the control of VOCs); and
- (V) In any extreme nonattainment area for ozone--at least 1.5:1 (except that the ratio may be at least 1.2:1 if the approved State Implementation Plan also requires all existing major sources in such nonattainment area to use BACT for the control of VOCs).
- (C) Notwithstanding the requirements of paragraph (x)(A) of this section, the ratio of total actual emissions reductions of VOCs to the emissions increase of VOCs shall be at least 1.15:1 for all areas within an ozone transport region that is subject to subpart 2, part D, title I of the Act, except for serious, severe and extreme nonattainment areas that are subject to subpart 2, part D, title I of the Act.
- (D) For ozone nonattainment areas subject to subpart 1, part D, title I of the Act (but are 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 VOCs to the emission increase of VOCs shall be at least 1:1.
- (f) Application in ozone, PM<sub>10</sub>, and PM<sub>2.5</sub> nonattainment areas
- (i) Requirements of this section which apply to major stationary sources and major modifications of VOCs shall also apply to nitrogen oxides emissions from major stationary sources and major modifications of nitrogen oxides in an ozone transport region or in any ozone nonattainment area, except in ozone nonattainment areas or portions of an ozone transport region where the EPA Administrator has granted a NO<sub>x</sub> waiver applying the standards set forth under section 182(f) of the Act and the waiver continues to apply.
- (ii) Except as provided under paragraph f(iii) below, requirements of this section which apply to major stationary sources and major modifications of PM<sub>10</sub> shall also apply to major stationary sources and major modifications of PM<sub>10</sub> precursors, except where the EPA Administrator determines that such sources do not contribute significantly to PM<sub>10</sub> levels that exceed the PM<sub>10</sub> ambient standards in the area.
- (iii) Requirements of this section shall not apply in the Sheridan PM<sub>10</sub> nonattainment area, where a major source construction ban is in place per the requirements of Chapter 6, Section 2(c)(ii)(B) of these regulations.
- (iv) In meeting the requirements of Section 13(e), the emission offsets obtained shall be for the same regulated NSR pollutant, with the following exception provided for PM<sub>2.5</sub>. Direct PM<sub>2.5</sub> emissions or emissions of precursors of PM<sub>2.5</sub> may be offset by direct PM<sub>2.5</sub> emissions or any PM<sub>2.5</sub> precursors

identified in the definition for “Regulated NSR pollutant” in Section 13(b) if such offsets comply with the interprecursor trading hierarchy and ratio established in the Wyoming State Implementation Plan.

(g) Actuals Plantwide Applicability Limitations (PALs).

(i) The Division may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements specified in paragraphs (g)(i)(A) through (O) of this section.

(A) Applicability.

(I) The term “PAL” shall mean “actuals PAL” throughout subsection (g)(i). The Division will not allow an actuals PAL for VOC or NO<sub>x</sub> for any major stationary source located in an extreme ozone nonattainment area.

(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 paragraphs (g)(i)(A) through (O) of this section, and complies with the PAL permit:

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

(2.) Does not have to be approved through a Chapter 6, Section 13 permit; and

(3.) Is not subject to the provisions in paragraph (d)(vi) of this section (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of Chapter 6, Section 13).

(III) Except as provided under paragraph (g)(i)(A)(II)(3.) of this section, a major stationary source shall continue to comply with all applicable Federal or State of Wyoming requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

(B) Definitions. The following definitions shall be used for actuals PALs consistent with paragraphs (g)(i)(A) through (O) of this section. When a term is not defined in the paragraphs below, it shall have the meaning given in paragraph (b) of this section, or in the Act.

**“Actuals PAL for a major stationary source”** means a PAL based on the baseline actual emissions (as defined in the definition for “Baseline actual emissions” in Section 13(b)) of all emissions units (as defined in the definition for “Emission Unit” in Section 13(b)) at the source, that emit or have the potential to emit the PAL pollutant.

**“Allowable emissions”** has the same meaning as in the definition for “Allowable emissions” in Section 13(b), except as this definition is modified according to paragraphs (I) and (II) of this definition.

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

(II) An emissions unit’s potential to emit shall be determined using the definition of “Potential to emit” in Section 13(b), except that the words “or enforceable as a practical matter” should be added after “federally enforceable”.

**“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 Act for nonattainment areas. (For example, in accordance with the definition of major stationary source in section 182(c) of the Act, an emissions unit would be a major emissions unit for VOCs 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 VOCs per year.)

**“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.

**“PAL effective period”** means the period beginning with the PAL effective date and ending 10 years later.

**“PAL major modification”** means, notwithstanding the definitions for “Major modification” and “Net emissions increase” in Section 13(b), 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.

**“PAL permit”** means the Chapter 6, Section 2 and Section 13 permit issued by the Division that establishes a PAL for a major stationary source.

**“PAL pollutant”** means the pollutant for which a PAL is established at a major stationary source.

**“Plantwide applicability limitation (PAL)”** means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with paragraphs (g)(i)(A) through (O) of this section.

**“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 the definition for **“Significant”** in Section 13(b) or in the 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 this section.

**“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 the definition for **“Significant”** in Section 13(b) or in the Act, whichever is lower.

(C) Permit Application Requirements. As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information in paragraphs (g)(i)(C)(I) through (III) of this section to the Division 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 of Wyoming 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; and

(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 paragraph (g)(i)(M)(I) of this section.

(D) General Requirements for Establishing PALs.

(I) The Division may establish a PAL at a major stationary source, provided that at a minimum, the requirements in paragraphs (g)(i)(D)(I)(1.) through (7.) of this section are met.

(1.) 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.

(2.) The PAL shall be established in a PAL permit that meets the public participation requirements in paragraph (g)(i)(E) of this section.

(3.) The PAL permit shall contain all the requirements of paragraph (g)(i)(G) of this section.

(4.) 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.

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

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

(7.) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in paragraphs (g)(i)(L) through (N) of this section 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 paragraph (e) of this section unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

(E) Public Participation Requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or increased, through a procedure that is consistent with Chapter 6, Section 2. This includes the requirement that the Division 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 Division must address all material comments before taking final action on the permit.

(F) Setting the 10-Year Actuals PAL Level.

(I) Except as provided in paragraph (g)(i)(F)(II) of this section, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 13(b)) 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 the definition of "Significant" in Section 13(b) or under the Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units; however, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Division 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 of Wyoming regulatory requirement(s) that the Division is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO<sub>x</sub> 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 paragraph (g)(i)(F)(I) of this section, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

(G) Contents of the PAL Permit. The PAL permit shall contain, at a minimum, the information in paragraphs (g)(i)(G)(I) through (X) of this section.

(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 paragraph (g)(i)(J) of this section before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Division;

(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 paragraph (g)(i)(I) of this section;

(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 paragraph (g)(i)(C)(III) of this section;

(VII) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under paragraph (g)(i)(M) of this section;

(VIII) A requirement to retain the records required under paragraph (g)(i)(M) of this section on site. Such records may be retained in an electronic format;

(IX) A requirement to submit the reports required under paragraph (g)(i)(N) of this section by the required deadlines; and

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

(H) PAL Effective Period and Reopening of the PAL Permit.

(I) PAL Effective Period. The PAL effective period shall be 10 years.

(II) Reopening of the PAL Permit.

(1.) During the PAL effective period, the Division 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 Section 13(e); and

c. Revise the PAL to reflect an increase in the PAL as provided under paragraph (g)(i)(K) of this section.

(2.) The Division 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 Division may impose on the major stationary source; and

c. Reduce the PAL if the Division 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.

(3.) Except for the permit reopening in paragraph (g)(i)(H)(II)(1.)a. of this section for the correction of typographical/calculation errors that do not increase the PAL level, all reopenings shall be carried out in accordance with the public participation requirements of paragraph (g)(i)(E) of this section.

(I) Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in paragraph (g)(i)(J) of this section shall expire at the end of the PAL effective period, and the requirements in paragraphs (g)(i)(I)(I) through (V) of this section 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 paragraphs (g)(i)(I)(I)(1.) and (2.) of this section.

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

(2.) The Division 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 Division determines is appropriate.

(II) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Division 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 Division issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (g)(i)(I)(I)(2.) of this section, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(IV) Any physical change or change in the method of operation at the major stationary source will be subject to Chapter 6, Section 13 requirements if such change meets the definition of “Major modification” in Section 13(b).

(V) The major stationary source owner or operator shall continue to comply with any State of Wyoming or Federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to paragraph (d)(vi) of this section, but were eliminated by the PAL in accordance with the provisions in paragraph (g)(i)(A)(II)(3.) of this section.

(J) Renewal of a PAL.

(I) The Division shall follow the procedures specified in paragraph (g)(i)(E) of this section in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Division.

(II) Application Deadline. A major stationary source owner or operator shall submit a timely application to the Division 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 paragraphs (g)(i)(J)(III)(1.) through (4.) of this section.

(1.) The information required in paragraphs (g)(i)(C)(I) through (III) of this section;

(2.) A proposed PAL level;

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

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

(IV) PAL Adjustment. In determining whether and how to adjust the PAL, the Division shall consider the options outlined in paragraphs (g)(i)(J)(IV)(1.) and (2.) of this section; however, in no case may any such adjustment fail to comply with paragraph (g)(i)(J)(IV)(3.) of this section.

(1.) If the emissions level calculated in accordance with paragraph (g)(i)(F) of this section is equal to or greater than 80 percent of the PAL level, the Division may renew the PAL at the same level without considering the factors set forth in paragraph (g)(i)(J)(IV)(2.) of this section; or

(2.) The Division 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 Division in its written rationale.

(3.) Notwithstanding paragraphs (g)(i)(J)(IV)(1.) and (2.) of this section:

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

b. The Division shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of paragraph (g)(i)(K) of this section (increasing a PAL).

(V) If the compliance date for a State of Wyoming or Federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Division has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or Chapter 6, Section 3 operating permit renewal, whichever occurs first.

(K) Increasing a PAL During the PAL Effective Period.

(I) The Division may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (g)(i)(K)(I)(1.) through (4.) of this section.

(1.) 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.

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

(3.) The owner or operator obtains a Chapter 6, Section 4 permit for all emissions unit(s) identified in paragraph (g)(i)(K)(I)(1.) of this section, 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 Chapter 6, Section 13 process (for example, LAER), even though they have also become subject to the PAL or continue to be subject to the PAL.

(4.) 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 Division shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with paragraph (g)(i)(K)(I)(2.) of this section), 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 paragraph (g)(i)(E) of this section.

(L) Monitoring Requirements for PALs.

(I) General Requirements.

(1.) 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.

(2.) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in paragraphs (g)(i)(L)(II)(1.) through (4.) of this section and must be approved by the Division.

(3.) Notwithstanding paragraph (g)(i)(L)(I)(2.) of this section, an alternative monitoring approach that meets paragraph (g)(i)(L)(I)(1.) of this section may be employed if approved by the Division.

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

(II) Minimum Performance Requirements for Approved Monitoring Approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (g)(i)(L)(III) through (IX) of this section:

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

(2.) CEMS;

(3.) CPMS or PEMS; and

(4.) 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:

(1.) 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;

(2.) 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

(3.) 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 Division 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:

(1.) CEMS must comply with applicable Performance Specifications found in 40 CFR part 60, Appendix B; and

(2.) 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:

(1.) 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

(2.) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Division, 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:

- (1.) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;
- (2.) The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and
- (3.) 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 Division 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 paragraphs (g)(i)(L)(III) through (VII) of this section, 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 Division shall, at the time of permit issuance:

- (1.) Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or
- (2.) 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 Division. Such testing must occur at least once every 5 years after issuance of the PAL.

(M) 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 subsection (g)(i) of this section 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:

- (1.) A copy of the PAL permit application and any applications for revisions to the PAL; and
- (2.) Each annual certification of compliance pursuant to Chapter 6, Section 3 and the data relied on in certifying the compliance.

(N) Reporting and Notification Requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Division in accordance with the applicable Chapter 6, Section 3 operating permit program. The reports shall meet the requirements in paragraphs (g)(i)(N)(I) through (III) of this section.

(I) Semi-annual Report. The semi-annual report shall be submitted to the Division within 30 days of the end of each reporting period. This report shall contain the information required in paragraphs (g)(i)(N)(I)(1.) through (7.) of this section.

- (1.) The identification of owner and operator and the permit number;
- (2.) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to paragraph (g)(i)(M)(I) of this section;
- (3.) 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;
- (4.) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period;

- (5.) 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;
  - (6.) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by paragraph (g)(i)(L)(VII) of this section; and
  - (7.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 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 Chapter 6, Section 3(h)(i)(C)(III)(2.) shall satisfy this reporting requirement. The deviation reports shall be submitted as prescribed by Chapter 6, Section 3(h)(i)(C)(III)(2.). The reports shall contain the following information:
- (1.) The identification of owner and operator and the permit number;
  - (2.) The PAL requirement that experienced the deviation or that was exceeded;
  - (3.) Emissions resulting from the deviation or the exceedance; and
  - (4.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 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 Division the results of any re-validation test or method within three months after completion of such test or method.
- (O) Transition Requirements.
- (I) The Division shall not issue a PAL that does not comply with the requirements in paragraphs (g)(i)(A) through (O) of this section after the EPA Administrator has approved this regulation into the Wyoming State Implementation Plan.
- (II) The Division may supersede any PAL which was established prior to the date of approval of this regulation by the Administrator of EPA with a PAL that complies with the requirements of paragraphs (g)(i)(A) through (O) of this section.
- (ii) 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.

#### Section 14. Incorporation by reference.

(a) Code of Federal Regulations (CFR). Except as otherwise noted, all Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices, revised and published as of July 1, 2017, not including any later amendments, are incorporated by reference. Copies of the Code of Federal Regulations are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Division of Air Quality, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at <http://deq.wyoming.gov/>. Copies of the CFRs can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at

<http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

## **Chapter 07. Monitoring Regulations**

### **Section 02. Continuous monitoring requirements for existing sources.**

**(a)** The owner or operator of any existing solid fossil fuel fired steam generator with a heat input greater than 250 million BTU per hour shall install, calibrate, operate, and maintain a continuous monitoring system for stack gas opacity.

**(i)** Such continuous monitoring equipment shall be demonstrated by the owners or operators to meet the performance specifications for such equipment as given in 40 CFR part 60, Appendix B.

**(ii)** Such continuous monitoring equipment shall complete a minimum of one cycle of sampling and analyzing for each successive ten-second period and one cycle of data recording for each successive six-minute period.

**(iii)** The owner or operator of such equipment shall:

(A) Record the zero and span drift in accordance with the method prescribed by the manufacturer of such instruments;

(B) Subject the instruments to the manufacturer's recommended zero and span check at least once daily unless the manufacturer has recommended adjustments at shorter intervals, in which case such recommendations shall be followed;

(C) Adjust the zero and span whenever the 24 hour zero drift or 24 hour calibration drift limits of, the applicable performance specifications in 40 CFR part 60, Appendix B, are exceeded; and

**(iv)** Instrument span shall be approximately 200 percent of the expected instrument data display output corresponding to the emission standard for the source.

**(v)** The owner or operator of a source subject to this regulation shall install the required continuous monitoring systems such that representative measurements of emissions from the affected facility are obtained. The location of such systems shall be approved by the Administrator.

**(vi)** The owner or operator of any facility subject to the requirements of this regulation shall submit a written report of excess emissions for each calendar quarter and the nature and cause of the excess emissions, if known. The averaging period used for data reporting shall be six minutes. The required report shall include as a minimum:

(A) The magnitude in actual percent opacity of all six-minute averages of opacity greater than the applicable opacity standard for each hour of operation of the facility. Average values may be obtained by integration over the averaging period or by arithmetically averaging a minimum of four equally spaced, instantaneous opacity measurements per minute. The date and time of the recorded excesses shall be included.

(B) The date and time identifying each period during which the continuous monitoring system was inoperative, except for zero and span checks, and the nature of system repairs or adjustments shall be reported. The Administrator may require proof of continuous monitoring system performance whenever system repairs or adjustments have been made.

(C) When no excess emissions have occurred and the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be included in the report.

(D) The owners or operators of affected facilities shall maintain a file of all information reported in the quarterly summaries, and all other data collected either by the continuous monitoring system for a minimum of two years from the date of collection of such data or submission of such summaries.

**(vii)** The reporting requirements of paragraph 23(a)(vi)(A) shall not apply during any period of monitoring system malfunction, provided that the source owner or operator shows, to the satisfaction of the Administrator, that the malfunction was unavoidable and is being repaired as expeditiously as practicable.

**(viii)** The owner or operator of any source subject to the regulation shall complete the installation and performance tests of the equipment required by this regulation and begin monitoring and recording within 18 months from promulgation of this regulation.

**(b)** The requirements for continuous opacity monitors set forth in paragraph 23(a) above shall not apply to an otherwise affected source if such source utilizes a wet type air pollution control device such that the

stack gas contains uncombined water vapor. In such cases, the Administrator may require the installation and operation of such alternate particulate emission continuous monitoring systems as he deems appropriate.

## **Chapter 8**

### **Nonattainment Area Regulations**

#### **Section 2. Sweetwater County Particulate Matter Regulations.**

(a) Notwithstanding other provisions in these regulations concerning the emission of particulate matter or required fugitive dust control measures, the requirements and emission limitations set forth in Chapter 8, Section 2(b) and (c) for the specific sources and activities enumerated are applicable. Sources and/or activities which cause particulate matter to be emitted into the air and which are not addressed in this section are subject to the requirements of other sections.

(b) Point Source Particulate Matter Emission Rate Allowables:

The following tables specify the maximum allowable particulate matter emission rate for each of the listed sources. The emission of particulate matter is measured as specified in Chapter 3, Section 2(h)(iv) of these regulations.

(i) Stauffer Chemical Company of Wyoming, Green River Soda Ash Plant.

Table (i) Stauffer Chemical Company of Wyoming, Green River Soda Ash Plant.

| <b><u>Source Description</u></b> | <b><u>Allowable Emission Rate (lb/hr)</u></b> |
|----------------------------------|-----------------------------------------------|
| #1 Boiler                        | 3.00                                          |
| #2 Boiler                        | 3.00                                          |
| #3 Boiler                        | N.A.                                          |
| #4 Boiler                        | 7.50                                          |
| #5 Boiler                        | 8.62                                          |
| #6 Boiler                        | 7.50                                          |
| ES-1                             | 30.6                                          |
| 2ES-1                            | 27.3                                          |
| 3ES-1                            | 29.2                                          |
| 3ES-2                            | 34.5                                          |
| 4SC-2                            | 51.6                                          |
| 4SC-3                            | 5.2                                           |
| 4SC-4                            | 52.6                                          |
| 4ES-201                          | 23.1                                          |
| Phase II Dryer-Cooler            | 12.0                                          |

(ii) Allied Chemical Corporation, Green River Works

Table (ii) Allied Chemical Corporation, Green River Works.

| <b><u>Source Description</u></b> | <b><u>Company ID</u></b> | <b><u>Allowable Emission Rate (lb/hr)</u></b> |
|----------------------------------|--------------------------|-----------------------------------------------|
| Crusher Building                 | GR-I-A                   | 3.0                                           |
| Prod. Loading                    | GR-I-B(1)                | 3.0                                           |
| Prod. Loading                    | GR-I-B(2)                | 3.0                                           |
| Calciner #1                      | GR-I-C                   | 20.0                                          |
| Calciner #2                      | GR-I-D                   | 25.0                                          |
| Calciner #3                      | GR-I-E                   | 20.0                                          |
| Dryer #1                         | GR-I-F                   | 4.0                                           |
| Dryer #2                         | GR-I-G                   | 4.0                                           |
| Dryer #3                         | GR-I-H                   | 4.0                                           |
| Housekeeping (North)             | GR-I-J(1)                | 2.0                                           |
| Housekeeping (South)             | GR-I-J(2)                | 2.0                                           |
| Product Cooler                   | GR-I-K                   | 2.0                                           |
| Coal Handling Tunnel             | CH-1                     | 1.7                                           |
| Coal Handling Gallery            | CH-2                     | 1.0                                           |
| Ore Bin Gallery                  | GR-II-A                  | 3.0                                           |
| Product Storage                  | GR-II-B                  | 4.0                                           |
| Calciner #4                      | GR-II-C                  | 20.0                                          |
| Calciner #5                      | GR-II-D                  | 20.0                                          |
| Dissolver #1                     | GR-II-E-1                | 3.0                                           |
| Dissolver #2                     | GR-II-E-2                | 3.0                                           |
| Dryer #4                         | GR-II-F                  | 4.0                                           |
| Dryer #5                         | GR-II-G                  | 4.0                                           |
| Dryer #6                         | GR-II-H                  | 4.0                                           |
| Housekeeping                     | GR-II-J                  | 10.0                                          |
| Product Cooler                   | GR-II-K                  | 3.0                                           |
| Lime Storage                     | GR-II-O                  | 0.1                                           |
| Reclaim Ore System               | RO-1                     | 1.4                                           |
| Crusher                          | GR-III-A                 | 3.0                                           |
| Ore Conveyor                     | GR-III-B                 | 1.0                                           |
| Ore Gallery                      | GR-III-C                 | 1.0                                           |
| Calciner #1                      | GR-III-D                 | 37.9                                          |
| Calciner #2                      | GR-III-E                 | 37.9                                          |
| Dissolver #1 (East)              | GR-III-F                 | 2.0                                           |
| Dissolver #2 (West)              | GR-III-G                 | 2.0                                           |
| Filter Aid                       | GR-III-H                 | NIL                                           |
| Dryer #1                         | GR-III-K                 | 1.5                                           |
| Dryer #2                         | GR-III-L                 | 1.5                                           |
| Dryer #3                         | GR-III-M                 | 1.5                                           |
| Dryer #4                         | GR-III-N                 | 1.5                                           |
| Dryer #5                         | GR-III-P                 | 1.5                                           |
| Dryer Vent                       | GR-III-R                 | 2.0                                           |
| Prod. Cooler #1                  | GR-III-S                 | 1.0                                           |
| Prod. Cooler #2                  | GR-III-T                 | 1.0                                           |

| <b><u>Source Description</u></b> | <b><u>Company ID</u></b> | <b><u>Allowable Emission Rate (lb/hr)</u></b> |
|----------------------------------|--------------------------|-----------------------------------------------|
| Housekeeping #1                  | GR-III-U                 | 3.0                                           |
| Housekeeping #2                  | GR-III-V                 | 3.0                                           |
| Crusher                          | A-305                    | 2.0                                           |
| Crusher                          | A-309                    | 2.0                                           |
| “C” Boiler                       | GR-II-L                  | 50.0                                          |
| “D” Boiler                       | GR-III-W                 | 80.0                                          |

(iii) FMC Corporation, Green River

Table (iii) FMC Corporation, Green River.

| <b><u>Source Description</u></b> | <b><u>Company ID</u></b> | <b><u>Allowable Emission Rate (lb/hr)</u></b> |
|----------------------------------|--------------------------|-----------------------------------------------|
| Crusher                          | PA-4; PA-5               | 2.5                                           |
| Dissolver                        | PA-6                     | 1.0                                           |
| Dissolver                        | PA-7                     | 1.0                                           |
| Dissolver                        | PA-8                     | 1.0                                           |
| Dissolver                        | PA-9                     | 1.0                                           |
| Sesqui Dryer                     | RA-1                     | 10.0                                          |
| Dust Collector                   | RA-2                     | 2.0                                           |
| Calciner                         | RA-13                    | 8.0                                           |
| Calciner                         | RA-14                    | 4.0                                           |
| Calciner                         | RA-15                    | 4.0                                           |
| Calciner                         | RA-16                    | 4.0                                           |
| Calciner Scrubber                | RA-22                    | 35.0                                          |
| Calciner Scrubber                | RA-23                    | 35.0                                          |
| Calciner Scrubber                | RA-24                    | 45.0                                          |
| Fluid Bed Calciner               | RA-25                    | 26.5                                          |
| Dust Collector                   | RA-27                    | 3.0                                           |
| Dust Collector                   | RA-33                    | 3.0                                           |
| Phosphorus Furnace               | PP-12                    | 15.0                                          |
| Spray Dryer                      | PP-21                    | 28.0                                          |
| Dust Collector                   | PP-24                    | 4.0                                           |
| Calciner                         | PP-25                    | 15.0                                          |
| Dust Collector                   | PP-26                    | 2.0                                           |
| Dust Collector                   | PP-27                    | 2.0                                           |
| Trona Calciner                   | NA-2                     | 3.0                                           |
| Dust Collection                  | NA-3                     | 10.0                                          |
| Cooler                           | NA-5                     | 6.0                                           |
| Dust Collection                  | Mono 2                   | 2.6                                           |
| Dust Collection                  | Mono 3                   | 1.3                                           |
| Dust Collection                  | Mono 4                   | 2.0                                           |
| Calciner                         | Mono 5                   | 53.0                                          |
| Dryer                            | Mono 6                   | 20.0                                          |
| Dust Collection                  | Mono 7                   | 2.0                                           |

| <b><u>Source Description</u></b> | <b><u>Company ID</u></b> | <b><u>Allowable Emission Rate (lb/hr)</u></b> |
|----------------------------------|--------------------------|-----------------------------------------------|
| Dust Collection                  | Mono 8                   | 1.9                                           |
| Dust Collection                  | NS-2                     | 0.5                                           |
| Calciner                         | NS-3                     | 41.0                                          |
| Crusher                          | NS-4                     | 1.0                                           |
| Dissolver                        | NS-5                     | 2.7                                           |
| Dryer                            | NS-6                     | 20.0                                          |
| Coal Dust Collection             | NS-7                     | 0.5                                           |
| Coal Dust Collection             | NS-8                     | 0.5                                           |
| Coal Dust Collection             | NS-9                     | 0.5                                           |
| Gas/Oil Boiler                   | PH-1                     | 8.4                                           |
| Gas/Oil Boiler                   | PH-2                     | 4.2                                           |
| Gas/Oil Boiler                   | PH-3                     | 8.4                                           |
| Gas/Oil Boiler                   | Mono I                   | 7.5                                           |
| Coal Boiler                      | NS-1A                    | 45.0                                          |
| Coal Boiler                      | NS-1B                    | 45.0                                          |

(iv) Church and Dwight Company

Table (iv) Church and Dwight Company

| <b><u>Source Description</u></b> | <b><u>Company ID</u></b> | <b><u>Allowable Emission Rate (lb/hr)</u></b> |
|----------------------------------|--------------------------|-----------------------------------------------|
| Soda Ash Unloading               | SA                       | 3.0                                           |
| Throwing Box Scrubber            | TB                       | 2.0                                           |
| Jeffrey Dryer Scrubber           | JD                       | 3.0                                           |
| #1 Process Dryer                 | 1PD                      | 2.0                                           |
| #2 Process Dryer                 | 2PD                      | 5.0                                           |
| #3 Process Dryer                 | 3PD                      | 2.0                                           |
| #1 House Dust System             | 1HDS                     | 2.0                                           |
| #2 House Dust System             | 2HDS                     | 2.0                                           |
| #3 House Dust System             | 3HDS                     | 2.0                                           |

(c) Fugitive Dust Controls. The following subparagraphs specify fugitive dust control measures required for the delineated activities and sources and the schedules for completion of such measures. If, at any time, the Administrator is satisfied that the applicable suspended particulate matter standards have been attained and will be maintained, uncompleted programs may be completed at the option of the owner of the facility if failure to complete the same will not in the opinion of the Administrator adversely affect such attainment status.

(i) Allied Chemical, Green River

Unpaved Roads – Pave all roads in facility areas that encounter frequent traffic and maintain such roads in a clean condition through the use of a vacuum sweeper as required. Complete: November 30, 1980.

Distressed Area – Reclaim the distressed area outside the east fence or apply suitable soil binders. Complete: December 1, 1981.

Coal Stockpile – The active coal stockpile is to be enclosed or a dust suppression system installed and used during periods of activity. Complete: December 31, 1982.

Equipment Movement – Equipment movement around the periphery of the trona stockpile should be further reduced. Complete: June 1, 1979.

(ii) FMC Corporation

Stockpile – Installation and effective operation of the following abatement program elements is required to control excessive fugitive emissions from the coal handling facilities.

(A) Dust collectors with pick-ups at the transfer points.

(B) A dust suppression spray system to apply wetting agents to coal being unloaded, transferred, reclaimed, crushed and handled.

(C) Rapid unloading railroad cars.

(D) Use of counter weighted hood-type doors on the coal stacker.

Ore Stockpile – Install variable height booms so that the free fall distance of the ore is held to a minimum and install shroud (wind shield) to contain the ore as much as possible after it drops from the end of the boom. Complete: Sesqui Areas – January 1, 1981; Mono Areas – April 1, 1981.

Loadout Facilities – The mono loadout facilities are to be equipped with hoods around product chutes of adequate size to cap hatches of slot top or hatch top rail cars. The resultant dust generated due to displacement shall be aspirated to adequate dust collectors. The above requirements also apply to any truck bulk product loadout facilities. Complete: July 1, 1982.

Unpaved Roads – All unpaved roads that encounter frequent traffic in the facility area shall be paved and maintained in a clean condition through the use of a vacuum sweeper as required. Infrequently traveled roads are to be treated with oil or other suitable dust suppressants. Complete: October 1, 1980.

Overflow Chutes – Overflow or spillover chutes which discharge in the open, are to be eliminated or emptied into closed containers. Chutes for housekeeping purposes are to be eliminated and replaced with a vacuum dust system that utilizes a dust collector. Complete: October 1, 1980.

(iii) Stauffer Chemical, Green River

Ore Stockpile – Install and utilize a variable height boom so that the free fall distance of

the ore is held to a minimum. A shroud (wind shield) to contain the ore as much as possible after it drops from the end of the boom is to be installed and utilized. Complete: July 1981.

Product Loadout – Rail loadout facilities are to be equipped with hoods around product chutes of adequate size to cap hatches of slot and portal top rail cars. The resultant dust generated due to displacement should be aspirated to adequate dust collectors. The above requirements will also apply to any truck bulk product loadout facilities. Maintenance or redesigning of existing baghouse collectors will also be necessary at these facilities. Complete: September 1982.

Product Handling and Storage – Product silo vents are to be equipped with dust collectors. Proper maintenance and/or redesign of existing dust collectors is also required in this area. Complete: September 1982.

Crusher Area – The removing of accumulated dust from crusher building by sweeping or dumping the material outside the building is to be eliminated. Housekeeping chores in this area as well as other areas are to be accomplished by the use of a vacuum system and dust collector. Existing baghouse collectors are to be properly maintained and if necessary other control measures installed and utilized at all transfer points in and around the crusher area. Complete: September 1982.

Overflow Chutes – Overflow or spillover chutes which discharge in the open are to be eliminated or emptied into closed containers. Complete: March 1979.

Unpaved Roads – All roads within the facility area that encounter frequent traffic are to be paved and maintained in a clean condition through the use of a vacuum sweeper as required. All other less frequently used roads are to be treated with oil or other suitable dust suppressants. Complete: September 1982.

Distressed Areas – Distressed areas to the south of the facility which contain distressed product piles and tailing pond dredgings are to be reclaimed and treated with dust suppressants. Complete: September 1979.

### **Section 3. Conformity of General Federal Actions to State Implementation Plans.**

#### **(a) Prohibition.**

(i) No department, agency or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan.

(ii) A Federal agency must make a determination that a Federal action conforms to the applicable implementation plan in accordance with the requirements of this section before the action is taken.

(iii) [Reserved]

(iv) Notwithstanding any provision of this section, a determination that an action is in conformance with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, the National Environmental Policy Act (NEPA), or the CAA.

(v) If an action would result in emissions originating in more than one nonattainment or maintenance area, the conformity must be evaluated for each area separately.

(b) Definitions. Terms used but not defined in this section shall have the meaning given them by the CAA and EPA's regulations (40 CFR Chapter 1), in that order of priority.

***“Affected Federal land manager”*** means the Federal agency or the Federal official charged with direct responsibility for management of an area designated Class I under the CAA (42 U.S.C. 7472) that is located within 100 km of the proposed Federal action.

***“Applicability analysis”*** is the process of determining if your Federal action must be supported by a conformity determination.

***“Applicable implementation plan or applicable SIP”*** means the portion (or portions) of the SIP or most recent revision thereof, which has been approved under section 110(k) of the CAA, or promulgated under section 110(c) of the CAA (Federal implementation plan), or a plan promulgated or approved pursuant to section 301(d) of the CAA (Tribal implementation plan or TIP) and which implements the relevant requirements of the CAA.

***“Areawide air quality modeling analysis”*** means an assessment on a scale that includes the entire nonattainment or maintenance area which uses an air quality dispersion model or photochemical grid model to determine the effects of emissions on air quality, for example, an assessment using EPA's community multi-scale air quality (CMAQ) modeling system.

***“CAA”*** means the Clean Air Act, as amended.

***“Cause or contribute to a new violation”*** means a Federal action that:

(i) Causes a new violation of a national ambient air quality standard (NAAQS) at a location in a nonattainment or maintenance area which would otherwise not be in violation of the standard during the future period in question if the Federal action were not taken; or

(ii) Contributes, in conjunction with other reasonably foreseeable actions, to a new violation of a NAAQS at a location in a nonattainment or maintenance area in a manner that would increase the frequency or severity of the new violation.

***“Caused by”***, as used in the terms “direct emissions” and “indirect emissions,” means emissions that would not otherwise occur in the absence of the Federal action.

***“Confidential business information (CBI)”*** means information that has been determined by a Federal agency, in accordance with its applicable regulations, to be a trade secret, or commercial or financial information obtained from a person and privileged or confidential and is exempt from required disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(4)).

***“Conformity determination”*** is the evaluation (made after an applicability analysis is completed) that a Federal action conforms to the applicable implementation plan and meets the requirements of this section.

***“Conformity evaluation”*** is the entire process from the applicability analysis through the conformity determination that is used to demonstrate that the Federal action conforms to the requirements of this section.

***“Continuing program responsibility”*** means a Federal agency has responsibility for emissions caused by:

- (i) Actions it takes itself; or
- (ii) Actions of non-Federal entities that the Federal agency, in exercising its normal programs and authorities, approves, funds, licenses or permits, provided the agency can impose conditions on any portion of the action that could affect the emissions.

***“Continuous program to implement”*** means that the Federal agency has started the action identified in the plan and does not stop the actions for more than an 18-month period, unless it can demonstrate that such a stoppage was included in the original plan.

***“Criteria pollutant or standard”*** means any pollutant for which there is established a NAAQS at 40 CFR Part 50.

***“Direct emissions”*** means those emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and originate in a nonattainment or maintenance area and occur at the same time and place as the action and are reasonably foreseeable.

***“Emergency”*** means a situation where extremely quick action on the part of the Federal agencies involved is needed and where the timing of such Federal activities makes it impractical to meet the requirements of this section, such as natural disasters like hurricanes or earthquakes, civil disturbances such as terrorist acts and military mobilizations.

***“Emissions budgets”*** are those portions of the applicable SIP’s projected emission inventories that describe the levels of emissions (mobile, stationary, area, etc.) that provide for meeting reasonable further progress milestones, attainment, and/or maintenance for any criteria pollutant or its precursors.

***“Emission inventory”*** means a listing of information on the location, type of source, type and quantity of pollutant emitted as well as other parameters of the emissions.

***“Emissions offsets”***, for purposes of Subsection (h), are emissions reductions which are quantifiable, consistent with the applicable SIP attainment and reasonable further progress demonstrations, surplus to reductions required by, and credited to, other applicable SIP provisions, enforceable at both the State and Federal levels, and permanent within the timeframe specified by the program.

***“EPA”*** means the U.S. Environmental Protection Agency.

***“Federal action”*** means any activity engaged in by a department, agency, or instrumentality of the Federal government, or any activity that a department, agency or instrumentality of the Federal government supports in any way, provides financial assistance for, licenses, permits, or approves, other than activities related to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 *et seq.*). Where the Federal action is a permit, license, or other approval for some aspect of a non-Federal undertaking, the relevant activity is the part, portion, or phase or the non-Federal undertaking that requires the Federal permit, license, or approval.

***“Federal agency”*** means, for purposes of this section, a Federal department, agency, or instrumentality of the Federal government.

***“Increase the frequency or severity of any existing violation of any standard in any area”*** means to cause a nonattainment area to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented.

***“Indirect emissions”*** means those emissions of a criteria pollutant or its precursors:

- (i) That are caused or initiated by the Federal action and originate in the same nonattainment or maintenance area but occur at a different time or place as the action;
- (ii) That are reasonably foreseeable;
- (iii) That the Federal agency can practically control; and
- (iv) For which the Federal agency has continuing program responsibility.

For the purposes of this definition, even if a Federal licensing, rulemaking or other approving action is a required initial step for a subsequent activity that causes emissions, such initial steps do not mean that a Federal agency can practically control any resulting emissions.

***“Local air quality modeling analysis”*** means an assessment of localized impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadways on a Federal facility, which uses an air quality dispersion model (e.g., Industrial Source Complex Model or Emission and Dispersion Model System) to determine the effects of emissions on air quality.

**“Maintenance area”** means an area that was designated as nonattainment and has been re-designated in 40 CFR Part 81 to attainment, meeting the provisions of section 107(d)(3)(E) of the CAA and has a maintenance plan approved under section 175A of the CAA.

**“Maintenance plan”** means a revision to the applicable SIP, meeting the requirements of section 175A of the CAA.

**“Metropolitan Planning Organization (MPO)”** means the policy board of an organization created as a result of the designation process in 23 U.S.C. 134(d).

**“Milestone”** has the meaning given in sections 182(g)(1) and 189(c)(1) of the CAA.

**“Mitigation measure”** means any method of reducing emissions of the pollutant or its precursor taken at the location of the Federal action and used to reduce the impact of the emissions of that pollutant caused by the action.

**“National ambient air quality standards (NAAQS)”** are those standards established pursuant to section 109 of the CAA and include standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO<sub>2</sub>), ozone, particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), and sulfur dioxide (SO<sub>2</sub>).

**“NEPA”** is the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

**“Nonattainment area (NAA)”** means an area designated as nonattainment under section 107 of the CAA and described in 40 CFR Part 81.

**“Precursors of a criteria pollutant”** are:

(i) For ozone, nitrogen oxides (NO<sub>x</sub>), unless an area is exempted from NO<sub>x</sub> requirements under section 182(f) of the CAA, and volatile organic compounds (VOC).

(ii) For PM<sub>10</sub>, those pollutants described in the PM<sub>10</sub> nonattainment area applicable SIP as significant contributors to the PM<sub>10</sub> levels.

(iii) For PM<sub>2.5</sub>:

(A) Sulfur dioxide (SO<sub>2</sub>) in all PM<sub>2.5</sub> nonattainment and maintenance areas,

(B) Nitrogen oxides in all PM<sub>2.5</sub> nonattainment and maintenance areas unless both the State and EPA determine that it is not a significant precursor, and

(C) Volatile organic compounds (VOC) and ammonia (NH<sub>3</sub>) only in PM<sub>2.5</sub> nonattainment or maintenance areas where either the State or EPA determines that they are significant precursors.

**“Reasonably foreseeable emissions”** are projected future direct and indirect emissions that are identified at the time the conformity determination is made; the location of such emissions is known and the emissions are quantifiable as described and documented by the Federal agency based on its own information and after reviewing any information presented to the Federal agency.

**“Regional water and/or wastewater projects”** include construction, operation, and maintenance of water or wastewater conveyances, water or wastewater treatment facilities, and water storage reservoirs which affect a large portion of a nonattainment or maintenance area.

**“Restricted information”** is information that is privileged or that is otherwise protected from disclosure pursuant to applicable statutes, Executive Orders, or regulations. Such information includes but is not limited to: Classified national security information, protected critical infrastructure information, sensitive security information, and proprietary business information.

**“Take or start the Federal action”** means the date that the Federal agency signs or approves the permit, license, grant or contract or otherwise physically begins the Federal action that requires a conformity evaluation under this section.

**“Total of direct and indirect emissions”** means the sum of direct and indirect emissions increases and decreases caused by the Federal action; i.e., the “net” emissions considering all direct and indirect emissions. The portion of emissions which are exempt or presumed to conform under Subsections (c)(iii), (iv), (v), or (vi) are not included in the “total of direct and indirect emissions.” The “total of direct and indirect emissions” includes emissions of criteria pollutants and emissions of precursors of criteria pollutants.

(c) Applicability.

(i) Conformity determinations for Federal actions related to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.) must meet the procedures and criteria of Chapter 8, Section 4, in lieu of the procedures set forth in this section.

(ii) For Federal actions not covered by paragraph (i) of this subsection, a conformity determination is required for each criteria pollutant or precursor where the total of direct and indirect emissions of the criteria pollutant or precursor in a nonattainment or maintenance area caused by a Federal action would equal or exceed any of the rates in paragraphs (ii)(A) or (B) of this subsection.

(A) For purposes of paragraph (ii) of this subsection, the following rates apply in nonattainment areas (NAAs):

| <b>Criteria Pollutant</b>         | <b>Tons/Year</b> |
|-----------------------------------|------------------|
| Ozone (VOCs or NO <sub>x</sub> ): |                  |
| Serious NAAs                      | 50               |

| <b><u>Criteria Pollutant</u></b>                                     | <b><u>Tons/Year</u></b> |
|----------------------------------------------------------------------|-------------------------|
| Severe NAAs                                                          | 25                      |
| Extreme NAAs                                                         | 10                      |
| Other ozone NAAs outside an ozone transport region:                  | 100                     |
| Other ozone NAAs inside an ozone transport region:                   |                         |
| VOC                                                                  | 50                      |
| NO <sub>x</sub>                                                      | 100                     |
| Carbon monoxide:                                                     |                         |
| All NAAs                                                             | 100                     |
| SO <sub>2</sub> or NO <sub>2</sub> :                                 |                         |
| All NAAs                                                             | 100                     |
| PM <sub>10</sub> :                                                   |                         |
| Moderate NAAs                                                        | 100                     |
| Serious NAAs                                                         | 70                      |
| PM <sub>2.5</sub> :                                                  |                         |
| Direct emissions                                                     | 100                     |
| SO <sub>2</sub>                                                      | 100                     |
| NO <sub>x</sub> (unless determined not to be significant precursors) | 100                     |
| VOC or ammonia (if determined to be significant precursors)          | 100                     |
| Pb:                                                                  |                         |
| All NAAs                                                             | 25                      |

(B) For purposes of paragraph (ii) of this subsection, the following rates apply in maintenance areas:

| <b><u>Criteria Pollutant</u></b>                               | <b><u>Tons/Year</u></b> |
|----------------------------------------------------------------|-------------------------|
| Ozone (NO <sub>x</sub> , SO <sub>2</sub> or NO <sub>2</sub> ): |                         |
| All Maintenance Areas                                          | 100                     |
| Ozone (VOCs):                                                  |                         |
| Maintenance areas inside an ozone transport region             | 50                      |
| Maintenance areas outside an ozone transport region            | 100                     |
| Carbon monoxide:                                               |                         |
| All maintenance areas                                          | 100                     |

| <b><u>Criteria Pollutant</u></b>                                      | <b><u>Tons/Year</u></b> |
|-----------------------------------------------------------------------|-------------------------|
| PM <sub>10</sub> :                                                    |                         |
| All maintenance areas                                                 | 100                     |
| PM <sub>2.5</sub> :                                                   |                         |
| Direct emissions                                                      | 100                     |
| SO <sub>2</sub>                                                       | 100                     |
| NO <sub>x</sub> (unless determined not to be significant precursors): | 100                     |
| VOC or ammonia (if determined to be significant precursors):          | 100                     |
| Pb:                                                                   |                         |
| All maintenance areas                                                 | 25                      |

(iii) The requirements of this section shall not apply to the following Federal actions:

(A) Actions where the total of direct and indirect emissions are below the emissions levels specified in paragraph (ii) of this subsection.

(B) Actions which would result in no emissions increase or an increase in emissions that is clearly de minimus:

(I) Judicial and legislative proceedings.

(II) Continuing and recurring activities such as permit renewals where activities conducted will be similar in scope and operation to activities currently being conducted.

(III) Rulemaking and policy development and issuance.

(IV) Routine maintenance and repair activities, including repair and maintenance of administrative sites, roads, trails, and facilities.

(V) Civil and criminal enforcement activities, such as investigations, audits, inspections, examinations, prosecutions, and the training of law enforcement personnel.

(VI) Administrative actions such as personnel actions, organization changes, debt management or collection, cash management, internal agency audits, program budget proposals, and matters relating to the administration and collection of taxes, duties and fees.

(VII) The routine, recurring transportation of material and personnel.

(VIII) Routine movement of mobile assets, such as ships and aircraft, in home port reassignments and stations (when no new support facilities or personnel are required) to perform as operational groups and/or for repair or overhaul.

(IX) Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site.

(X) Actions, such as the following, with respect to existing structures, properties, facilities and lands where future activities conducted will be similar in scope and operation to activities currently being conducted at the existing structures, properties, facilities, and lands; for example, relocation of personnel, disposition of federally-owned existing structures, properties, facilities, and lands, rent subsidies, operation and maintenance cost subsidies, the exercise of receivership or conservatorship authority, assistance in purchasing structures, and the production of coins and currency.

(XI) The granting of leases, licenses such as for exports and trade, permits, and easements where activities conducted will be similar in scope and operation to activities currently being conducted.

(XII) Planning, studies, and provision of technical assistance.

(XIII) Routine operation of facilities, mobile assets and equipment.

(XIV) Transfers of ownership, interests, and titles in land, facilities, and real and personal properties, regardless of the form or method of the transfer.

(XV) The designation of empowerment zones, enterprise communities, or viticultural areas.

(XVI) Actions by any of the Federal banking agencies or the Federal Reserve Banks, including actions regarding charters, applications, notices, licenses, the supervision or examination of depository institutions or depository institution holding companies, access to the discount window, or the provision of financial services to banking organizations or to any department, agency or instrumentality of the United States.

(XVII) Actions by the Board of Governors of the Federal Reserve System or any Federal Reserve Bank necessary to affect monetary or exchange rate policy.

(XVIII) Actions that implement a foreign affairs function of the United States.

(XIX) Actions (or portions thereof) associated with transfers of land, facilities, title, and real properties through an enforceable contract or lease agreement

where the delivery of the deed is required to occur promptly after a specific, reasonable condition is met, such as promptly after the land is certified as meeting the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and where the Federal agency does not retain continuing authority to control emissions associated with the lands, facilities, title, or real properties.

(XX) Transfers of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity and assignments of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity for subsequent deeding to eligible applicants.

(XXI) Actions by the Department of the Treasury to effect fiscal policy and to exercise the borrowing authority of the United States.

(XXII) Air traffic control activities and adopting approach, departure, and enroute procedures for aircraft operations above the mixing height specified in the applicable SIP. Where the applicable SIP does not specify a mixing height, the Federal agency can use the 3,000 feet above ground level as a default mixing height, unless the agency demonstrates that use of a different mixing height is appropriate because the change in emissions at and above that height caused by the Federal action is *de minimis*.

(C) Actions where the emissions are not reasonably foreseeable, such as the following:

(I) Initial Outer Continental Shelf lease sales which are made on a broad scale and are followed by exploration and development plans on a project level.

(II) Electric power marketing activities that involve the acquisition, sale and transmission of electric energy.

(D) Actions which implement a decision to conduct or carry out a conforming program such as prescribed burning actions which are consistent with a conforming land management plan.

(iv) Notwithstanding the other requirements of this section, a conformity determination is not required for the following Federal actions (or portion thereof):

(A) The portion of an action that includes major or minor new or modified stationary sources that require a permit under the new source review (NSR) program (Section 110(a)(2)(C) and Section 173 of the CAA) or the prevention of significant deterioration (PSD) program (Title I, part C of the CAA);

(B) Actions in response to emergencies which are typically commenced on the order of hours or days after the emergency and, if applicable, which meet the requirements of paragraph (v) of this subsection;

(C) Research, investigations, studies, demonstrations, or training (other than those exempted under paragraph (iii)(B) of this subsection), where no environmental detriment is incurred and/or, the particular action furthers air quality research, as determined by the State agency primarily responsible for the applicable SIP;

(D) Alteration and additions of existing structures as specifically required by new or existing applicable environmental legislation or environmental regulations (e.g., hush houses for aircraft engines and scrubbers for air emissions);

(E) Direct emissions from remedial and removal actions carried out under CERCLA and associated regulations to the extent such emissions either comply with the substantive requirements of the PSD/NSR permitting program or are exempted from other environmental regulation under the provisions of CERCLA and applicable regulations issued under CERCLA.

(v) Federal actions which are part of a continuing response to an emergency or disaster under paragraph (iv)(B) of this subsection and which are to be taken more than 6 months after the commencement of the response to the emergency or disaster under paragraph (iv)(B) of this subsection are exempt from the requirements of this section only if:

(A) The Federal agency taking the actions makes a written determination that, for a specified period not to exceed an additional 6 months, it is impractical to prepare the conformity analyses which would otherwise be required, and the actions cannot be delayed due to overriding concerns for public health and welfare, national security interests and foreign policy commitments; or

(B) For actions which are to be taken after those actions covered by paragraph (v)(A) of this subsection, the Federal agency makes a new determination as provided in paragraph (v)(A) of this subsection and:

(I) Provides a draft copy of the written determinations required to affected EPA Regional office(s), the affected State(s) and/or air pollution control agencies, and any Federal recognized Indian tribal government in the nonattainment or maintenance area. Those organizations must be allowed 15 days from the beginning of the extension period to comment on the draft determination; and

(II) Within 30 days after making the determination, publish a notice of the determination by placing a prominent advertisement in a daily newspaper of general circulation in the area affected by the action.

(C) If additional actions are necessary in response to an emergency or disaster under paragraph (iv)(B) of this subsection beyond the specified time period in paragraph (v)(B) of this subsection, a Federal agency can make a new written determination as described in (v)(B) of this subsection for as many 6-month periods as needed, but in no case shall this exemption extend beyond three 6-month periods except where an agency:

(I) Provides information to EPA and the State stating that the conditions that gave rise to the emergency exemption continue to exist and how such conditions effectively prevent the agency from conducting a conformity evaluation.

(vi) Notwithstanding other requirements of this section, actions specified by individual Federal agencies that have met the criteria set forth in either paragraphs (vii)(A), (vii)(B), or (vii)(C) of this subsection and the procedures set forth in paragraph (viii) of this subsection are “presumed to conform”, except as provided in paragraph (x) of this subsection. Actions specified by individual Federal agencies as “presumed to conform” may not be used in combination with one another when the total direct and indirect emissions from the combination of actions would equal or exceed any of the rates specified in paragraphs (ii)(A) or (ii)(B) of this subsection.

(vii) The Federal agency must meet the criteria for establishing activities that are presumed to conform by fulfilling the requirements set forth in either paragraphs (vii)(A), (vii)(B), or (vii)(C) of this subsection:

(A) The Federal agency must clearly demonstrate using methods consistent with this section that the total of direct and indirect emissions from the type of activities which would be presumed to conform would not:

(I) Cause or contribute to any new violation of any standard in any area;

(II) Interfere with provisions in the applicable SIP for maintenance of any standard;

(III) Increase the frequency or severity of any existing violation of any standard in any area; or

(IV) Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of:

(1.) A demonstration of reasonable further progress;

(2.) A demonstration of attainment;

(3.) A maintenance plan; or

(B) The Federal agency must provide documentation that the total of direct and indirect emissions from such future actions would be below the emission rates for a conformity determination that are established in paragraph (ii) of this subsection, based, for example, on similar actions taken over recent years.

(C) The Federal agency must clearly demonstrate that the emissions

from the type or category of actions and the amount of emissions from the action are included in the applicable SIP and the State, local, or tribal air quality agencies responsible for the SIP(s) provide written concurrence that the emissions from the actions along with all other expected emissions in the area will not exceed the emission budget in the SIP.

(viii) In addition to meeting the criteria for establishing exemptions set forth in paragraphs (vii)(A), (vii)(B), or (vii)(C) of this subsection, the following procedures must also be complied with to presume that activities will conform:

(A) The Federal agency must identify through publication in the Federal Register its list of proposed activities that are “presumed to conform” and the basis for the presumptions. The notice must clearly identify the type and size of the action that would be “presumed to conform” and provide criteria for determining if the type and size of action qualifies it for the presumption;

(B) The Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies and, where applicable, the agency designated under §174 of the CAA and the MPO and provide at least 30 days for the public to comment on the list of proposed activities “presumed to conform”. If the “presumed to conform” action has regional or national application (e.g., the action will cause emission increases in excess of the *de minimis* levels identified in paragraph (ii) of this subsection in more than one of EPA’s Regions), the Federal agency, as an alternative to sending it to EPA Regional Offices, can send the draft conformity determination to U.S. EPA, Office of Air Quality Planning and Standards;

(C) The Federal Agency must document its response to all the comments received and make the comments, response, and final list of activities available to the public upon request; and

(D) The Federal agency must publish the final list of such activities in the Federal Register.

(ix) Emissions from the following actions are “presumed to conform”:

(A) Actions at installations with facility-wide emission budgets meeting the requirements in Subsection (k) provided that the State has included the emission budget in the EPA-approved SIP and the emissions from the action along with all other emissions from the installation will not exceed the facility-wide emission budget.

(B) Prescribed fires conducted in accordance with a smoke management program (SMP) which meets the requirements of EPA’s Interim Air Quality Policy on Wildland and Prescribed Fires or an equivalent replacement EPA policy.

(C) Emissions for actions that the State identifies in the EPA-approved SIP as “presumed to conform”.

(x) Even though an action would otherwise be “presumed to conform” under

paragraphs (vi) or (ix) of this subsection, an action shall not be “presumed to conform” and the requirements of Subsection (a), 40 CFR Part 93.151, Subsections (d) through (j) and Subsections (l) through (n) shall apply to the action if EPA or a third party shows that the action would:

- (A) Cause or contribute to any new violation of any standard in any area;
- (B) Interfere with provisions in the applicable SIP for maintenance of any standard;
- (C) Increase the frequency or severity of any existing violation of any standard in any area; or
- (D) Delay timely attainment of any standard or any required interim emissions reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of:
  - (I) A demonstration of reasonable further progress;
  - (II) A demonstration of attainment; or
  - (III) A maintenance plan.

(xi) The provisions of this section shall apply in all nonattainment and maintenance areas except conformity requirements for newly designated nonattainment areas are not applicable until 1 year after the effective date of the final nonattainment designation for each NAAQS and pollutant in accordance with section 176(c)(6) of the CAA.

(d) Federal Agency Conformity Responsibility. Any department, agency, or instrumentality of the Federal government taking an action subject to this section must make its own conformity determination consistent with the requirements of this section. In making its conformity determination, a Federal agency must follow the requirements in Subsections (e) through (j) and Subsections (l) through (o) and must consider comments from any interested parties. Where multiple Federal agencies have jurisdiction for various aspects of a project, a Federal agency may choose to adopt the analysis of another Federal agency or develop its own analysis in order to make its conformity determination.

(e) Reporting Requirements.

(i) A Federal agency making a conformity determination under Subsections (d) through (j) and Subsections (l) through (n) must provide to the appropriate EPA Regional Office(s), State and local air quality agencies, any federally-recognized Indian tribal government in the nonattainment or maintenance area, and, where applicable, affected Federal Land Managers, the agency designated under section 174 of the CAA and the MPO, a 30-day notice which describes the proposed action and the Federal agency’s draft conformity determination on the action. If the action has multi-regional or national impacts (e.g., the action will cause

emission increases in excess of the *de minimis* levels identified in Subsection (c)(ii) in three or more of EPA's Regions), the Federal agency, as an alternative to sending it to EPA Regional Offices, can provide the notice to EPA's Office of Air Quality Planning and Standards.

(ii) A Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies, any federally-recognized Indian tribal government in the nonattainment or maintenance area, and, where applicable, affected Federal Land Managers, the agency designated under section 174 of the Clean Air Act and the MPO, within 30 days after making a final conformity determination under this section.

(iii) The draft and final conformity determination shall exclude any restricted information or confidential business information. The disclosure of restricted information and confidential business information shall be controlled by the applicable laws, regulations, security manuals, or executive orders concerning the use, access, and release of such materials. Subject to applicable procedures to protect restricted information from public disclosure, any information or materials excluded from the draft or final conformity determination or supporting materials may be made available in a restricted information annex to the determination for review by Federal and State representatives who have received appropriate clearances to review the information.

(f) Public Participation.

(i) Upon request by any person regarding a specific Federal action, a Federal agency must make available, subject to the limitation in paragraph (v) of this section, for review its draft conformity determination under Subsection (d) with supporting materials which describe the analytical methods and conclusions relied upon in making the applicability analysis and draft conformity determination.

(ii) A Federal agency must make public its draft conformity determination under Subsection (d) by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process. If the action has multi-regional or national impacts (e.g., the action will cause emission increases in excess of the *de minimis* levels identified in Subsection (c)(ii) in three or more of EPA's Regions), the Federal agency, as an alternative to publishing separate notices, can publish a notice in the Federal Register.

(iii) A Federal agency must document its response to all the comments received on its draft conformity determination under Subsection (d) and make the comments and responses available, subject to the limitation in paragraph (v) of this subsection, upon request by any person regarding a specific Federal action, within 30 days of the final conformity determination.

(iv) A Federal agency must make public its final conformity determination under Subsection (d) for a federal action by placing a notice by prominent advertisement in a

daily newspaper of general circulation in the area affected by the action within 30 days of the final conformity determination. If the action would have multi-regional or national impacts, the Federal agency, as an alternative, can publish the notice in the Federal Register.

(v) The draft and final conformity determination shall exclude any restricted information or confidential business information. The disclosure of restricted information and confidential business information shall be controlled by the applicable laws, regulations or executive orders concerning the release of such materials.

(g) Reevaluation of Conformity.

(i) Once a conformity determination is completed by a Federal agency, that determination is not required to be reevaluated if the agency has maintained a continuous program to implement the action; the determination has not lapsed as specified in paragraph (ii) of this subsection; or any modification to the action does not result in an increase in emissions above the levels specified in Subsection (c)(ii). If a conformity determination is not required for the action at the time the NEPA analysis is completed, the date of the finding of no significant impact (FONSI) for an Environmental Assessment, a record of decision (ROD) for an Environmental Impact Statement, or a categorical exclusion determination can be used as a substitute date for the conformity determination date.

(ii) The conformity status of a Federal action automatically lapses 5 years from the date a final conformity determination is reported under Subsection (e), unless the Federal action has been completed or a continuous program to implement the Federal action has commenced.

(iii) Ongoing Federal activities at a given site showing continuous progress are not new actions and do not require periodic redeterminations so long as such activities are within the scope of the final conformity determination reported under Section (e).

(iv) If the Federal agency originally determined through the applicability analysis that a conformity determination was not necessary because the emissions for the action were below the limits in Subsection (c)(ii) and changes to the action would result in the total emissions from the action being above the limits in Subsection (c)(ii), then the Federal agency must make a conformity determination.

(h) Criteria for Determining Conformity of General Federal Actions.

(i) An action required under Subsection (c) to have a conformity determination for a specific pollutant, will be determined to conform to the applicable SIP if, for each pollutant that exceeds the rates in Subsection (c)(ii), or otherwise requires a conformity determination due to the total of direct and indirect emissions from the action, the action meets the requirements of paragraph (iii) of this subsection, and meets any of the following requirements:

(A) For any criteria pollutant or precursor, the total of direct and

indirect emissions from the action are specifically identified and accounted for in the applicable SIP's attainment or maintenance demonstration or reasonable further progress milestone or in a facility-wide emission budget included in a SIP in accordance with Subsection (k);

(B) For precursors of ozone, nitrogen dioxide, or PM, the total of direct and indirect emissions from the action are fully offset within the same nonattainment or maintenance area (or nearby area of equal or higher classification provided the emissions from that area contribute to the violations, or have contributed to violations in the past, in the area with the Federal action) through a revision to the applicable SIP or a similarly enforceable measure that effects emissions reductions so that there is no net increase in emissions of that pollutant;

(C) For any directly-emitted criteria pollutant, the total of direct and indirect emissions from the action meets the requirements:

(I) Specified in paragraph (ii) of this subsection, based on areawide air quality modeling analysis and local air quality modeling analysis; or

(II) Meet the requirements of paragraph (i)(E) of this subsection and, for local air quality modeling analysis, the requirement of paragraph (ii) of this subsection;

(D) For CO or directly emitted PM:

(I) Where the State agency primarily responsible for the applicable SIP determines that an areawide air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in paragraph (ii) of this subsection, based on local air quality modeling analysis; or

(II) Where the State agency primarily responsible for the applicable SIP determines that an areawide air quality modeling analysis is appropriate and that a local air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in paragraph (ii) of this subsection, based on areawide modeling, or meet the requirements of paragraph (i)(E) of this subsection; or

(E) For ozone or nitrogen dioxide, and for purposes of paragraphs (i)(C)(II) and (i)(D)(II) of this subsection, each portion of the action or the action as a whole meets any of the following requirements:

(I) Where EPA has approved a revision to the applicable implementation plan after the area was designated as nonattainment and the State makes a determination as provided in paragraph (i)(E)(I)(1.) of this subsection or where the State makes a commitment as provided in paragraph (i)(E)(I)(2.) of this subsection:

(1.) The total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the State agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other

emissions in the nonattainment (or maintenance) area, would not exceed the emissions budgets specified in the applicable SIP.

(2.) The total of direct and indirect emissions from the action (or portion thereof) is determined by the State agency responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would exceed an emissions budget specified in the applicable SIP and the State Governor or the Governor's designee for SIP actions makes a written commitment to EPA which includes the following:

a. A specific schedule for adoption and submittal of a revision to the SIP which would achieve the needed emission reductions prior to the time emissions from the Federal action would occur;

b. Identification of specific measures for incorporation into the SIP which would result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed any emissions budget specified in the applicable SIP;

c. A demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the Federal action, and that local authority to implement additional requirements has been fully pursued;

d. A determination that the responsible Federal agencies have required all reasonable mitigation measures associated with their action; and

e. Written documentation including all air quality analyses supporting the conformity determination.

(3.) Where a Federal agency made a conformity determination based on a State's commitment under paragraph (i)(E)(I)(2.) of this subsection and the State has submitted a SIP to EPA covering the time period during which the emissions will occur or is scheduled to submit such a SIP within 18 months of the conformity determination, the State commitment is automatically deemed a call for a SIP revision by EPA under section 110(k)(5) of the CAA, effective on the date of the Federal conformity determination and requiring response within 18 months or any shorter time within which the State commits to revise the applicable SIP;

(4.) Where a Federal agency made a conformity determination based on a State commitment under paragraph (i)(E)(I)(2.) of this subsection and the State has not submitted a SIP covering the time period when the emissions will occur or is not scheduled to submit such a SIP within 18 months of the conformity determination, the State must, within 18 months, submit to EPA a revision to the existing SIP committing to include the emissions in the future SIP revision.

(II) The action (or portion thereof), as determined by the MPO,

is specifically included in a current transportation plan and transportation improvement program which have been found to conform to the applicable SIP under Chapter 8, Section 4, or 40 CFR Part 93, Subpart A;

(III) The action (or portion thereof) fully offsets its emissions within the same nonattainment or maintenance area (or nearby area of equal or higher classification provided the emissions from that area contribute to the violations, or have contributed to violations in the past, in the area with the Federal action) through a revision to the applicable SIP or an equally enforceable measure that effects emissions reductions equal to or greater than the total of direct and indirect emissions from the action so that there is no net increase in emissions of that pollutant;

(IV) Where EPA has not approved a revision to the relevant SIP since the area was redesignated or reclassified, the total of direct and indirect emissions from the action for the future years (described in Subsection (i)(iv)) do not increase emissions with respect to the baseline emissions:

(1.) The baseline emissions reflect the historical activity levels that occurred in the geographic area affected by the proposed Federal action during:

a. The most current calendar year with a complete emission inventory available before an area is designated unless EPA sets another year; or

b. The emission budget in the applicable SIP;

c. The year of the baseline inventory in the PM<sub>10</sub> applicable SIP;

(2.) The baseline emissions are the total of direct and indirect emissions calculated for the future years (described in Subsection (i)(iv)) using the historic activity levels (described in paragraph (i)(E)(IV)(1.) of this subsection) and appropriate emission factors for the future years; or

(V) Where the action involves regional water and/or wastewater projects, such projects are sized to meet only the needs of population projections that are in the applicable SIP.

(ii) The areawide and/or local air quality modeling analyses must:

(A) Meet the requirements in Subsection (i); and

(B) Show that the action does not:

(I) Cause or contribute to any new violation of any standard in any area; or

(II) Increase the frequency or severity of any existing violation of any standard in any area.

(iii) Notwithstanding any other requirements of this subsection, an action subject to this section may not be determined to conform to the applicable SIP unless the total of direct and indirect emissions from the action is in compliance or consistent with all relevant requirements and milestones contained in the applicable SIP, such as elements identified as part of the reasonable further progress schedules, assumptions specified in the attainment or maintenance demonstration, prohibitions, numerical emission limits, and work practice requirements.

(iv) Any analyses required under this subsection must be completed, and any mitigation requirements necessary for a finding of conformity must be identified before the determination of conformity is made.

(i) Procedures for Conformity Determinations of General Federal Actions.

(i) The analyses required under this section must be based on the latest planning assumptions.

(A) All planning assumptions must be derived from the estimates of population, employment, travel, and congestion most recently approved by the MPO, or other agency authorized to make such estimates, where available.

(B) Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved by the MPO or other agency authorized to make such estimates for the urban area.

(ii) The analyses required under this section must be based on the latest and most accurate emission estimation techniques available as described below, unless such techniques are inappropriate. If such techniques are inappropriate, the Federal agency may obtain written approval from the appropriate EPA Regional Administrator for modification or substitution, of another technique on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program.

(A) For motor vehicle emissions, the most current version of the motor vehicle emissions model specified by EPA and available for use in the preparation or revision of SIPs in that State must be used for the conformity analysis as specified in paragraphs (ii)(A)(I) and (II) of this subsection:

(I) The EPA must publish in the Federal Register a notice of availability of any new motor vehicle emissions model; and

(II) A grace period of three months shall apply during which

the motor vehicle emissions model previously specified by EPA as the most current version may be used unless EPA announces a longer grace period in the Federal Register. Conformity analyses for which the analysis was begun during the grace period or no more than 3 months before the Federal Register notice of availability of the latest emission model may continue to use the previous version of the model specified by EPA.

(B) For non-motor vehicle sources, including stationary and area source emissions, the latest emission factors specified by EPA in the “Compilation of Air Pollutant Emission Factors” (AP-42) must be used for the conformity analysis unless more accurate emission data are available, such as actual stack test data from stationary sources which are part of the conformity analysis.

(iii) The air quality modeling analyses required under this section must be based on the applicable air quality models, databases, and other requirements specified in the most recent version of the “Guideline on Air Quality Models” (Appendix W to 40 CFR Part 51), unless:

(A) The guideline techniques are inappropriate, in which case the model may be modified or another model substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program; and

(B) Written approval of the EPA Regional Administrator is obtained for any modification or substitution.

(iv) The analyses required under this section must be based on the total of direct and indirect emissions from the action and must reflect emission scenarios that are expected to occur under each of the following cases:

(A) The attainment year specified in the SIP, or if the SIP does not specify an attainment year, the latest attainment year possible under the CAA; or

(B) The last year for which emissions are projected in the maintenance plan;

(C) The year during which the total of direct and indirect emissions from the action is expected to be the greatest on an annual basis; and

(D) Any year for which the applicable SIP specifies an emissions budget.

(j) Mitigation of Air Quality Impacts.

(i) Any measures that are intended to mitigate air quality impacts must be identified and the process for implementation and enforcement of such measures must be described, including an implementation schedule containing explicit timelines for implementation.

(ii) Prior to determining that a Federal action is in conformity, the Federal agency making the conformity determination must obtain written commitments from the appropriate persons or agencies to implement any mitigation measures which are identified as conditions for making conformity determinations.

(iii) Persons or agencies voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.

(iv) In instances where the Federal agency is licensing, permitting or otherwise approving the action of another governmental or private entity, approval by the Federal agency must be conditioned on the other entity meeting the mitigation measures set forth in the conformity determination.

(v) When necessary because of changed circumstances, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination. Any proposed change in the mitigation measures is subject to the reporting requirements of Subsection (e) and the public participation requirements of Subsection (f).

(vi) Written commitments to mitigation measures must be obtained prior to a positive conformity determination and that such commitments must be fulfilled.

(vii) After a State revises its SIP and EPA approves that SIP revision, any agreements, including mitigation measures, necessary for a conformity determination will be both State and federally enforceable. Enforceability through the applicable SIP will apply to all persons who agree to mitigate direct and indirect emissions associated with a Federal action for a conformity determination.

(k) Conformity Evaluation for Federal Installations with Facility-Wide Emission Budgets.

(i) The State or local agency responsible for implementing and enforcing the SIP can in cooperation with Federal agencies or third parties authorized by the agency that operate installations subject to Federal oversight develop and adopt a facility-wide emission budget to be used for demonstrating conformity under Subsection (h)(i)(A). The facility-wide budget must meet the following criteria:

(A) Be for a set time period;

(B) Cover the pollutants or precursors of the pollutants for which the area is designated nonattainment or maintenance;

(C) Include specific quantities allowed to be emitted on an annual or seasonal basis;

(D) The emissions from the facility along with all other emissions in the area will not exceed the emission budget for the area;

(E) Include specific measures to ensure compliance with the budget, such as periodic reporting requirements or compliance demonstration, when the Federal agency is taking an action that would otherwise require a conformity determination;

(F) Be submitted to EPA as a SIP revision;

(G) The SIP revision must be approved by EPA.

(ii) The facility-wide budget developed and adopted in accordance with paragraph (i) of this subsection can be revised by following the requirements in paragraph (i) of this subsection.

(iii) Total direct and indirect emissions from Federal actions in conjunction with all other emissions subject to General Conformity from the facility that do not exceed the facility budget adopted pursuant to paragraph (i) of this subsection are “presumed to conform” to the SIP and do not require a conformity analysis.

(iv) If the total direct and indirect emissions from the Federal actions in conjunction with the other emissions subject to General Conformity from the facility exceed the budget adopted pursuant to paragraph (i) of this subsection, the action must be evaluated for conformity. A Federal agency can use the compliance with the facility-wide emissions budget as part of the demonstration of conformity, i.e., the agency would have to mitigate or offset the emissions that exceed the emission budget.

(v) If the SIP for the area includes a category for construction emissions, the negotiated budget can exempt construction emissions from further conformity analysis.

(l) Emissions Beyond the Time Period Covered by the SIP. If a Federal action would result in total direct and indirect emissions above the applicable thresholds which would be emitted beyond the time period covered by the SIP, the Federal agency can:

(i) Demonstrate conformity with the last emission budget in the SIP; or

(ii) Request the State to adopt an emissions budget for the action for inclusion in the SIP. The State must submit a SIP revision to EPA within 18 months either including the emissions in the existing SIP or establishing an enforceable commitment to include the emissions in future SIP revisions based on the latest planning assumptions at the time of the SIP revision. No such commitment by a State shall restrict a State’s ability to require RACT, RACM or any other control measures within the State’s authority to ensure timely attainment of the NAAQS.

(m) Timing of Offsets and Mitigation Measures.

(i) The emissions reductions from an offset or mitigation measure used to

demonstrate conformity must occur during the same calendar year as the emission increases from the action except, as provided in paragraph (ii) of this subsection.

(ii) The State may approve emissions reductions in other years provided:

(A) The reductions are greater than the emission increases by the following ratios:

(I) Extreme nonattainment areas 1.5:1

(II) Severe nonattainment areas 1.3:1

(III) Serious nonattainment areas 1.2:1

(IV) Moderate nonattainment areas 1.15:1

(V) All other areas 1.1:1

(B) The time period for completing the emissions reductions must not exceed twice the period of the emissions.

(C) The offset or mitigation measure with emissions reductions in another year will not:

(I) Cause or contribute to a new violation of any air quality standard;

(II) Increase the frequency or severity of any existing violation of any air quality standard; or

(III) Delay the timely attainment of any standard or any interim emissions reductions or other milestones in any area.

(iii) The approval by the State of an offset or mitigation measure with emissions reductions in another year does not relieve the State of any obligation to meet any SIP or CAA milestone or deadline. The approval of an alternate schedule for mitigation measures is at the discretion of the State, and they are not required to approve an alternate schedule.

(n) Inter-precursor Mitigation Measures and Offsets. Federal agencies must reduce the same type of pollutant as being increased by the Federal action except the State may approve offsets or mitigation measures of different precursors of the same criteria pollutant, if such trades are allowed by a State in a SIP approved NSR regulation, is technically justified, and has a demonstrated environmental benefit.

(o) Early Emission Reduction Credit Programs at Federal Facilities and Installation Subject to Federal Oversight.

(i) Federal facilities and installations subject to Federal oversight can, with the approval of the State agency responsible for the SIP in that area, create an early emissions reductions credit program. The Federal agency can create the emission reduction credits in accordance with the requirements in paragraph (ii) of this subsection and can use them in accordance with paragraph (iii) of this subsection.

(ii) Creation of Emission Reduction Credits.

(A) Emissions reductions must be quantifiable through the use of standard emission factors or measurement techniques. If non-standard factors or techniques to quantify the emissions reductions are used, the Federal agency must receive approval from the State agency responsible for the implementation of the SIP and from EPA's Regional Office. The emission reduction credits do not have to be quantified before the reduction strategy is implemented, but must be quantified before the credits are used in the General Conformity evaluation.

(B) The emission reduction methods must be consistent with the applicable SIP attainment and reasonable further progress demonstrations.

(C) The emissions reductions cannot be required by or credited to other applicable SIP provisions.

(D) Both the State and Federal air quality agencies must be able to take legal action to ensure continued implementation of the emission reduction strategy. In addition, private citizens must also be able to initiate action to ensure compliance with the control requirement.

(E) The emissions reductions must be permanent or the timeframe for the reductions must be specified.

(F) The Federal agency must document the emissions reductions and provide a copy of the document to the State air quality agency and the EPA Regional Office for review. The documentation must include a detailed description of the emission reduction strategy and a discussion of how it meets the requirements of paragraphs (ii)(A) through (E) of this subsection.

(iii) Use of Emission Reduction Credits. The emission reduction credits created in accordance with paragraph (ii) of this subsection can be used, subject to the following limitations, to reduce the emissions increase from a Federal action at the facility for the conformity evaluation.

(A) If the technique used to create the emission reduction is implemented at the same facility as the Federal action and could have occurred in conjunction with the Federal action, then the credits can be used to reduce the total direct and indirect emissions used to determine the applicability of the regulation as required in Subsection (c) and

as offsets or mitigation measures required by Subsection (h).

(B) If the technique used to create the emission reduction is not implemented at the same facility as the Federal action or could not have occurred in conjunction with the Federal action, then the credits cannot be used to reduce the total direct and indirect emissions used to determine the applicability of the regulation as required in Subsection (c), but can be used to offset or mitigate the emissions as required by Subsection (h).

(C) Emissions reductions credits must be used in the same year in which they are generated.

(D) Once the emission reduction credits are used, they cannot be used as credits for another conformity evaluation. However, unused credits from a strategy used for one conformity evaluation can be used for another conformity evaluation as long as the reduction credits are not double counted.

(E) Federal agencies must notify the State air quality agency responsible for the implementation of the SIP and EPA Regional Office when the emission reduction credits are being used.

#### **Section 5. Ozone Nonattainment Emission Inventory Rule.**

(a) Applicability.

(i) This rule applies to a facility or source operating in an ozone nonattainment area(s), as identified in 40 CFR Part 81, if:

(A) The facility or source has been granted permit approval to construct and/or operate under Chapter 6 of the Wyoming Air Quality Standards and Regulations (WAQSR); or

(B) It is an individual oil or gas facility or source; or

(C) Actual emissions from the stationary facility or source are greater than or equal to 25 tons per year of volatile organic compounds (VOCs) as defined in Chapter 3, Section 6(a) of the WAQSR, or oxides of nitrogen (NO<sub>x</sub>).

(I) If NO<sub>x</sub> or VOCs are emitted from a facility or source at or above the applicability threshold identified in subsection (a)(i)(C), both air contaminants must be included in the emission inventory even if one of the air contaminants is emitted at a level below the applicability threshold.

(ii) Compliance with emission inventory requirements established under WAQSR Chapter 6, Section 3(f)(v)(G), satisfies the requirements of this rule.

(b) Reporting and Recordkeeping Requirements.

(i) As specified in the forms required in subsection (b)(v), each emission inventory shall include:

(A) Actual emissions of NO<sub>x</sub>, VOC, and any other air contaminants as determined by the Wyoming Department of Environmental Quality Air Quality Division Administrator, in tons per year for any calendar year emission inventory, or in tons for any partial year emission inventory;

(B) The physical location at which the actual emissions occurred;

(C) The name and address of the person or entity operating or owning the facility or source; and

(D) The nature of the facility or source.

(ii) The emission inventory submittal dates are as follows:

(A) By April 30<sup>th</sup> of each year for all emissions that occurred during the previous calendar year; and

(B) No later than 90 days after the end of a partial year inventory for emissions that occurred during the partial year as determined by the Division Administrator.

(iii) After the owner or operator submits an emission inventory for all facility or source emissions that occurred during calendar year 2014, the owner or operator shall submit an emission inventory for such facility or source every year thereafter.

(iv) Each owner or operator of a facility or source shall maintain a copy of the emission inventory submitted to the Division, and records indicating how the information submitted was determined, including any calculations, data, and measurements used.

(A) Records shall be kept for a period of at least five years from the required submittal date listed in subsection (b)(ii) for each emission inventory.

(B) The owner or operator of the facility or source shall make the records required in subsection (b)(iv) available for inspection by any representative of the Division upon request.

(v) The owner or operator shall submit emission inventories using Division-prescribed hard copy or electronic formats.

(vi) All emission inventory submissions shall be certified as being true, accurate, and complete by a responsible official to the best of their knowledge. A responsible official is an individual who is responsible for the data provided in the emission inventory, and who accepts responsibility for the emission accuracy.

(c) Compliance. Compliance with WAQSR Chapter 8, Section 5, does not relieve any owner or operator of a facility or source from the responsibility to comply with any other applicable reporting requirements set forth in any federal or State law, rule or regulation, or in any permit.

#### **Section 10. Incorporation by Reference.**

(a) Code of Federal Regulations (CFR). All Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices, revised and published as of July 1, 2023, not including any later amendments, are incorporated by reference. Copies of the CFR are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: <https://deq.wyoming.gov/>. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at <https://ecfr.gov>.

## **Chapter 09. Visibility Impairment/PM Fine Control**

### **Section 02. Visibility.**

#### **(a) Purpose.**

This section assures reasonable progress towards the national goal of preventing future, and remedying existing, visibility impairment in Class I areas.

#### **(b) Applicability.**

This section applies to all Class I areas in the State of Wyoming as designated per Chapter 6, Section 4(c) or redesignated in accordance with Chapter 6, Section 4(d) of these Regulations and to sources in Wyoming the emissions from which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area including mandatory Federal Class I areas in any other State.

#### **(c) Definitions and Abbreviations.**

The following terms are explicitly defined for use in this section. As used in this section, all terms not defined herein shall have the meaning given to them in Chapter 6, Section 4.

**(i) "Adverse impact on visibility"** means, for the purposes of Chapter 9, Section 2(e), visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Class I area. Any determination shall 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 times of visitor use of the Class I area, and the frequency and timing of natural conditions that reduce visibility.

**(ii) "Best Available Retrofit Technology (BART)"** means that emission reduction control device, facility, method, or system, used to achieve the best continuous emission reduction for each pollutant emitted by an existing stationary facility. The emission limitation shall be established on a case-by-case basis taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

**(iii) "Class I areas"** means, for the purposes of this section, all mandatory Class I Federal areas established in the Clean Air Act Amendments of 1977 and include the following for the State of Wyoming: Yellowstone National Park, Teton National Park, North Absoroka Wilderness, Washakie Wilderness, Teton Wilderness, Bridger Wilderness, and Fitzpatrick Wilderness. Such term also includes the Savage Run Wilderness which is not a mandatory Class I Federal area and any future Class I area redesignated in accordance with Chapter 6, Section 4(d) of these regulations.

**(iv) "Existing stationary facility"** means any of the stationary sources of air pollutants listed in Chapter 6, Section 4(a)(i) of this Regulation, including any reconstructed source, which was not in operation prior to August 7, 1962, and has the potential to emit 250 tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable shall be counted.

**(v) "Long term strategy"** means a 10- to 15-year plan for making reasonable progress toward the national goal specified in Chapter 9, Section 2(a).

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

**(vii) "Reasonably attributable"** means attributable by visual observation or any other technique the State deems appropriate.

**(viii) "Significant impairment"** means visibility impairment, which in the judgment of the Administrator, interferes with the visitor's visual experience of the Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of the impairment, and how these factors correlate with times of use of the Class I area and the frequency and timing of natural conditions that reduce visibility.

**(ix) "Visibility impairment"** means any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

#### **(d) Existing Impairment.**

(i) The Federal Land Manager may certify to the Administrator of the Air Quality Division or the Administrator may certify that visibility impairment exists in any Class I area. The Division may also certify that visibility impairment exists in any Class I area without the concurrence of the Federal Land Manager.

(A) Any certification of visibility impairment in a Class I area must be accompanied by analysis and visibility data supported by visibility monitoring which may include visual observations or any other technique the Division deems appropriate.

(B) On receipt of a certification by the Federal Land Manager that visibility impairment exists in a Class I area or at such time that the Administrator certifies visibility impairment in a Class I area, the Division shall prepare an analysis of the impairment to determine whether and to what extent, if any, the cause or contribution to visibility impairment is reasonably attributable to an existing stationary facility or small group of existing stationary facilities. Such analysis and determination shall be completed within one year of certification of impairment and shall be advertised in a public notice and opportunity for a public hearing given in accordance with Chapter 6, Section 2(m) of these regulations. A final determination as to the source or sources to which visibility impairment can be reasonably attributed to shall be made by the Administrator considering all comments made by the public, the Federal Land Manager and the affected sources if applicable. If the visibility impairment cannot be reasonably attributable to any existing stationary facility in Wyoming, the Division will review the impairment and propose a strategy to remedy the impairment, if appropriate, at the time of the next periodic review of the long term strategy as provided under paragraph (f) of this Section.

(ii) Each existing stationary facility located in Wyoming to which the cause of or contribution to visibility impairment in any Class I area is reasonably attributable, shall install and operate BART as expeditiously as practicable but in no case later than 5 years after issuance of a compliance order by the Division.

(A) For fossil-fuel fired generating plants having a total generating capacity in excess of 750 megawatts, BART shall be determined pursuant to "Guidelines for Determining Best Available Retrofit Technology for Coal-fired Power Plants and Other Existing Stationary Facilities" (1980), (EPA Publication No. 450/3-80-009b).

(B) Should the Division determine technological or economic limitations make the application of BART as previously defined infeasible, the Division may instead prescribe a design, equipment, work practice, or other operational standard, or combination thereof, as representing BART.

(I) Where a facility is subject to Chapter 9, Section 2(d)(ii)(B) due to technological limitations, the facility shall install and operate BART as previously defined when new technology for control of the pollutant becomes reasonably available provided (1) the pollutant is emitted by the existing facility; (2) controls representing BART for the pollutant have not previously been required under this section; and (3) the impairment of visibility in any Class I area is reasonably attributable to the emissions of that pollutant.

**(e) New Source Review.**

Applicants for new major stationary sources and major modifications shall demonstrate that the proposed source will not cause an adverse impact on visibility in a Class I area as required by Chapter 6, Section 4 of this Regulation. New source review requirements for visibility are in Chapter 6, Section 2(n)(i) and Chapter 6, Section 2(n)(ii); and Chapter 6, Section 4(b)(i)(B)(I), Chapter 6, Section 4(b)(i)(F), Chapter 6, Section 4(b)(vi)(A) and (B), and Chapter 6, Section 4(b)(vii).

**(f) Long Term Strategy.**

(i) The Division shall review and revise, if appropriate, the long-term strategy every 3 years.

(A) During the long term strategy development and review process, the Division shall consult with the Federal Land Managers.

(B) Prior to the preparation of the report required in paragraph (C) below, the Division shall prepare a draft report and provide for public comment and the opportunity for a public hearing on the contents of this report through the issuance of a public notice in accordance with the provisions of Chapter 6, Section 2(m) of these regulations. All public comments will be considered in preparation of the final report. The State shall provide written notification to each affected Federal Land Manager and other affected states at least 60 days prior to holding any public hearing.

(C) The Division shall prepare a report on any progress made toward the national visibility goal since the last long-term strategy revisions. The report will be made available on June First of every third year. The report shall include an assessment of:

- (I) The progress achieved in remedying existing impairment of visibility in any Class I area;
- (II) The ability of the long-term strategy to prevent future impairment of visibility in any Class I area;
- (III) Any change in visibility since the last such report, or in the case of the first report, since plan approval, including an assessment of existing conditions;
- (IV) Additional measures, including the need for SIP revisions, that may be necessary to assure reasonable progress toward the national visibility goal;
- (V) The progress achieved in implementing BART and meeting other schedules set forth in the long-term strategy;
- (VI) The progress achieved in developing the components of the strategy.

## **Chapter 10. Smoke Management**

### **Section 2. Open burning restrictions.**

#### **(a) Refuse burning restrictions.**

**(i)** No person shall dispose of refuse by open burning, or cause, suffer, allow or permit open burning of refuse.

**(ii)** Regardless of provision of Subsections (a)(i) of this regulation, open burning on residential premises of refuse originating in dwelling units on the same premises shall not be a violation of this regulation in areas of low population density. A density of 100 dwelling units or less per square mile shall be used as an approximate definition of areas of low population density.

#### **(b) Restrictions on open burning of trade wastes.**

**(i)** No person shall cause or permit the disposal of trade wastes or conduct or cause or permit a salvage operation by open burning, except as provided in Subsection (b)(ii) of this regulation.

**(ii)** The open burning of material for fire fighting training, destruction of fire hazards if so designated by a local fire marshal or fire chief, or from a salvage operation or disposal of trade wastes may be permitted when it can be shown by a person that such open burning is absolutely necessary and in the public interest. Any person intending to engage in such open burning shall file a request to do so with the Division of Air Quality. The application shall state the following:

(A) the name, address, and telephone number of the person submitting the application;

(B) the type of business or activity involved;

(C) a description of the proposed equipment and operating practices, the type, quantity, and composition of wastes to be burned, and the expected composition and amount of air contaminants to be released into the atmosphere;

(D) the schedule of burning operations;

(E) the exact location where open burning will be used to dispose of such waste;

(F) reasons why no method other than open burning can be used for disposal;

(G) evidence that the proposed open burning has been approved by any fire department which may have jurisdiction. Upon approval of the application by the Division of Air Quality, the person may proceed with the operation without being in violation of Subsection (b)(i).

#### **(c) Restrictions on open burning of plant and forestry wastes.**

**(i)** The open burning of plant life grown on the premises in the course of any agricultural or forestry operation may be permitted when it can be shown that such open burning is necessary and that no fire hazard or public nuisance will occur.

Chapter 10. Smoke Management  
Section 3. **Wood waste burners.**

**(a)** Emissions of any air contaminant from any wood waste burner discharged into the atmosphere for a period or periods aggregating more than 6 minutes in any one hour shall not exceed:

**(i)** An opacity of 20 percent as determined by a qualified observer.

**(b)** Operational requirements for all wood waste burners shall include:

**(i)** A thermocouple and recording pyrometer or other temperature measurement and recording device approved by the Division shall be installed and maintained;

**(ii)** A daily written log of the wood waste burner operation shall be maintained to determine optimum operational patterns for different fuel and atmospheric conditions. Such log shall include, but not be limited to, the time of day, draft settings, exit gas temperature, type of fuel, and atmospheric conditions. It must be shown that there is adequate time and responsibility delegated for proper burner maintenance, operation, and control; such log or a copy shall be made available to the Division within 10 days upon request;

**(iii)** Asphaltic materials, rubber products, or materials which cause dense smoke discharges shall not be burned or disposed in wood waste burners;

**(iv)** Continuous flow conveying methods shall be utilized to convey process wood waste to the combustion chamber of the wood waste burners.

**(c)** During startup and building of fires, in wood waste burners, the particulate, opacity, and darkness limits specified in this regulation may be exceeded for not more than 60 minutes in eight hours. Materials prohibited in Subsection (b)(iii) shall not be used for startup and building of fires in wood waste burners.

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY DIVISION  
STANDARDS AND REGULATIONS  
CHAPTER 10  
SMOKE MANAGEMENT

TABLE OF CONTENTS

|            |                                        |      |
|------------|----------------------------------------|------|
| Section 1. | Introduction to smoke management ..... | 10-1 |
| Section 2. | Open burning restrictions .....        | 10-1 |
| Section 3. | Wood waste burners.....                | 10-4 |
| Section 4. | Smoke management requirements .....    | 10-5 |



WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY DIVISION  
STANDARDS AND REGULATIONS  
CHAPTER 10  
SMOKE MANAGEMENT

Section 4. Smoke management requirements.

**(a) *Effective Date.*** The requirements of this Section are effective for planned burn projects conducted and unplanned fire events that occur on or after January 1, 2005.

**(b) *Definitions.*** The following definitions apply to Chapter 10, Section 4. Unless defined differently below, the meaning of the terms used in this section is the same as in Chapter 1, Section 3 of these regulations.

**(i) “*Alternatives to burning*”** means manual, mechanical, chemical or biological treatments designed to replace the use of fire to manage vegetation.

**(ii) “*Burner*”** means the individual, agency, organization, land manager or landowner who is responsible for conducting a planned burn project.

**(iii) “*Class I Area*”** means all mandatory Class I Federal areas established in the Clean Air Act of 1977 and include the following for the State of Wyoming: Yellowstone National Park, Grand Teton National Park, North Absaroka Wilderness, Washakie Wilderness, Teton Wilderness, Bridger Wilderness and Fitzpatrick Wilderness. Such term also includes the Savage Run Wilderness, which is not a mandatory Class I Federal area, and any future Class I area redesignated in accordance with Chapter 6, Section 4(d) of these regulations.

**(iv) “*Emission reduction technique*”** means manual, mechanical, chemical or biological treatments used in conjunction with fire to minimize emissions, including, but not limited to, methods that minimize the burn area, reduce the fuel load, or increase the efficiency of combustion.

**(v) “*Jurisdictional fire authority*”** means an agency, organization or department whose purpose is to prevent, manage, and/or suppress fires in a designated geographic area, including, but not limited to, volunteer fire departments, fire districts, municipal fire departments and federal fire staff.

**(vi) “*Land manager*”** means an individual, agency or organization that has the overall land and/or resource management responsibility.

**(vii) “*Monitoring*”** means repeated observations (i.e., visual) or measurements (i.e., instrument) to evaluate changes in smoke affecting ambient air quality and/or visibility. Monitoring can be documented, which involves collection and analysis of the observations and/or measurements.

(viii) ***“Nonattainment Area”*** means any geographic area of the United States, which has been designated as nonattainment under § 107 of the Clean Air Act and described in 40 CFR Part 81.

(ix) ***“Pile volume”*** means the quantity in cubic feet of vegetative materials that have been manually or mechanically relocated and heaped together, as calculated using pile shape and overall dimensions.

(x) ***“Planned burn project”*** means burn area(s) or pile(s) of vegetative material that are being treated or managed utilizing planned fire for the same management objectives and that are on a contiguous land area.

(xi) ***“Population”*** means all individuals, other than the burner, occupying a fixed area. Fixed areas include, but are not limited to, portions of property normally occupied as residential, recreational, institutional, commercial, or educational premises, but do not include fixed areas under control of the burner.

(xii) ***“Public notification”*** means a method that communicates information regarding planned burn projects or unplanned fire events to the public.

(xiii) ***“SMP”*** means the Smoke Management Program that specifies requirements for planned burn projects (SMP-I and SMP-II) and unplanned fire events. Irrigation district burn projects are by definition SMP-I planned burn projects.

(xiv) ***“Unplanned fire”*** means any vegetative fire ignited by natural causes such as lightning and human causes such as accidental ignitions, escaped prescribed fire or arson; irrespective of the management objectives.

(xv) ***“Vegetative material”*** means untreated unprocessed wood, including, but not limited to, trees, tree stumps, tree limbs, bark, chips, duff, grass, grass clippings, leaves, conifer needles, bushes, shrubs, weeds, clippings from bushes and shrubs, and agricultural plant residue.

(xvi) ***“Ventilation category”*** means the classification describing the potential for smoke or other pollutants to disperse from its source, and that is expressed in terms of Excellent, Very Good, Good, Fair or Poor.

(c) ***Applicability.*** The provisions of Chapter 10, Section 4 are applicable to burners who conduct, and jurisdictional fire authorities responsible for, the following:

(i) Planned burn projects of vegetative material that exceed 0.25 tons of PM<sub>10</sub> emissions per day. When areas or piles are on a contiguous land area and will be burned on the same day and by the same burner for the same management objectives, the sum of these areas or piles constitutes the daily burn area or daily pile volume.

(ii) Unplanned fire events that exceed 50 acres.

(d) **Materials allowed to be burned.** Only vegetative material shall be burned.

(e) **Compliance with requirements.**

(i) The burner and responsible jurisdictional fire authority shall comply with all rules and regulations of the Wyoming Department of Environmental Quality, Division of Air Quality, and with the Wyoming Environmental Quality Act.

(ii) Authorized representatives of the Division shall be given permission by the burner or responsible jurisdictional fire authority to enter and inspect a property, premise or place on or at which a planned burn project or unplanned fire event is or was located solely for the purpose of investigating actual sources of air pollution, and for determining compliance or non-compliance with any applicable rules, regulations, standards or orders. This permission shall extend for a maximum time of ten business days after the completed reporting form is received by the Division. Site inspections during this period shall be initiated only after notification of the burner conducting the planned burn project or the jurisdictional fire authority responsible for the unplanned fire event.

(iii) Nothing in this Section shall relieve any burner or responsible jurisdictional fire authority of the responsibility to comply with all applicable local, state and federal laws, regulations and ordinances.

(iv) Nothing in this Section shall relieve any burner or responsible jurisdictional fire authority of the responsibility to comply with any lawfully issued restriction on burning.

(v) Nothing in this Section is intended to address safety issues related to the use of fire, which fall under the control of jurisdictional fire authorities.

(f) **SMP-I.** For all burners whose planned burn project exceeds the thresholds in Subsection (c)(i) and is projected to generate less than two tons of PM<sub>10</sub> emissions per day, all of the following shall apply.

(i) For each planned burn project, the burner shall notify the Division prior to the ignition of the planned burn project, in accordance with the notification process approved by the Administrator of the Division. This notification shall include the burner contact information, the location of the planned burn project, and other information required by the Administrator of the Division.

(ii) The burner shall communicate burn information to the public, in accordance with the public information process approved by the Administrator of the Division, utilizing all of the following:

(A) Prior to the ignition of each planned burn project, notify the jurisdictional fire authority(ies) responsible for the geographic area in which the planned burn project is to occur.

(B) When there is a population within a 0.5-mile radius of the planned burn project, conduct public notification no sooner than 30 days and no later than two days in advance of the ignition of the planned burn project. Documentation of public notification shall be submitted on the reporting form required in Subsection (f)(v). When it can be shown that the population within a 0.5-mile radius of the planned burn project is in an area of low population density, compliance with Subsection (f)(ii)(A) shall satisfy this requirement. An average of one dwelling unit per ten acres shall be used as the definition of areas of low population density.

**(iii)** The burner shall only ignite a planned burn project when smoke will disperse from its source. To satisfy this requirement, the burner shall ignite the planned burn project during the daytime hours, when there is a slight breeze and there is no population within 0.5 mile of the planned burn project in the downwind trajectory. The burner may request a waiver of any part of this requirement from the Administrator of the Division. The burner shall document in writing the reasons for requesting the waiver, and must receive a waiver granted by the Administrator of the Division prior to ignition of the planned burn project. The Administrator of the Division shall consider such waiver requests on a case-by-case basis.

**(iv)** The burner shall attend and observe each planned burn project periodically to determine the dispersion, direction, and impacts of the smoke.

**(v)** For each planned burn project, the burner shall submit to the Division a completed reporting form, provided by the Division, no later than six weeks following completion of the planned burn project.

**(g) SMP-II.** For all burners whose planned burn project exceeds the thresholds in Subsection (c)(i) and is projected to generate greater than or equal to two tons of PM<sub>10</sub> emissions per day, all of the following shall apply.

**(i)** For each planned burn project, the burner shall submit to the Division a completed registration form, provided by the Division, by January 31 or no later than two weeks prior to the ignition of the planned burn project. The completed registration form shall include documentation of all of the following:

(A) The burner shall have reviewed smoke management educational material supplied by the Division or completed a smoke management training program prior to initiating a planned burn project.

(B) The burner shall consider the use of alternatives to burning for each planned burn project, and document the consideration of such alternatives in the method approved by the Administrator of the Division.

(C) The burner shall implement a minimum of one emission reduction technique for each planned burn project. The burner may request a waiver of this requirement from the Administrator of the Division. The burner shall document in writing the reasons for requesting the waiver, and must receive a waiver granted by the Administrator of the Division prior to the ignition of the planned burn project. The Administrator of the Division shall consider such waiver requests on a case-by-case basis.

(D) The burner shall only ignite a planned burn project when smoke will disperse from its source. To satisfy this requirement, the burner shall utilize one of the following options:

(I) Ignite the planned burn project during times when the ventilation category is “Good” or better. The ventilation category shall be obtained from a source approved by the Administrator of the Division.

(II) Ignite the planned burn project during times when the ventilation category is “Fair” if there is no population within 10 miles of the planned burn project in the downwind trajectory. The ventilation category shall be obtained from a source approved by the Administrator of the Division. The burner may request a waiver of any part of this requirement from the Administrator of the Division. The burner shall document in writing the reasons for requesting the waiver, and must receive a waiver granted by the Administrator of the Division prior to ignition of the planned burn project. The Administrator of the Division shall consider such waiver requests on a case-by-case basis.

(E) The burner shall conduct monitoring utilizing all of the following:

(I) For each planned burn project, conduct and document visual monitoring, in accordance with the visual monitoring process approved by the Administrator of the Division, to determine the dispersion, direction, and impacts of the smoke. Documentation of visual monitoring shall be submitted on the reporting form required in Subsection (g)(iv).

(II) When there is a population or Nonattainment Area within 10 miles of the planned burn project in the downwind trajectory, the burner may, on a case-by-case basis, be required by the Administrator of the Division to conduct and document ambient air quality monitoring. The results and documentation of any required ambient air quality monitoring shall be submitted with the reporting form required in Subsection (g)(iv).

(III) When there is a Class I Area within 30 miles of the planned burn project in the downwind trajectory, the burner may, on a case-by-case basis, be required by the Administrator of the Division to conduct and document ambient air

quality and/or visibility monitoring. The results and documentation of any required ambient air quality and/or visibility monitoring shall be submitted with the reporting form required in Subsection (g)(iv).

**(ii)** For each planned burn project, the burner shall notify the Division prior to the ignition of the planned burn project, in accordance with the notification process approved by the Administrator of the Division. This notification shall include the planned burn project identification information, planned burn date(s), daily burn area or daily pile volume, and other information required by the Administrator of the Division. For each planned burn project, all of the following shall apply.

(A) The burner shall not exceed the daily burn area or daily pile volume that the burner specified in the notification.

(B) The Division shall contact the burner prior to the ignition of the planned burn project, in accordance with the modification process approved by the Administrator of the Division, if a modification of the planned burn project is required. If a representative of the Division does not contact the burner, the burner may proceed with the planned burn project.

**(iii)** The burner shall communicate burn information to the public, in accordance with the public information process approved by the Administrator of the Division, utilizing all of the following:

(A) Prior to the ignition of each planned burn project, notify the jurisdictional fire authority(ies) responsible for the geographic area in which the planned burn project is to occur.

(B) When there is a population within a 10-mile radius of the planned burn project, conduct public notification no sooner than 30 days and no later than two days in advance of the ignition of the planned burn project. Documentation of public notification shall be submitted on the reporting form required in Subsection (g)(iv).

**(iv)** For each planned burn project, the burner shall submit to the Division a completed reporting form, provided by the Division, no later than six weeks following completion of the planned burn project.

**(h) Long-term planning.** Long-term planning shall be required for the burner and/or land manager whose total planned burn projects in a year are projected to generate greater than 100 tons of PM<sub>10</sub> emissions. The burner and/or land manager shall submit a written report to the Administrator of the Division by January 31 every third year starting in 2005. The written report shall include documentation of all of the following:

**(i)** The long-term burn estimates for the next three years, including the location, burn area or pile volume, vegetation type, and type of burn for each planned burn project.

**(ii)** The alternatives to burning considered and utilized during the previous three years and planned for the next three years, including the location and area of treatment(s), the vegetation type(s), and the specific technique(s).

**(i) *Unplanned fire.*** For the jurisdictional fire authority responsible for each unplanned fire event that exceeds 50 acres, all of the following shall apply. When it can be shown that the responsible jurisdictional fire authority is a volunteer fire organization, only Subsection (i)(iii) shall apply.

**(i)** The responsible jurisdictional fire authority shall communicate fire information to the public, in accordance with the public information process approved by the Administrator of the Division, utilizing all of the following:

(A) For each unplanned fire event, notify the jurisdictional fire authority(ies) responsible for the geographic area in which the unplanned fire event is occurring.

(B) When there is a population within a 10-mile radius of the unplanned fire event, conduct public notification. Documentation of public notification shall be submitted on the reporting form required in Subsection (i)(iii).

**(ii)** The responsible jurisdictional fire authority shall conduct monitoring utilizing all of the following:

(A) For each unplanned fire event, conduct and document visual monitoring, in accordance with the visual monitoring process approved by the Administrator of the Division, to determine the dispersion, direction, and impacts of the smoke. Documentation of visual monitoring shall be submitted on the reporting form required in Subsection (i)(iii).

(B) When there is a population or Nonattainment Area within 10 miles of the unplanned fire event in the downwind trajectory, the responsible jurisdictional fire authority may, on a case-by-case basis, be required by the Administrator of the Division to conduct and document ambient air quality monitoring. The results and documentation of any required ambient air quality and/or visibility monitoring shall be submitted with the reporting form required in Subsection (i)(iii).

(C) When there is a Class I Area within 30 miles of the unplanned fire event in the downwind trajectory, the responsible jurisdictional fire authority may, on a case-by-case basis, be required by the Administrator of the Division to conduct and document ambient air quality and/or visibility monitoring. The results and documentation of any required ambient air quality and/or visibility monitoring shall be submitted with the reporting form required in Subsection (i)(iii).

**(iii)** For each unplanned fire event, the responsible jurisdictional fire

authority shall annually submit to the Division a completed reporting form, provided by the Division, no later than December 31.

**(iv)** When an unplanned fire event is managed to accomplish specific pre-stated management objectives in a predefined geographic area, all of the following shall also apply.

(A) The responsible jurisdictional fire authority shall review smoke management educational material supplied by the Division or complete a smoke management training program.

(B) The Division shall contact the responsible jurisdictional fire authority, in accordance with the modification process approved by the Administrator of the Division, if a modification of the management strategy for the unplanned fire event is necessary to mitigate smoke impacts. If a representative of the Division does not contact the responsible jurisdictional fire authority, the responsible jurisdictional fire authority may proceed with the management strategy.

**(j)** The following are not subject to subsections 4(e)(ii), 4(f)(i), 4(f)(ii)(B), and 4(f)(v) of Chapter 10, Section 4:

**(i)** Planned burning of vegetative materials incident to:

(A) Weeds along fence lines;

(B) Weed growth in and along ditch banks incident to clearing ditches for irrigation purposes;

(C) Vegetative materials related to agricultural croplands.

(D) Vegetative materials related to rangeland and/or pasturelands, if the project area is less than 68 acres.

**(ii)** The following planned burn projects do not fall under this exemption:

(A) Vegetative materials related to rangeland and/or pasture lands, unless exempted by 4(j)(i)(D).

**(iii)** The burner not subject to regulation under Section (j)(i) shall provide vegetative burn data requested by the Administrator in a periodic survey of agricultural burning practices.

## Chapter 12. Emergency Controls

### Section 2. Air pollution emergency episodes.

(a) This regulation is designed to prevent the excessive build-up of air pollutants during air pollution episodes, thereby preventing the occurrence of an emergency due to the effects of these pollutants on the health of persons.

(b) Conditions justifying the proclamation of an air pollution alert, air pollution warning or air pollution emergency shall be deemed to exist whenever the Division determines that the accumulation of air pollutants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of persons. In making this determination, the Division will be guided by the following criteria:

(i) **Air pollution forecast:** An internal watch by the Division shall be activated by a National Weather Service advisory that an Atmospheric Stagnation Advisory, or the equivalent local forecast of a stagnant atmospheric condition is in effect.

(ii) **Air pollution alert:** The alert level is that concentration of pollutants at which first stage actions begin. An alert will be declared when any one of the following levels is reached at any monitoring site:

(A)  $PM_{10}$  - 350 :g/m<sup>3</sup>, 24-hour average;

(B)  $SO_2$  - 800 :g/m<sup>3</sup> (0.3 ppm), 24-hour average.

(iii) **Warning:** The warning level indicates that air quality is continuing to degrade and that additional control actions are necessary. A warning will be declared when any one of the following levels is reached at any monitoring site:

(A)  $PM_{10}$  - 420 :g/m<sup>3</sup>, 24-hour average;

(B)  $SO_2$  - 1600 :g/m<sup>3</sup> (0.6 ppm), 24-hour average.

(iv) **Emergency:** The emergency level indicates that air quality is continuing to degrade to a level of significant harm to the health of persons and that the most stringent control actions are necessary. An emergency will be declared when any one of the following levels is reached at any monitoring site:

(A)  $PM_{10}$  - 500 :g/m<sup>3</sup>, 24-hour average;

(B)  $SO_2$  - 2100 :g/m<sup>3</sup> (0.8 ppm), 24-hour average.

(v) **Termination:** Once declared, any status reached by application of these criteria will remain in effect until the criteria for that level are no longer met. At such time, the next lower status will be assumed.

(c) Whenever the Division declares that one of the above mentioned levels exists, it shall take such control actions which in its best judgment will lower the pollutant concentrations.

## **Chapter 13. Mobile Sources**

### **Section 2. Motor vehicle pollution control.**

**(a)** No person shall intentionally remove, alter or otherwise render ineffective or inoperative, exhaust emission control, crank case ventilation or any other air pollution control device or system which has been installed on a motor vehicle or stationary internal combustion engine as a requirement of any federal law or regulation.

**(b)** No person shall operate a motor vehicle or other internal combustion engine originally equipped with air pollution devices or systems as required by any federal law or regulation unless such devices or systems are in place and in operating condition.

**(c)** Subsections (a) and (b) of this regulation shall not apply to vehicles or stationary internal combustion engines which have been modified or altered to use a fuel other than gasoline or diesel fuel, except that such units shall comply with existing standards for emissions therefrom.

## **Chapter 14**

### **Emission Trading Program Regulations**

#### **Section 2. Western Backstop Sulfur Dioxide Trading Program.**

(a) Definitions. The following additional definitions apply to Section 2 of this chapter.

**“Account Representative”** means the individual who is authorized through a Certificate to represent owners and operators of the WEB source with regard to matters under the WEB Trading Program or, for a general account, who is authorized through a Certificate to represent the persons having an ownership interest in allowances in the general account with regard to matters concerning the general account.

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

**“Actual Emissions”** means total annual sulfur dioxide emissions determined in accordance with Section 2(h) of this chapter or determined in accordance with Section 3 of this chapter for sources that are not subject to Section 2(h) of this chapter.

**“Allocate”** means to assign allowances to a WEB source in accordance with Part C1 of Section C of the Wyoming Regional Haze SIP (WYRHSIP).

**“Allowance”** means the limited authorization under the WEB Trading Program to emit one ton of sulfur dioxide during a specified control period or any control period thereafter subject to the terms and conditions for use of unused allowances as established by Section 2 of this chapter.

**“Allowance limitation”** means the tonnage of sulfur dioxide emissions authorized by the allowances available for compliance deduction for a WEB source under Section 2(k) of this chapter on the allowance transfer deadline for each control period.

**“Allowance Tracking System”** means the system where allowances under the WEB Trading Program are recorded, held, transferred and deducted.

**“Allowance Tracking System account”** means an account in the Allowance Tracking System established for purposes of recording, holding, transferring, and deducting allowances.

**“Allowance transfer deadline”** means the deadline established in Section 2(i)(ii) of this chapter when allowances must be submitted for recording in a WEB source’s compliance account in order to demonstrate compliance for that control period.

***“Best Available Retrofit Technology (BART)”*** means that emission reduction control device, facility, method, or system, used to achieve the best continuous emission reduction for each pollutant emitted by an existing stationary facility. The emission limitation shall be established on a case-by-case basis taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

***“Certificate”*** means the completed and signed submission required to designate an account representative for a WEB source or an account representative for a general account.

***“Compliance account”*** means an account established in the Allowance Tracking System under Section 2(g)(i) of this chapter for the purpose of recording allowances that a WEB source might hold to demonstrate compliance with its allowance limitation.

***“Compliance certification”*** means a submission to the Wyoming Department of Environmental Quality (Department) by the account representative as required under Section 2(k)(ii) of this chapter to report a WEB source’s compliance or noncompliance with Chapter 14, Section 2.

***“Control period”*** means the period beginning January 1 of each year and ending on December 31 of the same year, inclusive.

***“Emissions tracking database”*** means the central database where sulfur dioxide emissions for WEB sources as recorded and reported in accordance with Section 2 of this chapter are tracked to determine compliance with allowance limitations.

***“Emission unit”*** means any part of a stationary source that emits or would have the potential to emit any pollutant subject to regulations under the Act.

***“Existing source”*** means a stationary source that commenced operation before the program trigger date.

***“General account”*** means an account established in the Allowance Tracking System under Section 2(g) of this chapter for the purpose of recording allowances held by a person that are not to be used to show compliance with an allowance limitation.

***“Milestone”*** means the maximum level of stationary source regional sulfur dioxide emissions for each year from 2003 to 2018, established according to the procedures in Part A1 of Section C of the WYRHSIP.

***“New WEB Source”*** means a WEB source that commenced operation on or after the program trigger date.

**“New Source Set-aside”** means a pool of allowances that are available for allocation to new sources in accordance with the provisions of Part C1.3 of Section C of the WYRHSIP.

**“Owner or Operator”** means any person who is an owner or who operates, controls or supervises a WEB source, and includes but is not limited to any holding company, utility system or plant manager.

**“Potential to emit”** means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air 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 is enforceable by the EPA Administrator.

**“Program trigger date”** means the date that the Department determines that the WEB Trading Program has been triggered in accordance with the provisions of Part A3 of Section C of the WYRHSIP.

**“Program trigger years”** means the years shown in Part A1 of Section C of the WYRHSIP, Table 1, column 3 for the applicable milestone if the WEB Trading Program is triggered as described in Part A3 of Section C of the WYRHSIP.

**“Renewable Energy Resource”** means a resource that generates electricity by non-nuclear and non-fossil technologies that results in low or no air emissions. The term includes electricity generated by wind energy technologies; solar photovoltaic and solar thermal technologies; geothermal technologies; technologies based on landfill gas and biomass sources, and new low-impact hydropower that meets the Low-Impact Hydropower Institute criteria. Biomass includes agricultural, food and wood wastes. The term does not include pumped storage or biomass from municipal solid waste, black liquor, or treated wood.

**“Retired source”** means a WEB source that has received a retired source exemption as provided in Section 2(c)(iv) of this chapter. Any retired source resuming operations under Section 2(c)(iv) of this chapter, must submit its exemption as part of its registration materials.

**“Serial number”** means, when referring to allowances, the unique identification number assigned to each allowance by the TSA, in accordance with Section 2(f)(ii) of this chapter.

**“Special Reserve Compliance Account”** means an account established in the allowance tracking system under Section 2(g)(i) for the purpose of recording allowances that a WEB source might hold to demonstrate compliance with its allowance limitation for emission units that are monitored for SO<sub>2</sub> in accordance with Section 2(h)(i)(B).

**“Stationary source”** means any building, structure, facility or installation that emits or may emit any air pollutant subject to regulation under the Act.

**“Submit”** means sent to the appropriate authority under the signature of the account

representative. For purposes of determining when something is submitted, an official U.S. Postal Service postmark, or equivalent electronic time stamp, shall establish the date of submittal.

**“Sulfur dioxide emitting unit”** means any equipment that is located at a WEB source and that emits sulfur dioxide.

**“Ton”** means 2000 pounds and any fraction of a ton equaling 1000 pounds or more shall be treated as one ton and any fraction of a ton equaling less than 1000 pounds shall be treated as zero tons.

**“Tracking System Administrator (TSA)”** means the person designated by the Department as the administrator of the Allowance Tracking System and the emission tracking database.

**“WEB source”** means a stationary Western Backstop (WEB) source that meets the applicability requirements of Section 2(c) of this chapter.

**“WEB Trading Program”** means Section 2 of this chapter, triggered as a backstop in accordance with the provisions in Part A3 of Section C of the WYRHSIP, if necessary, to ensure that regional sulfur dioxide emissions are reduced.

**“WYRHSIP”** means the Wyoming Regional Haze State Implementation Plan.

(b) WEB Trading Program Trigger.

(i) Except as provided in (ii), the provisions of Section 2 of this chapter shall apply on the program trigger date that is established in accordance with the procedures in Part A3 of Section C of the WYRHSIP.

(ii) Special Penalty Provisions for 2018 Milestone, Section 2(l) of this chapter, shall apply on January 1, 2018 and shall remain effective until the provisions of Section 2(l) of this chapter have been fully implemented.

(c) WEB Trading Program Applicability.

(i) General Applicability. Section 2 of this Chapter applies to any stationary source or group of stationary sources that are located on one or more contiguous or adjacent properties and which are under the control of the same person or persons under common control, belonging to the same industrial grouping, and that are described in paragraphs (A) and (B) of this subsection. A stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(A) All stationary sources that have actual sulfur dioxide emissions of 100 tons or more per year in the Program Trigger Years or any subsequent year. The fugitive

emissions of a stationary source shall not be considered in determining whether it is subject to Section 2 of this chapter unless the source belongs to one of the following categories of stationary source:

- (I) Coal cleaning plants (with thermal dryers);
- (II) Kraft pulp mills;
- (III) Portland cement plants;
- (IV) Primary zinc smelters;
- (V) Iron and steel mills;
- (VI) Primary aluminum ore reduction plants;
- (VII) Primary copper smelters;
- (VIII) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (IX) Hydrofluoric, sulfuric, or nitric acid plants;
- (X) Petroleum refineries;
- (XI) Lime plants;
- (XII) Phosphate rock processing plants;
- (XIII) Coke oven batteries;
- (XIV) Sulfur recovery plants;
- (XV) Carbon black plants (furnace process);
- (XVI) Primary lead smelters;
- (XVII) Fuel conversion plants;
- (XVIII) Sintering plants;
- (XIX) Secondary metal production plants;
- (XX) Chemical process plants;
- (XXI) Fossil-fuel boilers (or combination thereof) totaling more

than 250 million British thermal units per hour heat input;

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

(XXIII) Taconite ore processing plants;

(XXIV) Glass fiber processing plants;

(XXV) Charcoal production plants;

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

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

(B) A new source that begins operation after the program trigger date and has the potential to emit 100 tons or more of sulfur dioxide per year.

(ii) The Department may determine on a case-by-case basis, with concurrence from the EPA Administrator, that a stationary source defined in 2(c)(i)(A) above that has not previously met the applicability requirements of (i) is not subject to Section 2 of this chapter if the stationary source had actual sulfur dioxide emissions of 100 tons or more in a single year and in each of the previous five years had actual sulfur dioxide emissions of less than 100 tons per year, and:

(A) (I) The emissions increase was due to a temporary emission increase that was caused by a sudden, infrequent failure of air pollution control equipment, or process equipment, or a failure to operate in a normal or usual manner, and

(II) The stationary source has corrected the failure of air pollution equipment, process equipment, or process by the time of the Department's determination; or

(B) The stationary source had to switch fuels or feedstocks on a temporary basis and as a result of an emergency situation or unique and unusual circumstances besides the cost of such fuels or feedstocks.

(iii) Duration of Applicability. Except as provided for in Section 2(c)(iv) of this chapter, once a stationary source is subject to Section 2 of this chapter, it will remain subject to it every year thereafter.

(iv) Retired Source Exemption.

(A) Application. Any WEB source that is permanently retired shall apply for a retired source exemption. The WEB source may only be considered permanently

retired if all sulfur dioxide emitting units at the source are permanently retired. The application shall contain the following information:

(I) Identification of the WEB source, including plant name and an appropriate identification code in a format specified by the Department.

(II) Name of Account Representative.

(III) Description of the status of the WEB source, including the date that the WEB source was permanently retired.

(IV) Signed certification that the WEB source is permanently retired and will comply with the requirements of Section 2(c)(iv) of this chapter.

(V) Verification that the WEB source has a general account where any unused allowances or future allocations will be recorded.

(B) Notice. The retired source exemption becomes effective when the Department notifies the WEB source that the retired source exemption has been granted.

(C) Responsibilities of Retired Sources.

(I) A retired source shall be exempt from Section 2(h) and Section 2(k) of this chapter, except as provided below.

(II) A retired source shall not emit any sulfur dioxide after the date the retired source exemption is issued.

(III) A WEB source shall submit sulfur dioxide emissions reports, as required by Section 2(h)(viii) of this chapter for any time period the source was operating prior to the effective date of the retired source exemption. The retired source shall be subject to the compliance provisions of Section 2(k) of this chapter, including the requirement to hold allowances in the source's compliance account to cover all sulfur dioxide emissions prior to the date the source was permanently retired.

(IV) A retired source that is still in existence but no longer emitting sulfur dioxide shall, for a period of five years from the date the records are created, retain records demonstrating the effective date of the retired source exemption for purposes of Section 2 of this chapter.

(D) Resumption of Operations.

(I) Should a retired source desire to resume operation, the retired source must submit registration materials as follows:

(1.) If the source is required to obtain a construction

permit under Wyoming Air Quality Regulations and Standards (WAQSR) Chapter 6, Section 2 or an operating permit under WAQSR Chapter 6, Section 3 prior to resuming operation, then registration information as described in Section 2(e)(i) of this chapter and a copy of the retired source exemption must be submitted with the notice of intent under WAQSR Chapter 6, Section 2 or the operating permit application required under WAQSR Chapter 6, Section 3;

(2.) If the source does not meet the criteria of (1.), then registration information as described in Section 2(e)(i) of this chapter and a copy of the retired source exemption must be submitted to the Department at least 90 days prior to resumption of operation.

(II) The retired source exemption shall automatically expire on the day the retired source resumes operation.

(E) Loss of Future Allowances. A WEB source that is permanently retired and that does not apply to the Department for a retired source exemption within 90 days of the date that the source is permanently retired shall forfeit any unused and future allowances. The abandoned allowances shall be retired directly by the TSA.

(d) Account Representative for WEB Sources.

(i) Each WEB source must identify one account representative and may also identify an alternate account representative who may act on behalf of the account representative. Any representation, action, inaction or submission by the alternate account representative will be deemed to be a representation, action, inaction or submission by the account representative.

(ii) Identification and Certification of an Account Representative.

(A) The account representative and any alternate account representative shall be appointed by an agreement that makes the representations, actions, inactions or submissions of the account representative and any alternate binding on the owners and operators of the WEB source.

(B) The account representative shall submit to the Department and the TSA a signed and dated Certificate that contains the following elements:

(I) Identification of the WEB source by plant name, state and an appropriate identification code in a format specified by the Department;

(II) The name, address, e-mail (if available), telephone and facsimile number of the account representative and any alternate;

(III) A list of owners and operators of the WEB source;

(IV) Information to be part of the emission tracking system database in accordance with Part A2.1 of Section C of the WYRHSIP. The specific data

elements shall be as specified by the State of Wyoming to be consistent with the data system structure, and may include basic facility information that may appear in other reports and notices submitted by the WEB source, such as county location, industrial classification codes, and similar general facility information.

(V) The following certification statement: “I certify that I was selected as the account representative or alternate account representative, as applicable, by an agreement binding on the owners and operators of the WEB source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB Trading Program on behalf of the owners and operators of the WEB source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Department regarding the WEB Trading Program.”

(C) Upon receipt by the Department of the completed certificate, the account representative and any alternate account representative represents and, by his or her representations, actions, inactions, or submissions, legally binds each owner and operator of the WEB source in all matters pertaining to the WEB Trading Program. The owners and operators shall be bound by any decision or order issued by the Department regarding the WEB Trading Program.

(D) No WEB Allowance Tracking System account shall be established for the WEB source until the TSA has received a complete certificate. Once the account is established, the account representative shall make all submissions concerning the account, including the deduction or transfer of allowances.

(iii) Responsibilities.

(A) The responsibilities of the account representative include, but are not limited to, the transferring of allowances and the submission of monitoring plans, registrations, certification applications, sulfur dioxide emissions data and compliance reports as required by Section 2 of this chapter, and representing the source in all matters pertaining to the WEB Trading Program.

(B) Each submission under this program shall be signed and certified by the account representative for the WEB source. Each submission shall include the following truth and accuracy certification statement by the account representative:

(I) “I am authorized to make this submission on behalf of the owners and operators of the WEB source for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.”

(iv) Changing the Account Representative or Owners and Operators.

(A) Changes to the Account Representative or the alternate Account Representative.

The account representative or alternate account representative may be changed at any time by sending a complete superseding certificate to the Department and the TSA under Section 2(d)(ii) of this chapter, with the change taking effect upon receipt of such certificate by the TSA. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous account representative or alternate prior to the time and date when the TSA receives the superseding certificate shall be binding on the new account representative and the owners and operators of the WEB source.

(B) Changes in Owners and Operators.

(I) Within 30 days of any change in the owners and operators of the WEB source, including the addition of a new owner or operator, the account representative shall submit a revised certificate amending the list of owners and operators to include such change.

(II) In the event a new owner or operator of a WEB source is not included in the list of owners and operators submitted in the certificate, such new owner or operator shall be deemed to be subject to and bound by the certificate, the representations, actions, inactions, and submissions of the account representative of the WEB source, and the decisions, orders, actions, and inactions of the Department as if the new owner or operator were included in such list.

(e) Registration.

(i) Deadlines.

(A) Each source that is a WEB source on or before the program trigger date shall register by submitting the initial certificate required in Section 2(d)(ii) of this chapter to the Department no later than 180 days after the program trigger date.

(B) Any existing source that becomes a WEB source after the program trigger date shall register by submitting the initial certificate required in Section 2(d)(ii) of this chapter to the Department by September 30 of the year following the inventory year in which the source exceeded the emission threshold.

(C) Any new WEB source shall register by submitting the initial Certificate required in Section 2(d)(ii) of this chapter to the Department prior to the commencement of operation.

(ii) Integration Into Permits.

(A) Any allocation, transfer or deduction of allowance to or from the compliance account of a WEB source shall not require revision of the WEB source's operating permit under WAQSR Chapter 6, Section 3.

(B) Any WEB source that is not required to have a permit under WAQSR Chapter 6, Section 2 at any time after Chapter 14 becomes effective must at all times possess a permit that includes the requirements of Chapter 14. If it does not possess a Title V permit under Chapter 6, Section 3, it may do so by obtaining or modifying a permit under WAQSR Chapter 6, Section 2 to incorporate the requirements of Chapter 14. The source must at all times possess a permit that includes these requirements.

(f) Allowance Allocations.

(i) The TSA will record the allowances for each WEB source in the compliance account for the WEB source once the allowances are allocated by the Department under Part C1 of Section C of the WYRHSIP. If applicable, the TSA will record a portion of the sulfur dioxide allowances for a WEB source in a special reserve compliance account to account for any allowances to be held in accordance with Section 2(h)(i)(B) of this chapter.

(ii) The TSA will assign a serial number to each allowance in accordance with Part C2 of Section C of the WYRHSIP.

(iii) All allowances shall be allocated, recorded, transferred, or used as whole allowances. To determine the number of whole allowances, the number of allowances shall be rounded down for decimals less than 0.50 and rounded up for decimals of 0.50 or greater.

(iv) An allowance is not a property right, and is a limited authorization to emit one ton of sulfur dioxide valid only for the purpose of meeting the requirements of Section 2 of this chapter. No provision of the WEB Trading Program or other law should be construed to limit the authority of the Department to terminate or limit such authorization.

(v) Early Reduction Bonus Allocation. Any non-utility WEB source that installs new control technology and that reduces its permitted annual sulfur dioxide emissions to a level that is below the floor level allocation established for that source in Part C1 of Section C of the WYRHSIP or any utility that reduces its permitted annual sulfur dioxide emissions to a level that is below best available control technology may apply to the Department for an early reduction bonus allocation. The bonus allocation shall be available for reductions that occur between 2008 and the program trigger year. The application must be submitted no later than 90 days after the program trigger date. Any WEB source that applies and receives early reduction bonus allocations must retain the records referenced below for a minimum of five years after the early reduction bonus allowance is certified in accordance with Part C1.1(a)(3) of Section C of the WYRHSIP. The application for an early reduction bonus allocation must contain the following information:

(A) Copies of all construction permits, operating permits or other enforceable documents that include annual sulfur dioxide emissions limits for the WEB source

during the period the WEB source qualifies for an early reduction credit. Such permits or enforceable documents must require monitoring for sulfur dioxide emissions that meet the requirements in Section 2(h) of this chapter.

(B) Demonstration that the floor level established for the source in accordance with Part C1.1(a)(2) of Section C of the WYRHSIP for non-utilities or best available control technology for utilities was calculated using data that are consistent with monitoring methods specified in Section 2(h)(i)(A) of this chapter. If needed, the demonstration shall include a new floor level calculation that is consistent with the monitoring methodology in Section 2(h) of this chapter.

(vi) Request for allowances for new WEB sources or modified WEB Sources.

(A) A new WEB source may apply to the Department for an allocation from the new source set-aside, as outlined in Part C1.3 of Section C of the WYRHSIP.

(I) A new WEB source is eligible for an annual floor allocation equal to the lower of the permitted annual sulfur dioxide emission limit for that source, or sulfur dioxide annual emissions calculated based on a level of control equivalent to best available control technology (BACT) and assuming 100 percent utilization of the WEB source, beginning with the first full calendar year of operation.

(B) An existing WEB source that has increased production capacity through a new construction permit issued under WAQSR Chapter 6, Section 2 may apply to the Department for an allocation from the new source set-aside, as outlined in Part C1.3 of Section C of the WYRHSIP. An existing WEB source is eligible for an annual allocation equal to:

(I) The permitted annual sulfur dioxide emission limit for a new unit; or

(II) The permitted annual sulfur dioxide emission increase for the WEB source due to the replacement of an existing unit with a new unit or the modification of an existing unit that increased production capacity of the WEB source.

(C) A source that has received a retired source exemption under Chapter 14, Section 2(c)(iv) is not eligible for an allocation from the new source set-aside.

(D) The application for an allocation from the new source set-aside must contain the following:

(I) For existing WEB sources under Section 2(f)(vi)(B)(II) of this chapter, documentation of the production capacity of the source before and after the new permit;

(II) For new WEB sources or a new unit under Section 2(f)(vi)(B)(I), documentation of the actual date of the commencement of operation and a copy of

the permit issued under Chapter 6, Section 2.

(g) Establishment of Accounts.

(i) Allowance Tracking System Accounts. All WEB sources are required to open a compliance account. In addition, if a WEB source conducts monitoring under Section 2(h)(i)(B) of this chapter, the WEB source shall open a special reserve compliance account for allowances associated with units monitored under those provisions. The WEB source and account representative shall have no rights to transfer allowances in or out of such special reserve compliance account. The State of Wyoming shall allocate allowances to the account in accordance with Section 2(h)(i)(B)(V) of this chapter and all such allowances for each control period shall be retired each year for compliance in accordance with Section 2(k) of this chapter. Any person may open a general account for holding and transferring allowances. To open either type of account, an application that contains the following information shall be submitted:

(A) The name, mailing address, e-mail address, telephone number and facsimile number of the account representative. For a compliance account, include a copy of the certificate for the account representative and any alternate as required in Section 2(d)(ii)(B) of this chapter. For a general account, include the Certificate for the account representative and any alternate as required in (iii)(B).

(B) The WEB source or organization name;

(C) The type of account to be opened; and

(D) A signed certification of truth and accuracy by the account representative according to Section 2(d)(iii)(B) of this chapter for compliance accounts and for general accounts, certification of truth and accuracy by the account representative according to (iv).

(ii) Account Representative for General Accounts. For a general account, one account representative must be identified and an alternate account representative may be identified and may act on behalf of the account representative. Any representation, action, inaction or submission by the alternate account representative will be deemed to be a representation, action, inaction or submission by the account representative.

(iii) Identification and Certification of an Account Representative for General Accounts.

(A) The account representative shall be appointed by an agreement that makes the representations, actions, inactions or submissions of the account representative binding on all persons who have an ownership interest with respect to allowances held in the general account.

(B) The account representative shall submit to the Department and the TSA a signed and dated certificate that contains the following elements:

(I) The name, address, email (if available), telephone and facsimile number of the account representative and any alternate;

(II) The organization name;

(III) The following certification statement:

“I certify that I was selected as the account representative or alternate account representative, as applicable, by an agreement binding on all persons who have an ownership interest in allowances in the general account with regard to matters concerning the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB Trading Program on behalf of said persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions.”

(C) Upon receipt by the Department of the complete certificate, the account representative represents and, by his or her representations, actions, inactions, or submissions, legally binds each person who has an ownership interest in allowances held in the general account with regard in all matters concerning the general account. Such persons shall be bound by any decision or order issued by the Department.

(D) No WEB Allowance Tracking System general account shall be established until the TSA has received a complete certificate. Once the account is established, the account representative shall make all submissions concerning the account, including the deduction or transfer of allowances.

(iv) Requirements and Responsibilities. Each submission for the general account shall be signed and certified by the account representative for the general account. Each submission shall include the following truth and accuracy certification statement by the account representative:

(A) “I am authorized to make this submission on behalf of all persons who have an ownership interest in allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.”

(v) Changing the Account Representative. The account representative or alternate account representative may be changed at any time by sending a complete superseding certificate to the Department and the TSA under (iii)(B), with the change taking effect upon receipt of such certificate by the Department. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous account representative or alternate prior to the time and date when the Department receives the superseding certificate

shall be binding on the new account representative and all persons having ownership interest with respect to allowances held in the general account.

(vi) Changes to the Account. Any change to the information required in the application for an existing account under (i) shall require a revision of the application.

(h) Monitoring, Recordkeeping and Reporting.

(i) General Requirements on Monitoring Methods.

(A) For each sulfur dioxide emitting unit at a WEB source the WEB source shall comply with the following, as applicable, to monitor and record sulfur dioxide mass emissions:

(I) If a unit is subject to 40 CFR Part 75 under a requirement separate from the WEB Trading Program, the unit shall meet the requirements contained in Part 75 with respect to monitoring, recording and reporting sulfur dioxide mass emissions.

(II) If a unit is not subject to 40 CFR Part 75 under a requirement separate from the WEB Trading Program, a unit shall use one of the following monitoring methods, as applicable:

(1.) A continuous emission monitoring system (CEMS) for sulfur dioxide and flow that complies with all applicable monitoring provisions in 40 CFR Part 75;

(2.) If the unit is a gas- or oil-fired combustion device, the excepted monitoring methodology in Appendix D to 40 CFR Part 75, or, if applicable, the low mass emissions (LME) provisions (with respect to sulfur dioxide mass emissions only) in 40 CFR Part 75.19;

(3.) One of the optional WEB protocols, if applicable, in Appendix A to Chapter 14; or

(4.) A petition for site-specific monitoring that the source submits for approval by the State of Wyoming and approval by the U.S. Environmental Protection Agency in accordance with Section 2(h)(ix) of this chapter (relating to petitions).

(III) A permanently retired unit shall not be required to monitor under this Section if such unit was permanently retired and had no emissions for the entire period and the account representative certifies in accordance with Section 2(k)(ii) of this chapter that these conditions were met. In the event that a permanently retired unit recommences operation, the WEB source shall meet the requirements of this Section 2(h) in the same manner as if the unit was a new unit.

(B) Notwithstanding paragraph (A) of this section, the WEB source

with a unit that meets one of the conditions of paragraph (B)(I) may submit a request to the Department to have the provisions of this paragraph (B) apply to that unit.

(B):

(I) Any of the following units may implement this paragraph

(1.) Any smelting operation where all of the emissions from the operation are not ducted to a stack;

(2.) Any flare, except to the extent such flares are used as a fuel gas combustion device at a petroleum refinery; or

(3.) Any other type of unit without add-on sulfur dioxide control equipment if the unit belongs to one of the following source categories: cement kilns, pulp and paper recovery furnaces, lime kilns, or glass manufacturing.

(II) For each unit covered by this paragraph (B), the account representative shall submit a notice to request that this paragraph (B) apply to one or more sulfur dioxide emitting units at a WEB source. The notice shall be submitted in accordance with the compliance dates specified in Section 2(h)(vi)(A) of this chapter, and shall include the following information in a format specified by the State of Wyoming with such additional, related information as may be requested:

(1.) A list of all units at the WEB source that identifies which of the units are to be covered by this paragraph (B); and

(2.) An identification of any such units that are permanently retired.

(III) For each new unit at an existing WEB source for which the WEB source seeks to comply with this paragraph (B) and for which the account representative applies for an allocation under the new source set-aside provisions of Section 2(f)(vi) of this chapter, the account representative shall submit a modified notice under paragraph (B)(II) that includes such new sulfur dioxide emitting unit(s). The modified request shall be submitted in accordance with the compliance dates in Section 2(h)(vi)(A) of this chapter, but no later than the date on which a request is submitted under Section 2(f)(vi) of this chapter for allocations from the set-aside.

(IV) The account representative for a WEB source shall submit an annual emissions statement for each unit under this paragraph (B) in accordance with Section 2(h)(viii) of this chapter. The WEB source shall maintain operating records sufficient to estimate annual emissions in a manner consistent with emission inventory submitted by the source for calendar year 1998. In addition, if the estimated emissions from all such units at the WEB source are greater than the allowances for the current control year held in the special reserve compliance account for the WEB source, the account representative shall report the excess amount as part of the annual report for the WEB source under Section 2(k) of this chapter

and be required to use other allowances in the standard compliance account for the WEB source to account for such emissions, in accordance with Section 2(k) of this chapter.

(V) Section 2(h) of this chapter shall not apply to units covered by this paragraph except where otherwise noted.

(VI) A WEB source may opt to modify the monitoring for a sulfur dioxide emitting unit to use monitoring under Section 2(h)(i)(A) of this chapter, but any such monitoring change must take effect on January 1 of the next compliance year. In addition, the account representative must submit an initial monitoring plan at least 180 days prior to the date on which the new monitoring will take effect and a detailed monitoring plan in accordance with Section 2(h)(ii) of this chapter. The account representative shall also submit a revised notice under paragraph (B)(II) at the same time that the initial monitoring plan is submitted.

(C) For any monitoring that the WEB source uses under this section (including paragraph (B)), the WEB source (and, as applicable, the account representative) shall implement, certify, and use such monitoring in accordance with this section, and record and report the data from such monitoring as required in this section. In addition, the WEB source (and, as applicable, the account representative) may not:

(I) Except for an alternative approved by the EPA Administrator for a WEB source that implements monitoring under Section 2(h)(i)(A)(I) of this chapter, use an alternative monitoring system, alternative reference method or another alternative for the required monitoring method without having obtained prior written approval in accordance with Section 2(h)(ix) of this chapter (relating to petitions);

(II) Operate a sulfur dioxide emitting unit so as to discharge, or allow to be discharged, sulfur dioxide emissions to the atmosphere without accounting for these emissions in accordance with the applicable provisions of this section;

(III) Disrupt the approved monitoring method or any portion thereof, and thereby avoid monitoring and recording sulfur dioxide mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing or maintenance is performed in accordance with the applicable provisions of this section; or

(IV) Retire or permanently discontinue use of an approved monitoring method, except under one of the following circumstances:

(1.) During a period when the unit is exempt from the requirements of this Section, including retirement of a unit as addressed in Section 2(h)(i)(A)(III);

(2.) The WEB source is monitoring emissions from the unit with another certified monitoring method approved under this Section for use at the unit that provides data for the same parameter as the retired or discontinued monitoring method; or

(3.) The account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with this section, and the WEB source recertifies thereafter a replacement monitoring system in accordance with the applicable provisions of this section.

(ii) Monitoring Plan.

(A) General Provisions. A WEB source with a sulfur dioxide emitting unit that uses a monitoring method under Section 2(h)(i)(A)(II) of this chapter shall meet the following requirements:

(I) Prepare and submit to the State of Wyoming an initial monitoring plan for each monitoring method that the WEB source uses to comply with this section. In accordance with paragraph 2(h)(ii)(C) of this chapter, the plan shall contain sufficient information on the units involved, the applicable method, and the use of data derived from that method to demonstrate that all unit sulfur dioxide emissions are monitored and reported. The plan shall be submitted in accordance with the compliance deadlines specified in Section 2(h)(vi) of this chapter.

(II) Prepare, maintain and submit to the State of Wyoming a detailed monitoring plan prior to the first day of certification testing in accordance with the compliance deadline specified in Section 2(h)(vi) of this chapter. The plan will contain the applicable information required by Section 2(h)(ii)(D) of this chapter. The State of Wyoming may require that the monitoring plan (or portions thereof) be submitted electronically. The State of Wyoming also may require that the plan be submitted on an ongoing basis in electronic format as part of the quarterly report submitted under Section 2(h)(viii)(A) of this chapter or resubmitted separately after any change is made to the plan in and;

(III) Whenever the WEB source makes a replacement, modification, or change in one of the systems or methodologies provided for in Section 2(h)(i)(A)(II) of this chapter, including a change in the automated data acquisition and handling system or in the flue gas handling system, that affects information reported in the monitoring plan (e.g., a change to serial number for a component of a monitoring system), then the WEB source shall update the monitoring plan in accordance with the compliance deadline specified in Section 2(h)(vi) of this chapter.

(B) A WEB source with a sulfur dioxide emitting unit that uses a method under Section 2(h)(i)(A)(I) of this chapter (a unit subject to 40 CFR Part 75 under a program other than this WEB Trading Program) shall meet the requirements of Section 2(h)(ii)(A)-(F) by preparing, maintaining and submitting a monitoring plan in accordance with the requirements of 40 CFR Part 75. If requested, the WEB source also shall submit the entire monitoring plan to the State of Wyoming.

(C) Initial Monitoring Plan. The account representative shall submit an initial monitoring plan for each sulfur dioxide emitting unit (or group of units sharing a

common methodology) that, except as otherwise specified in an applicable provision in Appendix A of this chapter, contains the following information:

- (I) For all sulfur dioxide emitting units:
  - (1.) Plant name and location;
  - (2.) Plant and unit identification numbers assigned by the State of Wyoming;
  - (3.) Type of unit (or units for a group of units using a common monitoring methodology);
  - (4.) Identification of all stacks or pipes associated with the monitoring plan;
  - (5.) Types of fuel(s) fired (or sulfur containing process materials used in the sulfur dioxide emitting unit), and the fuel classification of the unit if combusting more than one type of fuel and using a 40 CFR Part 75 methodology;
  - (6.) Type(s) of emissions controls for sulfur dioxide installed or to be installed, including specifications of whether such controls are pre-combustion, post-combustion, or integral to the combustion process;
  - (7.) Maximum hourly heat input capacity, or process throughput capacity, if applicable;
  - (8.) Identification of all units using a common stack; and
  - (9.) Indicator of whether any stack identified in the plan is a bypass stack.

(II) For each unit and parameter required to be monitored, identification of monitoring methodology information, consisting of monitoring methodology, monitor locations, substitute data approach for the methodology, and general identification of quality assurance procedures. If the proposed methodology is a site-specific methodology submitted pursuant to Section 2(h)(i)(A)(II)(4.) of this chapter, the description under this paragraph shall describe fully all aspects of the monitoring equipment, installation locations, operating characteristics, certification testing, ongoing quality assurance and maintenance procedures, and substitute data procedures.

(III) If the WEB source intends to petition for a change to any specific monitoring requirement otherwise required under this section, such petition may be submitted as part of the initial monitoring plan.

(IV) The State of Wyoming may issue a notice of approval or disapproval of the initial monitoring plan based on the compliance of the proposed methodology with the requirements for monitoring in this section.

(D) Detailed Monitoring Plan. The account representative shall submit a detailed monitoring plan that, except as otherwise specified in an applicable provision in Appendix A of this chapter, shall contain the following information:

(I) Identification and description of each monitoring component (including each monitor and its identifiable components, such as analyzer or probe) in a CEMS (e.g., sulfur dioxide pollutant concentration monitor, flow monitor, moisture monitor), a 40 CFR Part 75, Appendix D monitoring system (e.g., fuel flowmeter, data acquisition and handling system), or a protocol in Appendix A of this chapter, including:

- (1.) Manufacturer, model number and serial number;
- (2.) Component or system identification code assigned by the facility to each identifiable monitoring component, such as the analyzer or probe;
- (3.) Designation of the component type and method of sample acquisition or operation (e.g., in situ pollutant concentration monitor or thermal flow monitor);
- (4.) Designation of the system as a primary or backup system;
- (5.) First and last dates the system reported data;
- (6.) Status of the monitoring component; and
- (7.) Parameter monitored.

(II) Identification and description of all major hardware and software components of the automated data acquisition and handling system, including:

- (1.) Hardware components that perform emission calculations or store data for quarterly reporting purposes (provide the manufacturer and model number); and
- (2.) Software components (provide the identification of the provider and model or version number).

(III) Explicit formulas for each measured emissions parameter, using component or system identification codes for the monitoring system used to measure the parameter that links the system observations with the reported concentrations and mass emissions. The formulas must contain all constants and factors required to derive mass

emissions from component or system code observations and an indication of whether the formula is being added, corrected, deleted, or is unchanged. The WEB source with a low mass emissions unit for which the WEB source is using the optional low mass emissions excepted methodology in Section 75.19(c) of 40 CFR Part 75 is not required to report such formulas.

(IV) Inside cross-sectional area (ft<sup>2</sup>) at flow monitoring location  
(for units with flow monitors only).

(V) If using CEMS for sulfur dioxide and flow, for each parameter monitored: scale, maximum potential concentration (and method of calculation), maximum expected concentration (if applicable) (and method of calculation), maximum potential flow rate (and method of calculations), span value, full-scale range, daily calibration units of measure, span effective date and hour, span inactivation date and hour, indication of whether dual spans are required, default high range value, flow rate span, and flow rate span value and full scale value (in standard cubic feet per hour) for each unit or stack using sulfur dioxide or flow component monitors.

(VI) If the monitoring system or excepted methodology provides for use of a constant, assumed, or default value for a parameter under specific circumstances, then include the following information for each value of such parameter:

- (1.) Identification of the parameter;
- (2.) Default, maximum, minimum, or constant value,  
and units of measure for the value;
- (3.) Purpose of the value;
- (4.) Indicator of use during controlled or uncontrolled  
hours;
- (5.) Types of fuel;
- (6.) Source of the value;
- (7.) Value effective date and hour;
- (8.) Date and hour value is no longer effective (if  
applicable); and
- (9.) For units using the excepted methodology under  
section 75.19 of 40 CFR Part 75, the applicable sulfur dioxide emission factor.

(VII) Unless otherwise specified in Section 6.5.2.1 of Appendix A to 40 CFR Part 75, for each unit or common stack on which hardware CEMS are installed:

(1.) The upper and lower boundaries of the range of operation (as defined in Section 6.5.2.1 of Appendix A to 40 CFR Part 75), or thousand pounds per hour (lb/hr) of steam, or feet per second (ft/sec) (as applicable);

(2.) The load or operating level(s) designated as normal in Section 6.5.2.1 of Appendix A to 40 CFR Part 75, or thousands of lb/hr of steam, or ft/sec (as applicable);

(3.) The two load or operating levels (i.e., low, mid, or high) identified in Section 6.5.2.1 of Appendix A to 40 CFR Part 75 as the most frequently used;

(4.) The date of the data analysis used to determine the normal load (or operating) level(s) and the two most frequently-used load (or operating) levels; and

(5.) Activation and deactivation dates when the normal load or operating level(s) change and are updated.

(VIII) For each unit that is complying with 40 CFR Part 75 for which the optional fuel flow-to-load test in Section 2.1.7 of Appendix D to 40 CFR Part 75 is used:

(1.) The upper and lower boundaries of the range of operation (as defined in Section 6.5.2.1 of Appendix A to 40 CFR Part 75), expressed in thousands of lb/hr of steam;

(2.) The load level designated as normal, pursuant to Section 6.5.2.1 of Appendix A to 40 CFR Part 75, expressed in thousands of lb/hr of steam; and

(3.) The date of the load analysis used to determine the normal load level.

(IX) Information related to quality assurance testing, including (as applicable): identification of the test strategy; protocol for the relative accuracy test audit; other relevant test information; calibration gas levels (percent of span) for the calibration error test and linearity check; calculations for determining maximum potential concentration, maximum expected concentration (if applicable), maximum potential flow rate, and span;

(X) If applicable, apportionment strategies under sections 75.10 through 75.18 of 40 CFR Part 75.

(XI) Description of site locations for each monitoring component in a monitoring system, including schematic diagrams and engineering drawings and any other documentation that demonstrates each monitor location meets the appropriate siting criteria. For units monitored by a continuous emission monitoring system, diagrams shall include:

(1.) A schematic diagram identifying entire gas handling system from unit to stack for all units, using identification numbers for units, monitor components, and stacks corresponding to the identification numbers provided in the initial monitoring plan and paragraphs (D)(I) and (III). The schematic diagram must depict the height of any monitor locations. Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common stack.

(2.) Stack and duct engineering diagrams showing the dimensions and locations of fans, turning vanes, air preheaters, monitor components, probes, reference method sampling ports, and other equipment that affects the monitoring system location, performance, or quality control checks.

(XII) A data flow diagram denoting the complete information handling path from output signals of CEMS components to final reports.

(E) In addition to supplying the information in paragraphs (C) and (D) above, the WEB source with a sulfur dioxide emitting unit using either of the methodologies in paragraph (h)(i)(A)(II)(2.) of this section shall include the following information in its monitoring plan for the specific situations described:

(I) For each gas-fired or oil-fired sulfur dioxide emitting unit for which the WEB source uses the optional protocol in Appendix D to 40 CFR Part 75 for sulfur dioxide mass emissions, the WEB source shall include the following information in the monitoring plan:

(1.) Parameter monitored;

(2.) Type of fuel measured, maximum fuel flow rate, units of measure, and basis of maximum fuel flow rate (i.e., upper range value or unit maximum) for each fuel flowmeter;

(3.) Test method used to check the accuracy of each fuel flowmeter;

(4.) Submission status of the data;

(5.) Monitoring system identification code;

(6.) The method used to demonstrate that the unit qualifies for monthly gross calorific value (GCV) sampling or for daily or annual fuel sampling for sulfur content, as applicable;

(7.) A schematic diagram identifying the relationship between the unit, all fuel supply lines, the fuel flowmeter(s), and the stack(s). The schematic diagram must depict the installation location of each fuel flowmeter and the fuel sampling

location(s). Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common pipe;

(8.) For units using the optional default sulfur dioxide emission rate for “pipeline natural gas” or “natural gas” in Appendix D to 40 CFR Part 75, the information on the sulfur content of the gaseous fuel used to demonstrate compliance with either section 2.3.1.4 or 2.3.2.4 of appendix D to 40 CFR Part 75;

(9.) For units using the 720 hour test under Section 2.3.6 of Appendix D to 40 CFR Part 75 to determine the required sulfur sampling requirements, report the procedures and results of the test; and

(10.) For units using the 720 hour test under Section 2.3.5 of Appendix D to 40 CFR Part 75 to determine the appropriate fuel GCV sampling frequency, report the procedures used and the results of the test.

(II) For each sulfur dioxide emitting unit for which the WEB source uses the low mass emission excepted methodology of Section 75.19 to 40 CFR Part 75, the WEB source shall include the following information in the monitoring plan that accompanies the initial certification application:

(1.) The results of the analysis performed to qualify as a low mass emissions unit under Section 75.19(c) to 40 CFR Part 75. This report will include either the previous three years actual or projected emissions. The following items should be included:

- a. Current calendar year of application;
- b. Type of qualification;
- c. Years one, two, and three;
- d. Annual measured, estimated or projected sulfur dioxide mass emissions for years one, two, and three; and
- e. Annual operating hours for years one, two, and three.

(2.) A schematic diagram identifying the relationship between the unit, all fuel supply lines and tanks, any fuel flowmeter(s), and the stack(s). Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common pipe;

(3.) For units which use the long-term fuel flow methodology under Section 75.19(c)(3) to 40 CFR Part 75, a diagram of the fuel flow to each

unit or group of units and a detailed description of the procedures used to determine the long-term fuel flow for a unit or group of units for each fuel combusted by the unit or group of units;

(4.) A statement that the unit burns only gaseous fuel(s) or fuel oil and a list of the fuels that are burned or a statement that the unit is projected to burn only gaseous fuel(s) or fuel oil and a list of the fuels that are projected to be burned;

(5.) A statement that the unit meets the applicability requirements in Sections 75.19(a) and (b) to 40 CFR Part 75 with respect to sulfur dioxide emissions; and

(6.) Any unit historical actual, estimated and projected sulfur dioxide emissions data and calculated sulfur dioxide emissions data demonstrating that the unit qualifies as a low mass emissions unit under sections 75.19(a) and (b) to 40 CFR Part 75.

(III) For each gas-fired unit the WEB source shall include the following in the monitoring plan: current calendar year, fuel usage data as specified in the definition of gas-fired in Section 72.2 of 40 CFR Part 72, and an indication of whether the data are actual or projected data.

(F) The specific elements of a monitoring plan under this Section 2(h)(ii) shall not be part of an operating permit for a WEB source issued in accordance with Title V of the Act, and modifications to the elements of the plan shall not require a permit modification.

(iii) Certification and Recertification.

(A) All monitoring systems are subject to initial certification and recertification testing as specified in 40 CFR Part 75 or Appendix A to Chapter 14, as applicable. Certification or recertification of a monitoring system by the U.S. Environmental Protection Agency for a WEB source that is subject to 40 CFR Part 75 under a requirement separate from this Rule shall constitute certification under the WEB Trading Program.

(B) The WEB source with a sulfur dioxide emitting unit not otherwise subject to 40 CFR Part 75 that monitors sulfur dioxide mass emissions in accordance with 40 CFR Part 75 to satisfy the requirements of this Section shall perform all of the tests required by that regulation and shall submit the following:

(I) A test notice, not later than 21 days before the certification testing of the monitoring system, provided that the State of Wyoming may establish additional requirements for adjusting test dates after this notice as part of the approval of the initial monitoring plan under Section 2(h)(ii)(C) of this chapter; and

(II) An initial certification application within 45 days after testing is complete.

(C) A monitoring system will be considered provisionally certified while the application is pending, and the system shall be deemed certified if the State of Wyoming does not approve or disapprove the system within six months after the date on which the application is submitted.

(D) Whenever an audit of any monitoring certified under this Rule, and a review of the initial certification or recertification application, reveal that any system or component should not have been certified or recertified because it did not meet a particular performance specification or other requirement of Chapter 14, both at the time of the initial certification or recertification application submission and at the time of the audit, the State of Wyoming will issue a notice of disapproval of the certification status of such system or component. For the purposes of this paragraph, an audit shall be either a field audit of the facility or an audit of any information submitted to the State of Wyoming regarding the facility. By issuing the notice of disapproval, the certification status is revoked prospectively, and the data measured and recorded shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the WEB source completes subsequently approved initial certification or recertification tests in accordance with the procedures in this Section 2(h)(iii) of this chapter. The WEB source shall apply the substitute data procedures in Section 2(h)(v)(B) of this chapter to replace, prospectively, all of the invalid, non-quality-assured data for each disapproved system or component.

(iv) Ongoing Quality Assurance and Quality Control.

The WEB source shall satisfy the applicable quality assurance and quality control requirements of 40 CFR Part 75 or, if the WEB source is subject to a WEB protocol in Appendix A of this chapter, the applicable quality assurance and quality control requirements in Appendix A of this chapter on and after the date that certification testing commences.

(v) Substitute Data Procedures.

(A) For any period after certification testing is complete in which quality assured, valid data are not being recorded by a monitoring system certified and operating in accordance with Chapter 14, missing or invalid data shall be replaced with substitute data in accordance with 40 CFR Part 75 or, if the WEB source is subject to a WEB protocol in Appendix A of this chapter, with substitute data in accordance with Appendix A.

(B) For a sulfur dioxide emitting unit that does not have a certified (or provisionally certified) monitoring system in place as of the beginning of the first control period for which the unit is subject to the WEB Trading Program, the WEB source shall:

(I) If the WEB source will use a CEMS to comply with this Section, substitute the maximum potential concentration of sulfur dioxide for the unit and the maximum potential flow rate, as determined in accordance with 40 CFR Part 75. The procedures for conditional data validation under Section 75.20(b)(3) may be used for any monitoring system under Chapter 14 that uses these 40 CFR Part 75 procedures, as applicable;

(II) If the WEB source will use the 40 CFR Part 75 Appendix D methodology, substitute the maximum potential sulfur content, density or gross calorific value for the fuel and the maximum potential fuel flow rate, in accordance with Section 2.4 of Appendix D to 40 CFR Part 75;

(III) If the WEB source will use the 40 CFR Part 75 methodology for low mass emissions units, substitute the sulfur dioxide emission factor required for the unit as specified in 40 CFR Part 75.19 and the maximum rated hourly heat input, as defined in 40 CFR Part 72.2; or

(IV) If using a protocol in Appendix A to Chapter 14, follow the procedures in the applicable protocol.

(vi) Compliance Deadlines.

(A) The initial monitoring plan shall be submitted by the following dates:

(I) For each source that is a WEB source on or before the program trigger date, the monitoring plan shall be submitted 180 days after such program trigger date.

(II) For any existing source that becomes a WEB source after the program trigger date, the monitoring plan shall be submitted by September 30 of the year following the inventory year in which the source exceeded the emissions threshold.

(III) For any new WEB source, the monitoring plan shall be included with the permit application for a WAQSR Chapter 6, Section 2 permit.

(B) A detailed monitoring plan under Section 2(h)(ii)(B) of this chapter shall be submitted no later than 45 days prior to commencing certification testing in accordance with the following paragraph (C). Modifications to monitoring plans shall be submitted within 90 days of implementing revised monitoring plans.

(C) Emission monitoring systems shall be installed, operational and shall have met all of the certification testing requirements of this Section 2(h) (including any referenced in Appendix A) by the following dates:

(I) For each source that is a WEB source on or before the program trigger date, two years prior to the start of the first control period as described in Section 2(k) of this chapter.

(II) For any existing source that becomes a WEB source after the program trigger date, one year after the due date for the monitoring plan under Section 2(h)(vi)(A)(II) of this chapter.

(III) For any new WEB source (or any new unit at a WEB source under paragraphs (C)(I) or (C)(2)), the earlier of 90 unit operating days or 180 calendar days after the date the new source commences operation.

(D) The WEB source shall submit test notices and certification applications in accordance with the deadlines set forth in Section 2(h)(iv)(B).

(E) For each applicable control period, the WEB source shall submit each quarterly report under Section 2(h)(viii) of this chapter by no later than 30 days after the end of each calendar quarter and shall submit the annual report under Section 2(h)(viii) of this chapter no later than 60 days after the end of each calendar year.

(vii) Recordkeeping.

(A) The WEB source shall keep copies of all reports, registration materials, compliance certifications, sulfur dioxide emissions data, quality assurance data, and other submissions under Chapter 14 for a period of five years. In addition, the WEB source shall keep a copy of all Certificates for the duration of this program. Unless otherwise requested by the WEB source and approved by the State of Wyoming, the copies shall be kept on site.

(B) The WEB source shall keep records of all operating hours, quality assurance activities, fuel sampling measurements, hourly averages for sulfur dioxide, stack flow, fuel flow, or other continuous measurements, as applicable, and any other applicable data elements specified in this section or in Appendix A to Chapter 14. The WEB source shall maintain the applicable records specified in 40 CFR Part 75 for any sulfur dioxide emitting unit that uses a Part 75 monitoring method to meet the requirements of this section.

(viii) Reporting.

(A) Quarterly Reports. For each sulfur dioxide emitting unit, the account representative shall submit a quarterly report within 30 days after the end of each calendar quarter. The report shall be in a format specified by the State of Wyoming to include hourly and quality assurance activity information and shall be submitted in a manner compatible with the emissions tracking database designed for the WEB Trading Program. If the WEB source submits a quarterly report under 40 CFR Part 75 to the EPA Administrator, no additional report under this paragraph (A) shall be required. The State of Wyoming will require that a copy of that report (or a separate statement of quarterly and cumulative annual sulfur dioxide mass emissions) be submitted separately to the State of Wyoming.

(B) Annual Report. Based on the quarterly reports, each WEB source shall submit an annual statement of total annual sulfur dioxide emissions for all sulfur dioxide emitting units at the source. The annual report shall identify total emissions for all units monitored in accordance with Section 2(h)(i)(A) of this chapter and the total emissions for all units with emissions estimated in accordance with Section 2(h)(i)(B) of this chapter. The annual report shall be submitted within 60 days after the end of a control period.

(C) If the State of Wyoming so directs, any monitoring plan, report, certification, recertification, or emissions data required to be submitted under this Section shall be submitted to the TSA.

(D) The State of Wyoming may review and reject any report submitted under this Section 2(h)(viii) of this chapter that contains errors or fails to satisfy the requirements of this section, and the account representative shall resubmit the report to correct any deficiencies.

(ix) Petitions.

(A) A WEB source may petition for an alternative to any requirement specified in Section 2(h)(i)(A)(II) of this chapter. The petition shall require approval of the State of Wyoming and the EPA Administrator. Any petition submitted under this paragraph shall include sufficient information for the evaluation of the petition, including, at a minimum, the following information:

(I) Identification of the WEB source and applicable sulfur dioxide emitting unit(s);

(II) A detailed explanation of why the proposed alternative is being suggested in lieu of the requirement;

(III) A description and diagram of any equipment and procedures used in the proposed alternative, if applicable;

(IV) A demonstration that the proposed alternative is consistent with the purposes of the requirement for which the alternative is proposed, is consistent with the purposes of Chapter 14 and that any adverse effect of approving such alternative will be *de minimis*; and

(V) Any other relevant information that the State of Wyoming may require.

(x) Consistency of Identifying Information.

For any monitoring plans, reports, or other information submitted under Section 2(h) of this chapter, the WEB source shall ensure that, where applicable, identifying information is consistent with the identifying information provided in the most recent certificate for the WEB source submitted under Section 2(d) of this chapter.

(i) Allowance Transfers.

(i) Procedure. To transfer allowances, the account representative shall submit the following information to the TSA:

- (A) The transfer account number(s) identifying the transferor account;
- (B) The transfer account number(s) identifying the transferee account;
- (C) The serial number of each allowance to be transferred; and
- (D) The transferor's account representative's name and signature and date of submission.

(ii) Allowance Transfer Deadline. The allowance transfer deadline is midnight Pacific Standard Time on March 1 of each year (or if this date is not a business day, midnight of the first business day thereafter) following the end of the control period. By this time, the transfer of the allowances into the WEB source's compliance account must be correctly submitted to the TSA in order to demonstrate compliance under Section 2(k) of this chapter for that control period.

(iii) Retirement of Allowances. To permanently retire allowances, the account representative shall submit the following information to the TSA:

- (A) The transfer account number(s) identifying the transferor account;
- (B) The serial number of each allowance to be retired; and
- (C) The transferor's account representative's name and signature and date of submission accompanied by a signed statement acknowledging that each retired allowance is no longer available for future transfers from or to any account.

(j) Use of Allowances from a Previous Year.

(i) Any allowance that is held in a compliance account or general account will remain in such an account unless and until the allowance is deducted in conjunction with the compliance process, or transferred to another account.

(ii) In order to demonstrate compliance under Section 2(k)(i) of this chapter for a control period, WEB sources shall only use allowances allocated for that current control period or any previous year. Because all allowances held in a special reserve compliance account for a WEB source that monitors certain units in accordance with Section 2(h)(i)(B) of this chapter will be deducted for compliance for each control period, no banking of such allowances for use in a subsequent year is permitted by Chapter 14.

(iii) If flow control procedures for the current control period have been triggered as outlined in Part C4.2 of Section C of the WYRHSIP, then the use of allowances that were allocated for any previous year will be limited as follows:

- (A) The number of allowances that are held in each compliance

account and general account as of the allowance transfer deadline for the immediately previous year and that were allocated for any previous year will be determined.

(B) The number determined in (A) will be multiplied by the flow control ratio established in accordance with Part C4.2(b)(1) of Section C of the WYRHSIP to determine the number of allowances that were allocated for a previous year that can be used without restriction for the current control period.

(C) Allowances that were allocated for a previous year in excess of the number determined in (B) may also be used for the current control period. If such allowances are used to make a deduction, two allowances must be deducted for each deduction of one allowance required under Section 2(k) of this chapter.

(iv) Special provisions for the year 2018. After compliance with the 2017 allowance limitation has been determined in accordance with Section 2(k)(i) of this chapter, allowances allocated for any year prior to 2018 shall not be used for determining compliance with the 2018 allowance limitation or any future allowance limitation.

(k) Compliance.

(i) Compliance with Allowance Limitations.

(A) The WEB source must hold allowances, in accordance with Section 2(k)(i)(B) and (C) below and Section 2(j) of this chapter, as of the allowance transfer deadline in the WEB source's compliance account (together with any current control year allowances held in the WEB source's special reserve compliance account under Section 2(h)(i)(B) of this chapter) in an amount not less than the total sulfur dioxide emissions for the control period from the WEB source, as determined under the monitoring and reporting requirements of Section 2(h) of this chapter.

(I) For each source that is a WEB source on or before the program trigger date, the first control period is the calendar year that is six (6) years following the calendar year for which sulfur dioxide emissions exceeded the milestone in accordance with procedures in Part A3 of Section C of the WYRHSIP.

(II) For any existing source that becomes a WEB source after the program trigger date, the first control period is the calendar year that is four (4) years following the inventory year in which the source exceeded the sulfur dioxide emissions threshold.

(III) For any new WEB source after the program trigger date the first control period is the first full calendar year that the source is in operation.

(IV) If the WEB Trading Program is triggered in accordance with the 2013 review procedures in Part A4 of Section C of the WYRHSIP, the first control period for each source that is a WEB source on or before the program trigger date is the year

2018.

(B) Allowance transfer deadline. An allowance may only be deducted from the WEB source's compliance account if:

(I) The allowance was allocated for the current control period or meets the requirements in Section 2(j) of this chapter for use of allowances from a previous control period, and

(II) The allowance was held in the WEB source's compliance account as of the allowance transfer deadline for the current control period, or was transferred into the compliance account by an allowance transfer correctly submitted for recording by the allowance transfer deadline for the current control period.

(C) Compliance with allowance limitations shall be determined as follows:

(I) The total annual sulfur dioxide emissions for all sulfur dioxide emitting units at the source that are monitored under Section 2(h)(i)(B) of this chapter, as reported by the source in Section 2(h)(viii)(B) or (D) of this chapter, and recorded in the emissions tracking database shall be compared to the allowances held in the source's special reserve compliance account as of the allowance transfer deadline for the current control period, adjusted in accordance with Section 2(j) of this chapter. If the emissions are equal to or less than the allowances in such account, all such allowances shall be retired to satisfy the obligation to hold allowances for such emissions. If the total emissions from such units exceed the allowances in such special reserve account, the WEB source shall account for such excess emissions in the following paragraph (II).

(II) The total annual sulfur dioxide emissions for all sulfur dioxide emitting units at the source that are monitored under Section 2(h)(i)(A) of this chapter, as reported by the source in Section 2(h)(viii)(B) or (D) of this chapter, and recorded in the emissions tracking database, together with any excess emissions as calculated in the preceding paragraph (I), shall be compared to the allowances held in the source's compliance account as of the allowance transfer deadline for the current control period, adjusted in accordance with Section 2(j) of this chapter.

(III) If the comparison in Section 2(k)(i)(C)(II) of this chapter results in emissions that exceed the allowances held in the source's compliance account, the source has exceeded its allowance limitation and the excess emissions are subject to the allowance deduction penalty in Section 2(k)(iii) of this chapter.

(D) Other than allowances in a special reserve compliance account for units monitored under Section 2(h)(i)(B) of this chapter, to the extent consistent with Section 2(j) of this chapter, allowances shall be deducted for a WEB source for compliance with the allowance limitation as directed by the WEB source's account representative. Deduction of any other allowances as necessary for compliance with the allowance limitation shall be on a first-in,

first-out accounting basis in the order of the date and time of their recording in the WEB source's compliance account, beginning with the allowances allocated to the WEB source and continuing with the allowances transferred to the WEB source's compliance account from another compliance account or general account. The allowances held in a special reserve compliance account pursuant to Section 2(h)(i)(B) of this chapter shall be deducted as specified in paragraph (C)(I) of this Section 2(k) of this chapter.

(ii) Certification of Compliance.

(A) For each control period in which a WEB source is subject to the allowance limitation, the account representative of the source shall submit to the Department a compliance certification report for the source.

(B) The compliance certification report shall be submitted no later than the allowance transfer deadline of each control period, and shall contain the following:

(I) Identification of each WEB source;

(II) At the account representative's option, the serial numbers of the allowances that are to be deducted from a source's compliance account for compliance with the allowance limitation; and

(III) The compliance certification report according to subpart (C) of this section.

(C) In the compliance certification report, the account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the WEB source in compliance with the WEB Trading Program, whether the WEB source for which the compliance certification is submitted was operated during the control period covered by the report in compliance with the requirements of the WEB Trading Program applicable to the source including:

(I) Whether the WEB source operated in compliance with the sulfur dioxide allowance limitation;

(II) Whether sulfur dioxide emissions data has been submitted to the Department in accordance with Section 2(h)(viii) of this chapter and other applicable guidance, for review, revision as necessary, and finalization for forwarding to the sulfur dioxide Allowance Tracking System for recording;

(III) Whether the monitoring plan that governs the WEB source has been maintained to reflect the actual operation and monitoring of the source, and contains all information necessary to attribute sulfur dioxide emissions to the source, in accordance with Section 2(h)(i) of this chapter;

(IV) Whether all the sulfur dioxide emissions from the WEB

source if applicable, were monitored or accounted for either through the applicable monitoring or through application of the appropriate missing data procedures;

(V) If applicable, whether any sulfur dioxide emitting unit for which the WEB source is not required to monitor in accordance with Section 2(h)(i)(A)(III) of this chapter remained permanently retired and had no emissions for the entire applicable period; and

(VI) Whether there were any changes in the method of operating or monitoring the WEB source that required monitor recertification. If there were any such changes, the report must specify the nature, reason, and date of the change, the method to determine compliance status subsequent to the change, and specifically, the method to determine sulfur dioxide emissions.

(iii) Penalties for any WEB source exceeding its allowance limitations.

(A) Allowance deduction penalty.

(I) If emissions from a WEB source exceed the allowance limitation for a control period, as determined in accordance with Section 2(k)(i) of this chapter, the source's allowances held in its compliance account will be reduced by an amount equal to three times the source's tons of excess emissions. If the compliance account does not have sufficient allowances allocated for that control period, the required number of allowances will be deducted from the WEB source's compliance account regardless of the control period for which they were allocated, once allowances are recorded in the account.

(II) Any allowance deduction required under Section 2(k)(i)(C) of this chapter shall not affect the liability of the owners and operators of the WEB source for any fine, penalty or assessment or their obligation to comply with any other remedy, for the same violation, as ordered under the Act, implementing regulations or Wyoming Statute § 35-11-901. Accordingly, a violation can be assessed each day of the control period for each ton of sulfur dioxide emissions in excess of its allowance limitation, or for each other violation of Section 2 of this chapter.

(iv) Liability.

(A) WEB Source liability for non-compliance. Separate and regardless of any allowance deduction penalty, a WEB source that violates any requirement of Chapter 14 is subject to civil and criminal penalties under Wyoming Statute § 35-11-901. Each day of the control period is a separate violation, and each ton of sulfur dioxide emissions in excess of a source's allowance limitation is a separate violation.

(B) General liability.

(I) Any provision of the WEB Trading Program that applies to a source or an account representative shall apply also to the owners and operators of such source.

(II) Any person who violates any requirement or prohibition of the WEB Trading Program will be subject to enforcement pursuant to Wyoming Statute § 35-11-901.

(III) Any person who knowingly makes a false material statement in any record, submission, or report under this WEB Trading Program shall be subject to criminal enforcement pursuant to Wyoming Statute § 35-11-901.

(I) Special Penalty Provisions for the 2018 Milestone.

(i) If the WEB Trading Program is triggered as outlined in Part A3 of Section C of the WYRHSIP, and the first control period will not occur until after the year 2018, the following provisions shall apply for the 2018 emissions year.

(A) All WEB sources shall register, and open a compliance account within 180 days after the program trigger date, in accordance with Section 2(e)(i) and Section 2(g) of this chapter.

(B) The TSA will record the allowances for the 2018 control period for each WEB source in the source's compliance account once the Department allocates the 2018 allowances under Part A4.4 of Section C of the WYRHSIP.

(C) The allowance transfer deadline is midnight Pacific Standard Time on May 31, 2021 (or if this date is not a business day, midnight of the first business day thereafter). WEB sources may transfer allowances as provided in Section 2(i)(i) of this chapter until the allowance transfer deadline.

(D) A WEB source must hold allowances allocated for 2018, including those transferred into the compliance account by an allowance transfer correctly submitted by the allowance transfer deadline, in an amount not less than the WEB source's total sulfur dioxide emissions for 2018. Emissions are determined using the pre-trigger monitoring provisions in Part A2.1 of Section C of the WYRHSIP, and Chapter 14, Section 3.

(E) In accordance with Section 2(j)(iv) and 2(l)(i)(D) of this chapter, Wyoming shall seek at least the minimum financial penalty of \$5,000 per ton of SO<sub>2</sub> emissions in excess of the WEB source's allowance limitation.

(I) Any source may resolve its excess emissions violation by agreeing to a streamline settlement approach where the source pays a penalty of \$5,000 per ton or partial ton of excess emissions, and payment is received within 90 calendar days after the issuance of a notice of violation.

(II) Any source that does not resolve its excess emissions violation in accordance with the streamlined settlement approach in Section 2(l)(i)(E)(I) of this chapter will be subject to civil enforcement action, in which the Department shall seek a

financial penalty for the excess emissions based on the State's statutory maximum civil penalties.

(F) Each ton of SO<sub>2</sub> emissions in excess of a source's allowance limitation is a separate violation and each day of a control period is a separate violation.

(ii) The provisions in Section 2(l) of Chapter 14 shall continue to apply for each year after the 2018 emission year until:

(A) The first control period under the WEB trading program under Section 2(k)(i)(A)(I) of this chapter; or

(B) The Department determines, in accordance with Part A3 of Section C of the WYRHSIP, that the 2018 sulfur dioxide milestone has been met.

(iii) Special penalty provisions for the 2018 milestone for 2019 control period and each control period thereafter as provided under Section 2(l)(ii) of this chapter include the following:

(A) For the 2019 control period, the allowance transfer deadline is midnight Pacific Standard Time on May 31, 2021 (or if this date is not a business day, midnight of the first business day thereafter). WEB sources may transfer allowances as provided in Section 2(i)(i) of this chapter until the allowance transfer deadline.

(B) A WEB source must hold allowances allocated for the 2019 control period, including those transferred into the compliance account by an allowance transfer correctly submitted by the allowance transfer deadline, in an amount not less than the WEB source's total SO<sub>2</sub> emissions for the 2019 control period. Emissions are determined using the pre-trigger monitoring provisions in Part A2.1 of Section C of the WYRHSIP, and Chapter 14, Section 3.

(C) In accordance with Section 2(j)(iv) and 2(i)(i)(D), Wyoming shall seek at least the minimum financial penalty of \$5,000 per ton of SO<sub>2</sub> emissions in excess of the WEB source's allowance limitation.

(I) Any source may resolve its excess emissions violation by agreeing to a streamline settlement approach where the source pays a penalty of \$5,000 per ton or partial ton of excess emissions, and payment is received within 90 calendar days after the issuance of a notice of violation.

(II) Any source that does not resolve its excess emissions violation in accordance with the streamlined settlement approach in Section 2(l)(i)(E)(I) of this chapter will be subject to civil enforcement action, in which the Department shall seek a financial penalty for the excess emissions based on the State's statutory maximum civil penalties.

(D) Each ton of SO<sub>2</sub> emissions in excess of a source's allowance limitation is a separate violation and each day of a control period is a separate violation.

(E) For each control period after 2019 that the special penalty is assessed, the dates and deadlines in Section 2(l)(iii)(A)-(D) of this chapter above will be adjusted forward by one year.

(m) Integration Into Permits.

Any WEB source that is not subject to WAQSR Chapter 6, Section 3 at any time after Chapter 14 becomes effective must obtain a permit under WAQSR Chapter 6, Section 2 or modify an existing permit issued under WAQSR Chapter 6, Section 2 that incorporates the requirements of Section 2 of this chapter.

**Section 3. Sulfur Dioxide Milestone Inventory.**

(a) Applicability.

(i) Section 3 of this chapter applies to all stationary sources with actual emissions of 100 tons per year or more of sulfur dioxide in calendar year 2000 or any subsequent year.

(ii) Except as provided in (iii), any source that meets the criteria of (i) that emits less than 100 tons per year in any subsequent year shall remain subject to the requirements of Section 3 of this chapter until 2018 or until the first control period under the Western Backstop Sulfur Dioxide Trading Program as established in Section 2 of this chapter, whichever is earlier.

(iii) A stationary source that meets the requirements of (i) that has permanently ceased operation is exempt from the requirements of Chapter 14.

(b) Annual Sulfur Dioxide Emission Report.

(i) Except as provided in (ii), each source subject to Chapter 14 shall report sulfur dioxide emissions by April 15<sup>th</sup> of each calendar year, in accordance with the schedule cited in Section 3(b)(iii) of this chapter, below.

(ii) Each source subject to Chapter 14 that is also subject to 40 CFR Part 75 reporting requirements, shall submit a summary report of annual sulfur dioxide emissions that were reported to the Environmental Protection Agency under 40 CFR Part 75.

(iii) Each source subject to Chapter 14 shall report emissions for the year 2003 by April 15, 2004, and annually thereafter. The inventory shall be submitted in the format specified by the Wyoming Department of Environmental Quality – Air Quality Division (Division).

(iv) For the reports cited in paragraphs (i) and (ii) of this section, each source subject to Chapter 14 shall document the emissions monitoring/estimation methodology used to

calculate their sulfur dioxide emissions, and demonstrate that the selected methodology is acceptable under the inventory program.

(v) For the reports cited in paragraphs (i) and (ii) above, each source subject to Chapter 14 shall include emissions from startup, shut down, and upset conditions in the annual total inventory.

(vi) For the reports cited in paragraphs (i) and (ii) above, each source subject to Chapter 14 shall use 40 CFR Part 75 methodology for reporting emissions for all sources subject to the federal acid rain program.

(vii) For the reports cited in paragraphs (i) and (ii) above, each source subject to Chapter 14 shall maintain all records used in the calculation of the emissions, including but not limited to the following:

- (A) amount of fuel consumed;
- (B) percent sulfur content of fuel and how the content was determined;
- (C) quantity of product produced;
- (D) emissions monitoring data;
- (E) operating data; and
- (F) how the emissions are calculated

(viii) For the reports cited in (i) and (ii) of this section, each source subject to Chapter 14 shall maintain records of any physical changes to facility operations or equipment, or any other changes (e.g., raw material or feed) that may affect the emissions projections.

(ix) For the reports cited in paragraphs (i) and (ii) above, each source subject to Chapter 14 shall retain records for a minimum of ten years from the date of establishment, or if the record was the basis for an adjustment to the milestone, 5 years after the date of an implementation plan revision, whichever is longer.

(c) Changes in Emission Measurement Techniques.

(i) Each source subject to this Rule that uses a different emission monitoring or calculation method than was used to report their sulfur dioxide emissions in 2006 under Chapter 14, Section 3 shall adjust their reported emissions to be comparable to the emission monitoring or calculation method that was used in 2006. The calculations that are used to make this adjustment shall be included with the annual emission report under Section 3(b) of this chapter.

(d) Notwithstanding any other provision of Chapter 14, Basin Electric Power

Cooperative's Laramie River Station shall report its annual sulfur dioxide emissions as follows: for Laramie River Station Unit 1, Basin Electric Power Cooperative shall report its sulfur dioxide emissions based on an annual average emission rate of 0.159 lb/MMBtu multiplied by the actual annual heat input; for Laramie River Station Unit 2, Basin Electric Power Cooperative shall report its annual sulfur dioxide emissions based on an annual emission rate 0.162 lb/MMBtu multiplied by the actual annual heat input. Heat rate shall be calculated as required in Chapter 14 and 40 CFR Part 75. Annual sulfur dioxide emissions for Laramie River Station Unit 3 shall be reported as otherwise provided in Chapter 14, Section 3(b).

(i) Basin Electric Power Cooperative shall report sulfur dioxide emissions as calculated per Section 3(d) of this chapter as of the year that Basin Electric Power Cooperative commences operation of Selective Catalytic Reduction at Laramie River Station Unit 1 consistent with the notification provision found at WAQSR Chapter 6 Section 2(i)(ii).

(e) The Division shall use the annual sulfur dioxide emissions reported by Basin Electric Power Cooperative in Section 3(d) for all purposes under this chapter.

## **APPENDIX A: WEB CHAPTER 14, SECTION 2 MONITORING PROTOCOLS**

### **Protocol WEB-1: SO<sub>2</sub> Monitoring of Fuel Gas Combustion Devices**

#### **Section 1. Applicability.**

(a) The provisions of this protocol are applicable to fuel gas combustion devices at petroleum refineries.

(b) Fuel gas combustion devices include boilers, process heaters, and flares used to burn fuel gas generated at a petroleum refinery.

(c) Fuel gas means any gas which is generated and combusted at a petroleum refinery. Fuel gas does not include: (1) natural gas, unless combined with other gases generated at a petroleum refinery, (2) gases generated by a catalytic cracking unit catalyst regenerator, (3) gases generated by fluid coking burners, (4) gases combusted to produce sulfur or sulfuric acid, or (5) process upset gases generated due to startup, shutdown, or malfunctions.

#### **Section 2. Monitoring Requirements.**

(a) Except as provided in paragraphs (ii) and (iii) of this Section 2, fuel gas combustion devices shall use a continuous fuel gas monitoring system (CFGMS) to determine the total sulfur content (reported as H<sub>2</sub>S) of the fuel gas mixture prior to combustion, and continuous fuel flow meters to determine the amount of fuel gas burned.

(i) Fuel gas combustion devices having a common source of fuel gas may be monitored for sulfur content at one location, if monitoring at that location is representative of the sulfur content of the fuel gas being burned in any fuel gas combustion device.

(ii) The CFGMS shall meet the performance requirements in Performance Specification 2 in Appendix B to 40 CFR Part 60, and the following:

(A) Continuously monitor and record the concentration by volume of total sulfur compounds in the gaseous fuel reported as ppmv H<sub>2</sub>S.

(B) Have the span value set so that the majority of readings fall between 10 and 95 percent of the range.

(C) Record negative values of zero drift.

(D) Calibration drift shall be 5.0 percent of the span.

(E) Methods 15A, 16, or approved alternatives for total sulfur, are the reference methods for the relative accuracy test. The relative accuracy test shall include a bias test in accordance with Section 4, paragraph (c) of this protocol.

(iii) All continuous fuel flow meters shall comply with the applicable provisions of Appendix D to 40 CFR Part 75.

(iv) The hourly mass SO<sub>2</sub> emissions shall be calculated using the following equation:

$$E = (C_S)(Q_f)(K)$$

where:

$E$  = SO<sub>2</sub> emissions in lbs/hr

$C_S$  = Sulfur content of the fuel gas as H<sub>2</sub>S(ppmv)

$Q_f$  = Fuel gas flow rate (scfh)

$K = 1.660 \times 10^{-7}$  (lb/scf)/ppmv

(b) In place of a CFGMS in paragraph (a) of this Section 2, fuel gas combustion devices having a common source of fuel gas may be monitored with an SO<sub>2</sub> CEMS and flow CEMS at only one location, if the CEMS monitoring at that location is representative of the SO<sub>2</sub> emission rate (lb SO<sub>2</sub>/scf fuel gas burned) of all applicable fuel gas combustion devices. Continuous fuel flow meters shall be used in accordance with paragraph (b), and the fuel gas combustion device monitored by a CEMS shall have separate fuel metering.

(i) Each CEMS for SO<sub>2</sub> and flow shall comply with the operating requirements, performance specifications, and quality assurance requirements of 40 CFR Part 75.

(ii) All continuous fuel flow meters shall comply with the applicable provisions of Appendix D to 40 CFR Part 75.

(iii) The SO<sub>2</sub> mass emissions for all the fuel gas combustion devices monitored by this approach shall be determined by the ratio of the amount of fuel gas burned by the CEMS-monitored fuel gas combustion device to the total fuel gas burned by all applicable fuel gas

combustion devices using the following equation:

$$E_t = (E_m)(Q_t)/(Q_m)$$

where:  $E_t$  = Total SO<sub>2</sub> emissions in lbs/hr from applicable fuel gas combustion devices.

$E_m$  = SO<sub>2</sub> emissions in lbs/hr from the CEMS-monitored fuel gas combustion device.

$Q_t$  = Fuel gas flow rate (scfh) from applicable fuel gas combustion devices.

$Q_m$  = Fuel gas flow rate (scfh) from the CEMS-monitored fuel gas combustion device.

(c) In place of a CFGMS in paragraph (a) of this section, fuel gas combustion devices having a common source of fuel gas may be monitored with an SO<sub>2</sub> - diluent CEMS at only one location, if the CEMS monitoring at that location is representative of the SO<sub>2</sub> emission rate (lb SO<sub>2</sub>/mmBtu) of all applicable fuel gas combustion devices. If this option is selected, the owner or operator shall conduct fuel gas sampling and analysis for gross calorific value (GCV), and shall use continuous fuel flow metering in accordance with paragraph (a) of Section 2 in this appendix, with separate fuel metering for the CEMS-monitored fuel gas combustion device.

(i) Each SO<sub>2</sub>-diluent CEMS shall comply with the applicable provisions for SO<sub>2</sub> monitors and diluent monitors in 40 CFR Part 75, and shall use the procedures in Section 3 of Appendix F to Part 75 for determining SO<sub>2</sub> emission rate (lb/mmBtu) by substituting the term SO<sub>2</sub> for NO<sub>x</sub> in that section.

(ii) All continuous fuel flow meters and fuel gas sampling and analysis for GCV to determine the heat input rate from the fuel gas shall comply with the applicable provisions of Appendix D to 40 CFR Part 75.

(iii) The SO<sub>2</sub> mass emissions for all the fuel gas combustion devices monitored by this approach shall be determined by the ratio of the fuel gas heat input to the CEMS-monitored fuel gas combustion device to the total fuel gas heat input to all applicable fuel gas combustion devices using the following equation:

$$E_t = (E_m)(H_t)/(H_m)$$

where:  $E_t$  = Total SO<sub>2</sub> emissions in lbs/hr from applicable fuel gas combustion devices.

$E_m$  = SO<sub>2</sub> emissions in lb/mmBtu from the CEMS - monitored fuel gas combustion device.

$H_t$  = Fuel gas heat input (mmBtu/hr) from applicable fuel gas combustion devices.

$H_m$  = Fuel gas heat input (mmBtu/hr) from the CEMS - monitored fuel gas combustion device.

### **Section 3. Certification/Recertification Requirements.**

(a) All monitoring systems are subject to initial certification and recertification testing as follows:

(i) The owner or operator shall comply with the initial testing and calibration requirements in Performance Specification 2 in Appendix B of 40 CFR Part 60 and paragraph (a)(ii) of Section 2 of this protocol for each CFGMS.

(ii) Each CEMS for SO<sub>2</sub> and flow or each SO<sub>2</sub>-diluent CEMS shall comply with the testing and calibration requirements specified in 40 CFR Part 75, Section 75.20 and Appendices A and B of the CFR, except that each SO<sub>2</sub>-diluent CEMS shall meet the relative accuracy requirements for a NO<sub>x</sub>-diluent CEMS (lb/mmBtu).

(iii) A continuous fuel flow meter shall comply with the testing and calibration requirements in 40 CFR Part 75, Appendix D.

#### **Section 4. Quality Assurance/Quality Control Requirements.**

(a) A quality assurance/quality control (QA/QC) plan shall be developed and implemented for each CEMS for SO<sub>2</sub> and flow or the SO<sub>2</sub>-diluent CEMS in compliance with Appendix B of 40 CFR Part 75.

(b) A QA/QC plan shall be developed and implemented for each continuous fuel flow meter and fuel sampling and analysis in compliance with Appendix B of 40 CFR Part 75.

(c) A QA/QC plan shall be developed and implemented for each CFGMS in compliance with sections 1 and 1.1 of Appendix B of 40 CFR Part 75, and the following:

(i) Perform a daily calibration error test of each CFGMS at two gas concentrations, one low level and one high level. Calculate the calibration error as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the error is greater than 5.0 percent of the span value.

(ii) In addition to the daily calibration error test, an additional calibration error test shall be performed whenever a daily calibration error test is failed, whenever a monitoring system is returned to service following repairs or corrective actions that may affect the monitor measurements, or after making manual calibration adjustments.

(iii) Perform a linearity test once every operating quarter. Calculate the linearity as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the linearity error is greater than 5.0 percent of a reference value, and the absolute value of the difference between average monitor response values and a reference value is greater than 5.0 ppm.

(iv) Perform a relative accuracy test audit once every four operating quarters. Calculate the relative accuracy as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the relative accuracy is greater than 20.0 percent of the mean value of the reference method measurements.

(v) Using the results of the relative accuracy test audit, conduct a bias test in accordance with Appendix A to 40 CFR Part 75, and calculate and apply a bias adjustment factor if required.

## **Section 5. Missing Data Procedures.**

(a) For any period in which valid data are not being recorded by an SO<sub>2</sub> CEMS or flow CEMS specified in this section, missing or invalid data shall be replaced with substitute data in accordance with the requirements in Subpart D of 40 CFR Part 75.

(b) For any period in which valid data are not being recorded by an SO<sub>2</sub>-diluent CEMS specified in this section, missing or invalid data shall be replaced with substitute data on a rate basis (lb/mmBtu) in accordance with the requirements for SO<sub>2</sub> monitors in Subpart D of 40 CFR Part 75.

(c) For any period in which valid data are not being recorded by a continuous fuel flow meter or for fuel gas GCV sampling and analysis specified in this section, missing or invalid data shall be replaced with substitute data in accordance with missing data requirements in Appendix D to 40 CFR Part 75.

(d) For any period in which valid data are not being recorded by the CFGMS specified in this section, hourly missing or invalid data shall be replaced with substitute data in accordance with the missing data requirements for units performing hourly gaseous fuel sulfur sampling in Section 2.4. of Appendix D to 40 CFR Part 75.

## **Section 6. Monitoring Plan and Reporting Requirements.**

(a) In addition to the general monitoring plan and reporting requirements of Section 2(h) of Chapter 14, the owner or operator shall meet the following additional requirements:

(i) The monitoring plan shall identify each group of units that are monitored by a single monitoring system under this Protocol WEB-1, and the plan shall designate an identifier for the group of units for emissions reporting purposes. For purpose of submitting emissions reports, no apportionment of emissions to the individual units within the group is required.

(ii) If the provisions of paragraphs (b) or (c) of Section 2 of this protocol are used, provide documentation and an explanation to demonstrate that the SO<sub>2</sub> emission rate from the monitored unit is representative of the rate from non-monitored units.

## CHAPTER I

### GENERAL RULES OF PRACTICE AND PROCEDURE

#### Section 16. **Air Quality Division, State Implementation Plan.**

(a) The following are the only requirements in these procedural rules that are part of the Air Quality Division's State Implementation Plan:

(i) The Council shall have at least a majority of members who represent the public interest and do not derive a significant portion of their income from persons subject to Air Quality permits or enforcement orders, as required by the Clean Air Act, Section 128(a)(1), 42 U.S.C. § 7428(a)(1);

(ii) Members of the Council shall disclose any potential conflicts of interest in a public meeting of the Council, as required by the Clean Air Act, Section 128(a)(2), 42 U.S.C. § 7428(a)

(b) All other requirements of these procedural rules, except those described in Section 7, are reserved to the authority of the State and are not part of the Air Quality Division's State Implementation Plan.