



Board:

Mark Elam, Chairman Richard (Rick) Toomey, DHA, FACHE
David W. Gillespie, MD, Vice-Chairman Seema Shrivastava-Patel
Charles M. Joye II, P.E., Secretary Jim Creel, Jr.

**South Carolina Board of Health and Environmental Control
Agenda
January 3, 2019**

Call to Order – 10:00 a.m., Board Room (#3420)

South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C.

1. **Public Hearing for Notice of Final Regulation** -- Proposed Amendment of Regulation 61-62, Air Pollution Control Regulations and Standards, Exempt from General Assembly review, Document No. 4870
2. Notice of Proposed Regulation Amending Regulation 61-62, Air Pollution Control Regulations and Standards, Review by General Assembly required

Executive Session (if needed)

Adjournment

Note: The next scheduled meeting is February 7, 2019.

Date: January 3, 2019

To: S.C. Board of Health and Environmental Control

From: Bureau of Air Quality

Re: Public Hearing for Notice of Final Regulation

Proposed Amendment of R.61-62, *Air Pollution Control Regulations and Standards*

Exempt from General Assembly Review

Document No. 4870

I. Introduction

The Bureau of Air Quality (“Bureau”) proposes the attached Notice of Final Regulation amending R.61-62, *Air Pollution Control Regulations and Standards*, and the South Carolina Air Quality Implementation Plan (“SIP”), for publication in the January 25, 2019, *South Carolina State Register* (“*State Register*”). Legal authority for this amendment resides in the South Carolina Pollution Control Act, S.C. Code Sections 48-1-10 et seq. (“Pollution Control Act”), which authorizes the Department to adopt emission control regulations, standards, and limitations, and take all actions necessary or appropriate to secure to the state the benefits of federal air pollution control laws. The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts this amendment from General Assembly review, as the Department promulgates this amendment for compliance with federal air pollution control laws. The amendment will take legal effect as of the January 25, 2019, publication in the *State Register*.

II. Facts

1. Pursuant to the Pollution Control Act and the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the Department must ensure national primary and secondary ambient air quality standards are achieved and maintained in South Carolina. No state may adopt or enforce an emission standard or limitation less stringent than these federal standards or limitations pursuant to 42 U.S.C. Section 7416.
2. The United States Environmental Protection Agency promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments to 40 CFR Parts 60, 61, and 63 include revisions to New Source Performance Standards (NSPS) mandated by 42 U.S.C. Section 7411, federal National Emission Standards for Hazardous Air Pollutants (NESHAP) mandated by 42 U.S.C. Section 7412, and federal National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories mandated by 42 U.S.C. Section 7412.
3. The Department is amending R.61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*; R.61-62.61, *National Emission Standards for Hazardous Air Pollutants (NESHAP)*; and R.61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*, to adopt the federal amendments to these standards promulgated from January 1, 2017, through December 31, 2017.
4. The Department is amending R.61-62.68, *Chemical Accident Prevention Provisions*, including corrections for internal consistency, clarification, chemical nomenclature, codification, and spelling to improve the overall text as necessary and maintain compliance with federal law.
5. The Department is amending R.61-62.70, *Title V Operating Permit Program*, by striking paragraph (a)(6) of Section 70.3, Applicability, to maintain state compliance with federal regulations.

6. The Department is amending R.61-62.96 to repeal the Clean Air Interstate Rule (CAIR) trading program regulations (Subparts AA through II, AAA through III, and AAAA through IIII) and reinstate applicable portions of the EPA's "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone" (NO_x SIP Call), with amendments as necessary, to maintain state compliance with federal regulations. The Department adopted R.61-62.97, *Cross-State Air Pollution Rule (CSAPR) Trading Program*, on August 25, 2017. Subparts AA through II, AAA through III, and AAAA through IIII of R.61-62.96 are based on the federal CAIR regulation, which EPA has since replaced with federal CSAPR requirements implemented by R.61-62.97. As a result, federal CAIR requirements implemented by R.61-62.96 are no longer in effect. The reinstated NO_x SIP Call regulations will maintain state compliance with federal NO_x SIP Call requirements that remain applicable following the sunseting and repeal of CAIR.

7. The Department is making further changes to R.61-62 deemed necessary, including, but not limited to, corrections or other changes for internal consistency, clarification, reference, punctuation, codification, formatting, spelling, and overall improvement of the text of R.61-62.

8. The Bureau held stakeholder meetings on February 6, 2018 (South Carolina Manufacturers Alliance annual meeting), February 15, 2018 (South Carolina Pulp and Paper Association meeting), and March 2, 2018 (SC Chamber of Commerce Environmental/Technical Committee meeting).

9. The Department had a Notice of Drafting published in the September 28, 2018, *State Register*. Notice was also published on the Department's Regulatory Information website in the *DHEC Monthly Regulation Development Update*. The Bureau sent a copy of the Notice of Drafting to interested stakeholders via Department email list on September 28, 2018. The Department received no public comments by the October 29, 2018, close of the public comment period.

10. Appropriate Department staff conducted an internal review of the proposed amendments on May 8, 2018.


11. The Department had a Notice of Proposed Regulation published in the November 23, 2018, *State Register*. The Department received public comments by EPA Region 4 staff by the December 27, 2018, close of the public comment period. Based on these comments, the Bureau has made a substantive change to the regulatory text published in the Notice of Proposed Regulation. Attachment B presents a summary of these public comments and Department responses.

12. South Carolina industries are already subject to these national air quality standards as a matter of federal law. Thus, there will be no increased cost to the state or its political subdivisions resulting from codification of these amendments to federal law. South Carolina is already reaping the environmental benefits of these amendments. There also will be no increased cost to the state or its political subdivisions as a result of the repeal of R.61-62.96 Subparts AA through II, AAA through III, and AAAA through IIII, which reflects the sunseting of federal CAIR regulations.

13. In accordance with S.C. Code Section 1-23-120(H), legislative review is not required because the Department proposes promulgating the amendments to maintain compliance with federal law. As such, neither a preliminary assessment report nor a preliminary fiscal impact statement is required.

III. Request for Approval

The Bureau respectfully requests the Board to grant a finding of need and reasonableness of the attached proposed amendment of R.61-62, *Air Pollution Control Regulations and Standards*, for legal effect as of January 25, 2019, publication in the *State Register*.


Rhonda B. Thompson, P.E.
Chief
Bureau Chief


Myra C. Reece
Director
Environmental Affairs

Attachments:

- A. Notice of Final Regulation
- B. Summary of Public Comments and Department Responses

ATTACHMENT A

STATE REGISTER NOTICE OF FINAL REGULATION FOR R. 61-62, *Air Pollution Control Regulations and Standards*

January 3, 2019

Document No. 4870

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

61-62. Air Pollution Control Regulations and Standards.

Synopsis:

1. Pursuant to the South Carolina Pollution Control Act, S.C. Code Sections 48-1-10 et seq., and the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the Department must ensure national primary and secondary ambient air quality standards are achieved and maintained in South Carolina. No state may adopt or enforce an emission standard or limitation less stringent than these federal standards or limitations pursuant to 42 U.S.C. Section 7416.

2. The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments to 40 CFR Parts 60, 61, and 63 include revisions to New Source Performance Standards (NSPS) mandated by 42 U.S.C. Section 7411; federal National Emission Standards for Hazardous Air Pollutants (NESHAP) mandated by 42 U.S.C. Section 7412; and federal National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories mandated by 42 U.S.C. Section 7412.

3. The Department amends R.61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; R.61-62.61, National Emission Standards for Hazardous Air Pollutants; R.61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; and the South Carolina State Implementation Plan (SIP), to adopt the federal amendments to these standards promulgated from January 1, 2017, through December 31, 2017.

4. The Department amends R.61-62.68, Chemical Accident Prevention Provisions, which include corrections for internal consistency, clarification, chemical nomenclature, codification, and spelling to improve the overall text as necessary and to maintain compliance with federal law.

5. The Department amends R.61-62.70, Title V Operating Permit Program, by striking paragraph (a)(6) of Section 70.3, Applicability, to maintain state compliance with federal regulations.

6. The Department amends R.61-62.96 to repeal the Clean Air Interstate Rule (CAIR) trading program regulations (Subparts AA through II, AAA through III, and AAAA through IIII) and reinstate applicable portions of the EPA's "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone" (NO_x SIP Call), with amendments as necessary, to maintain state compliance with federal regulations. The Department adopted R.61-62.97, Cross-State Air Pollution Rule (CSAPR) Trading Program, on August 25, 2017. Subparts AA through II, AAA through III, and AAAA through IIII of R.61-62.96 are based on the federal CAIR regulation, which EPA has since replaced with federal CSAPR requirements implemented by R.61-62.97. As a result, federal CAIR requirements implemented by R.61-62.96 are no longer in effect.

The NO_x SIP Call regulations will maintain state compliance with federal NO_x SIP Call requirements that remain applicable following the sunseting and repeal of CAIR.

7. The Department makes further changes to R.61-62 deemed necessary, including, but not limited to, corrections or other changes for internal consistency, clarification, reference, punctuation, codification, formatting, spelling, and overall improvement of the text of R.61-62.

8. South Carolina industries are already subject to these national air quality standards as a matter of federal law. Thus, there is no increased cost to the state or its political subdivisions resulting from codification of these amendments to federal law. South Carolina is already reaping the environmental benefits of these amendments. There also is no increased cost to the state or its political subdivisions as a result of the repeal of R.61-62.96 Subparts AA through II, AAA through III, and AAAA through IIII, which reflects the sunseting of federal CAIR regulations.

9. The Department had a Notice of Drafting published in the September 28, 2018, State Register.

Section-by-Section Discussion of Amendments:

Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards

Regulation 61-62.60, Subpart A, “General Provisions”:

Subpart A, Table, is amended to incorporate federal revisions at 82 FR 28561, June 23, 2017; and 82 FR 32644, July 17, 2017, by reference.

Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP)

Regulation 61-62.61, Subpart A, “General Provisions”:

Subpart A, Table, is amended to incorporate federal revisions at 82 FR 32644, July 17, 2017, by reference.

Regulation 61-62.61, Subpart W, “National Emission Standards for Radon Emissions from Operating Mill Tailings”:

Subpart W, Table, is amended to incorporate federal revisions at 82 FR 5142, January 17, 2017, by reference.

Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories

Regulation 61-62.63, Subpart A, “General Provisions”:

Subpart A, Table, is amended to incorporate federal revisions at 82 FR 5401, January 18, 2017; 82 FR 47328, October 11, 2017; and 82 FR 48156, October 16, 2017, by reference.

Regulation 61-62.63, Subpart AA, “National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants”:

Subpart AA, Table, is amended to incorporate federal revisions at 82 FR 45193, September 28, 2017, by reference.

Regulation 61-62.63, Subpart BB, “National Emission Standards for Hazardous Air Pollutants from Phosphate Fertilizer Production Plants”:

Subpart BB, Table, is amended to incorporate federal revisions at 82 FR 45193, September 28, 2017, by reference.

Regulation 61-62.63, Subpart MM, “National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills”:

Subpart MM, Table, is amended to incorporate federal revisions at 82 FR 47328, October 11, 2017, by reference.

Regulation 61-62.63, Subpart LLL, “National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry”:

Subpart LLL, Table, is amended to incorporate federal revisions at 82 FR 28562, June 23, 2017; and 82 FR 39671, August 22, 2017, by reference.

Regulation 61-62.63, Subpart NNN, “National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing”:

Subpart NNN, Table, is amended to incorporate federal revisions at 82 FR 60873, December 26, 2017, by reference.

Regulation 61-62.63, Subpart VVV, “National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works”:

Subpart VVV, Table, is amended to incorporate federal revisions at 82 FR 49513, October 26, 2017, by reference.

Regulation 61-62.63, Subpart XXX, “National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese”:

Subpart XXX, Table, is amended to incorporate federal revisions at 82 FR 5401, January 18, 2017, by reference.

Regulation 61-62.63, Subpart CCCC, “National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast”:

Subpart CCCC, Table, is amended to incorporate federal revisions at 82 FR 48156, October 16, 2017, by reference.

Regulation 61-62.63, Subpart UUUUU, “National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units”:

Subpart UUUUU, Table, is amended to incorporate federal revisions at 82 FR 16736, April 6, 2017, by reference.

Regulation 61-62.68, Chemical Accident Prevention Provisions

Regulation 61-62.68, Section 68.1, Scope:

Section 68.1, Scope, is amended to insert the words "Clean Air" between “section 112(r) of the” and “Act.” for clarity.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph (e) is amended to strike the word “if” and replace it with the word “is” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.115, Threshold determination:

Paragraph (a) is amended to strike the section symbol “§” and replace with the word “Section” to provide clarity and consistency.

Regulation 61-62.68, Section 68.126, Exclusion:

Section 68.126, Exclusion, is amended to strike the section symbol “§” and replace with the word “Section” to provide clarity and consistency.

Regulation 61-62.68, Section 68.130, List of Substances:

Tables 1, 2, 3 and 4 are amended by correcting errors in chemical nomenclature and an incorrect CAS number in Table 1. Footnote 1 to Tables 3 and 4 is also amended to strike the section symbol “§” and replace it with the word “Section” to provide clarity and consistency.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph (d) is amended to strike the citation “(b)(2)” and replace with “(c)(2)”, and strike the citation “(b)(7)” and replace with “(c)(7)” for correct codification.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph (g)(1) is amended to strike the citation “(e)” and replace with “(f)” for correct codification.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph (g)(2) is amended to strike the citation “(f)(1)” and replace with “(g)(1)” for correct codification, and replace “90” with “ninety (90)” for consistency.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph (h) is amended to strike the three citations to paragraph “(f)” and replace each with “(g)”, and strike the citation “(e)” and replace with “(f)” for correct codification.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph (i) is amended to strike the citation “(g)” and replace with “(h)” for correct codification, and replace “Thirty” with “Thirty (30)” for consistency.

Appendix A to Part 68 is amended by correcting errors in chemical nomenclature.

Regulation 61-62.70, Title V Operating Permit Program

Regulation 61-62.70, Section 70.3, Applicability:

Paragraph (a)(6) is stricken in its entirety to maintain compliance with federal regulations adopted at 70 FR 75320.

Regulation 61-62.96, Nitrogen Oxides (NO_x) and Sulfur Dioxide (SO₂) Budget Trading Program

Regulation 61-62.96, Nitrogen Oxides (NO_x) and Sulfur Dioxide (SO₂) Budget Trading Program, is amended by: revising the title of the regulation to “Nitrogen Oxides (NO_x) Budget Program”, striking two paragraphs of introductory text, adding new Subparts A through I, and striking existing Subparts AA through II, Subparts AAA through III, and Subparts AAAA through IIII.

Instructions: Amend Regulation 61-62, Air Pollution Control Regulations and Standards, in the South Carolina Code of Regulations pursuant to each instruction provided below with the text of the amendments.

~~Indicates Matter Stricken~~

Indicates New Matter

Text:

Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards

Regulation 61-62.60, Subpart A, shall be revised as follows:

Subpart A - “General Provisions”

The provisions of 40 Code of Federal Regulations (CFR) Part 60 Subpart A, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 60 Subpart A			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 36	December 23, 1971	[36 FR 24877]
Revision	Vol. 38	October 15, 1973	[38 FR 28565]
Revision	Vol. 39	March 8, 1974	[39 FR 9314]
Revision	Vol. 39	November 12, 1974	[39 FR 39873]
Revision	Vol. 40	April 25, 1975	[40 FR 18169]
Revision	Vol. 40	October 6, 1975	[40 FR 46254]
Revision	Vol. 40	November 17, 1975	[40 FR 53346]
Revision	Vol. 40	December 16, 1975	[40 FR 58418]
Revision	Vol. 40	December 22, 1975	[40 FR 59205]
Revision	Vol. 41	August 20, 1976	[41 FR 35185]
Revision	Vol. 42	July 19, 1977	[42 FR 37000]
Revision	Vol. 42	July 27, 1977	[42 FR 38178]
Revision	Vol. 42	November 1, 1977	[42 FR 57126]
Revision	Vol. 43	March 3, 1978	[43 FR 8800]
Revision	Vol. 43	August 3, 1978	[43 FR 34347]
Revision	Vol. 44	June 11, 1979	[44 FR 33612]
Revision	Vol. 44	September 25, 1979	[44 FR 55173]
Revision	Vol. 45	January 23, 1980	[45 FR 5617]
Revision	Vol. 45	April 4, 1980	[45 FR 23379]
Revision	Vol. 45	December 24, 1980	[45 FR 85415]
Revision	Vol. 47	January 8, 1982	[47 FR 951]
Revision	Vol. 47	July 23, 1982	[47 FR 31876]
Revision	Vol. 48	March 30, 1983	[48 FR 13326]
Revision	Vol. 48	May 25, 1983	[48 FR 23610]
Revision	Vol. 48	July 20, 1983	[48 FR 32986]
Revision	Vol. 48	October 18, 1983	[48 FR 48335]
Revision	Vol. 50	December 27, 1985	[50 FR 53113]
Revision	Vol. 51	January 15, 1986	[51 FR 1790]
Revision	Vol. 51	January 21, 1986	[51 FR 2701]
Revision	Vol. 51	November 25, 1986	[51 FR 42796]
Revision	Vol. 52	March 26, 1987	[52 FR 9781, 9782]

40 CFR Part 60 Subpart A			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 52	April 8, 1987	[52 FR 11428]
Revision	Vol. 52	May 11, 1987	[52 FR 17555]
Revision	Vol. 52	June 4, 1987	[52 FR 21007]
Revision	Vol. 54	February 14, 1989	[54 FR 6662]
Revision	Vol. 54	May 17, 1989	[54 FR 21344]
Revision	Vol. 55	December 13, 1990	[55 FR 51382]
Revision	Vol. 57	July 21, 1992	[57 FR 32338, 32339]
Revision	Vol. 59	March 16, 1994	[59 FR 12427, 12428]
Revision	Vol. 59	September 15, 1994	[59 FR 47265]
Revision	Vol. 61	March 12, 1996	[61 FR 9919]
Revision	Vol. 62	February 24, 1997	[62 FR 8328]
Revision	Vol. 62	September 15, 1997	[62 FR 48348]
Revision	Vol. 63	May 4, 1998	[63 FR 24444]
Revision	Vol. 64	February 12, 1999	[64 FR 7463]
Revision	Vol. 65	August 10, 2000	[65 FR 48914]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 65	December 6, 2000	[65 FR 76350, 76378]
Revision	Vol. 65	December 14, 2000	[65 FR 78268]
Revision	Vol. 66	February 6, 2001	[66 FR 9034]
Revision	Vol. 67	June 28, 2002	[67 FR 43550]
Revision	Vol. 68	April 14, 2003	[68 FR 17990]
Revision	Vol. 68	May 28, 2003	[68 FR 31611]
Revision	Vol. 69	July 8, 2004	[69 FR 41346]
Revision	Vol. 70	December 16, 2005	[70 FR 74870]
Revision	Vol. 71	June 1, 2006	[71 FR 31100]
Revision	Vol. 71	July 6, 2006	[71 FR 38482]
Revision	Vol. 72	May 16, 2007	[72 FR 27437]
Revision	Vol. 72	June 13, 2007	[72 FR 32710]
Revision	Vol. 73	January 18, 2008	[73 FR 3568]
Revision	Vol. 73	April 3, 2008	[73 FR 18162]
Revision	Vol. 73	May 6, 2008	[73 FR 24870]
Revision	Vol. 73	May 27, 2008	[73 FR 30308]
Revision	Vol. 73	June 24, 2008	[73 FR 35838]
Revision	Vol. 73	December 22, 2008	[73 FR 78199]
Revision	Vol. 74	January 28, 2009	[74 FR 5072]
Revision	Vol. 74	October 6, 2009	[74 FR 51368]
Revision	Vol. 74	October 8, 2009	[74 FR 51950]
Revision	Vol. 74	December 17, 2009	[74 FR 66921]
Revision	Vol. 75	September 9, 2010	[75 FR 54970]
Revision	Vol. 75	September 13, 2010	[75 FR 55636]
Revision	Vol. 76	January 18, 2011	[76 FR 2832]

40 CFR Part 60 Subpart A			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 76	March 21, 2011	[76 FR 15372]
Revision	Vol. 76	March 21, 2011	[76 FR 15704]
Revision	Vol. 77	February 16, 2012	[77 FR 9304]
Revision	Vol. 77	August 14, 2012	[77 FR 48433]
Revision	Vol. 77	September 12, 2012	[77 FR 56422]
Revision	Vol. 78	January 30, 2013	[78 FR 6674]
Revision	Vol. 79	February 27, 2014	[79 FR 11228]
Revision	Vol. 79	April 4, 2014	[79 FR 18952]
Revision	Vol. 80	March 16, 2015	[80 FR 13671]
Revision	Vol. 81	June 3, 2016	[81 FR 35824]
Revision	Vol. 81	June 30, 2016	[81 FR 42542]
Revision	Vol. 81	August 29, 2016	[81 FR 59276, 59332]
Revision	Vol. 81	August 30, 2016	[81 FR 59800]
Revision	Vol. 82	June 23, 2017	[82 FR 28561]
Revision	Vol. 82	July 17, 2017	[82 FR 32644]

Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP)

Regulation 61-62.61, Subpart A, shall be revised as follows:

Subpart A - “General Provisions”

The provisions of 40 Code of Federal Regulations (CFR) Part 61 Subpart A, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 Subpart A			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 38	April 6, 1973	[38 FR 8826]
Revision	Vol. 40	April 25, 1975	[40 FR 18170]
Revision	Vol. 40	October 14, 1975	[40 FR 48299]
Revision	Vol. 42	September 29, 1977	[42 FR 51574]
Revision	Vol. 44	September 25, 1979	[44 FR 55174]
Revision	Vol. 48	January 27, 1983	[48 FR 3740]
Revision	Vol. 48	December 9, 1983	[48 FR 55266]
Revision	Vol. 49	June 6, 1984	[49 FR 23520]
Revision	Vol. 50	November 7, 1985	[50 FR 46290]
Revision	Vol. 50	November 7, 1985	[50 FR 46291]
Revision	Vol. 50	November 7, 1985	[50 FR 46292]
Revision	Vol. 50	November 7, 1985	[50 FR 46293]
Revision	Vol. 50	November 7, 1985	[50 FR 46294]
Revision	Vol. 51	March 5, 1986	[51 FR 7715]

40 CFR Part 61 Subpart A			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 51	March 5, 1986	[51 FR 7719]
Revision	Vol. 51	April 1, 1986	[51 FR 11022]
Revision	Vol. 51	September 30, 1986	[51 FR 34914]
Revision	Vol. 52	October 8, 1987	[52 FR 37617]
Revision	Vol. 54	September 14, 1989	[54 FR 38073]
Revision	Vol. 54	December 15, 1989	[54 FR 51704]
Revision	Vol. 55	March 7, 1990	[55 FR 8341]
Revision	Vol. 55	May 2, 1990	[55 FR 18331]
Revision	Vol. 55	May 31, 1990	[55 FR 22027]
Revision	Vol. 55	August 13, 1990	[55 FR 32914]
Revision	Vol. 57	January 13, 1992	[57 FR 1226]
Revision	Vol. 57	March 5, 1992	[57 FR 8016]
Revision	Vol. 58	January 7, 1993	[58 FR 3105]
Revision	Vol. 58	January 21, 1993	[58 FR 5299]
Revision	Vol. 58	April 7, 1993	[58 FR 18014]
Revision	Vol. 59	March 11, 1994	[59 FR 11554]
Revision	Vol. 59	March 16, 1994	[59 FR 12408]
Revision	Vol. 59	June 17, 1994	[59 FR 31157]
Revision	Vol. 59	July 15, 1994	[59 FR 36280]
Revision	Vol. 60	March 15, 1995	[60 FR 13912]
Revision	Vol. 60	August 21, 1995	[60 FR 43396]
Revision	Vol. 60	September 5, 1995	[60 FR 46206]
Revision	Vol. 60	September 28, 1995	[60 FR 50244]
Revision	Vol. 61	December 30, 1996	[61 FR 68972]
Revision	Vol. 62	January 14, 1997	[62 FR 1832]
Revision	Vol. 62	February 24, 1997	[62 FR 8314]
Revision	Vol. 63	December 1, 1998	[63 FR 66054]
Revision	Vol. 64	February 3, 1999	[64 FR 5574]
Revision	Vol. 64	February 12, 1999	[64 FR 7458]
Revision	Vol. 64	May 6, 1999	[64 FR 24288]
Revision	Vol. 65	February 28, 2000	[65 FR 10391]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 65	December 14, 2000	[65 FR 78268]
Revision	Vol. 66	June 15, 2001	[66 FR 32545]
Revision	Vol. 66	August 13, 2001	[66 FR 42425, 42427]
Revision	Vol. 66	September 19, 2001	[66 FR 48211]
Revision	Vol. 67	January 23, 2002	[67 FR 3106]
Revision	Vol. 67	March 14, 2002	[67 FR 11417]
Revision	Vol. 67	April 26, 2002	[67 FR 20652]
Revision	Vol. 67	June 10, 2002	[67 FR 39622]
Revision	Vol. 67	September 9, 2002	[67 FR 57159]

40 CFR Part 61 Subpart A			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 67	October 7, 2002	[67 FR 62395]
Revision	Vol. 68	April 7, 2003	[68 FR 16726]
Revision	Vol. 68	May 28, 2003	[68 FR 31611]
Revision	Vol. 68	June 17, 2003	[68 FR 35792]
Revision	Vol. 68	December 11, 2003	[68 FR 69036]
Revision	Vol. 69	March 26, 2004	[69 FR 15687]
Revision	Vol. 69	April 9, 2004	[69 FR 18801]
Revision	Vol. 72	May 16, 2007	[72 FR 27437]
Revision	Vol. 73	April 3, 2008	[73 FR 18162]
Revision	Vol. 73	May 6, 2008	[73 FR 24870]
Revision	Vol. 74	October 27, 2009	[74 FR 55142]
Revision	Vol. 75	September 13, 2010	[75 FR 55636]
Revision	Vol. 79	February 27, 2014	[79 FR 11228]
Revision	Vol. 81	August 30, 2016	[81 FR 59800]
Revision	Vol. 82	July 17, 2017	[82 FR 32644]

Regulation 61-62.61, Subpart W, shall be revised as follows:

Subpart W - “National Emission Standards for Radon Emissions from Operating Mill Tailings”

The provisions of 40 CFR Part 61 Subpart W, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 Subpart W			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 54	December 15, 1989	[54 FR 51703]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 82	January 17, 2017	[82 FR 5142]

Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories

Regulation 61-62.63, Subpart A, shall be revised as follows:

Subpart A - “General Provisions”

The provisions of 40 Code of Federal Regulations (CFR) Part 63 Subpart A, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart A			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 59	March 16, 1994	[59 FR 12430]

40 CFR Part 63 Subpart A			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 59	April 22, 1994	[59 FR 19453]
Revision	Vol. 59	December 6, 1994	[59 FR 62589]
Revision	Vol. 60	January 25, 1995	[60 FR 4963]
Revision	Vol. 60	June 27, 1995	[60 FR 33122]
Revision	Vol. 60	September 1, 1995	[60 FR 45980]
Revision	Vol. 61	May 21, 1996	[61 FR 25399]
Revision	Vol. 61	December 17, 1996	[61 FR 66227]
Revision	Vol. 62	December 10, 1997	[62 FR 65024]
Revision	Vol. 63	May 4, 1998	[63 FR 24444]
Revision	Vol. 63	May 13, 1998	[63 FR 26465]
Revision	Vol. 63	September 21, 1998	[63 FR 50326]
Revision	Vol. 63	October 7, 1998	[63 FR 53996]
Revision	Vol. 63	December 1, 1998	[63 FR 66061]
Revision	Vol. 64	January 28, 1999	[64 FR 4300]
Revision	Vol. 64	February 12, 1999	[64 FR 7468]
Revision	Vol. 64	April 12, 1999	[64 FR 17562]
Revision	Vol. 64	June 10, 1999	[64 FR 31375]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 67	February 14, 2002	[67 FR 6968]
Revision	Vol. 67	February 27, 2002	[67 FR 9156]
Revision	Vol. 67	April 5, 2002	[67 FR 16582]
Revision	Vol. 67	June 10, 2002	[67 FR 39794]
Revision	Vol. 67	July 23, 2002	[67 FR 48254]
Revision	Vol. 68	February 18, 2003	[68 FR 7706]
Revision	Vol. 68	April 21, 2003	[68 FR 19375]
Revision	Vol. 68	May 6, 2003	[68 FR 23898]
Revision	Vol. 68	May 8, 2003	[68 FR 24653]
Revision	Vol. 68	May 20, 2003	[68 FR 27646]
Revision	Vol. 68	May 23, 2003	[68 FR 28606]
Revision	Vol. 68	May 27, 2003	[68 FR 28774]
Revision	Vol. 68	May 28, 2003	[68 FR 31746]
Revision	Vol. 68	May 29, 2003	[68 FR 32172]
Revision	Vol. 68	May 30, 2003	[68 FR 32586]
Revision	Vol. 68	November 13, 2003	[68 FR 64432]
Revision	Vol. 68	December 19, 2003	[68 FR 70960]
Revision	Vol. 69	January 2, 2004	[69 FR 130]
Revision	Vol. 69	February 3, 2004	[69 FR 5038]
Revision	Vol. 69	April 9, 2004	[69 FR 18801]
Revision	Vol. 69	April 19, 2004	[69 FR 20968]
Revision	Vol. 69	April 22, 2004	[69 FR 21737]
Revision	Vol. 69	April 26, 2004	[69 FR 22602]

40 CFR Part 63 Subpart A			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 69	June 15, 2004	[69 FR 33474]
Revision	Vol. 69	July 30, 2004	[69 FR 45944]
Revision	Vol. 69	September 13, 2004	[69 FR 55218]
Revision	Vol. 70	April 15, 2005	[70 FR 19992]
Revision	Vol. 70	May 20, 2005	[70 FR 29400]
Revision	Vol. 70	October 12, 2005	[70 FR 59402]
Revision	Vol. 71	February 16, 2006	[71 FR 8342]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 71	July 28, 2006	[71 FR 42898]
Revision	Vol. 71	December 6, 2006	[71 FR 70651]
Revision	Vol. 72	January 3, 2007	[72 FR 26]
Revision	Vol. 72	January 23, 2007	[72 FR 2930]
Revision	Vol. 72	July 16, 2007	[72 FR 38864]
Revision	Vol. 72	October 29, 2007	[72 FR 61060]
Revision	Vol. 72	November 16, 2007	[72 FR 64860]
Revision	Vol. 72	December 26, 2007	[72 FR 73180]
Revision	Vol. 72	December 28, 2007	[72 FR 74088]
Revision	Vol. 73	January 2, 2008	[73 FR 226]
Revision	Vol. 73	January 9, 2008	[73 FR 1738]
Revision	Vol. 73	January 10, 2008	[73 FR 1916]
Revision	Vol. 73	January 18, 2008	[73 FR 3568]
Revision	Vol. 73	February 7, 2008	[73 FR 7210]
Revision	Vol. 73	March 7, 2008	[73 FR 12275]
Revision	Vol. 73	July 23, 2008	[73 FR 42978]
Revision	Vol. 73	December 22, 2008	[73 FR 78199]
Revision	Vol. 74	June 25, 2009	[74 FR 30366]
Revision	Vol. 74	October 28, 2009	[74 FR 55670]
Revision	Vol. 75	September 9, 2010	[75 FR 54970]
Revision	Vol. 75	September 13, 2010	[75 FR 55636]
Revision	Vol. 76	February 17, 2011	[76 FR 9450]
Revision	Vol. 77	February 16, 2012	[77 FR 9304]
Revision	Vol. 77	April 17, 2012	[77 FR 22848]
Revision	Vol. 77	September 11, 2012	[77 FR 55698]
Revision	Vol. 78	January 30, 2013	[78 FR 6674]
Revision	Vol. 78	January 31, 2013	[78 FR 7138]
Revision	Vol. 78	February 1, 2013	[78 FR 7488]
Revision	Vol. 78	June 20, 2013	[78 FR 37133]
Revision	Vol. 79	February 27, 2014	[79 FR 11228]
Revision	Vol. 79	March 27, 2014	[79 FR 17340]
Revision	Vol. 80	June 30, 2015	[80 FR 37365]
Revision	Vol. 80	August 19, 2015	[80 FR 50385]

40 CFR Part 63 Subpart A			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 80	September 18, 2015	[80 FR 56699]
Revision	Vol. 80	October 15, 2015	[80 FR 62389]
Revision	Vol. 80	October 26, 2015	[80 FR 65469]
Revision	Vol. 80	December 1, 2015	[80 FR 75178]
Revision	Vol. 80	December 4, 2015	[80 FR 75817]
Revision	Vol. 81	August 30, 2016	[81 FR 59800]
Revision	Vol. 82	January 18, 2017	[82 FR 5401]
Revision	Vol. 82	October 11, 2017	[82 FR 47328]
Revision	Vol. 82	October 16, 2017	[82 FR 48156]

Regulation 61-62.63, Subpart AA, shall be revised as follows:

Subpart AA - “National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants”

The provisions of 40 CFR Part 63 Subpart AA, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart AA			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 10, 1999	[64 FR 31376]
Revision	Vol. 66	December 17, 2001	[66 FR 65072]
Revision	Vol. 67	June 12, 2002	[67 FR 40578]
Revision	Vol. 67	June 13, 2002	[67 FR 40814]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 80	August 19, 2015	[80 FR 50385]
Revision	Vol. 82	September 28, 2017	[82 FR 45193]

Regulation 61-62.63, Subpart BB, shall be revised as follows:

Subpart BB - “National Emission Standards for Hazardous Air Pollutants from Phosphate Fertilizer Production Plants”

The provisions of 40 CFR Part 63 Subpart BB, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart BB			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 10, 1999	[64 FR 31382]
Revision	Vol. 66	December 17, 2001	[66 FR 65072]
Revision	Vol. 67	June 13, 2002	[67 FR 40814]

40 CFR Part 63 Subpart BB			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 68	June 23, 2003	[68 FR 37334]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 80	August 19, 2015	[80 FR 50385]
Revision	Vol. 82	September 28, 2017	[82 FR 45193]

Regulation 61-62.63, Subpart MM, shall be revised as follows:

Subpart MM - “National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicemical Pulp Mills”

The provisions of 40 CFR Part 63 Subpart MM, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart MM			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 66	January 12, 2001	[66 FR 3180]
Revision	Vol. 66	March 26, 2001	[66 FR 16400]
Revision	Vol. 66	July 19, 2001	[66 FR 37591]
Revision	Vol. 66	August 6, 2001	[66 FR 41086]
Revision	Vol. 68	February 18, 2003	[68 FR 7706]
Revision	Vol. 68	May 8, 2003	[68 FR 24653]
Revision	Vol. 68	July 18, 2003	[68 FR 42603]
Revision	Vol. 68	December 5, 2003	[68 FR 67953]
Revision	Vol. 69	May 6, 2004	[69 FR 25321]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 82	October 11, 2017	[82 FR 47328]

Regulation 61-62.63, Subpart LLL, shall be revised as follows:

Subpart LLL - “National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry”

The provisions of 40 CFR Part 63 Subpart LLL, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart LLL			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 14, 1999	[64 FR 31898]
Revision	Vol. 64	September 30, 1999	[64 FR 52828]
Revision	Vol. 67	April 5, 2002	[67 FR 16614]
Revision	Vol. 67	December 6, 2002	[67 FR 72580]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

40 CFR Part 63 Subpart LLL			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 71	December 20, 2006	[71 FR 76518]
Revision	Vol. 75	September 9, 2010	[75 FR 54970]
Revision	Vol. 76	January 18, 2011	[76 FR 2832]
Revision	Vol. 78	February 12, 2013	[78 FR 10006]
Revision	Vol. 80	July 27, 2015	[80 FR 44771]
Revision	Vol. 80	September 11, 2015	[80 FR 54728]
Revision	Vol. 81	July 25, 2016	[81 FR 48356]
Revision	Vol. 82	June 23, 2017	[82 FR 28562]
Revision	Vol. 82	August 22, 2017	[82 FR 39671]

Regulation 61-62.63, Subpart NNN, shall be revised as follows:

Subpart NNN - “National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing”

The provisions of 40 CFR Part 63 Subpart NNN, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart NNN			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 14, 1999	[64 FR 31695]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 80	July 29, 2015	[80 FR 45279]
Revision	Vol. 82	December 26, 2017	[82 FR 60873]

Regulation 61-62.63, Subpart VVV, shall be revised as follows:

Subpart VVV - “National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works”

The provisions of 40 CFR Part 63 Subpart VVV, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart VVV			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	October 26, 1999	[64 FR 57572]
Revision	Vol. 66	March 23, 2001	[66 FR 16140]
Revision	Vol. 67	October 10, 2002	[67 FR 64742]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]
Revision	Vol. 73	December 22, 2008	[73 FR 78199]
Revision	Vol. 82	October 26, 2017	[82 FR 49513]

Regulation 61-62.63, Subpart XXX, shall be revised as follows:

Subpart XXX - “National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese”

The provisions of 40 CFR Part 63 Subpart XXX, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart XXX			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	May 20, 1999	[64 FR 27458]
Revision	Vol. 66	March 22, 2001	[66 FR 16007]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 80	June 30, 2015	[80 FR 37365]
Revision	Vol. 82	January 18, 2017	[82 FR 5401]

Regulation 61-62.63, Subpart CCCC, shall be revised as follows:

Subpart CCCC - “National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast”

The provisions of 40 CFR Part 63 Subpart CCCC, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart CCCC			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 66	May 21, 2001	[66 FR 27876]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 79	February 27, 2014	[79 FR 11228]
Revision	Vol. 82	October 16, 2017	[82 FR 48156]

Regulation 61-62.63, Subpart UUUUU, shall be revised as follows:

Subpart UUUUU - “National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units”

The provisions of 40 CFR Part 63 Subpart UUUUU, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart UUUUU			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 77	February 16, 2012	[77 FR 9304]

40 CFR Part 63 Subpart UUUUU			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 77	April 19, 2012	[77 FR 23399]
Revision	Vol. 77	August 2, 2012	[77 FR 45967]
Revision	Vol. 78	April 24, 2013	[78 FR 24073]
Revision	Vol. 79	November 19, 2014	[79 FR 68777, 68795]
Revision	Vol. 80	March 24, 2015	[80 FR 15510]
Revision	Vol. 81	April 6, 2016	[81 FR 20172]
Revision	Vol. 82	April 6, 2017	[82 FR 16736]

Regulation 61-62.68, Chemical Accident Prevention Provisions

Regulation 61-62.68.1 shall be revised as follows:

This part sets forth the list of regulated substances and thresholds, the requirements for owners or operators of stationary sources concerning the prevention of accidental releases, and the State accidental release prevention programs approved under section 112(r) of the **Clean Air Act**. The list of substances, threshold quantities, and accident prevention regulations promulgated under this part do not limit in any way the general duty provisions under section 112(r)(1) of the Act.

Regulation 61-62.68.3 (e) shall be revised as follows:

(e) “Article” means a manufactured item, as defined under 29 CFR 1910.1200(b), that ~~is~~ formed to a specific shape or design during manufacture, that has end use functions dependent in whole or in part upon the shape or design during end use, and that does not release or otherwise result in exposure to a regulated substance under normal conditions of processing and use.

Regulation 61-62.68.115 (a) shall be revised as follows:

(a) A threshold quantity of a regulated substance listed in **§Section** 68.130 is present at a stationary source if the total quantity of the regulated substance contained in a process exceeds the threshold.

Regulation 61-62.68.126 shall be revised as follows:

Flammable substances used as fuel or held for sale as fuel at retail facilities. A flammable substance listed in Tables 3 and 4 of **§Section** 68.130 is nevertheless excluded from all provisions of this part when the substance is used as a fuel or held for sale as a fuel at a retail facility.

TABLE 1 to Regulation 61-62.68.130 shall be revised as follows:

TABLE 1 - LIST OF REGULATED TOXIC SUBSTANCES AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION [Alphabetical Order - 77 Substances]			
Chemical Name	CAS Number	Threshold Quantity (lbs)	Basis for Listing
Acrolein [2-Propenal] [2-Propenal]	107-02-8	5,000	b

TABLE 1 - LIST OF REGULATED TOXIC SUBSTANCES AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION [Alphabetical Order - 77 Substances]			
Chemical Name	CAS Number	Threshold Quantity (lbs)	Basis for Listing
Acrylonitrile [2-Propenenitrile]	107-13-1	20,000	b
Acrylyl chloride [2-Propenoyl chloride]	814-68-6	5,000	b
Allyl alcohol [2-Propen-1-ol]	107-18-6	15,000	b
Allylamine [2-Propen-1-amine] [2-Propen-1-amine]	107-11-9	10,000	b
Ammonia (anhydrous)	7664-41-7	10,000	a, b
Ammonia (conc. 20% or greater)	7664-41-7	20,000	a, b
Arsenous trichloride	7784-34-1	15,000	b
Arsine	7784-42-1	1,000	b
Boron trichloride [Borane, trichloro-]	10294-34-5	5,000	b
Boron trifluoride [Borane, trifluoro-]	7637-07-2	5,000	b
Boron trifluoride compound with methyl ether (1:1) [Boron, trifluoro [oxybis [metane]], T-4] [Boron, trifluoro[oxybis[methane]], (T-4)-]	353-42-4	15,000	b
Bromine	7726-95-6	10,000	a, b
Carbon disulfide	75-15-0	20,000	b
Chlorine	7782-50-5	2,500	a, b
Chlorine dioxide [Chlorine oxide (ClO) (ClO ₂)]	10049-04-4	1,000	c
Chloroform [Methane, trichloro-]	67-66-3	20,000	b
Chloromethyl ether [Methane, oxybis[chloro-]	542-88-1	1,000	b
Chloromethyl methyl ether [Methane, chloromethoxy-]	107-30-2	5,000	b
Crotonaldehyde [2-Butenal]	4170-30-3	20,000	b
Crotonaldehyde, (E)- [2-Butenal, (E)-]	123-73-9	20,000	b
Cyanogen chloride	506-77-4	10,000	c
Cyclohexylamine [Cyclohexanamine]	108-91-8	15,000	b
Diborane	19287-45-7	2,500	b
Dimethyldichlorosilane [Silane, dichlorodimethyl-]	75-78-5	5,000	b

TABLE 1 - LIST OF REGULATED TOXIC SUBSTANCES AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION [Alphabetical Order - 77 Substances]			
Chemical Name	CAS Number	Threshold Quantity (lbs)	Basis for Listing
1,1-Dimethylhydrazine 1,1-Dimethylhydrazine [Hydrazine, 1,1-dimethyl-]	57-14-7	15,000	b
Epichlorohydrin [Oxirane, (chloromethyl)-]	106-89-8	20,000	b
Ethylenediamine [1,2-Ethanediamine] [1,2-Ethanediamine]	107-15-3	20,000	b
Ethyleneimine [Aziridine]	151-56-4	10,000	b
Ethylene oxide [Oxirane]	75-21-8	10,000	a, b
Fluorine	7782-41-4	1,000	b
Formaldehyde (solution)	50-00-0	15,000	b
Furan	110-00-9	5,000	b
Hydrazine	302-01-2	15,000	b
Hydrochloric acid (conc. 37% or greater)	7647-01-0	15,000	d
Hydrocyanic acid	74-90-8	2,500	a, b
Hydrogen chloride (anhydrous) [Hydrochloric acid]	7647-01-0	5,000	a
Hydrogen fluoride/ Hydrofluoric acid (conc. 50% or greater) [Hydrofluoric acid]	7664-39-3	1,000	a, b
Hydrogen selenide	7783-07-5	500	b
Hydrogen sulfide	7783-06-4	10,000	a, b
Iron, pentacarbonyl- [Iron carbonyl (Fe(CO)₅), (TB-5-11)-] [Iron carbonyl (Fe(CO)₅), (TB-5-11)-]	13463-40-6	2,500	b
Isobutyronitrile [Propanenitrile, 2-methyl-]	78-82-0	20,000	b
Isopropyl chloroformate [Carbonylchloridic acid, 1-methylethyl ester]	108-23-6	15,000	b
Methacrylonitrile [2-Propenenitrile, 2-methyl-] [2-Propenenitrile, 2-methyl-]	126-98-7	10,000	b
Methyl chloride [Methane, chloro-]	74-87-3	10,000	a
Methyl chloroformate [Carbonylchloridic acid, methylester] [Carbonylchloridic acid, methyl ester]	79-22-1	5,000	b
Methyl hydrazine [Hydrazine, methyl-]	60-34-4	15,000	b
Methyl isocyanate [Methane, isocyanato-]	624-83-9	10,000	a, b

TABLE 1 - LIST OF REGULATED TOXIC SUBSTANCES AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION [Alphabetical Order - 77 Substances]			
Chemical Name	CAS Number	Threshold Quantity (lbs)	Basis for Listing
Methyl mercaptan [Methanethiol]	74-93-1	10,000	b
Methyl thiocyanate [Thiocyanic acid, methyl ester]	556-64-9	20,000	b
Methyltrichlorosilane [Silane, trichloromethyl-]	75-79-6	5,000	b
Nickel carbonyl	13463-39-3	1,000	b
Nitric acid (conc. 80% or greater)	7697-37-2	15,000	b
Nitric oxide [Nitrogen oxide (NO)]	10102-43-9	10,000	b
Oleum (Fuming Sulfuric acid) [Sulfuric acid, mixture with sulfur trioxide] ¹	8014-95-7	10,000	e
Peracetic acid [Ethaneperoxoic acid]	79-21-0	10,000	b
Perchloromethyl mercaptan <u>Perchloromethylmercaptan</u> [Methanesulfenyl chloride, trichloro-]	594-42-3	10,000	b
Phosgene [Carbonic dichloride]	75-44-5	500	a, b
Phosphine	7803-51-2	5,000	b
Phosphorus oxychloride [Phosphoryl chloride]	10025-87-3	5,000	b
Phosphorus trichloride [Phosphorous trichloride]	7719-12-2	15,000	b
Piperidine	110-89-4	15,000	b
Propionitrile [Propanenitrile]	107-12-0	10,000	b
Propyl chloroformate {Carbochloridic acid, propylester} <u>[Carbochloridic acid, propyl ester]</u>	109-61-5	15,000	b
Propyleneimine [Aziridine, 2-methyl-] <u>[Aziridine, 2-methyl-]</u>	75-55-8	10,000	b
Propylene oxide [Oxirane, methyl-]	75-56-9	10,000	b
Sulfur dioxide (anhydrous)	7446-09-5	5,000	a, b
Sulfur tetrafluoride [Sulfur fluoride (SF4)(SF4) , (T-4)-]	7783-60-0	2,500	b
Sulfur trioxide	7446-11-9	10,000	a, b
Tetramethyllead [Plumbane, tetramethyl-]	75-74-1	10,000	b
Tetranitromethane [Methane, tetranitro-]	509-14-8	10,000	b

TABLE 1 - LIST OF REGULATED TOXIC SUBSTANCES AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION [Alphabetical Order - 77 Substances]			
Chemical Name	CAS Number	Threshold Quantity (lbs)	Basis for Listing
Titanium tetrachloride [Titanium chloride (TiCl4) (TiCl4), (T-4)-]	7550-45-0	2,500	b
Toluene 2,4-diisocyanate Toluene 2,4-diisocyanate [Benzene, 2,4-diisocyanato-1-methyl-] [Benzene, 2,4-diisocyanato-1-methyl-] ¹	584-84-9	10,000	a
Toluene 2,6-diisocyanate Toluene 2,6-diisocyanate [Benzene, 1,3-diisocyanato-2-methyl-] [Benzene, 1,3-diisocyanato-2-methyl-] ¹	91-08-7	10,000	a
Toluene diisocyanate (unspecified isomer) [Benzene, 1,3-diisocyanatomethyl-] [Benzene, 1,3-diisocyanatomethyl-] ¹	26471-62-5	10,000	a
Trimethylchlorosilane [Silane, chlorotrimethyl-]	75-77-4	10,000	b
Vinyl acetate monomer [Acetic acid ethenyl ester]	108-05-4	15,000	b

¹ The mixture exemption in Section 68.115(b)(1) does not apply to the substance

NOTE: Basis for Listing:

a Mandated for listing by Congress

b On EHS list, vapor pressure 10 mmHg or greater

c Toxic gas

d Toxicity of hydrogen chloride, potential to release hydrogen chloride, and history of accidents

e Toxicity of sulfur trioxide and sulfuric acid, potential to release sulfur trioxide, and history of accidents

TABLE 2 to Regulation 61-62.68.130 shall be revised as follows:

TABLE 2 - LIST OF REGULATED TOXIC SUBSTANCES AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION [CAS Number Order - 77 Substances]			
CAS Number	Chemical Name	Threshold Quantity (lbs)	Basis for Listing
50-00-0	Formaldehyde (solution)	15,000	b
57-14-7	1,1-Dimethylhydrazine [Hydrazine, 1,1-dimethyl-]	15,000	b
60-34-4	Methyl hydrazine [Hydrazine, methyl-]	15,000	b
67-66-3	Chloroform [Methane, trichloro-]	20,000	b
74-87-3	Methyl chloride [Methane, chloro-]	10,000	a
74-90-8	Hydrocyanic acid	2,500	a, b

TABLE 2 - LIST OF REGULATED TOXIC SUBSTANCES AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION [CAS Number Order - 77 Substances]			
CAS Number	Chemical Name	Threshold Quantity (lbs)	Basis for Listing
74-93-1	Methyl mercaptan [Methanethiol]	10,000	b
75-15-0	Carbon disulfide	20,000	b
75-21-8	Ethylene oxide [Oxirane]	10,000	a, b
75-44-5	Phosgene [Carbonic dichloride]	500	a, b
75-55-8	Propyleneimine [Aziridine, 2-methyl-]	10,000	b
75-56-9	Propylene oxide [Oxirane, methyl-]	10,000	b
75-74-1	Tetramethyllead [Plumbane, tetramethyl-]	10,000	b
75-77-4	Trimethylchlorosilane [Silane, chlorotrimethyl-]	10,000	b
75-78-5	Dimethyldichlorosilane [Silane, dichlorodimethyl-]	5,000	b
75-79-6	Methyltrichlorosilane [Silane, trichloromethyl-]	5,000	b
78-82-0	Isobutyronitrile [Propanenitrile, 2-methyl-]	20,000	b
79-21-0	Peracetic acid [Ethaneperoxoic acid]	10,000	b
79-22-1	Methyl chloroformate [Carbonochloridic acid, methyl ester] [Carbonochloridic acid, methyl ester]	5,000	b
91-08-7	Toluene 2,6-diisocyanate [Benzene, 1,3-diisocyanato-2-methyl-] ¹	10,000	a
106-89-8	Epichlorohydrin [Oxirane, (chloromethyl)-]	20,000	b
107-02-8	Acrolein [2-Propenal]	5,000	b
107-11-9	Allylamine [2-Propen-1-amine]	10,000	b
107-12-0	Propionitrile [Propanenitrile]	10,000	b
107-13-1	Acrylonitrile [2-Propenenitrile]	20,000	b
107-15-3	Ethylenediamine [1,2-Ethanediamine]	20,000	b
107-18-6	Allyl alcohol [2-Propen-1-ol]	15,000	b
107-30-2	Chloromethyl methyl ether [Methane, chloromethoxy-]	5,000	b
108-05-4	Vinyl acetate monomer [Acetic acid ethenyl ester]	15,000	b
108-23-6	Isopropyl chloroformate [Carbonochloridic acid, 1-methylethyl ester]	15,000	b

TABLE 2 - LIST OF REGULATED TOXIC SUBSTANCES AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION [CAS Number Order - 77 Substances]			
CAS Number	Chemical Name	Threshold Quantity (lbs)	Basis for Listing
108-91-8	Cyclohexylamine [Cyclohexanamine]	15,000	b
109-61-5	Propyl chloroformate [Carbonochloridic acid, propylester] [Carbonochloridic acid, propyl ester]	15,000	b
110-00-9	Furan	5,000	b
110-89-4	Piperidine	15,000	b
123-73-9	Crotonaldehyde, (E)- [2-Butenal, (E)-]	20,000	b
126-98-7	Methacrylonitrile [2-Propenenitrile, 2-methyl-]	10,000	b
151-56-4	Ethyleneimine [Aziridine]	10,000	b
302-01-2	Hydrazine	15,000	b
353-42-4	Boron trifluoride compound with methyl ether (1:1) [Boron, trifluoro[oxy bis[methane]]], T 4 [Boron, trifluoro[oxybis[methane]], (T-4)-]	15,000	b
506-77-4	Cyanogen chloride	10,000	c
509-14-8	Tetranitromethane [Methane, tetranitro-]	10,000	b
542-88-1	Chloromethyl ether [Methane, oxybis[chloro-]	1,000	b
556-64-9	Methyl thiocyanate [Thiocyanic acid, methyl ester]	20,000	b
584-84-9	Toluene 2,4-diisocyanate [Benzene, 2,4-diisocyanato-1-methyl-] ¹	10,000	a
594-42-3	Perchloromethylmercaptan [Methanesulfenyl chloride, trichloro-]	10,000	b
624-83-9	Methyl isocyanate [Methane, isocyanato-]	10,000	a, b
814-68-6	Acrylyl chloride [2-Propenoyl chloride]	5,000	b
4170-30-3	Crotonaldehyde [2-Butenal]	20,000	b
7446-09-5	Sulfur dioxide (anhydrous)	5,000	a, b
7446-11-9	Sulfur trioxide	10,000	a, b
7550-45-0	Titanium tetrachloride [Titanium chloride (TiCl4) (TiCl ₄), (T-4)-]	2,500	b
7637-07-2	Boron trifluoride [Borane, trifluoro-]	5,000	b
7647-01-0	Hydrochloric acid (conc. 37% or greater)	15,000	d

TABLE 2 - LIST OF REGULATED TOXIC SUBSTANCES AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION [CAS Number Order - 77 Substances]			
CAS Number	Chemical Name	Threshold Quantity (lbs)	Basis for Listing
7647-01-0	Hydrogen chloride (anhydrous) [Hydrochloric acid]	5,000	a
7664-39-3	Hydrogen fluoride/Hydrofluoric acid (conc. 50% or greater) [Hydrofluoric acid]	1,000	a, b
7664-41-7	Ammonia (anhydrous)	10,000	a, b
7664-41-7	Ammonia (conc. 20% or greater)	20,000	a, b
7697-37-2	Nitric acid (conc. 80% or greater)	15,000	b
7719-12-2	Phosphorus trichloride [Phosphorous trichloride]	15,000	b
7726-95-6	Bromine	10,000	a, b
7782-41-4	Fluorine	1,000	b
7782-50-5	Chlorine	2,500	a, b
7783-06-4	Hydrogen sulfide	10,000	a, b
7783-07-5	Hydrogen selenide	500	b
7783-60-0	Sulfur tetrafluoride [Sulfur fluoride (SF4) (SF ₄), (T-4)-]	2,500	b
7784-34-1	Arsenous trichloride	15,000	b
7784-42-1	Arsine	1,000	b
7803-51-2	Phosphine	5,000	b
8014-95-7	Oleum (Fuming Sulfuric acid) [Sulfuric acid, mixture with sulfur trioxide] ¹	10,000	e
10025-87-3	Phosphorus oxychloride [Phosphoryl chloride]	5,000	b
10049-04-4	Chlorine dioxide [Chlorine oxide (ClO2) (ClO ₂)]	1,000	c
10102-43-9	Nitric oxide [Nitrogen oxide (NO)]	10,000	b
10294-34-5	Boron trichloride [Borane, trichloro-]	5,000	b
13463-39-3	Nickel carbonyl	1,000	b
13463-40-6	Iron, pentacarbonyl- Iron carbonyl (Fe(CO)₅), (TB-5-11)- [Iron carbonyl (Fe(CO) ₅), (TB-5-11)-]	2,500	b
19287-45-7	Diborane	2,500	b
26471-62-5	Toluene diisocyanate (unspecified isomer) [Benzene, 1,3-diisocyanatomethyl- 1] ¹	10,000	a

¹ The mixture exemption in Section 68.115(b)(1) does not apply to the substance

NOTE: Basis for Listing:

a Mandated for listing by Congress

b On EHS list, vapor pressure 10 mmHg or greater

c Toxic gas

d Toxicity of hydrogen chloride, potential to release hydrogen chloride, and history of accidents

e Toxicity of sulfur trioxide and sulfuric acid, potential to release sulfur trioxide, and history of accidents

TABLE 3 to Regulation 61-62.68.130 shall be revised as follows:

TABLE 3 - LIST OF REGULATED FLAMMABLE SUBSTANCES ¹ AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION [Alphabetical Order - 63 Substances]			
Chemical Name	CAS Number	Threshold Quantity (lbs)	Basis for Listing
Acetaldehyde	75-07-0	10,000	g
Acetylene [Ethyne]	74-86-2	10,000	f
Bromotrifluoroethylene [Ethene, bromotrifluoro-]	598-73-2	10,000	f
1,3-Butadiene	106-99-0	10,000	f
Butane	106-97-8	10,000	f
1-Butene	106-98-9	10,000	f
2-Butene	107-01-7	10,000	f
Butene	25167-67-3	10,000	f
2-Butene cis-2-Butene, cis-	590-18-1	10,000	f
2-Butene trans-2-Butene, trans- [2-Butene, (E)]	624-64-6	10,000	f
Carbon oxysulfide [Carbon oxide sulfide (COS)]	463-58-1	10,000	f
Chlorine monoxide [Chlorine oxide]	7791-21-1	10,000	f
2-Chloropropylene [1-Propene, 2-chloro-]	557-98-2	10,000	g
1-Chloropropylene [1-Propene, 1-chloro-]	590-21-6	10,000	g
Cyanogen [Ethanedinitrile]	460-19-5	10,000	f
Cyclopropane	75-19-4	10,000	f
Dichlorosilane [Silane, dichloro-]	4109-96-0	10,000	f
Difluoroethane [Ethane, 1,1-difluoro-]	75-37-6	10,000	f

TABLE 3 - LIST OF REGULATED FLAMMABLE SUBSTANCES¹ AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION
[Alphabetical Order - 63 Substances]

Chemical Name	CAS Number	Threshold Quantity (lbs)	Basis for Listing
Dimethylamine [Methanamine, N-methyl-] [Methanamine, N-methyl-]	124-40-3	10,000	f
2,2-Dimethylpropane [Propane, 2,2-dimethyl-]	463-82-1	10,000	f
Ethane	74-84-0	10,000	f
Ethyl acetylene [1-Butyne]	107-00-6	10,000	f
Ethylamine [Ethanamine]	75-04-7	10,000	f
Ethyl chloride [Ethane, chloro-]	75-00-3	10,000	f
Ethylene [Ethene]	74-85-1	10,000	f
Ethyl ether [Ethane, 1,1'-oxybis-]	60-29-7	10,000	g
Ethyl mercaptan [Ethanethiol]	75-08-1	10,000	g
Ethyl nitrite [Nitrous acid, ethyl ester]	109-95-5	10,000	f
Hydrogen	1333-74-0	10,000	f
Isobutane [Propane, 2-methyl-]	75-28-5	10,000	f
Isopentane [Butane, 2-methyl-]	78-78-4	10,000	g
Isoprene [1,3-Butadiene, 2-methyl-]	78-79-5	10,000	g
Isopropylamine [2-Propanamine]	75-31-0	10,000	g
Isopropyl chloride [Propane, 2-chloro-]	75-29-6	10,000	g
Methane	74-82-8	10,000	f
Methylamine [Methanamine]	74-89-5	10,000	f
3-Methyl-1-butene	563-45-1	10,000	f
2-Methyl-1-butene	563-46-2	10,000	g
Methyl ether [Methane, oxybis-]	115-10-6	10,000	f
Methyl formate [Formic acid, methyl ester]	107-31-3	10,000	g
2-Methylpropene [1-Propene, 2-methyl-]	115-11-7	10,000	f
1,3-Pentadiene	504-60-9	10,000	f
Pentane	109-66-0	10,000	g

TABLE 3 - LIST OF REGULATED FLAMMABLE SUBSTANCES¹ AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION [Alphabetical Order - 63 Substances]			
Chemical Name	CAS Number	Threshold Quantity (lbs)	Basis for Listing
1-Pentene	109-67-1	10,000	g
2-Pentene, (E)-	646-04-8	10,000	g
2-Pentene, (Z)-	627-20-3	10,000	g
Propadiene [1,2-Propadiene]	463-49-0	10,000	f
Propane	74-98-6	10,000	f
Propylene [1-Propene]	115-07-1	10,000	f
Propyne [1-Propyne]	74-99-7	10,000	f
Silane	7803-62-5	10,000	f
Tetrafluoroethylene [Ethene, tetrafluoro-]	116-14-3	10,000	f
Tetramethylsilane [Silane, tetramethyl-]	75-76-3	10,000	g
Trichlorosilane [Silane, trichloro-]	10025-78-2	10,000	g
Trifluorochloroethylene [Ethene, chlorotrifluoro-]	79-38-9	10,000	f
Trimethylamine [Methanamine, N,N-dimethyl-]	75-50-3	10,000	f
Vinyl acetylene [1-Buten-3-yne]	689-97-4	10,000	f
Vinyl chloride [Ethene, chloro-]	75-01-4	10,000	a, f
Vinyl ethyl ether [Ethene, ethoxy-]	109-92-2	10,000	g
Vinyl fluoride [Ethene, fluoro-]	75-02-5	10,000	f
Vinylidene chloride [Ethene, 1,1-dichloro-]	75-35-4	10,000	g
Vinylidene fluoride [Ethene, 1,1-difluoro-]	75-38-7	10,000	f
Vinyl methyl ether [Ethene, methoxy-]	107-25-5	10,000	f

¹A flammable substance when used as a fuel or held for sale as a fuel at a retail facility is excluded from all provisions of this part (see **§Section** 68.126).

NOTE: Basis for Listing:

- a Mandated for listing by Congress
- f Flammable gas
- g Volatile flammable liquid

TABLE 4 to Regulation 61-62.68.130 shall be revised as follows:

TABLE 4 - LIST OF REGULATED FLAMMABLE SUBSTANCES¹ AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION [CAS Number Order - 63 Substances]			
CAS No	Chemical name	Threshold Quantity (lbs)	Basis for listing
60-29-7	Ethyl ether [Ethane, 1,1'-oxybis-] [Ethane, 1,1'-oxybis-]	10,000	g
74-82-8	Methane	10,000	f
74-84-0	Ethane	10,000	f
74-85-1	Ethylene [Ethene]	10,000	f
74-86-2	Acetylene [Ethyne]	10,000	f
74-89-5	Methylamine [Methanamine]	10,000	f
74-98-6	Propane	10,000	f
74-99-7	Propyne [1-Propyne]	10,000	f
75-00-3	Ethyl chloride [Ethane, chloro-]	10,000	f
75-01-4	Vinyl chloride [Ethene, chloro-]	10,000	a, f
75-02-5	Vinyl fluoride [Ethene, fluoro-]	10,000	f
75-04-7	Ethylamine [Ethanamine]	10,000	f
75-07-0	Acetaldehyde	10,000	g
75-08-1	Ethyl mercaptan [Ethanethiol]	10,000	g
75-19-4	Cyclopropane	10,000	f
75-28-5	Isobutane [Propane, 2-methyl-]	10,000	f
75-29-6	Isopropyl chloride [Propane, 2-chloro-]	10,000	g
75-31-0	Isopropylamine [2-Propanamine]	10,000	g
75-35-4	Vinylidene chloride [Ethene, 1,1-dichloro-]	10,000	g
75-37-6	Difluoroethane [Ethane, 1,1-difluoro-]	10,000	f
75-38-7	Vinylidene fluoride [Ethene, 1,1-difluoro-]	10,000	f
75-50-3	Trimethylamine [Methanamine, N, N dimethyl-] [Methanamine, N,N-dimethyl-]	10,000	f
75-76-3	Tetramethylsilane [Silane, tetramethyl-]	10,000	g
78-78-4	Isopentane [Butane, 2-methyl-]	10,000	g

TABLE 4 - LIST OF REGULATED FLAMMABLE SUBSTANCES¹ AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION [CAS Number Order - 63 Substances]			
CAS No	Chemical name	Threshold Quantity (lbs)	Basis for listing
78-79-5	Isoprene [1,3-Butadiene, 2-methyl- 1,3-Butadiene, 2-methyl-]	10,000	g
79-38-9	Trifluorochloroethylene [Ethene, chlorotrifluoro-]	10,000	f
106-97-8	Butane	10,000	f
106-98-9	1-Butene	10,000	f
106-99-0	1,3-Butadiene	10,000	f
107-00-6	Ethyl acetylene [1-Butyne]	10,000	f
107-01-7	2-Butene	10,000	f
107-25-5	Vinyl methyl ether [Ethene, methoxy-]	10,000	f
107-31-3	Methyl formate [Formic acid, methyl ester]	10,000	g
109-66-0	Pentane	10,000	g
109-67-1	1-Pentene	10,000	g
109-92-2	Vinyl ethyl ether [Ethene, ethoxy-]	10,000	g
109-95-5	Ethyl nitrite [Nitrous acid, ethyl ester]	10,000	f
115-07-1	Propylene [1-Propene]	10,000	f
115-10-6	Methyl ether [Methane, oxybis-]	10,000	f
115-11-7	2-Methylpropene [1-Propene, 2-methyl-]	10,000	f
116-14-3	Tetrafluoroethylene [Ethene, tetrafluoro-]	10,000	f
124-40-3	Dimethylamine [Methanamine, N-methyl-]	10,000	f
460-19-5	Cyanogen [Ethanedinitrile]	10,000	f
463-49-0	Propadiene [1,2-Propadiene]	10,000	f
463-58-1	Carbon oxysulfide [Carbon oxide sulfide (COS)]	10,000	f
463-82-1	2,2-Dimethylpropane [Propane, 2,2-dimethyl-]	10,000	f
504-60-9	1,3-Pentadiene	10,000	f
557-98-2	2-Chloropropylene [1-Propene, 2-chloro-]	10,000	g
563-45-1	3-Methyl-1-butene	10,000	f

TABLE 4 - LIST OF REGULATED FLAMMABLE SUBSTANCES¹ AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION [CAS Number Order - 63 Substances]			
CAS No	Chemical name	Threshold Quantity (lbs)	Basis for listing
563-46-2	2-Methyl-1-butene	10,000	g
590-18-1	2-Butene cis-2-Butene, cis-	10,000	f
590-21-6	1-Chloropropylene [1-Propene, 1-chloro-]	10,000	g
598-73-2	Bromotrifluorethylene [Ethene, bromotrifluoro-]	10,000	f
624-64-6	2-Butene trans-2-Butene, trans- [2-Butene, (E)-]	10,000	f
627-20-3	2-Pentene, (Z)-	10,000	g
646-04-8	2-Pentene, (E)-	10,000	g
689-97-4	Vinyl acetylene [1-Buten-3-yne]	10,000	f
1333-74-0	Hydrogen	10,000	f
4109-96-0	Dichlorosilane [Silane, dichloro-]	10,000	f
7791-21-1	Chlorine monoxide [Chlorine oxide]	10,000	f
7803-62-5	Silane	10,000	f
10025-78-2	Trichlorosilane [Silane, trichloro-]	10,000	g
25167-67-3	Butene	10,000	f

¹A flammable substance when used as a fuel or held for sale as a fuel at a retail facility is excluded from all provisions of this part (see [§Section](#) 68.126).

Note: Basis for Listing:

a Mandated for listing by Congress

f Flammable gas

g Volatile flammable liquid

Regulation 61-62.68.220 (d) shall be revised as follows:

(d) Exemption from audits. A stationary source with a Star or Merit ranking under OSHA's voluntary protection program shall be exempt from audits under paragraph ~~(b)(c)~~(2) and ~~(b)(c)~~(7) of this section.

Regulation 61-62.68.220 (g) shall be revised as follows:

(g) Written response to a preliminary determination.

(1) The owner or operator shall respond in writing to a preliminary determination made in accordance with paragraph ~~(e)(f)~~ of this section. The response shall state the owner or operator will implement the revisions contained in the preliminary determination in accordance with the timetable included in the

preliminary determination or shall state that the owner or operator rejects the revisions in whole or in part. For each rejected revision, the owner or operator shall explain the basis for rejecting such revision. Such explanation may include substitute revisions.

(2) The owner or operator shall provide written response in accordance with paragraph ~~(f)~~(g)(1) to the Department, or the agency designated by delegation or agreement, within ~~ninety~~ (90) days of issuance of the preliminary determination or a shorter period of time as the Department, or the agency designated by delegation or agreement, specifies in the preliminary determination as necessary to protect public health and the environment. Prior to the written response being due and upon written request from the owner or operator, the Department, or the agency designated by delegation or agreement, may provide in writing additional time for the response to be received.

Regulation 61-62.68.220 (h) shall be revised as follows:

(h) After providing the owner or operator an opportunity to respond under paragraph ~~(f)~~(g) of this section, the Department, or the agency designated by delegation or agreement, may issue the owner or operator a written final determination of necessary revisions to the stationary source's RMP. The final determination may adopt or modify the revisions contained in the preliminary determination under paragraph ~~(e)~~(f) of this section or may adopt or modify the substitute revisions provided in the response under paragraph ~~(f)~~(g) of this section. A final determination that adopts a revision rejected by the owner or operator shall include an explanation of the basis for the revision. A final determination that fails to adopt a substitute revision provided under paragraph ~~(f)~~(g) of this section shall include an explanation of the basis for finding such substitute revision unreasonable.

Regulation 61-62.68.220 (i) shall be revised as follows:

(i) Thirty ~~(30)~~ days after completion of the actions detailed in the implementation schedule set in the final determination under paragraph ~~(e)~~(h) of this section, the owner or operator shall be in violation of subpart G of this part and this section unless the owner or operator revises the RMP prepared under subpart G of this part as required by the final determination, and submits the revised RMP as required under Section 68.150.

Appendix A to part 68 (Regulation 61-62.68) shall be revised as follows:

Appendix A - Table of Toxic Endpoints [As defined in Section 68.22 of this part]		
CAS Number	Chemical Name	Toxic endpoint (mg/L)
107-02-8	Acrolein [2-Propenal]	0.0011
107-13-1	Acrylonitrile [2-Propenenitrile]	0.076
814-68-6	Acrylyl chloride [2-Propenoyl chloride]	0.00090
107-18-6	Allyl alcohol [2-Propen-1-ol]	0.036
107-11-9	Allylamine [2-Propen-1-amine]	0.0032
7664-41-7	Ammonia (anhydrous)	0.14
7664-41-7	Ammonia (conc. 20% or greater)	0.14

Appendix A - Table of Toxic Endpoints [As defined in Section 68.22 of this part]		
CAS Number	Chemical Name	Toxic endpoint (mg/L)
7784-34-1	Arsenous trichloride	0.010
7784-42-1	Arsine	0.0019
10294-34-5	Boron trichloride [Borane, trichloro-]	0.010
7637-07-2	Boron trifluoride [Borane, trifluoro-]	0.028
353-42-4	Boron trifluoride compound with methyl ether (1:1) [Boron, trifluoro[oxybis[methane]]-, T-4 [Boron, trifluoro[oxybis[methane]], (T-4)-]	0.023
7726-95-6	Bromine	0.0065
75-15-0	Carbon disulfide	0.16
7782-50-5	Chlorine	0.0087
10049-04-4	Chlorine dioxide [Chlorine oxide (ClO ₂)]	0.0028
67-66-3	Chloroform [Methane, trichloro-]	0.49
542-88-1	Chloromethyl ether [Methane, oxybis[chloro-]	0.00025
107-30-2	Chloromethyl methyl ether [Methane, chloromethoxy-]	0.0018
4170-30-3	Crotonaldehyde [2-Butenal]	0.029
123-73-9	Crotonaldehyde, (E)- [2-Butenal, (E)-]	0.029
506-77-4	Cyanogen chloride	0.030
108-91-8	Cyclohexylamine [Cyclohexanamine]	0.16
19287-45-7	Diborane	0.0011
75-78-5	Dimethyldichlorosilane [Silane, dichlorodimethyl-]	0.026
57-14-7	1,1-Dimethylhydrazine [Hydrazine, 1,1-dimethyl-]	0.012
106-89-8	Epichlorohydrin [Oxirane, (chloromethyl)-]	0.076
107-15-3	Ethylenediamine [1,2-Ethanediamine]	0.49
151-56-4	Ethyleneimine [Aziridine]	0.018
75-21-8	Ethylene oxide [Oxirane]	0.090
7782-41-4	Fluorine	0.0039
50-00-0	Formaldehyde (solution)	0.012

Appendix A - Table of Toxic Endpoints [As defined in Section 68.22 of this part]		
CAS Number	Chemical Name	Toxic endpoint (mg/L)
110-00-9	Furan	0.0012
302-01-2	Hydrazine	0.011
7647-01-0	Hydrochloric acid (conc. 37% or greater)	0.030
74-90-8	Hydrocyanic acid	0.011
7647-01-0	Hydrogen chloride (anhydrous) [Hydrochloric acid]	0.030
7664-39-3	Hydrogen fluoride/Hydrofluoric acid (conc. 50% or greater) [Hydrofluoric acid]	0.016
7783-07-5	Hydrogen selenide	0.00066
7783-06-4	Hydrogen sulfide	0.042
13463-40-6	Iron, pentacarbonyl- Iron carbonyl (Fe(CO)₅), (TB-5-11)- Iron carbonyl (Fe(CO)₅), (TB-5-11)-	0.00044
78-82-0	Isobutyronitrile [Propanenitrile, 2-methyl-]	0.14
108-23-6	Isopropyl chloroformate Carbonochloride acid, 1-methylethyl ester Carbonochloridic acid, 1-methylethyl ester	0.10
126-98-7	Methacrylonitrile [2-Propenenitrile, 2-methyl-]	0.0027
74-87-3	Methyl chloride [Methane, chloro-]	0.82
79-22-1	Methyl chloroformate Carbonochloridic acid, methylester Carbonochloridic acid, methyl ester	0.0019
60-34-4	Methyl hydrazine [Hydrazine, methyl-]	0.0094
624-83-9	Methyl isocyanate [Methane, isocyanato-]	0.0012
74-93-1	Methyl mercaptan [Methanethiol]	0.049
556-64-9	Methyl thiocyanate [Thiocyanic acid, methyl ester]	0.085
75-79-6	Methyltrichlorosilane [Silane, trichloromethyl-]	0.018
13463-39-3	Nickel carbonyl	0.00067
7697-37-2	Nitric acid (conc. 80% or greater)	0.026
10102-43-9	Nitric oxide [Nitrogen oxide (NO)]	0.031
8014-95-7	Oleum (Fuming Sulfuric acid) [Sulfuric acid, mixture with sulfur trioxide]	0.010
79-21-0	Peracetic acid [Ethaneperoxoic acid]	0.0045

Appendix A - Table of Toxic Endpoints [As defined in Section 68.22 of this part]		
CAS Number	Chemical Name	Toxic endpoint (mg/L)
594-42-3	Perchloromethylmercaptan [Methanesulfenyl chloride, trichloro-]	0.0076
75-44-5	Phosgene [Carbonic dichloride]	0.00081
7803-51-2	Phosphine	0.0035
10025-87-3	Phosphorus oxychloride [Phosphoryl chloride]	0.0030
7719-12-2	Phosphorus trichloride [Phosphorous trichloride]	0.028
110-89-4	Piperidine	0.022
107-12-0	Propionitrile [Propanenitrile]	0.0037
109-61-5	Propyl chloroformate [Carbonochloridic acid, propylester Carbonochloridic acid, propyl ester]	0.010
75-55-8	Propyleneimine [Aziridine, 2-methyl-]	0.12
75-56-9	Propylene oxide [Oxirane, methyl-]	0.59
7446-09-5	Sulfur dioxide (anhydrous)	0.0078
7783-60-0	Sulfur tetrafluoride [Sulfur fluoride (SF4), (T-4) Sulfur fluoride (SF ₄), (T-4)-]	0.0092
7446-11-9	Sulfur trioxide	0.010
75-74-1	Tetramethyllead [Plumbane, tetramethyl-]	0.0040
509-14-8	Tetranitromethane [Methane, tetranitro-]	0.0040
7750-45-0	Titanium tetrachloride [Titanium chloride (TiCl4)(T-4) Titanium chloride (TiCl ₄), (T-4)-]	0.020
584-84-9	Toluene 2,4-diisocyanate [Benzene, 2,4-diisocyanato-1-methyl-]	0.0070
91-08-7	Toluene 2,6-diisocyanate [Benzene, 1,3-diisocyanato-2-methyl-]	0.0070
26471-62-5	Toluene diisocyanate (unspecified isomer) [Benzene,1,3-diisocyanatomethyl-]	0.0070
75-77-4	Trimethylchlorosilane [Silane, chlorotrimethyl-]	0.050
108-05-4	Vinyl acetate monomer [Acetic acid ethenyl ester]	0.26

Regulation 61-62.70, Title V Operating Permit Program

Regulation 61-62.70.3 (a)(6), shall be revised as follows:

~~(6) Any source listed in Section 70.3(a) that is exempt from the requirement to obtain a permit under Section 70.3(b) may opt to apply for a permit under this Part 70 program.~~

Regulation 61-62.96, Nitrogen Oxides (NO_x) and Sulfur Dioxide (SO₂) Budget Trading Program, shall be revised as follows:

61-62.96 Nitrogen Oxides (NO_x) and Sulfur Dioxide (SO₂) Budget Trading Program

~~—The provisions of 61-62.96, Subparts AAAA through IIII, supersede the provisions of 61-62.96, “Nitrogen Oxides (NO_x) Budget Trading Program,” Subparts A through I, in accordance with the following schedule:~~

~~—For control periods 2009 and beyond, the provisions of 61-62.96, Subparts A through I, are repealed effective April 30, 2009.~~

Subpart A - NO_x Budget Program General Provisions

Section 96.1 Purpose.

In accordance with 40 CFR 51.121, this regulation establishes general provisions and the applicability and monitoring provisions for the NO_x Budget Program as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor. The owner or operator of a unit, or any other person, shall comply with requirements of this regulation as a matter of state and federal law. The state of South Carolina authorizes the EPA to assist the state in implementing the NO_x Budget Program by carrying out the functions set forth for the EPA in such requirements.

Section 96.2 Definitions.

The terms used in this regulation shall have the meanings set forth in this section as follows:

(a) Account certificate of representation means the completed and signed submission required by Subpart B of this regulation for certifying the designation of a NO_x authorized account representative for a NO_x Budget source or a group of identified NO_x Budget sources who is authorized to represent the owners and operators of such source or sources and of the NO_x Budget units at such source or sources with regard to matters under the NO_x Budget Program.

(b) [Reserved]

(c) [Reserved]

(d) [Reserved]

(e) Automated data acquisition and handling system or DAHS means that component of the CEMS, or other emissions monitoring system approved for use under Subpart H of this regulation, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by Subpart H of this regulation.

(f) Boiler means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

(g) CAA means the Clean Air Act, 42 U.S.C. 7401, *et seq.*, as amended by Pub. L. No. 101-549 (November 15, 1990).

(h) Combined cycle system means a system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

(i) Combustion turbine means an enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

(j) Commence commercial operation means, with regard to a unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation. Except as provided in Section 96.5, for a unit that is a NO_x Budget unit under Section 96.4 on the date the unit commences commercial operation, such date shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered. Except as provided in Section 96.5, for a unit that is not a NO_x Budget unit under Section 96.4 on the date the unit commences commercial operation, the date the unit becomes a NO_x Budget unit under Section 96.4 shall be the unit's date of commencement of commercial operation.

(k) Commence operation means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber. Except as provided in Section 96.5, for a unit that is a NO_x Budget unit under Section 96.4 on the date of commencement of operation, such date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered. Except as provided in Section 96.5, for a unit that is not a NO_x Budget unit under Section 96.4 on the date of commencement of operation, the date the unit becomes a NO_x Budget unit under Section 96.4 shall be the unit's date of commencement of operation.

(l) Common stack means a single flue through which emissions from two or more units are exhausted.

(m) [Reserved]

(n) [Reserved]

(o) Continuous emission monitoring system or CEMS means the equipment required under Subpart H of 40 CFR Part 75 to sample, analyze, measure, and provide, by readings taken at least once every 15 minutes of the measured parameters, a permanent record of nitrogen oxides emissions, expressed in tons per hour for nitrogen oxides. The following systems are component parts included, consistent with 40 CFR Part 75, in a continuous emission monitoring system:

(1) Flow monitor;

(2) Nitrogen oxides pollutant concentration monitors;

(3) Diluent gas monitor (oxygen or carbon dioxide) when such monitoring is required by Subpart H of this regulation;

(4) A continuous moisture monitor when such monitoring is required by Subpart H of this regulation; and

(5) An automated data acquisition and handling system.

(p) Control period means for the year 2004, the period beginning on May 31 and ending on September 30 of the same year, inclusive. Thereafter, control period shall mean the period beginning May 1 of a year and ending on September 30 of the same year, inclusive.

(q) Department means the South Carolina Department of Health and Environmental Control.

(r) Emissions means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the EPA by the NO_x authorized account representative and as determined by the EPA in accordance with Subpart H of this regulation.

(s) [Reserved]

(t) EPA means the United States Environmental Protection Agency.

(u) [Reserved]

(v) [Reserved]

(w) Fossil fuel means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

(x) Fossil fuel-fired means, with regard to a unit:

(1) For units that commenced operation before January 1, 1996, the combination of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than fifty (50) percent of the annual heat input on a Btu basis during 1995, or if a unit had not heat input in 1995, during the last year of operation of the unit prior to 1995;

(2) For units that commenced operation on or after January 1, 1996, the combination of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than fifty (50) percent of the annual heat input on a Btu basis during any year.

(3) Notwithstanding the definition set forth in 96.2(x)(1) above, a unit shall be deemed fossil fuel-fired if on any year after January 1, 2001, the fossil fuel actually combusted comprises more than fifty (50) percent of the annual heat input on a Btu basis.

(y) [Reserved]

(z) Generator means a device that produces electricity.

(aa) Heat input means the product (in mmBtu/time) of the gross calorific value of the fuel (in Btu/lb) and the fuel feed rate into a combustion device (in mass of fuel/time), as measured, recorded, and reported to the EPA by the NO_x authorized account representative and as determined by the EPA in accordance with Subpart H of this regulation, and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(bb) Life-of-the-unit, firm power contractual arrangement means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy from any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

(1) For the life of the unit;

(2) For a cumulative term of no less than thirty (30) years, including contracts that permit an election for early termination; or

(3) For a period equal to or greater than twenty-five (25) years or seventy (70) percent of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(cc) [Reserved]

(dd) Maximum design heat input means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of the unit.

(ee) [Reserved]

(ff) [Reserved]

(gg) Maximum rated hourly heat input means a unit-specific maximum hourly heat input (mmBtu) which is the higher of the manufacturer's maximum rated hourly heat input or the highest observed hourly heat input.

(hh) Monitoring system means any monitoring system that meets the requirements of Subpart H of this regulation.

(ii) [Reserved]

(jj) Nameplate capacity means the maximum electrical generating output (in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

(kk) [Reserved]

(ll) [Reserved]

(mm) [Reserved]

(nn) [Reserved]

(oo) [Reserved]

(pp) [Reserved]

(qq) [Reserved]

(rr) NO_x authorized account representative means, for a NO_x Budget source or NO_x Budget unit at the source, the natural person who is authorized by the owners and operators of the source and all NO_x Budget units at the source, in accordance with Subpart B of this regulation, to represent and legally bind each owner and operator in matters pertaining to the NO_x Budget Program.

(ss) [Reserved]

(tt) [Reserved]

(uu) [Reserved]

(vv) [Reserved]

(ww) NO_x Budget source means a source that includes one or more NO_x Budget units.

(xx) NO_x Budget Program means a multi-state nitrogen oxides air pollution control and emission reduction program established in accordance with this regulation and pursuant to 40 CFR Part 51 Section 51.121, as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor.

(yy) NO_x Budget unit means a unit that is subject to the NO_x Budget Program emissions limitation under Section 96.4.

(zz) [Reserved]

(aaa) Operator means any person who operates, controls, or supervises a NO_x Budget unit or a NO_x Budget source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

(bbb) [Reserved]

(ccc) [Reserved]

(ddd) Owner means any of the following persons:

(1) Any holder of any portion of the legal or equitable Title in a NO_x Budget unit; or

(2) Any holder of a leasehold interest in a NO_x Budget unit; or

(3) Any purchaser of power from a NO_x Budget unit under a life-of-the-unit, firm power contractual arrangement. However, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the NO_x Budget unit; or

(4) [Reserved]

(eee) Ozone season means the period of time beginning May 1 of a year and ending on September 30 of the same year, inclusive.

(fff) [Reserved]

(ggg) Receive or receipt of means, when referring to the Department or the EPA, to come into possession of a document, information, or correspondence (whether sent in writing or by authorized electronic transmission), as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the Department or the EPA in the regular course of business.

(hhh) [Reserved]

(iii) [Reserved]

(jjj) [Reserved]

(kkk) Source means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the CAA. For purposes of Section 502(c) of the CAA, a source, including a source with multiple units, shall be considered a single facility.

(lll) State means the state of South Carolina.

(mmm) [Reserved]

(nnn) Submit or serve means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

(1) In person;

(2) By United States Postal Service; or

(3) By other means of dispatch or transmission and delivery. Compliance with any submission, service, or mailing deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

(ooo) [Reserved]

(ppp) [Reserved]

(qqq) [Reserved]

(rrr) Unit means a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system.

(sss) [Reserved]

(ttt) Unit operating day means a calendar day in which a unit combusts any fuel.

(uuu) Unit operating hour or hour of unit operation means any hour (or fraction of an hour) during which a unit combusts any fuel.

(vvv) [Reserved]

Section 96.3 Measurements, abbreviations, and acronyms.

Measurements, abbreviations, and acronyms used in this regulation are defined as follows:

Btu-British thermal unit.

hr-hour.

lb-pounds.

mmBtu-million Btu.

MWe-megawatt electrical.

ton-2000 pounds.
CO₂-carbon dioxide.
NO_x -nitrogen oxides.
O₂-oxygen.

Section 96.4 Applicability.

(a) The following units shall be NO_x Budget units, and any source that includes one or more such units shall be a NO_x Budget source, subject to the requirements of this regulation:

(1)(i) For units that commenced operation before January 1, 1999, a unit serving a generator that has a nameplate capacity greater than 25 MWe and, except for a unit that has a SIC code of 4911 or 4931, produces an annual average of more than one-third of its potential electrical output capacity for sale to the electric grid during any three calendar year period.

(ii) For units that commenced operation on or after January 1, 1999, a unit serving at any time a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale.

(2)(i) For units that commenced operation before January 1, 1999, a unit that has a maximum design heat input greater than 250 mmBtu/hr and does not serve a generator that has a nameplate capacity greater than 25 MWe if any such generator produces an annual average of more than one-third of its potential electrical output capacity for sale to the electric grid during any three calendar year period.

(ii) For units that commenced operation on or after January 1, 1999, a unit that has a maximum design heat input greater than 250 mmBtu/hr that:

(A) At no time served a generator producing electricity for sale; or

(B) At any time served a generator producing electricity for sale, if any such generator has a nameplate capacity of 25 MWe or less and has the potential to use no more than fifty (50) percent of the potential electrical output capacity of the unit.

(b)(1) Notwithstanding paragraph (a) of this section, a unit under paragraph (a)(1) or (a)(2) of this section that has a federally enforceable permit restricting the unit to the combustion of only natural gas or fuel oil and includes a NO_x emission limitation restricting NO_x emissions during a control period to 25 tons or less and that includes the special provisions in paragraph (b)(4) of this section shall be exempt from the requirements of the NO_x Budget Program, except for the provisions of this paragraph, Section 96.2, Section 96.3, Section 96.4(a), and Section 96.7. The NO_x emission limitation under this paragraph (b)(1) shall restrict NO_x emissions during the control period by limiting unit operating hours. The restriction on unit operating hours shall be calculated by dividing 25 tons by the unit's maximum potential hourly NO_x mass emissions, which shall equal the unit's maximum rated hourly heat input multiplied by the highest default NO_x emission rate otherwise applicable to the unit under 40 CFR Part 75 Section 75.19.

(2) The exemption under paragraph (b)(1) of this section shall become effective as follows:

(i) The exemption shall become effective on the date on which the NO_x emission limitation and the special provisions in the permit under paragraph (b)(1) of this section become final; or

(ii) If the NO_x emission limitation and the special provisions in the permit under paragraph (b)(1) of this section become final during a control period and after the first date on which the unit operates during such control period, then the exemption shall become effective on May 1 of such control period, provided

that such NO_x emission limitation and the special provisions apply to the unit as of such first date of operation. If such NO_x emission limitation and special provisions do not apply to the unit as of such first date of operation, then the exemption under paragraph (b)(1) of this section shall become effective on October 1 of the year during which such NO_x emission limitation and the special provisions become final.

(3) The Department will provide the EPA written notice of the issuance of such permit under paragraph (b)(1) of this section for a unit under paragraph (a)(1) or (a)(2) of this section, and, upon request, a copy of the permit.

(4) Special provisions.

(i) A unit exempt under paragraph (b)(1) of this section shall comply with the restriction on unit operating hours described in paragraph (b)(1) of this section during the control period in each year.

(ii) [Reserved]

(iii) A unit exempt under this paragraph (b) shall report hours of unit operation during the control period in each year to the Department by November 1 of that year.

(iv) For a period of five (5) years from the date the records are created, the owners and operators of a unit exempt under paragraph (b)(1) of this section shall retain, at the source that includes the unit, records demonstrating that the conditions of the federally enforceable permit under paragraph (b)(1) of this section were met, including the restriction on fuel use and unit operating hours. The 5-year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the Department or the EPA. The owners and operators bear the burden of proof that the unit met the restriction on unit operating hours.

(v) The owners and operators and, to the extent applicable, the NO_x authorized account representative of a unit exempt under paragraph (b)(1) of this section shall comply with the requirements of the NO_x Budget Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(vi) On the earlier of the following dates, a unit exempt under paragraph (b)(1) of this section shall lose its exemption:

(A) The date on which the restriction on fuel use and unit operating hours described in paragraph (b)(1) of this section is removed from the unit's federally enforceable permit or otherwise becomes no longer applicable to any control period starting in 2004; or

(B) The first date on which the unit fails to comply, or with regard to which the owners and operators fail to meet their burden of proving that the unit is complying, with the restriction on fuel use and unit operating hours described in paragraph (b)(1) of this section during any control period starting in 2004.

(vii) A unit that loses its exemption in accordance with paragraph (b)(4)(vi) of this section shall be subject to the requirements of this Part. For the purpose of applying monitoring requirements under Subpart H of this regulation, the unit shall be treated as commencing operation and, if the unit is covered by paragraph (a)(1) of this section, commencing commercial operation on the date the unit loses its exemption.

(viii) [Reserved]

Section 96.5 Retired unit exemption.

(a) This section applies to any NO_x Budget unit that is permanently retired.

(b)(1) Any NO_x Budget unit that is permanently retired shall be exempt from the NO_x Budget Program, except for the provisions of this section, and Sections 96.2, 96.3, 96.4, and 96.7.

(2) The exemption under paragraph (b)(1) of this section shall become effective the day on which the unit is permanently retired. Within thirty (30) days of permanent retirement, the NO_x authorized account representative (authorized in accordance with Subpart B of this regulation) shall submit a statement to the Department otherwise responsible for administering any permit for the unit. A copy of the statement shall be submitted to the EPA. The statement shall state (in a format prescribed by the Department) that the unit is permanently retired and will comply with the requirements of paragraph (c) of this section.

(3) After receipt of the notice under paragraph (b)(2) of this section, the Department will amend any permit covering the source at which the unit is located to add the provisions and requirements of the exemption under paragraphs (b)(1) and (c) of this section.

(c) Special provisions.

(1) A unit exempt under this section shall not emit any nitrogen oxides, starting on the date that the exemption takes effect.

(2) [Reserved]

(3) The owners and operators and, to the extent applicable, the NO_x authorized account representative of a unit exempt under this section shall comply with the requirements of the NO_x Budget Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(4) [Reserved]

(5) For a period of five (5) years from the date the records are created, the owners and operators of a unit exempt under this section shall retain at the source that includes the unit, records demonstrating that the unit is permanently retired. The 5-year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the Department or the EPA. The owners and operators bear the burden of proof that the unit is permanently retired.

(6) Loss of exemption.

(i) [Reserved]

(ii) For the purpose of applying monitoring requirements under Subpart H of this regulation, a unit that loses its exemption under this section shall be treated as a unit that commences operation or commercial operation on the first date on which the unit resumes operation.

Section 96.6 Standard requirements.

(a) [Reserved]

(b) Monitoring requirements.

(1) The owners and operators and, to the extent applicable, the NO_x authorized account representative of each NO_x Budget source and each NO_x Budget unit at the source shall comply with the monitoring requirements of Subpart H of this regulation.

(2) [Reserved]

(c) [Reserved]

(d) [Reserved]

(e) Recordkeeping and Reporting Requirements.

(1) Unless otherwise provided, the owners and operators of the NO_x Budget source and each NO_x Budget unit at the source shall keep on site at the source each of the following documents for a period of five (5) years from the date the document is created. This period may be extended for cause, at any time prior to the end of five (5) years, in writing by the Department or the EPA.

(i) The account certificate of representation for the NO_x authorized account representative for the source and each NO_x Budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with Section 96.13; provided that the certificate and documents shall be retained on site at the source beyond such 5-year period until such documents are superseded because of the submission of a new account certificate of representation changing the NO_x authorized account representative.

(ii) All emissions monitoring information, in accordance with Subpart H of this regulation; provided that to the extent that Subpart H of this regulation provides for a 3-year period for recordkeeping, the 3-year period shall apply.

(iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the NO_x Budget Program.

(iv) Copies of all documents used to complete any submission under the NO_x Budget Program or to demonstrate compliance with the requirements of the NO_x Budget Program.

(2) The NO_x authorized account representative of a NO_x Budget source and each NO_x Budget unit at the source shall submit the reports and compliance certifications required under the NO_x Budget Program, including those under Subpart H of this regulation.

(f) Liability.

(1) Any person who knowingly violates any requirement or prohibition of the NO_x Budget Program or an exemption under Section 96.5 shall be subject to enforcement pursuant to applicable state or federal law.

(2) Any person who knowingly makes a false material statement in any record, submission, or report under the NO_x Budget Program shall be subject to criminal enforcement pursuant to the applicable state or federal law.

(3) No permit revision shall excuse any violation of the requirements of the NO_x Budget Program that occurs prior to the date that the revision takes effect.

(4) Each NO_x Budget source and each NO_x Budget unit shall meet the requirements of the NO_x Budget Program.

(5) Any provision of the NO_x Budget Program that applies to a NO_x Budget source (including a provision applicable to the NO_x authorized account representative of a NO_x Budget source) shall also apply to the owners and operators of such source and of the NO_x Budget units at the source.

(6) Any provision of the NO_x Budget Program that applies to a NO_x Budget unit (including a provision applicable to the NO_x authorized account representative of a NO_x budget unit) shall also apply to the owners and operators of such unit. Except with regard to the requirements applicable to units with a common stack, the owners and operators and the NO_x authorized account representative of one NO_x Budget unit shall not be liable for any violation by any other NO_x Budget unit of which they are not owners or operators or the NO_x authorized account representative and that is located at a source of which they are not owners or operators or the NO_x authorized account representative.

(g) Effect on Other Authorities. No provision of the NO_x Budget Program or an exemption under Section 96.5 shall be construed as exempting or excluding the owners and operators and, to the extent applicable, the NO_x authorized account representative of a NO_x Budget source or NO_x Budget unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the CAA.

Section 96.7 Computation of time.

(a) Unless otherwise stated, any time period scheduled, under the NO_x Budget Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the NO_x Budget Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period, under the NO_x Budget Program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

Subpart B - NO_x Authorized Account Representative for NO_x Budget Sources

Section 96.10 Authorization and responsibilities of the NO_x authorized account representative.

(a) Except as provided under Section 96.11, each NO_x Budget source, including all NO_x Budget units at the source, shall have one and only one NO_x authorized account representative, with regard to all matters under the NO_x Budget Program concerning the source or any NO_x Budget unit at the source.

(b) The NO_x authorized account representative of the NO_x Budget source shall be selected by an agreement binding on the owners and operators of the source and all NO_x Budget units at the source.

(c) Upon receipt by the EPA of a complete account certificate of representation under Section 96.13, the NO_x authorized account representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the NO_x Budget source represented and each NO_x Budget unit at the source in all matters pertaining to the NO_x Budget Program, notwithstanding any agreement between the NO_x authorized account representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the NO_x authorized account representative by the Department, the EPA, or a court regarding the source or unit.

(d) [Reserved]

(e)(1) Each submission under the NO_x Budget Program shall be submitted, signed, and certified by the NO_x authorized account representative for each NO_x Budget source on behalf of which the submission is made. Each such submission shall include the following certification statement by the NO_x authorized account representative: "I am authorized to make this submission on behalf of the owners and operators of the NO_x Budget sources or NO_x Budget units 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."

(2) The Department and the EPA will accept or act on a submission made on behalf of owner or operators of a NO_x Budget source or a NO_x Budget unit only if the submission has been made, signed, and certified in accordance with paragraph (e)(1) of this section.

Section 96.11 Alternate NO_x authorized account representative.

(a) An account certificate of representation may designate one and only one alternate NO_x authorized account representative who may act on behalf of the NO_x authorized account representative. The agreement by which the alternate NO_x authorized account representative is selected shall include a procedure for authorizing the alternate NO_x authorized account representative to act in lieu of the NO_x authorized account representative.

(b) Upon receipt by the EPA of a complete account certificate of representation under Section 96.13, any representation, action, inaction, or submission by the alternate NO_x authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NO_x authorized account representative.

(c) Except in this section and Sections 96.10(a), 96.12, and 96.13, whenever the term "NO_x authorized account representative" is used in this regulation, the term shall be construed to include the alternate NO_x authorized account representative.

Section 96.12 Changing the NO_x authorized account representative and the alternate NO_x authorized account representative; changes in the owners and operators.

(a) Changing the NO_x authorized account representative. The NO_x authorized account representative may be changed at any time upon receipt by the EPA of a superseding complete account certificate of representation under Section 96.13. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous NO_x authorized account representative prior to the time and date when the EPA receives the superseding account certificate of representation shall be binding on the new NO_x authorized account representative and the owners and operators of the NO_x Budget source and the NO_x Budget units at the source.

(b) Changing the alternate NO_x authorized account representative. The alternate NO_x authorized account representative may be changed at any time upon receipt by the EPA of a superseding complete account certificate of representation under Section 96.13. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate NO_x authorized account representative prior

to the time and date when the EPA receives the superseding account certificate of representation shall be binding on the new alternate NO_x authorized account representative and the owners and operators of the NO_x Budget source and the NO_x Budget units at the source.

(c) Changes in the owners and operators.

(1) In the event a new owner or operator of a NO_x Budget source or a NO_x Budget unit is not included in the list of owners and operators submitted in the account certificate of representation, such new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions, and submissions of the NO_x authorized account representative and any alternate NO_x authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the Department or the EPA, as if the new owner or operator were included in such list.

(2) Within thirty (30) days following any change in the owners and operators of a NO_x Budget source or a NO_x Budget unit, including the addition of a new owner or operator, the NO_x authorized account representative or alternate NO_x authorized account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include the change.

Section 96.13 Account certificate of representation.

(a) A complete account certificate of representation for a NO_x authorized account representative or an alternate NO_x authorized account representative shall include the following elements in a format prescribed by the EPA:

(1) Identification of the NO_x Budget source and each NO_x Budget unit at the source for which the account certificate of representation is submitted.

(2) The name, address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the NO_x authorized account representative and any alternate NO_x authorized account representative.

(3) A list of the owners and operators of the NO_x Budget source and of each NO_x Budget unit at the source.

(4) The following certification statement by the NO_x authorized account representative and any alternate NO_x authorized account representative: I certify that I was selected as the NO_x authorized account representative or alternate NO_x authorized account representative, as applicable, by an agreement binding on the owners and operators of the NO_x Budget source and each NO_x Budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO_x Budget Program on behalf of the owners and operators of the NO_x Budget source and of each NO_x Budget unit at the 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, the EPA, or a court regarding the source or unit.

(5) The signature of the NO_x authorized account representative and any alternate NO_x authorized account representative and the dates signed.

(b) Unless otherwise required by the Department or the EPA, documents of agreement referred to in the account certificate of representation shall not be submitted to the Department or the EPA. Neither the Department nor the EPA shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

Section 96.14 Objections concerning the NO_x authorized account representative.

(a) Once a complete account certificate of representation under Section 96.13 has been submitted and received, the Department and the EPA will rely on the account certificate of representation unless and until a superseding complete account certificate of representation under Section 96.13 is received by the EPA.

(b) Except as provided in Section 96.12(a) or (b), no objection or other communication submitted to the Department or the EPA concerning the authorization, or any representation, action, inaction, or submission of the NO_x authorized account representative shall affect any representation, action, inaction, or submission of the NO_x authorized account representative or the finality of any decision or order by the Department or the EPA under the NO_x Budget Program.

(c) Neither the Department nor the EPA will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any NO_x authorized account representative.

Subpart C - [Reserved]

Subpart D - [Reserved]

Subpart E - South Carolina NO_x Ozone Season Budget

Section 96.40 State NO_x Budget.

For purposes of this regulation, for any control period, the South Carolina NO_x budgets are as follows:

(a) The NO_x budget for units specified in Section 96.4(a)(1) is 16,199 tons as approved at 67 FR 43546. The sum of the tons of NO_x emitted from all such units in each control period beginning after the effective date of this rule may not exceed this budget amount.

(b) The NO_x budget for units specified in Section 96.4(a)(2) is 3,479 tons as approved at 67 FR 43546. The sum of the tons of NO_x emitted from all such units in each control period beginning after the effective date of this rule may not exceed this budget amount.

Subpart F - [Reserved]

Subpart G - [Reserved]

Subpart H - Monitoring and Reporting

Section 96.70 General Requirements.

The owners and operators, and to the extent applicable, the NO_x authorized account representative of a NO_x Budget unit, shall implement a monitoring and reporting system necessary to attribute ozone season NO_x mass emissions to each unit in accordance with 40 CFR part 75, Subpart H ("Part 75"), except that a NO_x budget unit that (i) is not required by 40 CFR 51.121, Regulation 61-62.97, or other regulation to comply with Part 75 and (ii) is subject to Subpart D or Subpart Db of 40 CFR Part 60, may instead monitor and report NO_x mass emissions in accordance with 40 CFR Part 60, Subpart D or Subpart Db, as applicable. NO_x mass emissions measurements recorded and reported in accordance with the above shall be used to determine compliance with the NO_x budgets set forth in Section 96.40 of this regulation. For purposes of a source subject to the monitoring and reporting provisions of Part 75, the definitions in Section 96.2 and in

40 CFR Part 72 Section 72.2 shall apply, and the terms affected unit, designated representative, and continuous emission monitoring system (or CEMS) in 40 CFR Part 75 shall be replaced by the terms NO_x Budget unit, NO_x authorized account representative, and continuous emission monitoring system (or CEMS), respectively, as defined in Section 96.2.

Section 96.76 [Reserved]

Subpart I - [Reserved]

CAIR NO_x ANNUAL TRADING PROGRAM

Subpart AA – “South Carolina CAIR NO_x Annual Trading Program General Provisions”

The provisions of 40 Code of Federal Regulations (CFR) Part 96 Subpart AA, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart AA			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 70	May 12, 2005	[70 FR 25162]
Revision	Vol. 71	April 28, 2006	[71 FR 25304]
Revision	Vol. 71	December 13, 2006	[71 FR 74792]
Revision	Vol. 72	October 19, 2007	[72 FR 59190]

Subpart BB – “CAIR Designated Representative for CAIR NO_x Sources”

The provisions of 40 CFR Part 96 Subpart BB, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart BB			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 70	May 12, 2005	[70 FR 25162]
Revision	Vol. 71	April 28, 2006	[71 FR 25304]
Revision	Vol. 71	December 13, 2006	[71 FR 74792]

Subpart CC – “Permits”

The provisions of 40 CFR Part 96 Subpart CC, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart CC			
Federal Register Citation	Volume	Date	Notice
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Revision	Vol. 71	April 28, 2006	[71 FR 25304]
Revision	Vol. 71	December 13, 2006	[71 FR 74792]

Subpart DD – [Reserved]

Subpart EE – “CAIR NO_x Allowance Allocations”

Section 96.140 South Carolina Trading Budget.

The South Carolina trading budget for annual allocations of CAIR NO_x allowances for the control periods in 2009 through 2014 is 32,662 tons, and in 2015 and thereafter is 27,219 tons.

Section 96.141 Timing Requirements for CAIR NO_x Allowance Allocations.

(a) By April 30, 2007, the Department will submit to the Administrator the CAIR NO_x allowance allocations, in a format prescribed by the Administrator and in accordance with Section 96.142(a) and (b), for the control periods in 2009, 2010, 2011, and 2012.

(b) By October 31, 2009, and October 31 of every fourth year thereafter, the Department will submit to the Administrator the CAIR NO_x allowance allocations, in a format prescribed by the Administrator and in accordance with Sections 96.142(a) and (b), for the control periods in the fourth, fifth, sixth and seventh years after the year of the applicable deadline for submission under this paragraph.

(c) By October 31, 2009, and October 31 of each year thereafter, the Department will submit to the Administrator the CAIR NO_x allowance allocations for new units from the new unit set aside account, in a format prescribed by the Administrator and in accordance with Section 96.142(a), (c), and (d) for the control period in the year of the applicable deadline for submission under this paragraph.

Section 96.142 CAIR NO_x Allowance Allocations.

(a) (1) The baseline heat input (in million metric British thermal units (mmBtu)) used with respect to CAIR NO_x allowance allocations for each CAIR NO_x unit will be:

(i) The allowances allocated for the years 2009 through 2012 will be determined using the unit’s baseline heat input equal to the unit’s single highest adjusted control period heat input for the years 2002 through 2005 for the control periods for which the CAIR NO_x annual allowance allocation is being calculated, with the adjusted control period heat input for each year calculated as follows:

(A) If the unit is coal fired during the year, the unit’s control period heat input for such year is multiplied by 1.0 (100 percent); or

(B) If the unit is not subject to paragraph (a)(1)(i)(A) of this section, the unit’s control period heat input for such year is multiplied by 0.60 (60 percent).

(ii) For a CAIR NO_x allowance allocation under Section 96.141(b), the allowances will be determined using the unit’s baseline heat input equal to the unit’s single highest adjusted control period heat input for the years that are five, six, seven, and eight years before the first year of the control periods for which the CAIR NO_x annual allowance allocation is being calculated with the adjusted control period heat input for each year calculated as follows:

(A) If the unit is coal fired during the year, the unit’s control period heat input for such year is multiplied by 1.0 (100 percent); or

~~(B) If the unit is not subject to paragraph (a)(1)(ii)(A) of this section, the unit's control period heat input for such year is multiplied by 0.60 (60 percent).~~

~~(2) A unit's control period heat input, and a unit's status as coal fired, for a calendar year under paragraph (a)(1)(i) of this section, and a unit's total tons of NO_x emissions during a calendar year under paragraph (e)(3) of this section, will be determined in accordance with 40 CFR 75, to the extent the unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Department for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR 75 for the year. Heat input data under 40 CFR 75 will be obtained from the Administrator.~~

~~(b) (1) For each control period in 2009 and thereafter, the Department will allocate to all CAIR NO_x units in the State that have a baseline heat input (as determined under paragraph (a) of this section) a total amount of CAIR NO_x allowances equal 97 percent for a control of the tons of NO_x emissions in the State trading budget under Section 96.140 (except as provided in paragraph (d) of this section).~~

~~(2) The Department will allocate CAIR NO_x allowances to each CAIR NO_x unit under paragraph (b)(1) of this section in an amount determined by multiplying the total amount of CAIR NO_x allowances allocated under paragraph (b)(1) of this section by the ratio of the baseline heat input of such CAIR NO_x unit to the total amount of baseline heat input of all such CAIR NO_x units in the State and rounding to the nearest whole allowance as appropriate.~~

~~(c) **New Unit Set aside:** For each control period in 2009 and thereafter, the Department will allocate CAIR NO_x allowances to CAIR NO_x units in the State that are not allocated CAIR NO_x allowances under paragraph (b) of this section because the units do not yet have a baseline heat input under paragraph (a) of this section or because the units have a baseline heat input but all CAIR NO_x allowances available under paragraph (b) of this section for the control period are already allocated, in accordance with the following procedures:~~

~~(1) The Department will establish a separate new unit set aside for each control period. Each new unit set aside will be allocated CAIR NO_x allowances equal three percent for a control period of the amount of tons of NO_x emissions in the State trading budget under Section 96.140.~~

~~(2) The CAIR designated representative of such a CAIR NO_x unit may submit to the Department a request, in a format specified by the Department, to be allocated CAIR NO_x allowances, starting with the later of the control period in 2009 or the first control period after the control period in which the CAIR NO_x unit commences commercial operation and until the first control period for which the unit is allocated CAIR NO_x allowances under paragraph (b) of this section. A separate CAIR NO_x allowance allocation request for each control period for which CAIR NO_x allowances are sought must be submitted on or before May 1 of such control period.~~

~~(3) In a CAIR NO_x allowance allocation request under paragraph (c)(2) of this section, the CAIR designated representative may request for a control period CAIR NO_x allowances in an amount not exceeding the CAIR NO_x unit's total tons of NO_x emissions during the calendar year immediately before such control period in accordance with Subpart HH of this regulation.~~

~~(4) The Department will review each CAIR NO_x allowance allocation request under paragraph (c)(2) of this section and will allocate CAIR NO_x allowances for each control period pursuant to such request as follows:~~

~~(i) The Department will accept an allowance allocation request only if the request meets, or is adjusted by the Department as necessary to meet, the requirements of paragraphs (c)(2) and (3) of this~~

section.

(ii) On or after May 1 of the control period, the Department will determine the sum of the CAIR NO_x allowances requested (as adjusted under paragraph (c)(4)(i) of this section) in all allowance allocation requests accepted under paragraph (c)(4)(i) of this section for the control period.

(iii) If the amount of CAIR NO_x allowances in the new unit set aside for the control period is greater than or equal to the sum under paragraph (c)(4)(ii) of this section, then the Department will allocate the amount of CAIR NO_x allowances requested (as adjusted under paragraph (c)(4)(i) of this section) to each CAIR NO_x unit covered by an allowance allocation request accepted under paragraph (c)(4)(i) of this section.

(iv) If the amount of CAIR NO_x allowances in the new unit set aside for the control period is less than the sum under paragraph (c)(4)(ii) of this section, then the Department will allocate to each CAIR NO_x unit covered by an allowance allocation request accepted under paragraph (c)(4)(i) of this section the amount of the CAIR NO_x allowances requested (as adjusted under paragraph (c)(4)(i) of this section), multiplied by the amount of CAIR NO_x allowances in the new unit set aside for the control period, divided by the sum determined under paragraph (c)(4)(ii) of this section, and rounded to the nearest whole allowance as appropriate.

(v) The Department will notify each CAIR designated representative that submitted an allowance allocation request of the amount of CAIR NO_x allowances (if any) allocated for the control period to the CAIR NO_x unit covered by the request.

(d) If, after completion of the procedures under paragraph (c)(4) of this section for a control period, any unallocated CAIR NO_x allowances remain in the new unit set aside for the control period, the Department will allocate to each CAIR NO_x unit that was allocated CAIR NO_x allowances under paragraph (b) of this section an amount of CAIR NO_x allowances equal to the total amount of such remaining unallocated CAIR NO_x allowances, multiplied by the unit's allocation under paragraph (b) of this section, divided 97 percent for a control period the amount of tons of NO_x emissions in the State trading budget under Section 96.140, and rounded to the nearest whole allowance as appropriate.

Section 96.143 Compliance Supplement Pool.

(a) In addition to the CAIR NO_x allowances allocated under Section 96.142, the Department may allocate for the control period in 2009 up to 2,600 tons of CAIR NO_x allowances to CAIR NO_x units in the State. These allowances are referred to as the Compliance Supplement Pool.

(b) For any CAIR NO_x unit in the State that achieves NO_x emission reductions in 2007 and 2008 that are not necessary to comply with any state or federal emissions limitation applicable during such years, the CAIR designated representative of the unit may request early reduction credits, and allocation of CAIR NO_x allowances from the compliance supplement pool under paragraph (a) of this section for such early reduction credits, in accordance with the following:

—(1) The owners and operators of such CAIR NO_x units shall monitor and report the NO_x emissions rate and the heat input of the unit in accordance with Part 96 subpart HH of this regulation in each control period for which early reduction credit is requested.

—(2) The CAIR designated representative of such CAIR NO_x unit shall submit to the Department by May 1, 2009, a request, in a format specified by the Department, for allocation of an amount of CAIR NO_x allowances from the compliance supplement pool not exceeding the sum of the amounts (in tons) of the unit's NO_x emission reductions in 2007 and 2008 that are not necessary to comply with any state or federal

emissions limitation applicable during such years, determined in accordance with Part 96 Subpart HH of this regulation.

(c) For any CAIR NO_x unit in the State whose compliance with the CAIR NO_x emissions limitation for the control period in 2009 would create an undue risk to the reliability of electricity supply during such control period, the CAIR designated representative of the unit may request the allocation of CAIR NO_x allowances from the compliance supplement pool under paragraph (a) of this section, in accordance with the following:

(1) The CAIR designated representative of such CAIR NO_x unit shall submit to the Department by May 1, 2009, a request, in a format specified by the Department, for allocation of an amount of CAIR NO_x allowances from the compliance supplement pool not exceeding the minimum amount of CAIR NO_x allowances necessary to remove such undue risk to the reliability of electricity supply.

(2) In the request under paragraph (c)(1) of this section, the CAIR designated representative of such CAIR NO_x unit shall demonstrate that, in the absence of allocation to the unit of the amount of CAIR NO_x allowances requested, the unit's compliance with the CAIR NO_x emissions limitation for the control period in 2009 would create an undue risk to the reliability of electricity supply during such control period. This demonstration must include a showing that it would not be feasible for the owners and operators of the unit to:

(i) Obtain a sufficient amount of electricity from other electricity generation facilities, during the installation of control technology at the unit for compliance with the CAIR NO_x emissions limitation, to prevent such undue risk; or

(ii) Obtain under paragraphs (b) and (d) of this section, or otherwise obtain, a sufficient amount of CAIR NO_x allowances to prevent such undue risk.

(d) The Department will review each request under paragraph (b) or (c) of this section submitted by May 1, 2009, and will allocate CAIR NO_x allowances for the control period in 2009 to CAIR NO_x units in the State and covered by such request as follows:

(1) Upon receipt of each such request, the Department will make any necessary adjustments to the request to ensure that the amount of the CAIR NO_x allowances requested meets the requirements of paragraph (b) or (c) of this section.

(2) If the State's compliance supplement pool under paragraph (a) of this section has an amount of CAIR NO_x allowances not less than the total amount of CAIR NO_x allowances in all such requests (as adjusted under paragraph (d)(1) of this section), the Department will allocate to each CAIR NO_x unit covered by such requests the amount of CAIR NO_x allowances requested (as adjusted under paragraph (d)(1) of this section).

(3) If the State's compliance supplement pool under paragraph (a) of this section has a smaller amount of CAIR NO_x allowances than the total amount of CAIR NO_x allowances in all such requests (as adjusted under paragraph (d)(1) of this section), the Department will allocate CAIR NO_x allowances to each CAIR NO_x unit covered by such requests according to the following formula and rounding to the nearest whole allowance as appropriate:

Unit's allocation = Unit's adjusted allocation × (State's compliance supplement pool ÷ Total adjusted allocations for all units)

Where:

“Unit's allocation” is the amount of CAIR NO_x allowances allocated to the unit from the State's compliance supplement pool.

“Unit's adjusted allocation” is the amount of CAIR NO_x allowances requested for the unit under paragraph (b) or (c) of this section, as adjusted under paragraph (d)(1) of this section.

“State's compliance supplement pool” is the amount of CAIR NO_x allowances in the State's compliance supplement pool.

“Total adjusted allocations for all units” is the sum of the amounts of allocations requested for all units under paragraph (b) or (c) of this section, as adjusted under paragraph (d)(1) of this section.

——— (4) By November 30, 2009, the Department will determine, and submit to the Administrator, the allocations under paragraph (d)(2) or (3) of this section.

——— (5) By January 1, 2010, the Administrator will record the allocations under paragraph (d)(4) of this section.

Subpart FF – “CAIR NO_x Allowance Tracking System”

——— The provisions of 40 CFR Part 96 Subpart FF, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart FF			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 70	May 12, 2005	[70 FR 25162]
Revision	Vol. 71	April 28, 2006	[71 FR 25304]
Revision	Vol. 71	December 13, 2006	[71 FR 74792]

The following State modifications are being made in R. 61-62.96.153 to section 96.153 of 70 FR 25161:

(a) By September 30, 2007, the Administrator will record in the CAIR NO_x source's compliance account the CAIR NO_x allowances allocated for the CAIR NO_x units at the source, as submitted by the permitting authority in accordance with Section 96.141(a), for the control periods in 2009, 2010, 2011, and 2012.

(b) By December 1, 2009, the Administrator will record in the CAIR NO_x source's compliance account the CAIR NO_x allowances allocated for the CAIR NO_x units at the source, as submitted by the permitting authority in accordance with Section 96.141(b), for the control period in 2013, 2014, 2015, and 2016.

(c) By December 1, 2013, and December 1 of each year thereafter, the Administrator will record in the CAIR NO_x source's compliance account the CAIR NO_x allowances allocated for the CAIR NO_x units at the source, as submitted by the permitting authority in accordance with Section 96.141(b), for the control period in the fourth, fifth, sixth, and seventh years after the year of the applicable deadline for recordation under this paragraph.

Subpart GG – “CAIR NO_x Allowance Transfers”

——— The provisions of 40 CFR Part 96 Subpart GG, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by

reference as if fully repeated herein.

40 CFR Part 96 Subpart GG			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 70	May 12, 2005	[70 FR 25162]
Revision	Vol. 71	April 28, 2006	[71 FR 25304]

Subpart HH – “Monitoring and Reporting”

The provisions of 40 CFR Part 96 Subpart HH, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart HH			
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Revision	Vol. 71	April 28, 2006	[71 FR 25304]

Subpart II – “CAIR NO_x Opt-in Units”

The provisions of 40 CFR Part 96 Subpart II, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart II			
Federal Register Citation	Volume	Date	Notice
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CAIR SO₂ TRADING PROGRAM

Subpart AAA – “CAIR SO₂ Trading Program General Provisions”

The provisions of 40 CFR Part 96 Subpart AAA, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart AAA			
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Revision	Vol. 71	December 13, 2006	[71 FR 74792]
Revision	Vol. 72	October 19, 2007	[72 FR 59190]

Subpart BBB – “CAIR Designated Representative for CAIR SO₂ Sources”

The provisions of 40 CFR Part 96 Subpart BBB, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart BBB			
Federal Register Citation	Volume	Date	Notice
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Revision	Vol. 71	April 28, 2006	[71 FR 25304]
Revision	Vol. 71	December 13, 2006	[71 FR 74792]

Subpart CCC – “Permits”

The provisions of 40 CFR Part 96 Subpart CCC, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart CCC			
Federal Register Citation	Volume	Date	Notice
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Revision	Vol. 71	April 28, 2006	[71 FR 25304]

Subpart DDD [Reserved]

Subpart EEE [Reserved]

Subpart FFF – “CAIR SO₂ Allowance Tracking System”

The provisions of 40 CFR Part 96 Subpart FFF, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart FFF			
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Revision	Vol. 71	April 28, 2006	[71 FR 25304]
Revision	Vol. 71	December 13, 2006	[71 FR 74792]

Subpart GGG – “CAIR SO₂ Allowance Transfers”

The provisions of 40 CFR Part 96 Subpart GGG, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart GGG			
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Revision	Vol. 71	April 28, 2006	[71 FR 25304]

Subpart HHH – “Monitoring and Reporting”

The provisions of 40 CFR Part 96 Subpart HHH, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart HHH			
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Revision	Vol. 71	April 28, 2006	[71 FR 25304]
Revision	Vol. 71	December 13, 2006	[71 FR 74792]

Subpart III – “CAIR SO₂ Opt-in Units”

The provisions of 40 CFR Part 96 Subpart III, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart III			
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Revision	Vol. 71	December 13, 2006	[71 FR 74792]

CAIR NO_x OZONE SEASON TRADING PROGRAM

Subpart AAAA – “CAIR NO_x Ozone Season Trading Program General Provisions”

The provisions of 40 CFR Part 96 Subpart AAAA, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart AAAA			
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Revision	Vol. 71	April 28, 2006	[71 FR 25304]
Revision	Vol. 71	December 13, 2006	[71 FR 74792]
Revision	Vol. 72	October 19, 2007	[72 FR 59190]

The following State modifications to definitions are being made in R. 61-62.96.302 to section 96.302 of 70 FR 25161:

“Commence commercial operation” (a) For all units “commence commercial operation” means, with regard to a unit:

(1) To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in Section 96.305 and Section 96.384(h).

(i) For a unit that is a CAIR NO_x-Ozone Season unit under Section 96.304 on the later of November 15, 1990, or the date the unit commences commercial operation as defined in paragraph (1) of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit that is a CAIR NO_x-Ozone Season unit under Section 96.304 on the later of November 15, 1990, or the date the unit commences commercial operation as defined in paragraph (1) of this definition and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in paragraph (1) or (2) of this definition as appropriate.

(2) Notwithstanding paragraph (1) of this definition and except as provided in Section 96.305, for a unit that is not a CAIR NO_x-Ozone Season unit under Section 96.304 on the later of November 15, 1990, or the date the unit commences commercial operation as defined in paragraph (1) of this definition, the unit's date for commencement of commercial operation shall be the date on which the unit becomes a CAIR NO_x-Ozone Season unit under Section 96.304.

(3) Notwithstanding paragraphs (1) and (2) of this definition, for a unit not serving a generator producing electricity for sale, the unit's date of commencement of operation shall also be the unit's date of commencement of commercial operation.

"Electric Generating Unit" or "EGU"—any unit subject to this regulation as specified in Section 96.304 (a)(1)(i), (a)(2), and (b).

"Non Electric Generating Unit" or "Non EGU"—any unit subject to this regulation as specified in Section 96.304 (a)(1)(ii).

The following definitions are revised in Section 96.302 Definitions:

"Commence operation"—(a) For all units "commence operation" means:

(1) To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start up of a unit's combustion chamber, except as provided in Section 96.384(h).

(2) For a unit that undergoes a physical change (other than replacement of the unit by a unit at the same source) after the date the unit commences operation as defined in paragraph (1) of this definition, such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit.

(3) For a unit that is replaced by a unit at the same source (for example, repowered) after the date the unit commences operation as defined in paragraph (1) of this definition, such date shall remain the replaced unit's date of commencement of operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in paragraph (1), (2), or (3) of this definition as appropriate, except as provided in Section 96.384(h).

(b) Notwithstanding paragraph (a) of this definition and solely for purposes of 40 CFR 96, Subpart HHHH, for a unit that is not a CAIR NO_x Ozone Season unit under Section 96.304(a)(1)(ii) on the later of November 15, 1990, or the date the unit commences operation as defined in paragraph (a)(1), (2), or (3) of this definition and that subsequently becomes such a CAIR NO_x Ozone Season unit, the unit's date of commencement of operation shall be the date on which the unit becomes a CAIR NO_x Ozone Season unit under Section 96.304(a)(1)(ii).

(1) For a unit with a date of commencement of operation as defined in paragraph (b) of this definition that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit.

(2) For a unit with a date of commencement of operation as defined in paragraph (b) of this definition and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in paragraph (a) or (b) of this definition as appropriate.

"Fossil fuel fired" (a) For a unit subject to 96.304 (a)(1)(i), (a)(2) or (b), "fossil fuel fired" means with regard to a unit, combusting any amount of fossil fuel in any calendar year.

(b) For a unit subject to 96.304 (a)(1)(ii) it means with regard to a unit:

(1) For units that commenced operation before January 1, 1996, the combination of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50 percent of the annual heat input on a Btu basis during 1995, or if a unit had no heat input starting in 1995, during the last year of operation of the unit prior to 1995.

The following modifications are being made in R.61-62.96.302 to section 96.302 of 70 FR 25162:

(2) The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel is projected to comprise more than 50 percent of the annual heat input on a Btu basis during any year, provided that during such year, the unit shall be "fossil fuel fired" as of the date upon which the unit begins combusting fossil fuel.

(3) Notwithstanding the definition set forth in (b)(1) above, a unit shall be deemed fossil fuel fired if on any year after January 1, 2001, the fossil fuel actually combusted comprises more than 50 percent of the annual heat input on a Btu basis.

"Unit" (a) For a unit subject to Section 96.304 (a)(1)(i), (a)(2), or (b), "unit" means a stationary, fossil-fuel fired boiler or combustion turbine or other stationary, fossil-fuel fired combustion device.

(b) For a unit subject to Section 96.304 (a)(1)(ii), "unit" means a fossil fuel fired stationary boiler, combustion turbine, or combined cycle system.

Section 96.304 Applicability:

The following State modifications are being made in R. 61-62.96.304 to section 96.304 of 70 FR 25161:

(a) Except as provided in paragraph (b) of this section,

(1) The following units in the State shall be CAIR NO_x Ozone Season units, and any source that includes one or more such units shall be a CAIR NO_x Ozone Season source, subject to the requirements of this subpart and Subparts BBBB through HHHH of this part:

(i) **EGU Applicability:** Any stationary, fossil fuel fired boiler or stationary, fossil fuel-fired combustion turbine serving at any time, since the later of November 15, 1990, or the start up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 megawatts electric (MWe) producing electricity for sale.

(ii) **Non-EGU Applicability:**

(A) Any unit that is not a unit under paragraph (a)(1)(i) of this section and at any time on or after January 1, 1995, serves a generator with a nameplate capacity greater than 25 MWe and sells any amount of electricity; or

(B) Any unit that is not a unit under paragraph (a)(1)(i) of this section and that has a maximum design heat input greater than 250 mmBTU/hr.

(2) If a stationary boiler or stationary combustion turbine that, under paragraph (a)(1)(i) of this section, is not a CAIR NO_x Ozone Season unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become a CAIR NO_x Ozone Season unit as provided in paragraph (a)(1)(i) of this section on the first date on which it both combusts fossil fuel and serves such generator.

(b) This section applies only to units that are subject to Section 96.304(a)(1)(i) or (a)(2). The units in a state that meet the requirements set forth in paragraph (b)(1)(i), (b)(2)(i), or (b)(2)(ii) of this section shall not be CAIR NO_x Ozone Season units:

(1) (i) Any unit that is a CAIR NO_x Ozone Season unit under paragraph (a)(1)(i) or (2) of this section:

(A) Qualifying as a cogeneration unit during the 12 month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(B) Not serving at any time, since the later of November 15, 1990, or the startup of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying in any calendar year more than one third of the unit's potential electric output capacity or 219,000 megawatt hours (MWh), whichever is greater, to any utility power distribution system for sale.

(ii) If a unit qualifies as a cogeneration unit during the 12 month period starting on the date the unit first produces electricity and meets the requirements of paragraphs (b)(1)(i) of this section for at least one calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x Ozone Season unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of paragraph (b)(1)(i)(B) of this section.

(2) (i) Any unit that is a CAIR NO_x Ozone Season unit under paragraph (a)(1)(i) or (2) of this section commencing operation before January 1, 1985:

(A) Qualifying as a solid waste incineration unit; and

(B) With an average annual fuel consumption of non fossil fuel for 1985–1987 exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non fossil fuel for any 3 consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis);

(ii) Any unit that is a CAIR NO_x-Ozone Season unit under paragraph (a)(1)(i) or (2) of this section commencing operation on or after January 1, 1985;

(A) Qualifying as a solid waste incineration unit; and

(B) With an average annual fuel consumption of non fossil fuel for the first 3 calendar years of operation exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non fossil fuel for any 3 consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis);

(iii) If a unit qualifies as a solid waste incineration unit and meets the requirements of paragraph (b)(2)(i) or (ii) of this section for at least 3 consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x-Ozone Season unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first 3 consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of 20 percent or more.

Subpart BBBB – “CAIR Designated Representative for CAIR NO_x-Ozone Season Sources”

—The provisions of 40 CFR Part 96 Subpart BBBB, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart BBBB			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 70	May 12, 2005	[70 FR 25162]
Revision	Vol. 71	April 28, 2006	[71 FR 25304]

Subpart CCCC – “Permits”

—The provisions of 40 CFR Part 96 Subpart CCCC, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart CCCC			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 70	May 12, 2005	[70 FR 25162]
Revision	Vol. 71	April 28, 2006	[71 FR 25304]

Subpart DDDD [Reserved]

Subpart EEEE – “CAIR NO_x-Ozone Season Allowance Allocations”

Section 96.340 South Carolina trading budget.

(a) For NO_x budget units defined as EGUs, the South Carolina trading budget for annual allocations of CAIR NO_x Ozone Season allowances for the control periods in 2009 through 2014 is 15,249 tons and in 2015 and thereafter is 12,707 tons. —

(b) For NO_x budget units defined as non-EGUs, the South Carolina trading budget for annual allocations of CAIR NO_x Ozone Season allowances for 2009 and thereafter is 3,479 tons.

Section 96.341 Timing requirements for CAIR NO_x Ozone Season allowance allocations.

(a) For NO_x Budget units defined as EGUs, the Department will submit to the Administrator the CAIR NO_x Ozone Season allowance allocations as follows:

(1) By April 30, 2007, the Department will submit to the Administrator the CAIR NO_x Ozone Season allowance allocations, in a format prescribed by the Administrator and in accordance with Section 96.342(a) and (b), for the control periods in 2009, 2010, 2011, and 2012.

(2) By October 31, 2009, and October 31 of every fourth year thereafter, the Department will submit to the Administrator the CAIR NO_x Ozone Season allowance allocations, in a format prescribed by the Administrator and in accordance with Section 96.342(a) and (b), for the control periods in the fourth, fifth, sixth and seventh years after the year of the applicable deadline for submission under this paragraph.

(3) By July 31, 2009, and July 31 of each year thereafter, the Department will submit to the Administrator the CAIR NO_x Ozone Season allowance allocations for the new unit set aside, in a format prescribed by the Administrator and in accordance with Section 96.342(c) for the control period in the year of the applicable deadline for submission under this paragraph.

(b) For NO_x Budget units defined as non-EGUs, the Department will submit to the Administrator the CAIR NO_x Ozone Season allowance allocations as follows:

(1) (i) By April 30, 2007, the Department will submit to the Administrator the CAIR NO_x Ozone Season allowance allocations, in a format prescribed by the Administrator, for the control periods in 2009, 2010, 2011 and 2012.

(ii) The CAIR NO_x Ozone Season allowance allocations for 2009, 2010, and 2011 will be determined in accordance with Section 96.342(e).

(iii) The CAIR NO_x Ozone Season allowance allocations for 2012 will be determined in accordance with Section 96.342(e).

(2) By October 31, 2009, and October 31 of every fourth year thereafter, the Department will submit to the Administrator the CAIR NO_x Ozone Season allowance allocations, in a format prescribed by the Administrator and in accordance with Sections 96.342(e) and (f), for the control periods in the fourth, fifth, sixth and seventh years after the year of the applicable deadline for submission under this paragraph.

(3) By July 31, 2009, and July 31 of each year thereafter, the Department will submit to the Administrator the CAIR NO_x Ozone Season new unit set aside allowance allocations, in a format prescribed by the Administrator and in accordance with Section 96.342 (g) for the control period in the year of the applicable deadline for submission under this paragraph.

Section 96.342 CAIR NO_x Ozone Season Allowance Allocations.

(a) (1) The baseline heat input (in mmBtu) used with respect to CAIR NO_x Ozone Season allowance allocations for EGUs for each CAIR NO_x Ozone Season unit under Section 96.341(a) will be:

(i) The allowances for the control periods 2009 through 2012 will be determined using the unit's baseline heat input equal to the unit's single highest adjusted control period heat input for the years 2002 through 2005 for the control periods for which the CAIR NO_x Ozone Season allowance allocation is being calculated with the adjusted control period heat input for each year calculated as follows:

(A) If the unit is coal fired during the year, the unit's control period heat input for such year is multiplied by 1.0 (100 percent); or

(B) If the unit is not subject to paragraph (a)(1)(i)(A) of this section, the unit's control period heat input for such year is multiplied by 0.60 (60 percent).

(ii) For a CAIR NO_x Ozone Season allowance allocation under Section 96.341(a)(2), the allowances will be determined using the unit's baseline heat input equal to the unit's single highest adjusted control period heat input for the years that are five, six, seven, and eight years before the first year of the control period for which the CAIR NO_x Ozone Season allowance allocation is being calculated with the adjusted control period heat input for each year calculated as follows:

(A) If the unit is coal fired during the year, the unit's control period heat input for such year is multiplied by 1.0 (100 percent); or

(B) If the unit is not subject to paragraph (a)(1)(ii)(A) of this section, the unit's control period heat input for such year is multiplied by 0.60 (60 percent).

(2) A unit's control period heat input, and a unit's status as coal fired, for a calendar year under paragraph (a)(1)(i) of this section, and a unit's total tons of NO_x emissions during a control period in a calendar year under paragraph (c)(3) of this section, will be determined in accordance with 40 CFR 75, to the extent the unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Department for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR 75 for the year. Heat input data under 40 CFR 75 will be obtained from the Administrator.

(b) (1) For each control period in 2009 and thereafter, the Department will allocate to all CAIR NO_x Ozone Season units in the State that have a baseline heat input (as determined under paragraph (a) of this section) a total amount of CAIR NO_x Ozone Season allowances equal to 97 percent of the tons of NO_x emissions in the State EGU trading budget for a control period under Section 96.340 (except as provided in paragraph (d) of this section).

(2) The Department will allocate CAIR NO_x Ozone Season allowances to each CAIR NO_x Ozone Season unit under paragraph (b)(1) of this section in an amount determined by multiplying the total amount of CAIR NO_x Ozone Season allowances allocated under paragraph (b)(1) of this section by the ratio of the baseline heat input of such CAIR NO_x Ozone Season unit to the total amount of baseline heat input of all such CAIR NO_x Ozone Season units in the State and rounding to the nearest whole allowance as appropriate.

(3) CAIR NO_x allocations for the 2009 ozone season can be used for the excess penalty deductions for the 2008 control period of the NO_x SIP Call Trading Program that this Regulation replaced on April 30, 2009.

~~(c) **EGU New Unit Set-aside** – For each control period in 2009 and thereafter, the Department will allocate CAIR NO_x Ozone Season allowances to CAIR NO_x Ozone Season units in the State that are not allocated CAIR NO_x Ozone Season allowances under paragraph (b) of this section because the units do not yet have a baseline heat input under paragraph (a) of this section or because the units have a baseline heat input, but all CAIR NO_x Ozone Season allowances available under paragraph (b) of this section for the control period are already allocated, in accordance with the following procedures:~~

~~———— (1) The Department will establish a separate new unit set-aside for each control period. Each new unit set-aside will be allocated CAIR NO_x Ozone Season allowances equal to 3 percent for a control period of the amount of tons of NO_x emissions in the State EGU trading budget under Section 96.340(a).~~

~~———— (2) The CAIR designated representative of such a CAIR NO_x Ozone Season unit may submit to the Department a request, in a format specified by the Department, to be allocated CAIR NO_x Ozone Season allowances, starting with the latter of the control period in 2009 or the first control period after the control period in which the CAIR NO_x Ozone Season unit commences commercial operation and until the first control period for which the unit is allocated CAIR NO_x Ozone Season allowances under paragraph (b) of this section. A separate CAIR NO_x Ozone Season allowance allocation request for each control period for which CAIR NO_x Ozone Season allowances are sought must be submitted on or before February 1 before such control period and after the date on which the CAIR NO_x Ozone Season unit commences commercial operation.~~

~~———— (3) In a CAIR NO_x Ozone Season allowance allocation request under paragraph (c)(2) of this section, the CAIR designated representative may request for a control period CAIR NO_x Ozone Season allowances in an amount not exceeding the CAIR NO_x Ozone Season unit's total tons of NO_x emissions, in accordance with Subpart HHHH of this regulation, during the control period immediately before such control period.~~

~~———— (4) The Department will review each CAIR NO_x Ozone Season allowance allocation request under paragraph (c)(2) of this section and will allocate CAIR NO_x Ozone Season allowances for each control period pursuant to such request as follows:~~

~~———— (i) The Department will accept an allowance allocation request only if the request meets, or is adjusted by the Department as necessary to meet, the requirements of paragraphs (c)(2) and (3) of this section.~~

~~———— (ii) On or after February 1 before the control period, the Department will determine the sum of the CAIR NO_x Ozone Season allowances requested (as adjusted under paragraph (c)(4)(i) of this section) in all allowance allocation requests accepted under paragraph (c)(4)(i) of this section for the control period.~~

~~———— (iii) If the amount of CAIR NO_x Ozone Season allowances in the new unit set-aside for the control period is greater than or equal to the sum under paragraph (c)(4)(ii) of this section, then the Department will allocate the amount of CAIR NO_x Ozone Season allowances requested (as adjusted under paragraph (c)(4)(i) of this section) to each CAIR NO_x Ozone Season unit covered by an allowance allocation request accepted under paragraph (c)(4)(i) of this section.~~

~~———— (iv) If the amount of CAIR NO_x Ozone Season allowances in the new unit set-aside for the control period is less than the sum under paragraph (c)(4)(ii) of this section, then the Department will allocate to each CAIR NO_x Ozone Season unit covered by an allowance allocation request accepted under paragraph (c)(4)(i) of this section the amount of the CAIR NO_x Ozone Season allowances requested (as adjusted under paragraph (c)(4)(i) of this section), multiplied by the amount of CAIR NO_x Ozone Season~~

allowances in the new unit set aside for the control period, divided by the sum determined under paragraph (e)(4)(ii) of this section, and rounded to the nearest whole allowance as appropriate.

~~(v) The Department will notify each CAIR designated representative that submitted an allowance allocation request of the amount of CAIR NO_x-Ozone Season allowances (if any) allocated for the control period to the CAIR NO_x-Ozone Season unit covered by the request.~~

~~(d) If, after completion of the procedures under paragraph (e)(4) of this section for a control period, any unallocated CAIR NO_x-Ozone Season allowances remain in the new unit set aside for the control period, the Department will allocate to each CAIR NO_x-Ozone Season unit that was allocated CAIR NO_x-Ozone Season allowances under paragraph (b) of this section an amount of CAIR NO_x-Ozone Season allowances equal to the total amount of such remaining unallocated CAIR NO_x-Ozone Season allowances, multiplied by the unit's allocation under paragraph (b) of this section, divided by 97 percent for a control period of the amount of tons of NO_x emissions in the State EGU trading budget under Section 96.340, and rounded to the nearest whole allowance as appropriate.~~

~~(e) The baseline heat input (in mmBtu) used with respect to CAIR NO_x-Ozone Season allowance allocations for non-EGUs for each CAIR NO_x-Ozone Season unit under Section 96.341(b) will be:~~

~~(1) For a CAIR NO_x-Ozone Season allowance allocation under Section 96.341(b)(1), the allowances will be determined as follows:~~

~~(i) For the control period for the years 2009, 2010 and 2011, the allocations will be determined using the unit's baseline heat input equal to the average of the two highest amounts of the unit's heat input for the control period in the years 1999, 2000, 2001, 2002, and 2003, or, if a unit only operated during one of these control periods, the heat input during the single year of operation.~~

~~(ii) For the control period for 2012, the allocations will be determined using the unit's baseline heat input equal to the unit's single highest adjusted control period heat input for the years in 2004 and 2005.~~

~~(2) For a CAIR NO_x-Ozone Season allowance allocation under Section 96.341(b)(2), the allowances will be determined using the unit's baseline heat input equal to the unit's single highest adjusted control period heat input for the years that are five, six, seven, and eight years before the first year of the control periods for which the CAIR NO_x-Ozone Season allowance allocation is being calculated.~~

~~(3) The unit's total heat input for the control period in each year specified under paragraph (e) will be determined in accordance with 40 CFR 75 to the extent the unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Department for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR 75 for the year. Heat input data under 40 CFR 75 will be obtained from the Administrator.~~

~~(f) (1) For each control period in 2009 and thereafter, the Department will allocate to all CAIR NO_x-Ozone Season units in the State that have a baseline heat input (as determined under paragraph (e) of this section) a total amount of CAIR NO_x-Ozone Season allowances equal to 97 percent for a control period of the tons of NO_x emissions in the State Non-EGU trading budget under Section 96.340(b).~~

~~(2) The Department will allocate CAIR NO_x-Ozone Season allowances to each CAIR NO_x-Ozone Season unit under paragraph (f)(1) of this section in an amount determined by multiplying the total amount of CAIR NO_x-Ozone Season allowances allocated under paragraph (f)(1) of this section by the ratio of the baseline heat input of such CAIR NO_x-Ozone Season unit to the total amount of baseline heat input of all~~

such CAIR NO_x Ozone Season units in the State and rounding to the nearest whole allowance as appropriate.

(g) Non-EGU New Unit Set aside For each control period in 2009 and thereafter, the permitting authority will allocate CAIR NO_x Ozone Season allowances to CAIR NO_x Ozone Season units in the State that are not allocated CAIR NO_x Ozone Season allowances under paragraph (b) of this section because the units do not yet have a baseline heat input under paragraph (a) of this section or because the units have a baseline heat input, but all CAIR NO_x Ozone Season allowances available under paragraph (b) of this section for the control period are already allocated, in accordance with the following procedures:

— (1) The Department will establish a separate new unit set aside for each control period. Each new unit set aside will be allocated CAIR NO_x Ozone Season allowances equal to 3 percent for a control period of the amount of tons of NO_x emissions in the State Non-EGU trading budget under section 96.340(b).

— (2) The CAIR designated representative of such a CAIR NO_x Ozone Season unit may submit to the Department a request, in a format specified by the Department, to be allocated CAIR NO_x Ozone Season allowances, starting with the later of the control period in 2009 or the first control period after the control period in which the CAIR NO_x Ozone Season unit commences commercial operation and until the first control period for which the unit is allocated CAIR NO_x Ozone Season allowances under paragraph (h) of this section. The CAIR NO_x Ozone Season allowance allocation request must be submitted on or before February 1 before the first control period for which the CAIR NO_x Ozone Season allowances are requested and after the date on which the CAIR NO_x Ozone Season unit commences commercial operation.

— (3) In a CAIR NO_x Ozone Season allowance allocation request under paragraph (g)(2) of this section, the CAIR designated representative may request for a control period CAIR NO_x Ozone Season allowances in an amount not exceeding the CAIR NO_x Ozone Season unit's total tons of NO_x emissions, in accordance with Subpart HHHH of this regulation, during the control period immediately before such control period.

— (4) The Department will review each CAIR NO_x Ozone Season allowance allocation request under paragraph (g)(2) of this section and will allocate CAIR NO_x Ozone Season allowances for each control period pursuant to such request as follows:

— (i) The Department will accept an allowance allocation request only if the request meets, or is adjusted by the Department as necessary to meet, the requirements of paragraphs (g)(2) and (3) of this section.

— (ii) On or after February 1 before the control period, the Department will determine the sum of the CAIR NO_x Ozone Season allowances requested (as adjusted under paragraph (g)(4)(i) of this section) in all allowance allocation requests accepted under paragraph (g)(4)(i) of this section for the control period.

— (iii) If the amount of CAIR NO_x Ozone Season allowances in the new unit set aside for the control period is greater than or equal to the sum under paragraph (g)(4)(ii) of this section, then the Department will allocate the amount of CAIR NO_x Ozone Season allowances requested (as adjusted under paragraph (g)(4)(i) of this section) to each CAIR NO_x Ozone Season unit covered by an allowance allocation request accepted under paragraph (g)(4)(ii) of this section.

— (iv) If the amount of CAIR NO_x Ozone Season allowances in the new unit set aside for the control period is less than the sum under paragraph (g)(4)(ii) of this section, then the Department will allocate to each CAIR NO_x Ozone Season unit covered by an allowance allocation request accepted under

paragraph (g)(4)(ii) of this section the amount of the CAIR NO_x Ozone Season allowances requested (as adjusted under paragraph (g)(4)(i) of this section), multiplied by the amount of CAIR NO_x Ozone Season allowances in the new unit set aside for the control period, divided by the sum determined under paragraph (g)(4)(i) of this section, and rounded to the nearest whole allowance as appropriate.

~~(v) The Department will notify each CAIR designated representative that submitted an allowance allocation request of the amount of CAIR NO_x Ozone Season allowances (if any) allocated for the control period to the CAIR NO_x Ozone Season unit covered by the request.~~

~~(h) If, after completion of the procedures under paragraph (g)(4) of this section for a control period, any unallocated CAIR NO_x Ozone Season allowances remain in the new unit set aside for the control period, the Department will allocate to each CAIR NO_x Ozone Season unit that was allocated CAIR NO_x Ozone Season allowances under paragraph (f) of this section an amount of CAIR NO_x Ozone Season allowances equal to the total amount of such remaining unallocated CAIR NO_x Ozone Season allowances, multiplied by the unit's allocation under paragraph (f) of this section, divided by 97 percent for a control period of the amount of tons of NO_x emissions in the State Non EGU trading budget under Section 96.340(b), and rounded to the nearest whole allowance as appropriate.~~

Subpart FFFF – “CAIR NO_x Ozone Season Allowance Tracking System”

The provisions of 40 CFR Part 96 Subpart FFFF, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart FFFF			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 70	May 12, 2005	[70 FR 25162]
Revision	Vol. 71	April 28, 2006	[71 FR 25304]
Revision	Vol. 71	December 13, 2006	[71 FR 74792]

~~**Section 96.353(e) is modified to read:**~~

~~The following State modifications are being made in R. 61-62.96.353 to section 96.353 of 70 FR 25161:~~

~~(a) By September 30, 2007, the Administrator will record in the CAIR NO_x Ozone Season source's compliance account the CAIR NO_x Ozone Season allowances allocated for the CAIR NO_x Ozone Season units at the source, as submitted by the permitting authority in accordance with Section 96.341(a)(1) and (b)(1), for the control periods in 2009, 2010, 2011, and 2012.~~

~~(b) By December 1, 2009, the Administrator will record in the CAIR NO_x Ozone Season source's compliance account the CAIR NO_x Ozone Season allowances allocated for the CAIR NO_x Ozone Season units at the source, as submitted by the permitting authority in accordance with Section 96.341(a)(2) and (b)(2), for the control period in 2013, 2014, 2015, and 2016.~~

~~(c) By December 1, 2010 and December 1 of each fourth year thereafter, the Administrator will record in the CAIR NO_x Ozone Season source's compliance account the CAIR NO_x Ozone Season allowances allocated for the CAIR NO_x Ozone Season units at the source, as submitted by the permitting authority in accordance with Section 96.341(b), for the control period in the sixth year after the year of the applicable deadline for recordation under this paragraph.~~

(d) By September 1, 2009, and September 1 of each year thereafter, the Administrator will record in the CAIR NO_x Ozone Season source's compliance account the CAIR NO_x Ozone Season allowances allocated for the CAIR NO_x Ozone Season units at the source, as submitted by the permitting authority in accordance with Sections 96.341(a)(3) and (b)(3), for the control period in the year of the applicable deadline for recordation under this paragraph.

Subpart GGGG – “CAIR NO_x Ozone Season Allowance Transfers”

The provisions of 40 CFR Part 96 Subpart GGGG, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart GGGG			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 70	May 12, 2005	[70 FR 25162]
Revision	Vol. 71	April 28, 2006	[71 FR 25304]

Subpart HHHH – “Monitoring and Reporting”

The provisions of 40 CFR Part 96 Subpart HHHH, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart HHHH			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 70	May 12, 2005	[70 FR 25162]
Revision	Vol. 71	April 28, 2006	[71 FR 25304]
Revision	Vol. 71	December 13, 2006	[71 FR 74792]

Subpart III – “CAIR NO_x Ozone Season Opt-in Units”

The provisions of 40 CFR Part 96 Subpart III, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 96 Subpart III			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 70	May 12, 2005	[70 FR 25162]
Revision	Vol. 71	April 28, 2006	[71 FR 25304]
Revision	Vol. 71	December 13, 2006	[71 FR 74792]

Subparts AA through II, AAA through III, and AAAA through IIII – [Repealed]

Statement of Need and Reasonableness:

The following presents an analysis of the factors listed in 1976 Code Sections 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: Amendment of Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (SIP).

Purpose: The EPA promulgated amendments to national air quality standards in 2017. The recent federal amendments include clarification, guidance, and technical revisions to SIP requirements promulgated pursuant to 42 U.S.C. Sections 7410 and 7413; New Source Performance Standards (NSPS) mandated by 42 U.S.C. Section 7411; federal National Emission Standards for Hazardous Air Pollutants (NESHAP) mandated by 42 U.S.C. Section 7412; and federal National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories mandated by 42 U.S.C. Section 7412. The Department, therefore, amends the aforementioned regulations and SIP to codify federal amendments to these standards promulgated from January 1, 2017, through December 31, 2017. Additionally, the Department amends R.61-62.96 to repeal the Clean Air Interstate Rule (CAIR) trading program regulations (Subparts AA through II, AAA through III, and AAAA through IIII) and reinstate applicable portions of the EPA's "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone" (NO_x SIP Call), with amendments as necessary, to maintain state compliance with federal regulations. The Department also corrects R.61-62.68 for internal consistency, clarification, chemical nomenclature, codification, and spelling to improve the overall text as necessary.

Legal Authority: 1976 Code Sections 48-1-10 et seq., and the Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416.

Plan for Implementation: The amendments will take effect upon approval by the South Carolina Board of Health and Environmental Control and publication in the State Register. These requirements are in place at the federal level and are currently being implemented. The amendments will be implemented in South Carolina by providing the regulated community with copies of the regulation, publishing associated information on the Department's website at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/>, sending an email to stakeholders, and communicating with affected facilities during the permitting process.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The EPA promulgates amendments to its air quality regulations throughout each calendar year. Federal amendments in 2017 included revised NSPS rules, NESHAPs, and NESHAPs for Source Categories. States are mandated by law to adopt these federal amendments. These amendments are reasonable as they promote consistency and ensure compliance with both state and federal regulations. The amendments also serve to repeal a regulation that is no longer in force, based on the sunset of federal CAIR requirements, and reinstate a regulation required by federal law. The amendments also include corrections for internal consistency, clarification, chemical nomenclature, codification, and spelling to improve the overall text as necessary to ensure compliance with federal law.

DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated increase in costs to the state or its political subdivisions resulting from these revisions. The standards to be adopted are already in effect and applicable to the regulated community as a matter of federal law, thus the amendments do not present a new cost to the regulated community. The amendments incorporate the revisions to the EPA regulations, which the Department implements pursuant to the authority granted by Section 48-1-50 of the Pollution Control Act. The amendments will benefit the regulated community by clarifying and updating the regulations and increasing their ease of use.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the state or its political subdivisions.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Adoption of the recent changes in federal regulations through the amendments to R.61-62 will provide continued protection of the environment and public health. Changes to R.61-62.96 have no detrimental effect on the environment and public health because the federal rule, the Clean Air Interstate Rule, has sunsetted and is superseded by the Cross-State Air Pollution Rule and the reinstated NO_x SIP Call. South Carolina's R.61-62.97, Cross-State Air Pollution Rule (CSAPR) Trading Program, is already state-effective.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

The state's authority to implement federal requirements, which are beneficial to the public health and environment, would be compromised if these amendments were not adopted in South Carolina.

ATTACHMENT B

SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES

Document No. 4870

R.61-62, Air Pollution Control Regulations and Standards

As of the December 27, 2018, close of the Notice of Proposed Regulation comment period:

NAME	SECTION CITATION	PUBLIC COMMENT	DEPARTMENT RESPONSE
<p align="center">U.S. Environmental Protection Agency (EPA) Region 4</p>	<p>Regulation 61-62.96.70</p>	<p>The EPA’s proposal [<i>sic</i>] rulemaking, <i>Emissions Monitoring Provisions in State Implementation Plans Required Under the NO_x SIP Call</i>, has not yet been finalized. Therefore, it is premature to speculate the Agency’s final policy position or whether the proposed regulatory changes at 40 CFR 51.121 will be finalized, allowing for alternative monitoring flexibilities.</p> <p>....</p> <p>Based on the EPA’s review of South Carolina’s recent proposed language, the EPA believes it is too early to consider language at Regulation 61-62.96.70 (at subpart H) that incorporates the proposed additional monitoring flexibilities at 40 CFR 51.121 provided in the September 29, 2018 proposed rulemaking. The EPA cannot fully advise air agencies currently on the best, practical way to revise their SIPs to account for any proposed flexibilities at 40 CFR 51.121 when a final Agency position has not yet been determined. For these reasons, the EPA suggests South Carolina consider removing the recent proposed language referencing federally-enforceable permits or 40 CFR 51.121 at Regulation 61-62.96.70 and instead require units subject to the NO_x SIP call to comply with 40 CFR Part 75, Subpart H monitoring, recordkeeping and reporting requirements.</p>	<p>The Department understands that alternative monitoring flexibilities contemplated under the referenced proposed EPA rulemaking have not been finalized, and that Part 75 monitoring requirements currently continue to apply under 40 CFR 51.121. Consistent with this status quo, the regulatory text adopted requires all affected NO_x SIP Call sources to continue Part 75 monitoring as currently required by 40 CFR 51.121. However, the regulatory text also specifies the alternative monitoring available to affected units if proposed federal regulatory changes at 40 CFR 51.121 are finalized. This contingent monitoring flexibility assures continuous compliance with federal law while also avoiding unnecessary delay, facilitating a smooth transition, and minimizing burdens on affected stakeholders</p>

			and the Department. In the event the EPA’s proposed regulation is not finalized, the regulatory text as adopted will continue to require Part 75 monitoring, recordkeeping, and reporting.
U.S. Environmental Protection Agency (EPA) Region 4	Regulation 61-62.96.70	The EPA notes, however, that if the rulemaking were finalized as proposed, the State’s proposed regulatory language does not appear to comport with the potential federal regulatory requirements. In particular, the State’s phrase “or as otherwise allowed under 40 CFR 51.121” at the proposed Regulation 61-62.96.70 suggests that the alternative monitoring the State would require in lieu of part 75 monitoring would not go through the SIP approval process because 40 CFR 51.121, as proposed, would not specifically define what is “otherwise allowed,” if indeed the Agency finalizes changes to the NO _x SIP Call regulations. The EPA believes that approval of alternative monitoring should involve a revision to the SIP that specifically sets out the air agency’s intended alternative monitoring requirements rather than a non-regulatory process. The regulated industry would look to the proposed language at Regulation 61-62.96.70 and see no clear obligation to also cross-reference the non-regulatory provisions of the SIP to determine what monitoring and recordkeeping requirements are appropriate. It is important that the regulated industry can clearly identify what is required with respect to monitoring of their NO _x mass emissions. The proposed language “or as otherwise allowed under 40 CFR 51.121” provides for a general requirement to monitor, instead of specifically revising the SIP to provide for monitoring meeting the regulatory requirements. Additionally, the EPA	To address EPA’s concern, the Department has amended the regulatory language in the proposed revisions at R.61-62.96.70 to include specific monitoring requirements for units that may be eligible for alternative monitoring if the proposed federal regulatory changes at 40 CFR 51.121 are promulgated. Specifically, affected units subject to 40 CFR Part 60, Subpart D or Subpart Db may, if not otherwise required to monitor and report under Part 75, monitor and report NO _x emissions in accordance with Subpart D or Subpart Db, as applicable. If the federal regulatory changes at 40 CFR 51.121 are not promulgated, the proposed revisions at R. 61-62.96.70 will require the affected units to continue to meet the monitoring requirements as currently required under 40 CFR Part 75.

		notes the proposed language “as otherwise allowed under 40 CFR 51.121 and the federally enforceable permit applicable to the unit” (emphasis added) could be read to suggest the permit conditions control the applicable required monitoring without requiring SIP approval and review by the EPA. This would be generally inconsistent with the requirements at 51.121(i) which requires the State’s implementation plan revision to provide for monitoring the status of compliance with control measures adopted to meet the NO _x SIP Call budgets, including legally enforceable procedures for monitoring and reporting emissions data from the regulated sources.	
U.S. Environmental Protection Agency (EPA) Region 4	Regulation 61-62.96.40	The EPA recommends South Carolina consider measures that ensure large electricity generating unities [<i>sic</i>] (EGUs) and non-EGUs covered by the NO _x SIP Call do not exceed the enforceable NO _x emission caps proposed for approval into the SC SIP at [R.61-]62-96.40. The EPA is available for further discussion with the South Carolina Department of Health and Environmental Control respecting such measures.	Historical emission data and potential to emit data for South Carolina’s NO _x SIP Call EGUs and large non-EGUs support continued compliance with the NO _x SIP Call budgets over the long term. Compliance with the specified budgets is further supported through those monitoring and reporting requirements set forth in the regulation. Additionally, permit(s) for each facility will be updated to include a NO _x SIP Call condition reflecting the requirements of the regulation.

(x) ACTION/DECISION
() INFORMATION

Date: January 3, 2019

To: S.C. Board of Health and Environmental Control

From: Bureau of Air Quality

Re: Notice of Proposed Regulation Amending Regulation 61-62, *Air Pollution Control Regulations and Standards*.

I. Introduction

The Bureau of Air Quality (“Bureau”) proposes the attached Notice of Proposed Regulation amending Regulation 61-62, *Air Pollution Control Regulations and Standards*, and the South Carolina Air Quality Implementation Plan (“SIP”) for publication in the January 25, 2019, *South Carolina State Register* (“*State Register*”). Legal authority for this amendment resides in the South Carolina Pollution Control Act, S.C. Code Sections 48-1-10 *et seq.* (“Pollution Control Act”), which authorizes the Department to adopt emission control regulations, standards, and limitations, and take all actions necessary or appropriate to secure to the state the benefits of federal air pollution control laws. In accordance with S.C. Code Section 1-23-120(A), these amendments require General Assembly review.

II. Facts

1. Pursuant to the federal Clean Air Act (“CAA”), 42 U.S.C. Sections 7401 *et seq.*, and the South Carolina Pollution Control Act, S.C. Code Sections 48-1-10 *et seq.*, the South Carolina Department of Health and Environmental Control (“Department”) proposes amending South Carolina Regulation 61-62, *Air Pollution Control Regulations and Standards*, and the SIP, as follows:

a. R.61-62.1, Definitions and General Requirements, Section II, Permit Requirements, to expand and improve consistency in language regarding general and registration permits.

b. The introductory paragraph to R.61-62.5, Standard No. 2, Ambient Air Quality Standards, to remove the sentence describing the test method for Gaseous Fluorides to improve the accuracy and clarity of the regulation’s text.

c. R.61-62.5, Standard No. 5.2, Control of Oxides of Nitrogen (NO_x), to update applicability and exemptions, as well as to propose corrections for internal consistency, punctuation, codification, and spelling.

d. R.61-62.5, Standard No. 7, Prevention of Significant Deterioration, to update applicability and exemptions, as well as to propose corrections for consistency with federal regulations, internal consistency, punctuation, codification, and spelling.

e. R.61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR), to improve the overall clarity and structure of the regulation, as well as to propose corrections for consistency with federal regulations, internal consistency, punctuation, codification, and spelling.

f. R.61-62.1, Definitions and General Requirements; R.61-62.5, Standard No. 7, Prevention of Significant Deterioration; R.61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR); and R.61-62.70, Title V Operating Permit Program, to update public participation procedures.

g. The Department also proposes other changes to R.61-62, *Air Pollution Control Regulations and Standards*, including definitional updates, clarification of certain permitting provisions, and other changes and additions deemed necessary, as well as corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of R.61-62 as necessary.

2. The Department had a Notice of Drafting published in the October 27, 2017, *State Register* (Volume 41, Issue 10). The Department received no public comments by the November 27, 2017, close of the public comment period. The Department also published information about the Notice of Drafting on the online *DHEC Monthly Regulation Development Update* and emailed a copy of the Notice to interested stakeholders on October 27, 2017.

3. The Department had a Notice of Proposed Regulation (Document No. 4815) published in the June 22, 2018, *State Register* (Volume 42, Issue 6), and a meeting of the S.C. Board of Health and Environmental Control (“Board”) and public hearing on the Department’s proposed amendments were scheduled for September 13, 2018. Due to inclement weather and government office closures, the Board meeting and the public hearing originally scheduled for September 13, 2018, were canceled. The public hearing was rescheduled for the November 8, 2018, Board meeting with a 30-day public notice as required by S.C. Code Section 1-23-110(A)(3)(b) (Supp. 2017). In accordance with S.C. Code Section 1-23-120(A) (Supp. 2017), the Administrative Procedures Act requires submission of a regulation to the Legislative Council within one year of publication of the Notice of Drafting. The one-year time limit, which began with publication of the Notice of Drafting on October 27, 2017, was exceeded as a result of the necessary rescheduling of the public hearing. As such, the Department had a new Notice of Drafting published in the November 23, 2018, *State Register* (Volume 42, Issue 11), to supersede the Notice published on October 27, 2017.

4. A copy of the new Notice of Drafting is included as Attachment B. The Department received no public comments by the December 27, 2018, close of the public comment period. The Department also published information about the Notice of Drafting on the online *DHEC Monthly Regulation Development Update* and emailed a copy of the notice to interested stakeholders on November 23, 2018.

5. The Bureau received input from affected industry representatives on November 14, 2017, December 7, 2017, and December 15, 2017 pursuant to the previous Notice of Drafting. Additionally, the Bureau held stakeholder meetings February 6, 2018 (South Carolina Manufacturers Alliance meeting), and March 2, 2018 (SC Chamber of Commerce Environmental/Technical Committee meeting). Since substantive goals remain the same, this input received pursuant to the previous Notice is pertinent to the current promulgation process.

6. Appropriate Department staff conducted an internal review of the proposed amendments on March 1, 2018.

7. To conform with the requirements of the Administrative Procedures Act, the Department is resubmitting the attached Notice of Proposed Regulation. These proposed regulations are identical to those last approved by the Board during the November 8, 2018, Board meeting, and incorporate comments and input received pursuant to the superseded Notice of Proposed Regulation.

III. Request for Approval

The Bureau respectfully requests the Board grant approval of the attached Notice of Proposed Regulation for publication in the January 25, 2019, *State Register*.



Rhonda B. Thompson, P.E.
Chief
Bureau of Air Quality



Myra C. Reece
Director
Environmental Affairs

Attachments:

- A. Notice of Proposed Regulation
- B. Notice of Drafting published in the November 23, 2018, *State Register*

**STATE REGISTER NOTICE OF PROPOSED REGULATION
FOR REGULATION 61-62, Air Pollution Control Regulations and Standards**

January 3, 2019

Document No. _____

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61**

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

61-62. Air Pollution Control Regulations and Standards.

Preamble:

Pursuant to the federal Clean Air Act (“CAA”), 42 U.S.C. Sections 7401 et seq., and the South Carolina Pollution Control Act, 1976 Code Sections 48-1-10 et seq., the South Carolina Department of Health and Environmental Control (“Department”) proposes amending South Carolina Regulation 61-62, Air Pollution Control Regulations and Standards, and the State Implementation Plan (“SIP”), as follows:

1. R.61-62.1, Definitions and General Requirements, Section II, Permit Requirements, to expand and improve consistency in language regarding general and registration permits.
2. The introductory paragraph to R.61-62.5, Standard No. 2, Ambient Air Quality Standards, to remove the sentence describing the test method for Gaseous Fluorides to improve the accuracy and clarity of the regulation’s text.
3. R.61-62.5, Standard No. 5.2, Control of Oxides of Nitrogen (NO_x), to update applicability and exemptions, as well as to propose corrections for internal consistency, punctuation, codification, and spelling.
4. R.61-62.5, Standard No. 7, Prevention of Significant Deterioration, to update applicability and exemptions, as well as to propose corrections for consistency with federal regulations, internal consistency, punctuation, codification, and spelling.
5. R.61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR), to improve the overall clarity and structure of the regulation, as well as to propose corrections for consistency with federal regulations, internal consistency, punctuation, codification, and spelling.
6. R.61-62.1, Definitions and General Requirements; R.61-62.5, Standard No. 7, Prevention of Significant Deterioration; R.61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR); and R.61-62.70 Title V Operating Permit Program, to update public participation procedures.
7. The Department also proposes other changes to R.61-62, Air Pollution Control Regulations and Standards, including definitional updates, clarification of certain permitting provisions, and other changes and additions deemed necessary, as well as corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of R.61-62 as necessary.

The Department does not anticipate an increase in costs to the state or its political subdivisions resulting from these proposed revisions. These changes streamline existing state requirements, ensure consistency with federal law, and improve the overall organizational structure and clarity of the Department’s regulations. South Carolina industries are already subject to national air quality standards as a matter of

federal law. The proposed amendments will benefit the regulated community by maintaining state implementation of federal requirements, as opposed to federal implementation.

In accordance with S.C. Code Section 1-23-120(A) (Supp. 2017), these amendments require General Assembly review.

The Department had a Notice of Drafting published in the October 27, 2017, *State Register* and a Notice of Proposed Regulation (Document No. 4815) published in the June 22, 2018, *State Register*. The Department originally scheduled a public hearing for September 13, 2018; however, inclement weather-related government closures pushed the public hearing to a rescheduled date (while complying with the S.C. Code Section 1-23-110(A)(3)(b) 30-day notice requirement for public hearings) outside of the one year statutory deadline to submit amendments for General Assembly review. As such, the Department has recommenced the regulatory promulgation process for the proposed amendments with a second Notice of Drafting, published November 23, 2018, to supersede the original Notice of Drafting and this Notice of Proposed Regulation to supersede the original Notice of Proposed Regulation (Document No. 4815). These proposed regulations are identical to the those last approved by the Board during the November 8, 2018, Board meeting and incorporate comments and input received pursuant to the now superseded Notice of Proposed Regulation (Document No. 4815).

Section-by-Section Discussion of Proposed Amendments:

Amended codification and internal citations throughout to remove periods following numbers and/or letters, and replace them with parentheses enclosing updated alphanumeric characters for consistency with the 2014 South Carolina Legislative Council's Standards Manual.

Amended throughout to add the word "Part" or "Parts" to citations of parts in the Code of Federal Regulation citations for clarity and consistency.

Regulation 61-62.1, Section I, Definitions:

Paragraph (I)(26), Dioxins/Furans, is amended to strike "Code of Federal Regulations," as well as the parentheses around "CFR" and add the word "Part" to read "(40 CFR Part 60, Appendix A)" for clarity and consistency.

Regulation 61-62.1, Section I, Definitions:

Paragraph (I)(55), NAICS Code, is amended to add the numeral "(6)" after the word "six" to read "six (6)" to provide number denotation consistency throughout the text of the regulation.

Regulation 61-62.1, Section I, Definitions:

Paragraph (I)(97), Used Oil, (a) Spec. Oil (Specification Oil), is amended to strike "v. Nickel – 120 ppm maximum;" to be consistent with Department regulations and definitions for used oil.

Regulation 61-62.1, Section II, Permit Requirements:

Section (B), Exemptions from the Requirements to Obtain a Construction Permit, Paragraphs (B)(1)(b), (B)(1)(c), (B)(2)(a), and (B)(2)(b) are amended to strike " $\times 10^6$ " and add the word "million" for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, Paragraphs (C)(1) and (C)(2) are amended to strike the word "and," insert a comma after the words "reviewed" and "signed," and add the words "and sealed," to read "reviewed, signed, and sealed" to reflect current professional practice guidelines and Department requirements.

Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, Paragraph (C)(2)(c) is amended to strike “x 10⁶” and replace with the word “million” for clarity and consistency. The period at the end of the sentence is stricken and is replaced it with a semi-colon for consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, Paragraph (C)(2)(d) is inserted to read “Package-type concrete batch plants that are designed to be hauled to a site, set up, and broken down quickly, with little to no additional equipment needed to manufacture product.” This is to expressly include package-type concrete plants within the referenced exemption.

Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, Paragraph (C)(3)(a) is amended to strike the phrase “and the name, mailing address, and telephone number of the owner or operator for the facility” and replace it with the phrase “(the name used to identify the facility at the location requesting the permit);” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, Paragraph (C)(3)(b) is amended strike the phrase “and the name, mailing address, and telephone number of the facility’s contact person” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, Paragraph (C)(3)(c) is inserted to add the sentence “The name, mailing address, e-mail address and telephone number of the owner or operator for the facility,” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, Paragraph (C)(3)(d) is inserted to add the sentence “The name, mailing address, e-mail address and telephone number of the facility’s air permit contact person,” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, former Paragraphs (C)(3)(c) through (C)(3)(p) are recodified to (C)(3)(e) through (C)(3)(r) for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (D), General Construction Permits, Paragraph (D)(2) is amended to add the word “Any” at the beginning of the sentence, to strike the upper case “G” to lower case “g” to read “general,” and strike the letter “s” from the word “permits” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (D), General Construction Permits, former Paragraph (D)(3) is recodified (D)(3)(a). Paragraph (D)(3), title, is added to read “Coverage under a General Construction Permit,” for clarity.

Section (D), General Construction Permits, Paragraph (D)(3)(b) is inserted to read “A source that has submitted an individual construction permit application to the Department and has not requested coverage under the conditions and terms of a general construction permit for similar sources, but which is determined to qualify for coverage under a general construction permit, may be granted coverage under the general construction permit at the sole discretion of the Department.” This action is taken to reflect current work practices by Department staff and to clarify and streamline the application process.

Regulation 61-62.1, Section II, Permit Requirements:

Section (D), General Construction Permits, Paragraph (D)(4) is amended to add the word “A” at the beginning of the sentence, and change “Sources” to “source” for clarity and consistency. Also amended to strike the word “a” before “source” in the latter part of the sentence and replace with “the” to read “the source” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (D), General Construction Permits, Paragraph (D)(5) is amended to strike the “s” after the word “source” and the phrase “request for” to read “The Department may grant a source authorization to operate under a general construction permit, but such a grant shall be a final permit action for purposes of judicial review” for appropriate punctuation, clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (E), Synthetic Minor Construction Permits, Paragraph (E)(4) General Synthetic Minor Construction Permits, (E)(4)(b) is amended to strike “the general permit” at the end of the sentence and replace it with “coverage under a general synthetic minor construction permit” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (E), Synthetic Minor Construction Permits, Paragraph (E)(4), General Synthetic Minor Construction Permits, former (E)(4)(c) is recodified to (E)(4)(c)(1) and amended to add the phrase “synthetic minor construction” and to strike the word “the” in both instances of the second sentence and replace it with the word “a” for clarity and consistency. Paragraph (E)(4)(c), title, is added to read “Coverage under a General Synthetic Minor Construction Permit,” for clarity.

Regulation 61-62.1, Section II, Permit Requirements:

Section (E), Synthetic Minor Construction Permits, Paragraph (E)(4), General Synthetic Minor Construction Permits, (E)(4)(c)(2) is inserted to read “A source that has submitted an individual synthetic minor construction permit application and has not requested coverage under the conditions and terms of a general synthetic minor construction permit for similar sources, but which is determined to qualify for coverage under a general synthetic minor construction permit, may be granted coverage under the general synthetic minor construction permit at the sole discretion of the Department.” This action is taken to clarify current work practices by the Department and to streamline the application process.

Regulation 61-62.1, Section II, Permit Requirements:

Section (E), Synthetic Minor Construction Permits, Paragraph (E)(4), General Synthetic Minor Construction Permits, (E)(4)(d) is amended to strike the phrase “the conditions and terms of the” and replace it with the phrase “coverage under a” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (E), Synthetic Minor Construction Permits, Paragraph (E)(4), General Synthetic Minor Construction Permits, (E)(4)(e) is amended to replace “general permit” with “general synthetic minor construction permit” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (E), Synthetic Minor Construction Permits, Paragraph (E)(4), General Synthetic Minor Construction Permits, (E)(4)(f) is amended to replace “general permit” with “general synthetic minor construction permit” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (E), Synthetic Minor Construction Permits, Paragraph (E)(4), General Synthetic Minor Construction Permits, (E)(4)(g) is inserted for consistency and to clarify a source's ability to request an individual synthetic minor construction permit in lieu of coverage under a general synthetic minor construction permit.

Regulation 61-62.1, Section II, Permit Requirements:

Section (F), Operating Permits, Paragraph (F)(2) is inserted to add text to further explain compliance conditions for operating a source under the terms and conditions of a construction permit pending issuance of an operating permit.

Regulation 61-62.1, Section II, Permit Requirements:

Section (F), Operating Permits, former (F)(2) is recodified to (F)(3) and amended to clarify the paragraph's applicability to sources issued construction permits that include engineering and/or construction specifications.

Regulation 61-62.1, Section II, Permit Requirements:

Section (F), Operating Permits, former Paragraph (F)(3), Request for a New or Revised Operating Permit is recodified to (F)(4) for consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (F), Operating Permits, Paragraph (F)(5), General Operating Permits (including (F)(5)(a) through (F)(5)(f) and subparagraphs (F)(5)(c)(1) and (2)) is inserted to establish conditions for Department development and issuance of general operating permits to reflect current Department practices and streamline permit issuance.

Regulation 61-62.1, Section II, Permit Requirements:

Section (G), Conditional Major Operating Permits, Paragraph (G)(2), General Provisions, former (G)(2)(d) is stricken to improve clarity and avoid duplication.

Regulation 61-62.1, Section II, Permit Requirements:

Section (G), Conditional Major Operating Permits, Paragraph (G)(2), General Provisions, former (G)(2)(e) and (G)(2)(f) are recodified to (G)(2)(d) and (G)(2)(e), respectively for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (G), Conditional Major Operating Permits, Paragraph (G)(7), General Conditional Major Operating Permits, former paragraph (G)(7)(c) is recodified (G)(7)(c)(1). Paragraph (G)(7)(c), title, is added to read "Coverage under a General Conditional Major Operating Permit" for clarity.

Regulation 61-62.1, Section II, Permit Requirements:

Section (G), Conditional Major Operating Permits, Paragraph (G)(7), General Conditional Major Operating Permits, (G)(7)(c)(2) is inserted to read "A source that has submitted an individual permit application to the Department and has not requested coverage under the conditions and terms of a general conditional major operating permit for similar sources, but which is determined to qualify for coverage under a general conditional major operating permit, may be granted coverage under the general conditional major operating permit at the sole discretion of the Department." This action is taken to reflect current work practices by Department staff and to clarify and streamline the permit process.

Regulation 61-62.1, Section II, Permit Requirements:

Section (G), Conditional Major Operating Permits, Paragraph (G)(7), General Conditional Major Operating Permits, (G)(7)(d) is amended to strike the phrase "the conditions and terms of" and replace it with the phrase "coverage under" for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (G), Conditional Major Operating Permits, Paragraph (G)(7), General Conditional Major Operating Permits, (G)(7)(e) is amended to strike the “s” after word “source” and to strike the phrase “request for” and add the phrase “conditional major operating” to read “The Department may grant a source authorization to operate under a general conditional major operating permit without further public notice, but such a grant shall be a final permit action for purposes of judicial review.” for appropriate punctuation, clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (G), Conditional Major Operating Permits, Paragraph (G)(7), General Conditional Major Operating Permits, (G)(7)(f) is amended to replace “general permit” with “general conditional major operating permit” for clarity and internal consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (G), Conditional Major Operating Permits, Paragraph (G)(7), General Conditional Major Operating Permits, (G)(7)(g) is inserted for consistency and to clarify a source’s ability to request an individual conditional major operating permit in lieu of coverage under a general conditional major operating permit.

Regulation 61-62.1, Section II, Permit Requirements:

Section (H), Operating Permit Renewal Requests, Paragraph (H)(1) is inserted to add language to improve clarity and reflect current Department practices regarding renewal of operating permits.

Regulation 61-62.1, Section II, Permit Requirements:

Section (H), Operating Permit Renewal Requests, former Paragraphs (H)(1) through (H)(4) are recodified to (H)(2) through (H)(5) respectively for consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (H), Operating Permit Renewal Requests, Paragraph (H)(5)(a) is amended to strike the phrase “and the name, mailing address, and telephone number of the owner or operator for the facility” and replace it with the phrase “(the name used to identify the facility at the location requesting the permit)” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (H), Operating Permit Renewal Requests, Paragraph (H)(5)(b) is amended to strike the phrase “and the name, mailing address, and telephone number of the facility’s contact person” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (H), Operating Permit Renewal Requests, Paragraph (H)(5)(c) is inserted to add the language “The name, mailing address, e-mail address and telephone number of the owner or operator for the facility;” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (H), Operating Permit Renewal Requests, Paragraph (H)(5)(d) is inserted to add the language “The name, mailing address, e-mail address and telephone number of the facility’s air permit contact person;” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (H), Operating Permit Renewal Requests, former Paragraphs (H)(5)(c) through (H)(5)(j) are recodified to (H)(5)(e) through (H)(5)(l) for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (I), Registration Permits, Paragraph (I)(1), Development of Registration Permits, (I)(1)(a) is amended to add the phrase “and issue a” and strike the letter “s” from permits so that the first sentence reads: “The Department may develop and issue a registration permit applicable to similar sources.” for punctuation, clarity and consistency. The remainder of (I)(1)(a) is recodified as (I)(1)(b) and amended to read “Any registration permit developed shall incorporate all requirements applicable to the construction and operation of similar sources and shall identify criteria by which sources may qualify for coverage under a registration permit.” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (I), Registration Permits, Paragraph (I)(1), Development of Registration Permits, former (I)(1)(b) is recodified to (I)(1)(c) for internal consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (I), Registration Permits, Paragraph (I)(2), Application for Coverage Under a Registration Permit, former Paragraph (I)(2)(a) is recodified (I)(2)(a)(1) and amended so that the first sentence reads “Sources may submit a permit application to the Department with a request for coverage under the conditions and terms of a registration permit for similar sources in lieu of a construction and operating permit as provided in Section II(A) and (F) above.” to clarify conditions and terms for applying for coverage under a registration permit. Paragraph (I)(2)(a), title, is added to read “Coverage under a Registration Permit” for clarity.

Regulation 61-62.1, Section II, Permit Requirements:

Section (I), Registration Permits, Paragraph (I)(2), Application for Coverage Under a Registration Permit, (I)(2)(a)(2) is inserted to read “A source that has submitted an individual permit application to the Department and has not requested coverage under the conditions and terms of a registration permit for similar sources, but which is determined to qualify for a registration permit, may be granted coverage under the registration permit at the sole discretion of the Department.” This action is to clarify and streamline the permit process.

Regulation 61-62.1, Section II, Permit Requirements:

Section (I), Registration Permits, Paragraph (I)(2), Application for Coverage Under a Registration Permit, (I)(2)(b) is amended at the first sentence to strike the phrase “the conditions and terms of” and replace it with “coverage under” for clarity and consistency. The remainder of this subparagraph is recodified as (I)(2)(c) for clarity.

Regulation 61-62.1, Section II, Permit Requirements:

Section (I), Registration Permits, Paragraph (I)(2), Application for Coverage Under a Registration Permit, former (I)(2)(c) is recodified to (I)(2)(d) and amended to strike “s request for” to read “The Department may grant a source authorization to operate under a registration permit, but such a grant shall be a final permit action for purposes of judicial review language.” to improve clarity and internal consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (I), Registration Permits, Paragraph (I)(2), Application for Coverage Under a Registration Permit, (I)(2)(e) is inserted to read “A source that qualifies for coverage under a Department issued registration permit may submit a permit application to the Department and request an individual permit in lieu of coverage under a general registration permit.” to specify that a source may request an individual permit.

Regulation 61-62.1, Section II, Permit Requirements:

Section (J), Permit Conditions, Paragraph (J)(2), Special Permit Conditions, (J)(2)(b) is amended to add a hyphen between the words “short” and “term” to read “short-term” for appropriate punctuation.

Regulation 61-62.1, Section II, Permit Requirements:

Section (N), Public Participation Procedures, Paragraph (N)(1) is amended to replace “posting to the Department’s website” with “posting to a public website identified by the Department” for consistency with federal regulations, and amended to clarify the Department’s authority to use additional means of public notice, including but not limited to public meetings.

Regulation 61-62.1, Section IV, Source Tests:

Section (B), Submission and Approval of a Site-Specific Test Plan, Paragraph (B)(5)(a) is amended to add the phrase “or as otherwise specified by a relevant federal or state requirement” to read “The owner, operator, or representative shall submit site-specific test plans or a letter which amends a previously approved test plan at least forty-five (45) days prior to the proposed test date or as otherwise specified by a relevant federal or state requirement.” to cite appropriate federal or state requirements for amending an approved test plan to reflect current Department practice.

Regulation 61-62.1, Section IV, Source Tests:

Section (C), Requirements for a Site-Specific Test Plan, is amended to strike the parentheses around the internal citations and reflect the recodification of “IV.C.1” and “C.8” to “IV(C)(1)” and “(C)(8)” for consistency.

Regulation 61-62.1, Section IV, Source Tests:

Section (C), Requirements for a Site-Specific Test Plan, Paragraph (C)(3), Process Descriptions, (C)(3)(b) is amended to read “Process design rates, normal operating rates, and operating rates specified by applicable regulation” to clarify the appropriate rate requirement.

Regulation 61-62.1, Section IV, Source Tests:

Section (D), Notification and Conduct of Source Tests, Paragraph (D)(1) is amended to add the phrase “or as otherwise specified by a relevant federal or state requirement” to read “Prior to conducting a source test subject to this section, the owner, operator, or representative shall ensure that a complete written notification is submitted to the Department at least two (2) weeks prior to the test date or as otherwise specified by a relevant federal or state requirement.” to clarify the appropriate written notification period prior to conducting a source test subject to this section for clarity and internal consistency.

Regulation 61-62.1, Section IV, Source Tests:

Section (D), Notification and Conduct of Source Tests, Paragraph (D)(5) is amended to add the phrase “or as otherwise specified by a relevant federal or state requirement” to read “Unless approved otherwise by the Department, the owner, operator, or representative shall ensure that source tests are conducted while the source is operating at the maximum expected production rate or other production rate or operating parameter which would result in the highest emissions for the pollutants being tested or as otherwise specified in a relevant federal or state requirement.” to clarify the appropriate production rate or operating parameter to be used while conducting a source test for clarity and internal consistency.

Regulation 61-62.1, Section IV, Source Tests:

Section (F), Final Source Test Report, Paragraph (F)(1) is amended to strike the word “standard” and replace it with “requirement” for clarity and consistency.

Regulation 61-62.5, Standard No. 2, Ambient Air Quality Standards

Regulation 61-62.5, Standard No. 2, Ambient Air Quality Standards:

First paragraph is amended to add the word “Part” to citations of parts in the Code of Federal Regulations citations for clarity and consistency. The last sentence is stricken as obsolete because the pollutant “Gaseous Fluorides (as HF)” and all associated parameters are no longer a part of this regulation.

Regulation 61-62.5, Standard No. 5.2, Control of Oxides of Nitrogen (NO_x)

Amended codification and internal citations throughout to replace periods following numbers and/or letters with parentheses enclosing updated alphanumeric characters for consistency with the 2014 South Carolina Legislative Council’s Standards Manual.

Amended throughout to add the word “Part” or “Parts” to citations of parts in the Code of Federal Regulation citations for clarity and consistency.

Regulation 61-62.5, Standard No. 5.2, Section I, Applicability:

Section (B), Exemptions, Paragraphs (B)(1) and (B)(2) are stricken and replaced with language to ensure consistency and clarify those sources that are exempt from the requirements of this regulation, including boilers of less than 10 million British thermal unit per hour (BTU/hr) rated input. Paragraph (B)(3) is added to exempt sources with an uncontrolled potential to emit of less than five tons per year of NO_x. Former (B)(3) through (B)(16) are recodified to (B)(4) through (B)(17) for consistency.

Regulation 61-62.5, Standard No. 5.2, Section I, Applicability:

Section (B), Exemptions, Paragraph (B)(7) is amended to strike the number “6” and replace with “7” to reflect Regulation 61-62.96, CAIR NO_x Annual Trading Program is no longer in effect, and is replaced with Regulation 61-62.97, Cross-State Air Pollution Rule (CSAPR) Trading Program.

Regulation 61-62.5, Standard No. 5.2, Section I, Applicability:

Section (B), Exemptions, Paragraph (B)(15) is amended to change alphanumeric codification after “Section” from “(1)” to “I” for consistency.

Regulation 61-62.5, Standard No. 5.2, Section II, Definitions:

Section (G) is amended to add a comma after “June 25, 2004” to correct punctuation and for consistency and to change alphanumeric codification after “Section” from “(1)” to “I” for consistency.

Regulation 61-62.5, Standard No. 5.2, Section II, Definitions:

Section (I) is amended to add a comma after “June 25, 2004” to correct punctuation and for consistency and to strike the parentheses enclosing “I” to correct codification for consistency.

Regulation 61-62.5, Standard No. 5.2, Section II, Definitions:

Section (J) is inserted to define the term non-routine maintenance for clarification.

Regulation 61-62.5, Standard No. 5.2, Section II, Definitions:

Former Section (J), Source, is recodified as (K) and amended to strike the phrase “an individual NO_x emission unit” and replace it with the phrase “a stationary NO_x emission unit, comprised of one or more burners” to clarify the definition.

Regulation 61-62.5, Standard No. 5.2, Section III, Standard Requirements For New Affected Sources:

Table 1- NO_x Control Standards, Subsection “Propane and/or Natural Gas-Fired Boilers”, first column, is amended to delete an extra space between the open parenthesis and MMBtu/hr to read “(MMBtu/hr).”

Regulation 61-62.5, Standard No. 5.2, Section III, Standard Requirements For New Affected Sources:

Table 1- NO_x Control Standards, Subsection “Propane and/or Natural Gas-Fired Boilers”, second column, is amended to strike the word "metric". The use of the word "metric" is inaccurate for (MMBTU), which is meant to represent a thousand thousand BTUs, equivalent to one million BTUs.

Regulation 61-62.5, Standard No. 5.2, Section III, Standard Requirements For New Affected Sources:
Table 1- NO_x Control Standards, Subsection “Multiple Fuel Boilers”, first block, second column/ninth line, is amended to add the phrase “and/or propane,” to the end of “...from combustion of natural gas,” to clarify fuel types covered under the emission limit.

Regulation 61-62.5, Standard No. 5.2, Section III, Standard Requirements For New Affected Sources:
Table 1- NO_x Control Standards, Subsection “Multiple Fuel Boilers”, second block, second column/ninth line, is amended to add the phrase “and/or propane,” to the end of “...from combustion of natural gas,” to clarify fuel types covered under the emission limit.

Regulation 61-62.5, Standard No. 5.2, Section III, Standard Requirements For New Affected Sources:
Table 1- NO_x Control Standards, Subsection “Fluidized Bed Combustion (FBC) Boiler” title is amended to center it in the table for internal consistency.

Regulation 61-62.5, Standard No. 5.2, Section III, Standard Requirements For New Affected Sources:
Table 1- NO_x Control Standards, Subsection “Other” title is amended to center it in the table for internal consistency. Subsection “Other,” first block, second column/first line, is amended to strike the word “Forth” and replace it with the word “Fourth” to correct spelling.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:
Section (A), Boilers, Paragraph (A)(1), CEMS, (A)(1)(d)(i)(B) is amended to delete the phrase “startups, shutdowns, and” to correct requirements related to record maintenance.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:
Section (A), Boilers, Paragraph (A)(4), Tune-ups, is amended to add the second sentence “If the owner or operator of a boiler is not subject to the federal tune-up requirements (40 CFR Part 63), then the following requirements are applicable:” to clarify tune-up instructions for sources not subject to the Boiler MACT.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:
Section (A), Boilers, Paragraph (A)(4), Tune-ups, is amended to insert “(a) The first tune-up shall be conducted no more than twenty-four (24) months from start-up of operation for new affected sources.” to clarify the timeframe for tune-up to occur.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:
Section (A), Boilers, Paragraph (A)(4), Tune-ups, former (A)(4)(a) is recodified to (A)(4)(b), and amended to strike the letter “s” from “owners” to read “owner” to correct punctuation and for consistency.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:
Section (A), Boilers, Paragraph (A)(4), Tune-ups, former (A)(4)(b) and (A)(4)(c) are recodified to (A)(4)(c) and (A)(4)(d), respectively for consistency.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:

Section (A), Boilers, Paragraph (A)(5), Other Requirements, is amended to delete the phrase “startup, shutdown, or” to correct requirements related to record maintenance.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:

Section (B), Internal Combustion Engines, Paragraph (B)(3), Tune-ups, is amended to add a second sentence: “If the owner or operator of an internal combustion engine is not subject to the federal tune-up requirements (40 CFR Part 63), then the following requirements are applicable:” to clarify tune-up instructions for sources not subject to the Boiler MACT.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:

Section (B), Internal Combustion Engines, Paragraph (B)(5), Other Requirements, is amended to delete the phrase “startup, shutdown, or” to correct requirements related to record maintenance.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:

Section (C), Turbines, Paragraph (C)(3), Periodic Monitoring and/or Source Test, (C)(3)(d), is amended to add a comma after “twenty-four (24) months” to correct punctuation and for internal consistency.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:

Section (C), Turbines, Paragraph (C)(6), Other Requirements, is amended to delete the phrase “startup, shutdown, or” to correct requirements related to record maintenance.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:

Section (D), All Other Affected Source Types, is amended to add section (D)(4) “Other Requirements” and the text “The owner or operator shall maintain records of the occurrence and duration of any malfunction in the operation of an affected source; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.” to describe record keeping requirements for an affected source during these conditions.

Regulation 61-62.5, Standard No. 5.2, Section VII, Tune-up Requirements For Existing Sources:

Section (A) is amended to strike language addressing the deadline for the first tune-up for new affected sources to avoid duplication and to correct for text error.

Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration

Amended codification and internal citations throughout to update alphanumeric characters for consistency with the 2014 South Carolina Legislative Council’s Standards Manual.

Amended throughout to strike the abbreviation “(tpy)” and replace it with the phrase “tons per year” for clarity and consistency.

Amended throughout to add the word “Part” or “Parts” to citations of parts in the Code of Federal Regulation citations for clarity and consistency.

Amended throughout to write out the numbers such as “twenty-four” and place parentheses around the numerals for the phrases to provide number denotation consistency throughout the text of the regulation.

Amended throughout to strike the word “paragraph” and replace with “Section” when citing sections for clarity and consistency.

Regulation 61-62.5, Standard No. 7, Section (A)(2), Applicability procedures:

Former (a)(2)(iv)(a) is recodified (A)(2)(d)(i), and amended to strike the phrase “paragraphs (a)(2)(v) and (vi)” and replace with the phrase “paragraph (A)(2)(e)” to reflect recodification and remove second nonexistent citation.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Section (B), Definitions, is amended to remove quotation marks from each defined term for consistency with other regulations throughout Regulation 61-62.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(5)(ii)(b) is recodified (B)(5)(b)(ii), and amended to strike the period at the end of the paragraph, and add the phrase “and would be constructed in the same state as the state proposing the redesignation” for consistency with federal regulation.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(9) is recodified (B)(9)(a), and is amended to strike the numbers “003-005-00176-0” and replace with “003-005-00716-0” to correct a typographical error.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Paragraph (B)(9)(b) is added for consistency with changes to the federal definition of “Building, structure, facility or installation.”

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(10), (b)(30)(ii), and (b)(32)(ii) are recodified (B)(10), (B)(30)(b), and (B)(32)(b), and are amended to strike the phrase “oxides of” and add the word “oxides” to read “nitrogen oxides” for clarity and consistency.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former Paragraphs (b)(30)(iii)(e) and (b)(30)(iii)(f) are recodified (B)(30)(c)(v) and (B)(30)(c)(vi), and are amended to strike the lowercase “subpart” and replace with capitalized “Subpart” and add the phrase “Part 51,” to read “40 CFR Part 51, Subpart I” to properly cite the federal regulation.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(30)(v) is recodified (B)(30)(e), and amended to strike all language except the codification, and add “[Reserved]” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(32)(i)(a) is recodified (B)(32)(a)(i), and amended to add the phrase “(with thermal dryers)” to the reference to primary aluminum ore reduction plants to read “primary aluminum ore reduction plants (with thermal dryers),” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(34)(iii) is recodified (B)(34)(c), and amended to strike subparagraphs formerly codified (b), (c) and (d) in their entirety, and amended to add “[Reserved]” to the newly codified paragraph “(B)(34)(c)(ii)” to clarify the criteria for creditable emissions in the regulation’s definition of net emissions increase.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(36) is recodified (B)(36), and amended to strike the phrase “[Reserved]” and add the definition for pollution prevention, for consistency with federal regulation.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(44)(i)(b) is recodified (B)(44)(a)(ii), and amended to strike the former citation to “(i)(b)” and add the word “this” to read “identified under this paragraph” for clarity.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(45) is recodified (B)(45), and amended to strike the word “credible” and replace with the word “creditable” to correct a typographical error.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(49)(i) is recodified (B)(49)(a), and amended to strike the non-codified list titled “Pollutant and Emissions Rate” and replace the list with a table format for ease of use.

Regulation 61-62.5, Standard No. 7, Section (C), Ambient air increments:

Amended to codify previously uncodified text as Paragraphs (C)(1) and (C)(2) for correct codification.

Regulation 61-62.5, Standard No. 7, Section (G), Redesignations:

Former (g)(4) is recodified (G)(4), and amended to strike the first colon and capitalized phrase “Provided, That” and replace with a comma and the lowercase phrase “provided that” to ensure internal consistency.

Regulation 61-62.5, Standard No. 7, Section (I), Exemptions:

Former (i)(2) is recodified (I)(2), and amended to replace “section” with “Section” for internal consistency.

Regulation 61-62.5, Standard No. 7, Section (I), Exemptions:

Former (i)(5)(i) is recodified (I)(5)(a), and amended to strike the non-codified list following the phrase “less than the following amounts” and replace the list with a table format for ease of use.

Regulation 61-62.5, Standard No. 7, Section (I), Exemptions:

Revised to add language in alphanumeric order at paragraph (I)(11) and subparagraphs (a) through (b), to clarify sources that are exempt from Section (K) of this regulation, to ensure consistency with the federal requirements.

Regulation 61-62.5, Standard No. 7, Section (P):

Retitled “Sources impacting Federal Class I areas – additional requirements.” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7, Section (P):

Former (p)(5) is recodified (P)(5), and amended to strike the first colon and capitalized phrase “Provided, That” and replace with a comma and the lowercase phrase “provided that” to ensure internal consistency.

Regulation 61-62.5, Standard No. 7, Section (P):

Former (p)(6) is recodified (P)(6), and amended to strike the colon and the capitalized word “Provided”, and replace them with the lowercase word “provided” to ensure internal consistency.

Regulation 61-62.5, Standard No. 7, Section (P):

Former (p)(7) is recodified (P)(7), and amended to strike the colon and the capitalized word “Provided”, and replace them with the lowercase word “provided” to ensure internal consistency.

Regulation 61-62.5, Standard No. 7, Section (Q), Public participation:

Former (q)(2)(iii) is recodified (Q)(2)(c), and amended to define the consistent noticing method for draft permits subject to this regulation, to read “Notify the public, by posting the notice, for the duration of the public comment period, on a public website identified by the Department. This consistent noticing method shall be used for all draft permits subject to notice under this section. The public website notice shall include a notice of public comment including notice of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment. The public website notice shall also include the draft permit, information on how to access the administrative record for the draft permit and how to request and/or attend a public hearing on the draft permit. The Department may use additional means to provide adequate notice to the affected public, including by publishing the notice in a newspaper of general circulation in each region in which the proposed source or modification would be constructed (or in a state publication designed to give general public notice).”

Regulation 61-62.5, Standard No. 7, Section (R), Source obligation:

Former (r)(6) is recodified (R)(6), and amended to strike the word “to” in the first sentence and replace it with the phrase “with respect to any regulated NSR pollutant emitted from” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7, Section (R), Source obligation:

Paragraphs (R)(6)(c) and (R)(6)(g) are inserted in alpha-numeric order to ensure consistency with the federal requirements, and former subparagraphs (r)(6)(i), (r)(6)(ii), and (r)(6)(iii) through (r)(6)(v) are recodified as (R)(6)(a), (R)(6)(b), and (R)(6)(d) through (R)(6)(f), for internal consistency.

Regulation 61-62.5, Standard No. 7, Section (AA), Actuals PALs:

Former (aa)(1)(ii)(b) is recodified (AA)(1)(b)(ii), and amended to add the phrase “the change” to the second sentence to read “However, the change will be reviewed” for clarity and grammatical correctness, and amended to correct the internal reference in the second sentence to read “Regulation 61-62.1 Section II, Permit Requirements” for clarity and consistency.

Regulation 61-62.5, Standard No. 7, Section (AA), Actuals PALs:

Former (aa)(2), Definitions, is recodified (AA)(2), and amended to remove quotation marks from each definition for consistency with other regulations throughout Regulation 61-62.

Regulation 61-62.5, Standard No. 7, Section (AA), Actuals PALs:

Former (aa)(5) is recodified (AA)(5), and amended to change “section” to “Section” and add “This includes the requirement that the Department provide the public with notice of the proposed approval of a PAL permit and at least a thirty (30)-day period for submittal of public comment.” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7, Section (AA), Actuals PALs:

Former (aa)(14), (aa)(14)(i)(g), and (aa)(14)(ii)(d) are recodified (AA)(14), (AA)(14)(a)(vii), and (AA)(14)(b)(iv), and amended to strike the phrase “the applicable title V operating permit program” and replace with the phrase “Regulation 61-62.70” for clarity.

Regulation 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR)

Amended codification and internal citations throughout to update alphanumeric characters for consistency with the 2014 South Carolina Legislative Council’s Standards Manual, and to reflect repositioning of various provisions for improved organization and clarity.

Amended throughout to strike the word “paragraph” and replace with “Section” when citing sections for clarity and consistency.

Amended throughout to strike the phrase “oxides of nitrogen” and add the phrase “nitrogen oxides” for clarity and consistency.

Amended throughout to strike the abbreviation “(tpy)” and replace it with the phrase “tons per year” for clarity and consistency.

Amended throughout to add the word “Part” or “Parts” to citations of parts in the Code of Federal Regulation citations for clarity and consistency.

Amended throughout to write out the numbers such as “twenty-four” and place parentheses around the numerals to provide number denotation consistency throughout the text of the regulation.

Regulation 61-62.5, Standard No. 7.1, Section (A), Applicability:

Former Section (a) is recodified Section (A), and amended to include former paragraphs (b)(1) through (b)(7) recodified as paragraphs (A)(4) through (A)(9) in alphanumeric order, and strike the section title “(b) Applicability procedures.” Section (A) is also amended to add the language formerly codified at Section (e), “Exemptions”, to the newly codified paragraph (A)(10) and subparagraphs (A)(10)(a) through (A)(10)(aa). These revisions are to ensure clarity, improved organization, and internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (A), Applicability:

Former (b)(1) is recodified (A)(4), and amended to strike the word “contained” and replace it with “as defined” for consistency throughout the regulation, and amended to strike the citation “(15)” and replace it with the citation “(B)(37)” to correct a typographical error with the citation of the definition of “Significant.”

Regulation 61-62.5, Standard No. 7.1, Section (A), Applicability:

Former (b)(4) is recodified (A)(7), and amended to strike the phrase “(b)(37) of Regulation 61-62.5 Standard 7, “Prevention of Significant Deterioration” (“Standard 7”)” and replace it with the citation “(B)(27)” to properly cite the definition within the regulation.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Section (c) is recodified Section (B), and amended to revise codification and citations in alphanumeric order and to remove quotation marks from each defined term for consistency with other regulations throughout Regulation 61-62.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraph (B) (former Paragraph (c)) is amended to strike all text after the title and replace with the phrase “For the purposes of this regulation:” for clarity.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraphs (B)(2), (B)(4), and (B)(6) though (B)(19) are inserted in alpha-numeric order to add definitions for: “Allowable emissions”, “Begin actual construction”, “Building, structure, facility or installation”, “Temporary clean coal technology demonstration project”, “Clean coal technology”, “Clean coal technology demonstration project”, “Commence”, “Construction”, “Continuous emissions monitoring system (CEMS)”, “Continuous emissions rate monitoring system (CERMS)”, “Continuous parameter monitoring system (CPMS)”, “Electric utility steam generating unit”, “Emissions unit”, “Federal Land

Manager”, “Federally enforceable”, and “Fugitive emissions”, to ensure consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraphs (c)(2) and (c)(3) are recodified as (B)(3) and (B)(5) respectively to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraph (c)(4) and the word “[Reserved]” are stricken to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraphs (c)(5) through (c)(7) are recodified as (B)(20) through (B)(22) to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(5)(B) is recodified (B)(20)(b), and amended to strike the word “permit” and add the word “allow” to ensure clarity, and amended in two instances to change the word “emissions” to “emission” to ensure consistency with federal regulations, and amended to replace “a stationary source” with “the stationary source” to ensure consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraph (B)(21)(c)(ii) is amended to replace “sections” with “Sections” for internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraph (B)(21)(c)(iii) is amended to replace “section” with “under Section” for clarity and internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraphs (c)(6)(C)(v)(a) and (c)(6)(C)(vi) are recodified (B)(21)(c)(v)(1) and (B)(21)(c)(vi), and amended to add the phrase “pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or 40 CFR 51.166” for clarity.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraph (B)(21)(e) is added and reserved to reflect the stay of corresponding federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(7)(A) is recodified (B)(22)(a), and amended to strike the phrase “paragraphs (c)(7)(A)(i)(a) through (e) of this section.” and replace it with “the following table:”. Paragraph (B)(22)(a) is also amended to strike subparagraphs formerly codified (c)(7)(A)(a) through (c)(7)(A)(d) and replace the codified list with an expanded table format for increased comprehensiveness and ease of use. Paragraph (B)(22)(a) is also amended to replace “which” with “that” for correct grammar, and to replace “Act” with “Clean Air Act” for clarity.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraph (B)(22)(c)(xxvii) is amended to replace “section” with “Section” for internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraph (B)(23) is inserted in alpha-numeric order to add the definition for “Necessary preconstruction approvals or permits”, to ensure consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:
Former Paragraphs (c)(8) and (c)(9) are recodified as Paragraphs (B)(24) and (B)(25) to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:
Former (c)(8)(B) is recodified (B)(24)(b), and amended to strike the phrase “before the date that the increase from the particular change occurs;” and add the word “between:”, and amended to add subparagraphs (i) through (ii) to clarify the timeframe for contemporaneous increases or decreases in actual emissions in the regulation’s definition of net emissions increase.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:
Former Paragraph (c)(8)(C) is recodified (B)(24)(c) and amended to strike former subparagraph (c)(8)(C)(i), and amended to recodify former (c)(8)(C)(ii) as (B)(24)(c)(i), and amended to add “[Reserved]” to the newly codified subparagraph “(B)(24)(c)(ii)” to clarify the criteria for creditable emissions in the regulation’s definition of net emissions increase.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:
Former Paragraph (c)(8)(D) is recodified (B)(24)(d), and amended to strike the period and replace with semicolon for consistency.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:
Former (c)(8)(E)(i) is recodified (B)(24)(e)(i), and amended to add an “s” to “emission” to read “actual emissions” and amended to add a comma to read “allowable emissions,” for clarity and consistency with federal regulation.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:
Former (c)(8)(E)(ii) is recodified (B)(24)(e)(ii), and amended to strike the word “and” after the semicolon for correct codification.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:
Former (c)(8)(E)(iii) is recodified (B)(24)(e)(iii), and amended to add the phrase “under regulations approved pursuant to 40 CFR Part 51, Subpart I” for consistency with federal regulation, and to add the word “and” after the semicolon for correct codification.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:
Former (c)(8)(F) is recodified (B)(24)(f), and amended to strike the period at the end of the second sentence and replace with a semicolon for correct codification and internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:
Former (c)(9) is recodified (B)(25), and amended to strike the lowercase word “appendix” and replace with “Appendix” for consistency.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:
Former Paragraph (c)(10) and the word “[Reserved]” are stricken to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:
Paragraphs (B)(26) through (B)(30) are inserted in alphanumeric order to add definitions for: “Pollution prevention”, “Potential to emit”, “Predictive emissions monitoring system (PEMS)”, “Prevention of Significant Deterioration (PSD) permit”, and “Project”, to ensure consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(11) is recodified as (B)(31) to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(11)(B)(iv) is recodified (B)(31)(b)(iv), and amended to strike the phrase “under paragraph (b)(37) of Standard 7” and add the phrase “in paragraph (B)(27) of this section” to properly cite the referenced definition within the regulation.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraph (c)(12) is stricken in entirety to reflect the provision’s recodification at (B)(29).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(13) is recodified as (B)(32) to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(13)(C) is recodified (B)(32)(c), and amended to add the phrase “identified under this paragraph as” for consistency with federal regulations, and amended to strike the word “a” in “a constituent” and replace with the word “such” for clarity and consistency with federal regulations, and amended to strike former subparagraphs (c)(13)(C)(c) and (c)(13)(C)(d) for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(13)(C)(b) is recodified (B)(32)(c)(ii), and amended to strike the phrase “is a precursor” and add a comma and the phrase “volatile organic compounds, nitrogen oxides, and ammonia are precursors” for consistency with federal regulations, and amended to strike the word “all” and replace with “any” and strike the “s” in “areas” for consistency with federal regulations, and amended to strike the semicolon at the end of the paragraph and replace with a period for correct codification.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(13)(D) is recodified (B)(32)(d), and amended to add the phrase “nonattainment major NSR” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraphs (B)(33) through (B)(36) are inserted in alphanumeric order to add definitions for: “Replacement unit”, “Resource recovery facility”, “Reviewing authority”, and “Secondary emissions”, to ensure consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraphs (c)(14) and (c)(15) are recodified as (B)(37) and (B)(38) respectively to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(14) is recodified (B)(37), and amended to strike the word “as” and replace with the word “a” for consistency with federal regulations, and amended to strike the non-codified list titled “Pollutant Emission Rate” and replace the list with an expanded table format for comprehensiveness and ease of use.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraph (B)(39) is inserted in alphanumeric order to add a definition for: “Stationary source”, to ensure consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraph (c)(16) is recodified as (B)(40) to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (C), Permitting requirements:

Former Section (d) is recodified Section (C), and amended to revise codification and citations in alphanumeric order to ensure clarity and internal consistency. Former Paragraph (d) is stricken to reflect codification and formatting changes to Section (C).

Regulation 61-62.5, Standard No. 7.1, Section (C), Permitting requirements:

Former (d)(1) is recodified (C)(1), and amended to strike the phrase “Conditions for approval” and replace it with “Permitting requirements.” Former Subparagraph (d)(1)(A) is recodified (C)(1)(a), and amended to identify the meaning of the acronym “LAER.” Former Subparagraph (d)(1)(C) is recodified (C)(1)(c), and amended to strike the phrase “following provisions” and add the phrase “requirements in Section (D), Offset standards” to codify offset standard language into a separate section for clarity and usability. Former Subparagraphs (d)(1)(D) and (d)(1)(E) are recodified (C)(1)(d) and (C)(1)(e) and repositioned to follow in alphanumeric order after subparagraphs (C)(1)(a) through (C)(1)(c) for clarity and usability.

Regulation 61-62.5, Standard No. 7.1, Section (C), Permitting requirements:

Paragraph (C)(2) is added to read “Exemptions. Temporary emission sources, such as pilot plants and portable facilities which will be relocated outside of the nonattainment area after a short period of time, are exempt from the requirements of paragraphs (C)(1)(c) and (C)(1)(d) of this section.” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (C), Permitting requirements:

Paragraph (C)(3) is added to read “Secondary emissions. Secondary emissions need not be considered in determining whether the stationary source or modification is major. However, if a source is subject to this regulation on the basis of the direct emissions from the source, the applicable conditions in paragraph (C)(1) must also be met for secondary emissions. However, secondary emissions may be exempt from paragraphs (C)(1)(a) and (C)(1)(b) of this section.” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (C), Permitting requirements:

Paragraph (C)(4) is added to read “The requirements of this regulation applicable to major stationary sources and major modifications of PM₁₀ shall also apply to major stationary sources and major modifications of PM₁₀ precursors, except where the Administrator determines that such sources do not contribute significantly to PM₁₀ levels that exceed the PM₁₀ ambient standards in the area.” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Section (D) is added, and titled “Offset standards.” to incorporate language formerly codified (d)(1)(C)(i) through (d)(1)(C)(v)(a)(4)(A)(vii) and (d)(1)(C)(viii) and (d)(1)(C)(xi) into a separate section for clarity and usability. Revised codification and citations in alphanumeric order to ensure clarity and internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Paragraph (D)(1) is added to read “All emission reductions claimed as offset credit shall be permanent, quantifiable, federally enforceable and surplus;” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former (d)(1)(C)(i) is recodified (D)(2), and amended to add the phrase “(as when a state has a single particulate emission limit for all fuels)” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:
Former (d)(1)(C)(ii) is recodified (D)(3), and amended to add an “s” to “emission” to read “emissions offset credit” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:
Former (d)(1)(C)(iii)(a) is recodified (D)(4), and amended to strike the phrase “if such reductions are permanent, quantifiable, federally enforceable, occurred on or after the date of the most recent emissions inventory, and if the area has an EPA-approved attainment plan” and add “for offsets if the shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this paragraph, the Department may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units. No credit may be given for shutdowns that occurred before August 7, 1977.” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:
Former (d)(1)(C)(iii)(b) is recodified (D)(5), and amended to strike the phrase “Such reductions may be credited if” and replace it with the phrase “Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements on paragraph (D)(4) may be generally credited only if:” for consistency with federal regulations. The remainder of the paragraph is amended to divide the paragraph into subparagraphs (D)(5)(a) and (D)(5)(b) for consistency with federal regulation.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:
Paragraph (D)(5)(a) is amended to strike the word “the” and replace with the word “The” at the beginning of the newly codified paragraph, and amended to strike the comma and replace with a semicolon to read “The shutdown or curtailment occurred on or after the date the new source permit application is filed; or,” for consistency with federal regulation.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:
Paragraph (D)(5)(b) is amended to strike the phrase “if the” and replace with the word “The” at the beginning of the newly codified paragraph, and amended to strike the phrase “cutoff date provision of paragraph (d)(C)(iii)(a) are observed” and replace with the phrase “emission reductions achieved by the shutdown or curtailment met the requirements of paragraph (D)(4)” to read “The applicant can establish that the proposed new source is a replacement for the shutdown or curtailed source, and the emission reductions achieved by the shutdown or curtailment met the requirements of paragraph (D)(4).” for consistency with federal regulation.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:
Former Paragraph (d)(1)(C)(iv) is recodified (D)(6). Former Paragraph (d)(1)(C)(v) is stricken to reflect recodification at (D)(1). Former Paragraphs (d)(1)(C)(viii) and (d)(1)(C)(xi) are recodified (D)(7) and (D)(8) respectively and repositioned in alphanumeric order.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:
Paragraph (D)(9) is added to read “If a designated nonattainment area is projected to be an attainment area as part of an approved SIP control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former Paragraph (d)(1)(C)(v)(a) is recodified (D)(10), and amended to strike the phrase “Eligibility as Emission Offsets.” for clarity, and amended to strike former subparagraphs (d)(1)(C)(v)(a)(1) and (d)(1)(C)(v)(a)(1)(A). Former subparagraph (d)(1)(C)(v)(a)(1)(B) is recodified (D)(11) for clarity.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former Paragraph (d)(1)(C)(v)(a)(2) is recodified (D)(12), and amended to strike subparagraphs (d)(1)(C)(v)(a)(2)(D) through (d)(1)(C)(v)(a)(2)(F) for clarity, and amended to recodify subparagraphs (A), (B), (C), and (G) in alphanumeric order as (D)(12)(a) through (D)(12)(d) for consistency in codification. Paragraph (D)(12) is amended to correct grammar and add the missing word “of”. Paragraph (D)(12)(c) is amended to add “or” for clarity. Paragraph (D)(12)(d) is amended to add the word “federally” to read “real, permanent, quantifiable, federally enforceable, and surplus” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former Paragraph (d)(1)(C)(v)(a)(3) is recodified as (D)(13).

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former Paragraph (d)(1)(C)(v)(a)(4) is recodified (D)(14), and amended to add the phrase “emission reductions that are not considered surplus” from former subparagraph (d)(1)(C)(v)(a)(4)(A), and strike former subparagraph (d)(1)(C)(v)(a)(4)(A) for correct codification.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former Subparagraphs (d)(1)(C)(v)(a)(4)(A)(i) through (d)(1)(C)(v)(a)(4)(A)(vii) are recodified (D)(14)(a) through (D)(14)(g) for correct codification.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Paragraphs (D)(14)(b) and (D)(14)(c) are amended for improved punctuation. Paragraph (D)(14)(c) is amended to strike the duplicate word “VOCs” to correct a typographical error, and amended to strike “CAA” and replace it with “Clean Air Act” to ensure clarity and internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Paragraphs (D)(14)(d), (D)(14)(e), and (D)(14)(g) are amended to add “Emission reductions from” to the beginning of each paragraph, for clarity and consistency. Paragraph (D)(14)(g) is amended to strike “notifying” and replace with “with notification” for clarity.

Regulation 61-62.5, Standard No. 7.1, Section (E), Calculation of Emission Offsets:

Former Paragraph (d)(1)(C)(v)(b) is recodified Section (E) to ensure clarity and internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (F), Location of offsetting emissions:

Former Paragraph (d)(1)(C)(vi) is recodified Section (F), and amended to codify (a) and (b) language into subparagraphs (F)(1) and (F)(2) for consistency with federal regulation and clarity.

Regulation 61-62.5, Standard No. 7.1, Section (G), Emission offsetting ratios:

Paragraph (d)(1)(C)(vii) is recodified Section (G).

Regulation 61-62.5, Standard No. 7.1, Section (G), Emission offsetting ratios:

Paragraph (d)(1)(C)(vii)(b) is recodified (G)(2), and amended to add the word “increases” to read “Emissions increases for ozone nonattainment areas shall” for clarity. The table is amended to strike “Subpart I” and “>1 to 1” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (G), Emission offsetting ratios:

Former paragraphs (d)(1)(C)(viii) through (d)(1)(E) are stricken for reorganization of regulatory text.

Regulation 61-62.5, Standard No. 7.1, Section (H), Interpollutant offsetting:
Section (H) is added to provide federal language on interpollutant offsetting, for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (I), Banking of emission offsets:
Section (I) is added to provide language on banking of emission offsets for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (J)
Section (J) is added in alphanumeric order, and the word “[Reserved]” is added.

Regulation 61-62.5, Standard No. 7.1, Section (K)
Section (K) is added in alphanumeric order, and the word “[Reserved]” is added.

Regulation 61-62.5, Standard No. 7.1, Section (L), Source obligation:
Section (L), title, is added to read “Source obligation.” for clarity and usability.

Regulation 61-62.5, Standard No. 7.1, Section (L), Source obligation:
Former Paragraphs (d)(2)(A) through (d)(2)(D) are recodified (L)(1) through (L)(4) in alphanumeric order for consistency. Paragraph (L)(3) is amended to strike “plan” and replace with “State Implementation Plan” for clarity.

Regulation 61-62.5, Standard No. 7.1, Section (L), Source obligation:
Former Paragraph (d)(3) is recodified (L)(5), and amended to add the title phrase “Monitoring, Recordkeeping, and Reporting.” for clarity and usability, and amended to strike the word “to” in “apply to” and replace it with the phrase “with respect to any regulated NSR pollutant emitted from” for consistency with federal regulations, and amended to add the phrase “of such pollutant” following the word “increase” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (L), Source obligation:
Paragraph (L)(5)(c) is added in alphanumeric order to read “If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in paragraph (L)(5)(b) to the reviewing authority. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the reviewing authority before beginning actual construction.” for consistency with federal regulation.

Regulation 61-62.5, Standard No. 7.1, Section (L), Source obligation:
Paragraph (L)(6) is added in alphanumeric order to provide federal language on “reasonable possibility” for consistency with federal regulations. Revised language to ensure clarity and internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (L), Source obligation:
Former Paragraph (d)(4) is stricken, because this language pertains to PAL requirements, and is covered in the Actuals PALs section.

Regulation 61-62.5, Standard No. 7.1, Section (L), Source obligation:
Former Paragraph (d)(5) is recodified (L)(7) in alphanumeric order.

Regulation 61-62.5, Standard No. 7.1, Section (M), Public participation:
Section (M), title, added to read “Public participation.” for clarity and usability.

Regulation 61-62.5, Standard No. 7.1, Section (M), Public participation:
Former Paragraph (d)(6) is recodified (M)(1), and amended to strike the phrase “Public Participation”

Regulation 61-62.5, Standard No. 7.1, Section (M), Public participation:
Former paragraph (d)(7) and subparagraphs (d)(7)(i) through (d)(7)(x) are recodified (M)(2) and subparagraphs (M)(2)(a) through (M)(2)(j). Amended throughout to strike the word “plant” and replace with the word “facility” for clarity and consistency. Revised language to ensure clarity and internal consistency and revised codification and citations in alphanumeric order.

Regulation 61-62.5, Standard No. 7.1, Section (M), Public participation:
Former (d)(7)(iii) is recodified (M)(2)(c), and amended to add the sentence “This requirement may be met by making these materials available at a physical location or on a public website identified by the Department.” for consistency with federal regulation changes to public noticing methods.

Regulation 61-62.5, Standard No. 7.1, Section (M), Public participation:
Former (d)(7)(iv) is recodified (M)(2)(d), and amended to read “Notify the public, by posting the notice, for the duration of the public comment period, on a public website identified by the Department. This consistent noticing method shall be used for all draft permits subject to notice under this section. The public website notice shall include a notice of public comment including notice of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment. The public website notice shall also include the draft permit, information on how to access the administrative record for the draft permit and how to request and/or attend a public hearing on the draft permit. The Department may use additional means to provide adequate notice to the affected public, including by publishing the notice in a newspaper of general circulation in each region in which the proposed source or modification would be constructed (or in a state publication designed to give general public notice).” to define the Department’s consistent noticing method for public notice, for consistency with federal regulation changes to public noticing methods.

Regulation 61-62.5, Standard No. 7.1, Section (M), Public participation:
Former (d)(7)(vii) is recodified (M)(2)(g), and amended to strike the word “locations” and replace it with the phrase “location or on the same website” for consistency with federal regulation changes to public noticing methods.

Regulation 61-62.5, Standard No. 7.1, Section (M), Public participation:
Former (d)(7)(ix) is recodified (M)(2)(i), and amended to add the phrase “or on the same website” for consistency with federal regulation changes to public noticing methods.

Regulation 61-62.5, Standard No. 7.1, Former Section (e), Exemptions:
Former section (e) is stricken in its entirety for reorganization of regulatory text. Former reserved sections (f) through (h) are stricken in their entirety for clarity.

Regulation 61-62.5, Standard No. 7.1, Section (N), Actuals PALs:
Former section (i) is recodified (N) and amended to revise codification and citations in alphanumeric order. Section (N) is amended throughout to strike citations to Regulation 61-62.5 Standard 7, “Prevention of Significant Deterioration” and replace with citations within Regulation 61-62.5, Standard 7.1, for internal consistency and usability.

Regulation 61-62.5, Standard No. 7.1, Section (N), Actuals PALs:
Former (i)(1)(iii)(B) is recodified (N)(1)(c)(ii), and amended to correct the citation to Regulation 61-62.1, Section II, “Permit Requirements.”

Regulation 61-62.5, Standard No. 7.1, Section (N), Actuals PALs:
Former (i)(2)(i) is recodified (N)(2)(a), and amended to change the citation of “(c)(1)” to “(B)(3)” to correctly cite the definition of baseline actual emissions.

Regulation 61-62.5, Standard No. 7.1, Section (N), Actuals PALs:
Former (i)(2)(iv)(B) is recodified (N)(2)(d)(ii), and amended to strike “section” and replace it with “Section” for clarity and consistency.

Regulation 61-62.5, Standard No. 7.1, Section (N), Actuals PALs:
Former (i)(5) is recodified (N)(5), and amended to add the sentence “This includes the requirement that the Department provide the public with notice of the proposed approval of a PAL permit and at least a thirty (30)-day period for submittal of public comment.” for consistency with federal regulation.

Regulation 61-62.5, Standard No. 7.1, Section (N), Actuals PALs:
Former (i)(14)(i)(G) is recodified (N)(14)(a)(vii), and amended to strike the phrase “Title V Operating Permit Program” for clarity and consistency.

Regulation 61-62.5, Standard No. 7.1, Section (N), Actuals PALs:
Former (i)(14)(ii)(D) is recodified (N)(14)(b)(iv), and amended to strike the phrase “the applicable Title V operating permit program” and add the citation “Regulation 61-62.70” for clarity and consistency.

Regulation 61-62.5, Standard No. 7.1, Section (O):
Former Paragraph (j) is recodified (O) to ensure clarity and internal consistency.

Regulation 61-62.70, Title V Operating Permit Program

Regulation 61-62.70, Section 70.7, Permit issuance, renewal, reopening, and revisions:
Paragraph (h)(1) is amended to define the Department’s consistent noticing method for public notice, for consistency with federal regulation changes to public noticing methods.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comment(s) on the proposed amendments by mail to Marie Brown in the Bureau of Air Quality, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; by fax at 803-898-4117; or by email at brownmf@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on February 25, 2019, the close of the public comment period. Comments received during the write-in public comment period by the deadline set forth above will be submitted to the S.C. Board of Health and Environmental Control (“Board”) in a Summary of Public Comments and Department Responses for the Board’s consideration at the public hearing.

The Board will conduct a public hearing on the proposed amendments during its March 7, 2019, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at <http://www.scdhec.gov/Agency/docs/AGENDA.PDF>.

The Department publishes a Monthly Regulation Development Update tracking the status of its proposed new regulations, amendments, and repeals and providing links to associated State Register documents at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>.

Preliminary Fiscal Impact Statement:

There is no anticipated increased cost to the state or its political subdivisions resulting from this proposed revision. Amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, and the SIP include revisions that will help streamline state requirements and therefore reduce economic burden.

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness was determined by staff analysis pursuant to 1976 Code Sections 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: Amendment of Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina State Implementation Plan (“SIP”).

Purpose: The proposed amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, support the Department’s goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. These amendments expand and clarify definitions applicable to air pollution control regulations and standards; streamline permitting options; clarify reporting requirements; identify the Department’s consistent noticing method; improve the regulations’ organizational structure; and provide corrections for consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62.

Legal Authority: 1976 Code Sections 48-1-10 et seq.

Plan for Implementation: The DHEC Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a summary of and link to this proposed amendment. Additionally, printed copies are available for a fee from the Department’s Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendment and any associated information.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

- (1) The Department proposes amending R.61-62.1, Definitions and General Requirements, Section II, Permit Requirements, to expand and improve consistency in language regarding general and registration permits.
- (2) The Department proposes amending the introductory paragraph to R.61-62.5, Standard No. 2, Ambient Air Quality Standards, to remove the sentence describing the test method for Gaseous Fluorides to improve the accuracy and clarity of the regulation’s text.
- (3) The Department proposes amending R.61-62.5, Standard No. 5.2, Control of Oxides of Nitrogen (NOx), to update applicability and exemptions, as well as to propose corrections for internal consistency, punctuation, codification, and spelling.
- (4) The Department proposes amending R.61-62.5, Standard No. 7, Prevention of Significant

Deterioration, to update applicability and exemptions, as well as to propose corrections for consistency with federal regulations, internal consistency, punctuation, codification, and spelling.

(5) The Department proposes amending R.61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR), to improve the overall clarity and structure of the regulation, as well as to propose corrections for consistency with federal regulations, internal consistency, punctuation, codification, and spelling.

(6) The Department proposes amending R.61-62.1, Definitions and General Requirements; Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration; R.61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR); and R.61-62.70, Title V Operating Permit Program, to update public participation procedures.

The Department also proposes other changes to R.61-62, Air Pollution Control Regulations and Standards, including definitional updates, clarification of certain permitting provisions, and other changes and additions deemed necessary, as well as corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of R.61-62.

In accordance with S.C. Code Section 1-23-120(A) (Supp. 2017), these amendments require General Assembly review.

The intent of these amendments is to simplify, clarify, and correct elements of the Department's air quality regulations to support the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. There would be no detrimental effect on the environment or public health if the proposed amendments to R. 61-62 and the SIP are adopted.

DETERMINATION OF COSTS AND BENEFITS:

The Department does not anticipate an increase in costs to the state, its political subdivisions, or the regulated community resulting from these proposed revisions. The proposed amendments ensure consistency with Environmental Protection Agency ("EPA") regulations, which the Department implements pursuant to the authority granted by Section 48-1-50 of the Pollution Control Act. The proposed amendments will benefit the regulated community by maintaining state implementation of the federal requirements, as opposed to federal implementation.

Amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, and the SIP, will help streamline state requirements related to permitting and other matters to conform to current Prevention of Significant Deterioration, New Source Review, and the Title V Permit Program standards. These revisions may potentially save money for the regulated community by providing clarification on exemptions, permitting, and other requirements, while continuing to ensure environmental protection.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the state or its political subdivisions. These revisions seek to provide clarity to the regulated community.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, seek to provide continued state-focused protection of the environment and public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

The Department does not anticipate detrimental effect on the environment and/or public health associated with these revisions. To the contrary, the state's delegated authority to implement programs beneficial to public health and the environment may be compromised if these amendments are not adopted. Permit streamlining and regulatory text clarification seek to have a positive effect on both the environment and public health.

Statement of Rationale:

The Department proposes amending Regulation 61-62, Air Pollution Control Regulations and Standards, to support the goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. These amendments expand and clarify definitions applicable to air pollution control regulations and standards; streamline permitting options; clarify reporting requirements; identify the Department's consistent noticing method; improve the regulations' organizational structure; and provide corrections for consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62.

Text:

~~Indicates Matter Stricken~~

Indicates New Matter

61-62.1. Definitions and General Requirements.

SECTION I – DEFINITIONS

The following words and phrases when used in the Regulations and Standards shall, for the purpose of these regulations, have the meanings respectively ascribed to them in this section, unless a different meaning is clearly indicated. This section augments the South Carolina Pollution Control Act.

~~1.~~(1) Acid Mist – Means mist or droplets of sulfuric or other acids. Sulfuric acid mist includes sulfur trioxide (SO₃) and sulfuric acid vapor as well as liquid mist.

~~2.~~(2) Add – Means additions to a process which will increase size, scope, or emissions from such process.

~~3.~~(3) Administrator – Means the Administrator of the United States Environmental Protection Agency (EPA) or his/her designee.

~~4.~~(4) Afterburner – Means an auxiliary burner for destroying unburned or partially burned combustion gases after they have passed from the combustion chamber.

~~5.~~(5) Air Curtain Incinerator – Means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which burning occurs. Incinerators of this type can be constructed above or below ground and require a refractory lined chamber or pit.

~~6.~~(6) Alter – Means modification or change in a process or processes which would affect emissions to the atmosphere.

7.(7) Ambient Air Quality Standards – Means the standard for the quality of ambient air at or beyond a property line on which a source of pollution is emitting.

8.(8) Application – Means a form provided by the Department which is prescribed to provide the information required to grant approval to construct and operate a source or an incinerator; or to report an existing incinerator.

9.(9) Biologicals – Means preparations made from living organisms and their products, including vaccines, cultures, etc., intended for use in diagnosing, immunizing, or treating humans or animals or in research pertaining thereto.

10.(10) Blood Products – Means any product derived from human blood, including but not limited to blood plasma, platelets, red or white blood corpuscles, and other derived licensed products, such as interferon, etc.

11.(11) Board – Means Board of Health and Environmental Control.

12.(12) Body Fluids – Means liquid emanating or derived from humans and limited to blood; dialysate; amniotic, cerebrospinal, synovial, pleural, peritoneal, and pericardial fluids; and semen and vaginal secretions.

13.(13) Boiler – Means an enclosed device using controlled flame combustion and having specific characteristics including the following:

a.(a) The combustion chamber and primary energy recovery section shall be of integral design (for example, waste heat recovery boilers attached to incinerators are not boilers). To be of integral design, the combustion chamber and the primary energy recovery sections (such as water walls and super heaters) shall be physically formed into one (1) manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery sections are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not physically be formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream) and fluidized bed combustion units; and

b.(b) At least seventy-five (75) percent of recovered energy shall be “exported,” for example, not used for internal uses like preheating of combustion air or fuel, or driving combustion air fans or feedwater pumps.

14.(14) Bypass Stack – Means a device used for discharging combustion gases to avoid severe damage to the air pollution control device or other equipment.

15.(15) CAA – Means the Clean Air Act, as amended, 42 U.S.C. 7401, et seq. Also referred to as “the Act.”

16.(16) Chemotherapeutic Waste – Means all waste resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells. Chemotherapeutic waste shall not include any waste containing antineoplastic agents that are listed as hazardous waste under Section 261 of Regulation 61-79, Hazardous Waste Management.

17.(17) Clean Wood – Means untreated wood or untreated wood products including clean untreated lumber, tree stumps (whole or chipped), and tree limbs (whole or chipped). Clean wood does not include yard waste, which is defined elsewhere in this section, or construction, renovation, and demolition waste (including but not limited to railroad ties and telephone poles).

18.(18) Code of Federal Regulations (CFR) – Means the general and permanent rules codified and published in the Federal Register by the departments and agencies of the federal government.

19.(19) Commercial Incinerator – Means an incinerator that burns non-hazardous waste from commercial activities with a design capacity of no more than 1250 pounds per hour (lb/hr) and which burns no more than six (6) tons per day (tons/day). Incinerators of this type not meeting these limits are considered municipal waste combustors. This definition does not include retail and industrial incinerators nor does it include waste from maintenance activities at commercial establishments.

20.(20) Commissioner – Means the Commissioner (also known as the Director) of the Department of Health and Environmental Control.

21.(21) Conditional Major Source – Means a stationary source that obtains a federally enforceable physical or operational limitation from the Department to limit or cap the stationary source's potential to emit to avoid being defined as a major source as defined by applicable federal and state regulations.

22.(22) Continuous Emission Monitoring System or CEMS – Means a monitoring system for continuously measuring and recording the emissions of a pollutant from an affected facility.

23.(23) Continuous Program of Physical On-site Construction – Means significant and continuous site preparation work such as major clearing or excavation followed by placement of footings, pilings, and other materials of construction, assembly, or installation of unique facilities or equipment at the site of the source. With respect to a change in the method of operating, this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

24.(24) Crematory Incinerator – Means any incinerator designed and used solely for the burning of human remains or animal remains.

25.(25) Department – Means the South Carolina Department of Health and Environmental Control.

26.(26) Dioxins/Furans – Means the combined emissions of tetra- through octa-chlorinated dibenzo-paradioxins and dibenzofurans, as measured by EPA Reference Method 23 (40 **Code of Federal Regulations (CFR) Part** 60, Appendix A).

27.(27) Emission – Means a release or discharge to the outdoor (ambient) atmosphere of air contaminants, including fugitive emissions.

28.(28) Emission Data – Means the definition contained in 40 CFR 2.301(a)(2), July 1, 1986, is incorporated by reference.

29.(29) Emission Limitation (and Emission Standard) – Means a requirement established by the state or 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.

30.(30) Federally Enforceable – Means all limitations and conditions which are enforceable by the Administrator and citizens under the Act, including those requirements developed pursuant to 40 CFR **Parts** 60, 61, 63, and 70; requirements within the South Carolina State Implementation Plan (SIP); 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 an EPA-approved program that is incorporated into the SIP and expressly requires adherence to any permit issued under such program.

31.(31) Fuel Burning Operation – Means use of a furnace, boiler, device, or mechanism used principally, but not exclusively, to burn any fuel for the purpose of indirect heating in which the material being heated is not contacted by and adds no substance to the products of combustion.

32.(32) Fugitive Dust – Means a type of particulate emission that becomes airborne by forces of wind, man's activity, or both, including, but not limited to, construction sites, tilled land, materials storage piles, and materials handling.

33.(33) Fugitive Emissions – Means emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

34.(34) Garbage – Means animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

35.(35) Hazardous Air Pollutant (HAP) – Means a pollutant which is the subject of National Emission Standards for Hazardous Air Pollutants (NESHAP) promulgated by the EPA by publication in the Federal Register.

36.(36) Hazardous Waste – Means any waste identified as such by Regulation 61-79.

37.(37) Hazardous Waste Fuel – Means hazardous waste that has a heat value greater than 5000 British thermal unit per pound (Btu/lb) and is burned in an industrial or utility boiler or industrial furnace for energy recovery, except for hazardous wastes exempted by Section 266.30(b) of Regulation 61-79.

38.(38) Hazardous Waste Incinerator – Means an incinerator whose primary function is to combust hazardous waste, except for devices which have qualified for exemption as provided in Sections 264.340(b) or 265.340(b) of Regulation 61-79.

39.(39) Hospital – Means any facility which has an organized medical staff, maintains at least six (6) inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of twenty-four (24) hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuing medical supervision.

40.(40) Hospital/Medical/Infectious Waste Incinerator or HMIWI or HMIWI Unit – Means any device that combusts any amount of hospital waste and/or medical/infectious waste.

41.(41) Hospital Waste – Means discards generated at a hospital, except unused items returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment or cremation.

42.(42) Incinerator – Means any engineered device used in the process of controlled combustion of waste for the purpose of reducing the volume; removing the contamination and/or reducing or removing the

hazardous potential of the waste charged by destroying combustible matter leaving the noncombustible ashes, material, and/or residue; and which does not meet the criteria nor classification as a boiler nor is listed as an industrial furnace.

43.(43) Industrial Boiler – Means a boiler that produces steam, heated air, or other heated fluids for use in a manufacturing process.

44.(44) Industrial Furnace – Means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy:

a.(a) Cement kilns

b.(b) Lime kilns

c.(c) Aggregate kilns

d.(d) Phosphate kilns

e.(e) Coke ovens

f.(f) Blast furnaces

g.(g) Smelting, melting, and refining furnaces (including pyrometallurgical devices such as tray furnaces, cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces)

h.(h) Titanium dioxide chloride process oxidation reactors

i.(i) Methane reforming furnaces

j.(j) Pulping liquor recovery furnaces

k.(k) Combustion devices used in the recovery of sulfur values from spent sulfuric acid

l.(l) Such other devices as the Department may determine on a case-by-case basis using one (1) or more of the following factors:

i.(i) The design and use of the device primarily to accomplish recovery of material products;

ii.(ii) The use of the device to burn or reduce raw materials to make a material product;

iii.(iii) The use of the device to burn or reduce secondary materials as effective substitutes for raw materials in processes using raw materials as principal feedstocks;

iv.(iv) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

v.(v) The use of the device in common industrial practice to produce a material product; and

vi.(vi) Other factors as appropriate.

45.(45) Industrial Incinerator – Means any incinerator utilized in an industrial plant that does not meet the definition for any other type of incinerator or an incinerator used to combust Type 5 or 6 waste at any site.

46.(46) In Existence – Means that the owner or operator has obtained all necessary construction permits required by this Department and either has:

a.(a) Begun, or caused to begin, a continuous program of physical on-site construction of the source;
or

b.(b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time, or that the owner or operator possesses a valid operating permit for the source prior to the effective date of a regulation or standard.

47.(47) Kraft Pulp Mill – Means any stationary source which produces pulp from wood by cooking (digesting) wood chips in a water solution of sodium hydroxide and sodium sulfide (white liquor) at a high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.

48.(48) Major Source – Means, except as otherwise provided, any source which directly emits, or has the potential to emit, greater than or equal to the major source threshold as defined by applicable federal and state regulations.

49.(49) Malfunction – Means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless operation are not malfunctions. During periods of malfunction, the operator shall operate within established parameters as much as possible, and monitoring of all applicable operating parameters shall continue until all waste has been combusted or until the malfunction ceases, whichever comes first.

50.(50) Mass Emission Rate – Means the weight discharged per unit of time.

51.(51) Medical/Infectious Waste – Means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals listed below; and any waste defined as infectious waste in Regulation 61-105, Infectious Waste Management. The definition of medical/infectious waste does not include hazardous waste identified or listed in Regulation 61-79.261; household waste, as defined in Regulation 61-79.261.4(b)(1); ash from incineration of medical/infectious waste, once the incineration process has been completed; human corpses, remains, and anatomical parts that are intended for interment or cremation; and domestic sewage materials identified in Regulation 61-79.261.4(a)(1).

a.(a) Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate, and mix cultures.

b.(b) Human pathological waste – tissues, organs, body parts, and body fluids that are removed during surgery or autopsy or other medical procedures, and specimens of body fluids and their containers.

e.(c) Human blood and blood products including:

i.(i) Liquid waste human blood;

ii.(ii) Products of blood;

iii.(iii) Items saturated and/or dripping with human blood; or

iv.(iv) Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers which were used or intended for use in either patient care, testing and laboratory analysis, or the development of pharmaceuticals. Intravenous bags are also included in this category.

d.(d) Sharps – instruments used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips.

e.(e) Animal waste including contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals, or testing of pharmaceuticals.

f.(f) Isolation wastes – biological waste and discarded materials contaminated with blood, excretions, exudates, or secretions from humans who are isolated to protect others from highly communicable diseases or isolated animals known to be infected with highly communicable diseases.

g.(g) Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.

52.(52) Multiple-Chamber Incinerator – Means an incinerator consisting of at least two (2) refractory lined combustion chambers (primary and secondary) in series, physically separated by refractory walls, interconnected by gas passage ports or ducts.

53.(53) Municipal Solid Waste, MSW, or Municipal-type Solid Waste – **a.(a)** Means household, commercial/retail, and/or institutional waste. Household waste includes material discarded by single and multiple residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes material discarded by schools, nonmedical waste discarded by hospitals, material discarded by nonmanufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities. Household, commercial/retail, and institutional wastes include:

i.(i) Yard waste;

ii.(ii) Refuse-derived fuel; and

iii.(iii) Motor vehicle maintenance materials limited to vehicle batteries and tires.

b.(b) Household, commercial/retail, and institutional waste (MSW) does not include used oil; sewage sludge; wood pallets; construction, renovation, and demolition wastes (which includes, but is not limited

to, railroad ties and telephone poles); clean wood; industrial process or manufacturing wastes (including Type 5 or 6 waste); medical waste; radioactive contaminated waste; hazardous waste; or motor vehicles (including motor vehicle parts or vehicle fluff).

54.(54) Municipal Waste Combustor, MWC, or Municipal Waste Combustor Unit – Means any setting or equipment that combusts solid, liquid, or gasified municipal solid waste including, but not limited to, field-erected incinerators (with or without heat recovery), modular incinerators (starved-air or excess-air), boilers (for example, steam generating units) and furnaces (whether suspension-fired, grate-fired, mass-fired, or fluidized bed-fired, etc.), air curtain incinerators, and pyrolysis/combustion units. Municipal waste combustors do not include pyrolysis/combustion units located at plastics/rubber recycling units. Municipal waste combustors do not include internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems. For the purpose of determining reconstruction or modification, as defined in 40 CFR **Part** 60 Subpart A, or Regulation 62.5, Standard No. 3, to a municipal waste combustor, the following applies:

a.(a) The boundaries of a municipal solid waste combustor are defined as follows. The municipal waste combustor unit includes, but is not limited to, the municipal solid waste fuel feed system, grate system, flue gas system, bottom ash system, and the combustor water system. The municipal waste combustor boundary starts at the municipal solid waste pit or hopper and extends through:

i.(i) The combustor flue gas system, which ends immediately following the heat recovery equipment or, if there is no heat recovery equipment, immediately following the combustion chamber;

ii.(ii) The combustor bottom ash system, which ends at the truck loading station or similar ash handling equipment that transfers the ash to final disposal, including all ash handling systems that are connected to the bottom ash handling system; and

iii.(iii) The combustor water system, which starts at the feed water pump and ends at the piping exiting the steam drum or superheater.

b.(b) The municipal waste combustor unit does not include air pollution control equipment, the stack, water treatment equipment, or the turbine-generator set.

55.(55) NAICS Code – Means North American Industry Classification System (NAICS) Code, a six **(6)** digit coding system, which attempts to classify all business establishments by the types of products or services they provide.

56.(56) Non-Industrial Boiler – Means any boiler not classified as an industrial boiler.

57.(57) Non-Industrial Furnace – Means any furnace not classified as an industrial furnace.

58.(58) Non-Spec. Oil (Off-Spec. Oil) – See definition of used oil.

59.(59) Opacity – Means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

60.(60) Open Burning – Means any fire or smoke-producing process which is not conducted in any boiler plant, furnace, high temperature processing unit, incinerator or flare, or in any other such equipment primarily designed for the combustion of fuel or waste material.

61.(61) Part 70 Permit – Means any permit or group of permits covering a source subject to the permitting requirements of Regulation 61-62.70. The use of the term “Title V Permit” shall be construed to mean “Part 70 Permit.”

62.(62) Particulate Matter – Means any material, except uncombined water, that exists in a finely divided form as a liquid or solid at standard conditions.

63.(63) Particulate Matter Emissions – Means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable reference method described in 40 CFR **Part** 60, July 1, 1987, or an equivalent or alternative method approved by the Department, with the concurrence of the EPA.

64.(64) Pathological Waste – Means waste material consisting of only human or animal remains, anatomical parts, and/or tissue; the bags/containers used to collect and transport the waste material; and animal bedding (if applicable).

65.(65) Plant – Means, except as otherwise provided, any stationary source or combination of stationary sources, which is located on one (1) or more contiguous or adjacent properties and owned or operated by the same person(s) under common control.

66.(66) Plastics/Rubber Recycling Unit – Means an integrated processing unit where plastics, rubber, and/or rubber tires are the only feed materials (incidental contaminants may be included in the feed materials) and they are processed into a chemical plant feedstock or petroleum refinery feedstock where the feedstock is marketed to and used by a chemical plant or petroleum refinery as input feedstock. The combined weight of the chemical plant feedstock and petroleum refinery feedstock produced by the plastics/rubber recycling unit on a calendar quarter basis shall be more than seventy (70) percent of the combined weight of the plastics, rubber, and rubber tires processed by the plastics/rubber recycling unit on a calendar quarter basis. The plastics, rubber, and/or rubber tire feed materials to the plastics/rubber recycling unit may originate from the separation or diversion of plastics, rubber, or rubber tires from MSW or industrial solid waste; and may include manufacturing scraps, trimmings, off-specification plastics, rubber, and rubber tire discards. The plastics, rubber, and rubber tire feed materials to the plastics/rubber recycling unit may contain incidental contaminants (for example, paper labels on plastic bottles, metal rings on plastic bottle caps, etc.).

67.(67) PM_{2.5} – Means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by a reference method based on Appendix L of 40 CFR **Part** 50 and designated in accordance with 40 CFR **Part** 53 or by an equivalent method designated in accordance with 40 CFR **Part** 53.

68.(68) PM_{2.5} Emissions – Means finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by a reference method approved by the Department with concurrence of the EPA.

69.(69) PM₁₀ – Means 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 or by an equivalent method designated in accordance with 40 CFR **Part** 53.

70.(70) PM₁₀ Emissions – Means 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 a reference method approved by the Department with concurrence of the EPA.

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

72.(72) Process Industry – Means any source engaged in the manufacture, processing, handling, treatment, forming, storing, or any other action upon materials except fuel-burning operations.

73.(73) Process Weight – Means the total weight of all materials introduced into a source operation, including air and water where these materials become an integral part of the product and solids used as fuels, but excluding liquids and gases used solely as fuels.

74.(74) Process Weight Rate – **a.(a)** Means a rate established as follows:

i.(i) For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

ii.(ii) For cyclical or batch unit operations or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

b.(b) Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

75.(75) Pyrolysis/Combustion Unit – Means a unit that produces gases, liquids, or solids through the heating of waste; and the gases, liquids, or solids produced are combusted and emissions vented to the atmosphere.

76.(76) Refuse – Means garbage, rubbish, and/or trade waste.

77.(77) Refuse-derived Fuel – Means a type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. This includes all classes of refuse-derived fuel including low-density fluff refuse-derived fuel through densified refuse-derived fuel and pelletized refuse-derived fuel.

78.(78) Retail Business Type Incinerator – Means an incinerator that combusts waste typical of a retail business rather than domestic, commercial, or industrial activities.

79.(79) Rubbish – Means solid wastes from residences and dwellings, commercial establishments, and institutions.

80.(80) Salvage Operations – Means any operation of a business, trade, or industry engaged in whole or in part in salvaging or reclaiming any product or material including, but not limited to, metals, chemicals, shipping containers, drums, or automobiles.

81.(81) Secondary Emissions – Means emissions which would occur as a result of the construction or operation of a major source or major modification but do not come from the major source or major modification itself. Secondary emissions shall be specific, well defined, quantifiable, and shall impact the same general area as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

a.(a) Emissions from ships or trains moving to or from the new or modified source.

b.(b) Emissions from any offsite support operation which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or major modification.

82.(82) SIC Code – Means Standard Industrial Classification Codes which are four digit numerical codes designed by the U.S. Department of Labor in order to create uniform descriptions of business establishments.

83.(83) Sludge Incinerator – Means an incinerator that combusts wastes containing more than ten (10) percent (dry weight basis) sludge produced by municipal or industrial wastewater treatment plants or each incinerator that charges more than 2205 pounds per day (lb/day) (dry weight basis) of sludge produced by municipal or industrial wastewater treatment plants.

84.(84) Smoke – Means small gasborne and airborne particles arising from a process of combustion in sufficient number to be observable by a person of normal vision under normal conditions.

85.(85) Solid Fuel – Means a fuel which is fired as a solid such as coal, lignite, and wood.

86.(86) Spec. Oil – See definition of used oil.

87.(87) Stack – Means any flue, conduit, chimney, or opening arranged to conduct an effluent into the open air.

88.(88) Stack Height – Means the vertical distance measured in feet between the point of discharge from the stack or chimney into the outdoor atmosphere and the elevation of the land thereunder.

89.(89) Standard Conditions – Means 760 millimeters of mercury (mmHg) at twenty-five (25) degrees Centigrade (C).

90.(90) Stationary Source – Means any building, structure, installation, or process which emits or may emit an air pollutant subject to regulation by any national or state standard. Use of the term “source” is to be construed to mean “stationary source.”

91.(91) Substantial Loss – Means, generally, a loss which would equal or exceed ten (10) percent of the total initial project cost.

92.(92) Synthetic Minor Source – Means a stationary source that obtains a federally enforceable physical or operational limitation from the Department to limit or cap the stationary source’s potential to emit to avoid being defined as a major source or major modification, as defined by applicable federal and state regulations.

93.(93) Total Reduced Sulfur (TRS) – Means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide that are released during the kraft pulping operation.

94.(94) Total Suspended Particulate (TSP) – Means particulate matter as measured by the method described in Appendix B, 40 CFR **Part** 50, July 1, 1987.

95.(95) Trade Waste – Means all solid, liquid, or gaseous material or rubbish resulting from construction, building operations, or the prosecution of any business, trade, or industry including, but not limited to, plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, and cinders.

96.(96) Untreated Lumber – Means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Untreated lumber does not include wood products that have been painted, pigment-stained, or “pressure-treated.” Pressure-treating compounds include, but are not limited to, chromate copper arsenate, pentachlorophenol, and creosote.

97.(97) Used Oil – Means any oil that has been refined from crude or synthetic oil and as a result of use, storage, or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and may be economically recyclable. This also includes absorbent material contaminated with used oil such as oily rags or absorbent blankets. Two (2) types of used oil are defined as follows:

a.(a) Spec. Oil (Specification Oil) – Used oil that meets the following specifications: *

i.(i) Arsenic – 5 parts per million (ppm) maximum;

ii.(ii) Cadmium – 2 ppm maximum;

iii.(iii) Chromium – 10 ppm maximum;

iv.(iv) Lead – 100 ppm maximum;

~~**v.** Nickel – 120 ppm maximum;~~

vi.(v) Total halogens – 4000 ppm maximum; and**

vii.(vi) Flash Point – 100 degrees Fahrenheit (F) (37.8 degrees C) minimum.

* This specification does not apply to used oil fuel mixed with a hazardous waste.

** Used oil containing more than 1000 ppm total halogens is presumed to be a hazardous waste. The burden of proof that this is not true rests with the user.

b.(b) Non-Spec. Oil (Off-Spec. Oil) – Used oil that does not meet the specification above.

98.(98) Utility Boiler – Means a boiler that produces steam, heated air, or other heated fluids for sale or for use in producing electric power for sale.

99.(99) Virgin Fuel – Means unused solid, liquid, or gaseous commercial fuel, and clean wood or bark that has not been processed other than for size reduction excluding clean wood or bark burned in an air curtain incinerator.

~~100.~~(100) Volatile Organic Compound (VOC) – ~~a.~~(a) Means any organic compound which participates in atmospheric photochemical reactions; or which is measured by a reference method (as specified in 40 CFR Part 60, as of July 1, 1990), an equivalent method, an alternative method, or which is determined by procedures specified under any subpart of 40 CFR Part 60. This definition does not include compounds that have negligible photochemical reactivity according to the methods employed by the EPA to determine compounds listed in 40 CFR 51.100(s).

~~b.~~(b) For purposes of determining compliance with emission limits, VOCs will be measured by the approved test methods. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.

~~101.~~(101) Waste – Means any discarded material including, but not limited to, used oil, hazardous waste fuel, hazardous waste, medical waste, municipal solid waste (MSW), sludge, waste fuel, and waste classification Types 0 through 6 or any material which as a result of use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

~~a.~~(a) Type 0 – Trash, a mixture of highly combustible waste such as paper, cardboard, wood boxes, and combustible floor sweepings from commercial and industrial activities. The mixture contains up to ten (10) percent by weight of plastic bags, coated paper, laminated paper, treated corrugated cardboard, oily rags, and plastic or rubber scraps.

Typical composition: ten (10) percent moisture, five (5) percent incombustible solids, and has a heating value of approximately 8500 Btu/lb as fired.

~~b.~~(b) Type 1 – Rubbish, a mixture of combustible waste such as paper, cardboard cartons, wood scrap, foliage, and combustible floor sweepings from domestic, commercial, and industrial activities. The mixture contains up to twenty (20) percent by weight of restaurant or cafeteria waste, but contains little or no treated paper, plastic, or rubber wastes.

Typical composition: twenty-five (25) percent moisture, ten (10) percent incombustible solids, and has a heating value of approximately 6500 Btu/lb as fired.

~~e.~~(c) Type 2 – Refuse, consisting of an approximately even mixture of rubbish and garbage by weight. This type of waste is common to apartment and residential occupancy.

Typical composition: up to fifty (50) percent moisture, seven (7) percent incombustible solids, and has a heating value of approximately 4300 Btu/lb as fired.

~~d.~~(d) Type 3 – Garbage, consisting of animal and vegetable wastes from restaurants, cafeterias, hotels, hospitals, markets, and like installations.

Typical composition: up to seventy (70) percent moisture, up to five (5) percent incombustible solids, and has a heating value of approximately 2500 Btu/lb as fired.

~~e.~~(e) Type 4 – Human and animal remains, consisting of carcasses, organs, and solid organic wastes from hospitals, laboratories, abattoirs, animal pounds, and similar sources.

Typical composition: up to eighty-five (85) percent moisture, five (5) percent incombustible solids, and having a heating value of approximately 1000 Btu/lb as fired.

~~f.(f)~~ Type 5 – By-product waste, gaseous, liquid, or semi-liquid, such as tar, paints, solvents, sludge, fumes, etc., from industrial operations. Btu values shall be determined by the individual materials to be destroyed.

~~g.(g)~~ Type 6 – Solid by-product waste, such as rubber, plastics, wood waste, etc., from industrial operations. Btu values shall be determined by the individual materials to be destroyed.

~~102.(102)~~ Waste Fuel – Means waste that does not meet hazardous waste criteria but has a heat value greater than 5000 Btu /lb.

~~103.(103)~~ Yard Waste – Means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that are generated by residential, commercial/retail, institutional, and/or industrial sources as part of maintenance activities associated with yards or other private or public lands. Yard waste does not include construction, renovation, and demolition wastes, which are exempt from the definition of MSW in this section. Yard waste does not include clean wood, which is also exempt from the definition of MSW in this section.

SECTION II – PERMIT REQUIREMENTS

The following regulation will not supersede any state or federal requirements nor special permit conditions, unless this regulation would impose a more restrictive emission limit. The owner or operator shall comply with all terms, conditions, and limitations of any Department-issued permit for sources or activities at the owner or operator's facility. A source's permit status may change upon promulgation of new regulatory requirements.

~~A.(A)~~ Construction Permits

~~1.(1)~~ Applicability

~~a.(a)~~ Except as allowed under Section II ~~A.1.b(A)(1)(b)~~ and ~~A.1.e(A)(1)(c)~~ below, any person who plans to construct, alter, or add to a source of air contaminants, including installation of any device for the control of air contaminant discharges, shall first obtain a construction permit from the Department prior to commencement of construction.

~~b.(b)~~ The Department may grant permission to proceed with minor alterations or additions without issuance of a construction permit when the Department determines that the alteration or addition will not increase the quantity and will not alter the character of the source's emissions.

~~e.(c)~~ The owners or operators of sources not requesting to use federally enforceable construction permit conditions to limit potential to emit, sources not subject to regulations with more stringent start of construction limitations, or sources not otherwise exempt from permit requirements, may undertake the following on-site activities prior to obtaining a construction permit:

- ~~i.(i)~~ Planning;
- ~~ii.(ii)~~ Engineering and design;
- ~~iii.(iii)~~ Geotechnical investigation;
- ~~iv.(iv)~~ Site land clearing and grading;
- ~~v.(v)~~ Setting up temporary trailers to house construction staff and contractor personnel;
- ~~vi.(vi)~~ Ordering of equipment and materials;
- ~~vii.(vii)~~ Receipt and storing of equipment;
- ~~viii.(viii)~~ Pouring of the foundation up to and including the mounting pads and slab on grade;

- ~~ix.~~(ix) Relocation of utilities;
- ~~x.~~(x) For existing sources, relocation/installation of piping, electrical service, and instrumentation;
- ~~xi.~~(xi) Temporary power for the site (such as power lines);
- ~~xii.~~(xii) Site drainage including ditches and culverts;
- ~~xiii.~~(xiii) Temporary dewatering activities associated with the excavations;
- ~~xiv.~~(xiv) Temporary gravel (Right Out of Crusher (ROC)) road beds for the site;
- ~~xv.~~(xv) Soil only excavations;
- ~~xvi.~~(xvi) Temporary telecommunications for the site (such as telephone and internet); and
- ~~xvii.~~(xvii) Security fencing related to the storage of equipment and materials.

~~4.~~(d) In the event that the source does not qualify for issuance of a construction permit, the owners or operators accept the financial risk of commencing the activities listed in Section II.~~A.1.e.i.~~(A)(1)(c)(i) through ~~A.1.e.xvii.~~(A)(1)(c)(xvii) above.

~~2.~~(2) No permit to construct or modify a source will be issued if emissions interfere with attainment or maintenance of any state or federal standard.

~~3.~~(3) The owner or operator shall submit written notification to the Department of the date construction is commenced, postmarked within thirty (30) days after such date, and written notification of the actual date of initial startup of each new or altered source, postmarked within fifteen (15) days after such date.

~~4.~~(4) Approval to construct shall become invalid if construction:

~~a.~~(a) Is not commenced within eighteen (18) months after receipt of such approval;

~~b.~~(b) Is discontinued for a period of eighteen (18) months or more; or

~~e.~~(c) Is not completed within a reasonable time as deemed by the Department.

~~5.~~(5) The Department may extend the construction permit for an additional 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen (18) months of the projected and approved commencement date.

~~B.~~(B) Exemptions from the Requirement to Obtain a Construction Permit

~~1.~~(1) No construction permits shall be required for the sources listed in Section II.~~B.1.a.~~(B)(1)(a) through ~~B.1.e.~~(B)(1)(c) below, which burn virgin fuel and which were constructed prior to February 11, 1971, and which are not located at a facility that meets the definition of a major source as defined in Regulation 61-62.70.2(r); however, modifications at these facilities may trigger the requirement to obtain a construction permit.

~~a.~~(a) Natural gas boilers.

~~b.~~(b) Oil-fired boilers of 50 ~~×10⁶~~million British thermal unit per hour (Btu/hr) rated input capacity or smaller.

~~e.~~(c) Coal-fired boilers of 20 ~~×10⁶~~million Btu/hr rated input capacity or smaller.

~~2.~~(2) No construction permits shall be required for the sources listed in Section II.~~B.2.a.~~(B)(2)(a) through ~~B.2.h.~~(B)(2)(h) below, unless otherwise specified by Regulation 61-62.70 or any other state or federal

requirement. A source's exemption status may change upon the promulgation of new regulatory requirements applicable to any of the sources listed in Section II ~~B.2.a(B)(2)(a)~~ through ~~B.2.g(B)(2)(g)~~, or to any other sources that have been determined to have total uncontrolled emissions less than the thresholds in Section II ~~B.2.h(B)(2)(h)~~, or to any similar sources that have been granted an exemption by the Department.

~~a.(a)~~ Boilers and space heaters of less than 1.5 ~~x-10⁶million~~ Btu/hr rated input capacity which burn only virgin liquid fuels or virgin solid fuels.

~~b.(b)~~ Boilers and space heaters of less than 10 ~~x-10⁶million~~ Btu/hr rated input capacity which burn only virgin gas fuels.

~~e.(c)~~ Comfort air-conditioning or ventilation systems.

~~d.(d)~~ Motor vehicles.

~~e.(e)~~ Laboratory hoods.

~~f.(f)~~ Emergency power generators as described below:

~~i.(i)~~ Generators of less than or equal to 150 kilowatt (kW) rated capacity.

~~ii.(ii)~~ Generators of greater than 150 kW rated capacity designated for emergency use only and are operated a total of 500 hours per year or less for testing and maintenance and have a method to record the actual hours of use such as an hour meter.

~~g.(g)~~ Sources emitting only steam, air, nitrogen, oxygen, carbon dioxide, or any physical combination of these.

~~h.(h)~~ Sources with a total uncontrolled potential to emit (PTE) of less than five (5) tons per year each of particulates, sulfur dioxide, nitrogen oxides, and carbon monoxide; and a total uncontrolled PTE of less than 1000 pounds per month (lbs/month) of VOCs will not require construction permits. Unless otherwise exempt, sources may be exempted under this section at higher emission levels if there is a demonstration that there are no applicable limits or requirements. These applicable requirements include federally applicable limits or requirements. However, these sources may be required to be included in any subsequent construction or operating permit review to ensure that there is no cause or contribution to an exceedance of any ambient air quality standard or limit. For toxic air pollutant exemptions, refer to Regulation 61-62.5, Standard No. 8. Emissions calculations and any other information necessary to document qualification for this exemption must be maintained onsite and provided to the Department upon request.

~~3.(3)~~ The Department will place the exempt sources listed in Section II ~~B.2.a(B)(2)(a)~~ through ~~B.2.g(B)(2)(g)~~ above, and other sources that have been determined will not interfere with the attainment or maintenance of any state or federal standard, on a list of sources to be exempted without further review. The Department may develop emission thresholds for exemption that have been determined will not interfere with the attainment or maintenance of any state or federal standard, to be maintained with the list of sources to be exempted without further review. This list of sources and source emission thresholds that are exempt without further review from the requirement to obtain a construction permit will be maintained by the Department and periodically published in the South Carolina State Register for use by the public and the regulated community. Requests to the Department may be made to add sources to the list.

~~4.~~(4) Sources with only fugitive emissions must submit source information, and the need for permit(s) will be made by the Department on a case-by-case basis. This determination will take into consideration, but will not be limited to, the nature and amount of the pollutants, location, proximity to residences and commercial establishments, etc.

~~5.~~(5) Sources of VOCs greater than 1000 lbs/month may not require a permit. This determination will take into consideration, but will not be limited to, applicability to state and federal requirements. No waiver will be permissible if federal requirements apply unless otherwise exempt. Emissions calculations and any other information necessary to document qualification for this exemption and the need for permit(s) will be made by the Department on a case-by-case basis. Exempt sources of VOCs may be required to be included in any subsequent construction or operating permit review to ensure that there is no cause or contribution to an exceedance of any ambient air quality standard or limit.

~~6.~~(6) Requests for exemption from the requirement to obtain a construction permit, for new sources similar to sources already on the Department maintained list established in Section II.~~B.3(B)(3)~~ above, or for modifications to existing equipment, including the reconstruction, relocation, and replacement of existing equipment, which may qualify for exemption as per Section II.~~B.2.h(B)(2)(h)~~ and Section II.~~B.4(B)(4)~~ above, shall include the following information:

~~a.~~(a) A complete description of the existing equipment and proposed modification;

~~b.~~(b) The pollutant(s) being emitted and any deviation from the parameters provided in earlier permit applications, permit exemptions, and issued permits;

~~e.~~(c) Any ambient air quality demonstrations needed for Regulation 61-62.5, Standards No. 2, No. 7, and No. 8; and

~~d.~~(d) A regulatory review to demonstrate the project is not a CAA Title I modification nor subject to Regulation 61-62.5, Standards No. 7 and No. 7.1.

~~7.~~(7) The construction permitting exemptions in Section II.~~B(B)~~ do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements. The Department reserves the right to require a construction permit, and the need for permit(s) will be made by the Department on a case-by-case basis. This determination will take into consideration, but will not be limited to, the nature and amount of the pollutants, location, proximity to residences and commercial establishments, etc.

~~C.~~(C) Construction Permit Applications

~~1.~~(1) Construction permit applications shall be reviewed, ~~and signed,~~ and sealed by a professional engineer registered to practice in the State of South Carolina (except professional engineers employed by the federal government preparing applications for the federal government or other professional engineers exempted from the state registration requirements).

~~2.~~(2) The following are exempt from the requirement that the construction permit applications be reviewed, ~~and signed,~~ and sealed by a registered professional engineer provided the proposed unit is identical to a prototype model which has been previously designed or otherwise certified by a professional engineer:

~~a.~~(a) Package-type incinerators of 750 lb/hr rated capacity or smaller which burn Types 0 and 1 wastes as defined by the Incinerator Institute of America;

~~b.(b)~~ Package-type incinerators of 500 lb/hr rated capacity or smaller which burn animal remains excluding those remains that are considered infectious waste; ~~and~~

~~e.(c)~~ Package-type boilers of 100 ~~x 10⁶million~~ Btu/hr input capacity or smaller which burn natural gas or virgin oil as fuel; ~~and~~

~~(d) Package-type concrete batch plants that are designed to be hauled to a site, set up, and broken down quickly, with little to no additional equipment needed to manufacture product.~~

~~3.(3)~~ Construction permit applications shall provide the information described in Section II; ~~C.3.a (C)(3)(a)~~ through ~~C.3.p(C)(3)(r)~~. This information should be submitted on Department forms, but project specific information may need to be provided in addition to that requested in applicable forms.

~~a.(a)~~ The facility name ~~and the name, mailing address, and telephone number of the owner or operator for the facility; (the name used to identify the facility at the location requesting the permit);~~

~~b.(b)~~ The location of the facility including its street address ~~and the name, mailing address, and telephone number of the facility's contact person;~~

~~(c) The name, mailing address, e-mail address, and telephone number of the owner or operator for the facility;~~

~~(d) The name, mailing address, e-mail address, and telephone number of the facility's air permit contact person;~~

~~e.(e)~~ The facility's Federal Employer Identification Number or Federal Tax ID Number;

~~d.(f)~~ A description and the U. S. Standard Industrial Classification (SIC) Code and North American Industry Classification System (NAICS) Code of the products or product lines to be produced by the proposed sources covered by this application;

~~e.(g)~~ The facility's planned operating schedules;

~~f.(h)~~ A description of the facility's proposed new or altered processes, including the physical and chemical properties and feed rate of the materials used and produced (in pounds per hour), from which the facility determined potential emissions;

~~g.(i)~~ A process flow diagram/production process layout of all new or altered sources showing the flow of materials and intermediate and final products. The process flow diagram/production process layout must identify all equipment, machines, and process steps or product lines within the production process; all product streams; all exhaust streams (emission points) including fugitive within the production process; all waste streams; and all control devices including inherent process control devices used within the production process;

~~h.(j)~~ A detailed description of each proposed or existing source that is being altered, including the size and type along with the make and model of the source and any associated air pollution control equipment;

~~i.(k)~~ A description, including physical and chemical properties and the Chemical Abstract Service (CAS) number (if applicable), of all emissions from each proposed source or existing source that is being altered. Mass emission data and emission calculations, including the potential uncontrolled and controlled mass emission rate of each criteria pollutant and other air contaminants such as VOCs, toxic air pollutants

(TAPs), and HAPs, that will be emitted from each source covered by the application. Emission calculations must be based on proper documentation that supports the basis of the emission rates such as stack test data, AP-42 emission factors, material balance, and/or engineering estimates. All assumptions used in the emission calculations must be provided. Fugitive emissions (for example, emissions from filling operations, pumps, valves, flanges, etc.) must be included in the emission calculations;

j.(1) A description of all air pollution control devices or systems on the new or altered sources, whether inherent or add-on. The description shall include, but not be limited to, the manufacturer specifications and ratings, the engineering design and operating characteristics, the projected capture and destruction, the control or removal efficiencies at expected contaminant loading levels, and the monitoring data collection and recordkeeping necessary to ensure proper operation of the air pollution control devices;

k.(m) Source information and calculations to demonstrate compliance with “Good Engineering Practice Stack Height” rules;

l.(n) A description of each stack or vent related to the proposed and/or existing source(s), including the minimum anticipated height above ground, maximum anticipated internal dimensions, discharge orientation, exhaust volume flow rate, exhaust gas temperature, and rain protection device, if any;

m.(o) Scale drawings showing a plan view of the property lines, the location of the source, all stacks, and other emission points related to the source, as well as buildings that might affect dispersion of any emissions;

n.(p) An air dispersion modeling analysis or other information demonstrating that emissions from the facility, including those in the application, will not interfere with the attainment or maintenance of any ambient air quality standard;

o.(q) A summary of facility-wide potential uncontrolled and controlled emissions with a regulatory applicability determination; and

p.(r) Other information as may be necessary for proper evaluation of the source as determined by the Department.

D.(D) General Construction Permits

1.(1) The Department may develop and issue general construction permits applicable to similar sources for new construction projects or minor modifications to existing sources.

2.(2) Any G general construction permits shall incorporate all requirements applicable to the construction of similar sources and shall identify criteria by which sources may qualify for coverage under a general construction permit.

3.(3) Coverage under a General Construction Permit

(a) Sources may submit a construction permit application to the Department with a request for coverage under the conditions and terms of a general construction permit for similar sources. The Department shall grant a general construction permit to sources certifying qualification for and agreeing to the conditions and terms of a general construction permit for similar sources.

(b) A source that has submitted an individual construction permit application to the Department and has not requested coverage under the conditions and terms of a general construction permit for similar

sources, but which is determined to qualify for coverage under a general construction permit, may be granted coverage under the general construction permit at the sole discretion of the Department.

4.(4) A Source shall be subject to enforcement action for operation without a valid permit if a the source is later determined not to qualify for coverage under a general construction permit.

5.(5) The Department may grant a source's request for authorization to operate under a general construction permit, but such a grant shall be a final permit action for purposes of judicial review.

6.(6) The permit application for general construction permits may deviate from the requirements of Section II-C(C) above, provided that such application includes all information necessary to determine qualification for, and to assure compliance with, the general permit.

7.(7) A source that qualifies for coverage under a Department issued general construction permit may submit a construction permit application to the Department and request an individual construction permit in lieu of coverage under a general construction permit.

E.(E) Synthetic Minor Construction Permits

1.(1) General Provisions

a.(a) Any stationary source may request to use federally enforceable permit conditions to limit the source's potential to emit and become a synthetic minor source.

b.(b) Stationary sources requesting a synthetic minor construction permit shall submit a complete permit application package to the Department as prescribed by Section II-E.5(E)(5) below.

e.(c) Stationary sources requesting a synthetic minor construction permit shall undergo the public participation procedures of Section II-N(N) below.

d.(d) The Department shall act, within a reasonable time, on an application for a synthetic minor construction permit and shall notify the applicant in writing of its approval, conditional approval, or denial.

e.(e) In the event of a denial of a synthetic minor construction permit application, the Department shall notify the applicant in writing of the reasons for the denial. The Department shall not accept a subsequent synthetic minor construction permit application until the applicant has addressed the concerns specified by the Department which caused the denial. The source shall correct all deficiencies noted by the Department within sixty (60) calendar days of receiving notice of the denial, or submit a complete major source construction permit application, as prescribed by Section II-C(C) above, if the source desires to proceed with the project.

2.(2) New Sources and Modifications

a.(a) A stationary source desiring to restrict its potential to emit shall submit a written request to the Department for a federally enforceable construction permit conditioned to constrain the operation of the source, along with a completed construction permit application package as prescribed by Section II-E.5(E)(5) below. The construction of the new or modified source shall not commence until the source has received an effective permit to construct.

b.(b) The owner or operator shall submit written notification to the Department of the date construction is commenced, postmarked within thirty (30) days after such date, and written notification of the actual date

of initial startup of each new or altered source, postmarked within fifteen (15) days after such date. A written request to obtain an operating permit shall be submitted to the Department within fifteen (15) days after the actual date of initial startup of each new or altered source in accordance with Section II.F(F) below. A satisfactory compliance inspection by a Department representative may precede the issuance of an operating permit for any newly constructed or modified source.

3.(3) Synthetic Minor Construction Permit Conditions

a.(a) Synthetic minor construction permits shall contain the standard permit conditions listed in Section II.J.1(J)(1) below and any special permit conditions required to verify a source's compliance with the emissions limitations and operational requirements.

b.(b) The limitations and requirements listed as permit conditions shall be permanent, quantifiable, or otherwise enforceable as a practical matter.

e.(c) All synthetic minor construction permit conditions that constrain the operation of a source in an effort to limit potential to emit below major source threshold levels shall be federally enforceable. Unless otherwise agreed by the Department and EPA, the Department shall provide to EPA on a timely basis a copy of each proposed (or draft) and final permit intended to be federally enforceable.

4.(4) General Synthetic Minor Construction Permits

a.(a) The Department may, after notice and opportunity for public participation provided under Section II.N(N) below, issue a general synthetic minor construction permit applicable to similar sources.

b.(b) Any general synthetic minor construction permit shall incorporate all requirements applicable to the construction of similar synthetic minor sources and shall identify criteria by which sources may qualify for coverage under the a general synthetic minor construction permit.

e.(c) Coverage under a General Synthetic Minor Construction Permit

(1) Sources may submit a synthetic minor construction permit application to the Department with a request for coverage under the conditions and terms of a general synthetic minor construction permit for similar sources. The Department shall grant ~~the a~~ general synthetic minor construction permit to sources certifying qualification for and agreeing to the conditions and terms of ~~the a~~ general synthetic minor construction permit for similar sources.

(2) A source that has submitted an individual synthetic minor construction permit application and has not requested coverage under the conditions and terms of a general synthetic minor construction permit for similar sources, but which is determined to qualify for coverage under a general synthetic minor construction permit, may be granted coverage under the general synthetic minor construction permit at the sole discretion of the Department.

d.(d) The source shall be subject to enforcement action for operation without a valid permit if the source is later determined not to qualify for ~~the conditions and terms of the coverage under a~~ general synthetic minor construction permit.

e.(e) The Department may grant a source authorization to operate under a general synthetic minor construction permit without further public notice, but such a grant shall be a final permit action for purposes of judicial review.

~~f.~~(f) The Department shall provide timely notice to the public of any authorization given to a facility to operate under the terms of a general synthetic minor construction permit. Such notice may be made on a periodic, summarized basis covering all facilities receiving authorization since the last notice.

(g) A source that qualifies for coverage under a Department issued general synthetic minor construction permit may submit a construction permit application to the Department and request an individual synthetic minor construction permit in lieu of coverage under a general synthetic minor construction permit.

5.(5) Requirements for Synthetic Minor Construction Permit Applications

~~a.~~(a) In addition to the minimum information required by Section II ~~C.3(C)(3)~~ above, any facility applying for a synthetic minor construction permit must also provide the following:

~~i.~~(i) Potential emission calculations and proposed federally enforceable emission limitations for each emission unit at the facility verifying that the total emissions at the facility will be below the major source (or facility) thresholds;

~~ii.~~(ii) All proposed production and/or operational limitations that will constrain the operation of each emission unit that are to be identified as federally enforceable; and

~~iii.~~(iii) All proposed monitoring parameters, recordkeeping, and reporting requirements the applicant will use to determine and verify compliance with the requested federally enforceable limitations on a continuous basis. The applicant shall also provide the compliance status of these proposed parameters and requirements at the time of the application submittal.

~~b.~~(b) The permit application for general synthetic minor construction permits may deviate from the requirements of Section II ~~E.5.a(E)(5)(a)~~ provided that such application includes all information necessary to determine qualification for, and to assure compliance with, the general permit.

F.(F) Operating Permits

~~1.~~(1) The owner or operator shall submit written notification to the Department of the actual date of initial startup of each new or altered source, postmarked within fifteen (15) days after such date. Any source that is required to obtain an air quality construction permit issued by the Department must obtain an operating permit when the new or altered source is placed into operation and shall comply with the requirements of this section.

(2) When a Department issued construction permit includes only emission limits, monitoring, reporting, and/or other requirements that do not establish engineering or construction specifications for the project, the owner or operator may operate the source in compliance with the terms and conditions of the construction permit until the operating permit is issued by the Department.

2.(3) When a Department issued construction permit includes engineering and/or construction specifications, ~~F~~the owner/operator or professional engineer in charge of the project shall certify that, to the best of his/her knowledge and belief and as a result of periodic observation during construction, the construction under application has been completed in accordance with the specifications agreed upon in the construction permit issued by the Department. If construction is certified as provided above, the owner or operator may operate the source in compliance with the terms and conditions of the construction permit until the operating permit is issued by the Department. If construction is not built as specified in the permit application and associated construction permit(s), the owner/operator must submit to the Department a

complete description of modifications that are at variance with the documentation of the construction permitting determination prior to commencing operation. Construction variances that would trigger additional requirements that have not been addressed prior to start of operation shall be considered construction without a permit.

3.(4) Request for a New or Revised Operating Permit

a.(a) For sources covered by an effective Title V operating permit, the modification request required by Regulation 61-62.70 shall serve as the request to operate for the purposes of this regulation.

b.(b) For sources not subject to Regulation 61-62.70, or not yet covered by an effective Title V operating permit, the owner or operator shall submit a written request for a new or revised operating permit to cover any new, or altered source, postmarked within fifteen (15) days after the actual date of initial startup of each new or altered source.

e.(c) The written request for a new or revised operating permit must include, at a minimum, the following information:

i.(i) A list of sources that were placed into operation; and

ii.(ii) The actual date of initial startup of each new or altered source.

(5) General Operating Permits

(a) The Department may develop and issue a general operating permit applicable to similar sources.

(b) Any general operating permit shall incorporate all requirements applicable to the operation of similar sources and shall identify criteria by which sources may qualify for coverage under a general operating permit.

(c) Coverage under a General Operating Permit

(1) Sources may submit a permit application to the Department with a request for coverage under the conditions and terms of a general operating permit for similar sources. The Department shall grant a general operating permit to a source certifying qualification for and agreeing to the conditions and terms of a general operating permit for similar sources.

(2) A source that has submitted an individual permit application to the Department and has not requested coverage under the conditions and terms of a general operating permit for similar sources, but which is determined to qualify for coverage under a general operating permit, may be granted coverage under the general operating permit at the sole discretion of the Department.

(d) The source shall be subject to enforcement action for operation without a valid permit if the source is later determined not to qualify for coverage under a general operating permit.

(e) The Department may grant a source authorization to operate under a general operating permit, but such a grant shall be a final permit action for purposes of judicial review.

(f) A source that qualifies for coverage under a Department issued general operating permit may submit an operating permit application to the Department and request an individual operating permit in lieu of coverage under a general operating permit.

~~G.(G)~~ Conditional Major Operating Permits

~~1.(1)~~ The requirements of Section II.~~G(G)~~ shall apply to those sources that request a federally enforceable permit to limit their potential to emit to less than major source thresholds.

~~2.(2)~~ General Provisions

~~a.(a)~~ Any stationary source that satisfies the definition of a major source may request a federally enforceable conditional major operating permit to limit the source's potential to emit and become a conditional major source. Any stationary source that has received a synthetic minor construction permit to limit the source's potential to emit below major source threshold levels, that is not required to obtain a Title V operating permit, shall be issued a conditional major operating permit to consolidate the source's limitations on potential to emit and shall be considered a conditional major source.

~~b.(b)~~ Stationary sources requesting a conditional major operating permit shall submit a complete request for a new or revised operating permit to the Department as required by Section II.~~G.6(G)(6)~~ below.

~~e.(c)~~ Stationary sources requesting an original conditional major operating permit shall undergo the public participation procedures of Section II.~~N(N)~~ below.

~~d.~~ Submission of a request for renewal meeting the requirements in Section II.H below, shall allow the owner or operator to continue operating pursuant to the most recent conditional major operating permit until such time as the Department has taken final action on the request for renewal.

~~e.(d)~~ The Department shall act on a request for a conditional major operating permit and shall notify the source in writing of its approval, conditional approval, or denial.

~~f.(e)~~ In the event of a denial of a conditional major operating permit request, the Department shall notify the source in writing of the reasons for the denial. The Department shall not accept a subsequent conditional major operating permit request until the source has addressed the concerns specified by the Department which caused the original denial. The source shall correct all deficiencies noted by the Department or submit a complete permit application in accordance with Regulation 61-62.70 in order to receive a Title V operating permit.

~~3.(3)~~ Existing Sources

~~a.(a)~~ Any owner or operator desiring to be permitted as a conditional major source shall submit an operating permit request containing the information identified in Section II.~~G.6(G)(6)~~ below. A federally enforceable conditional major operating permit shall constrain the operations of the source such that potential emissions fall below applicable regulatory levels and therefore exclude the source from the requirements to have a Title V operating permit.

~~b.(b)~~ A request for a conditional major operating permit shall not relieve a source from the requirement to meet the deadline for submittal of a Title V operating permit application.

~~4.(4)~~ New or Modified Sources

~~a.(a)~~ Any owner or operator who plans to construct, alter, or add to a source of air contaminants, including the installation of any device for the control of air contaminant discharges, and desires a conditional major operating permit shall provide a written request to the Department for a federally

enforceable synthetic minor construction permit conditioned to constrain the operation of the source, along with a complete construction permit application package containing the information identified in Section II-G-6(G)(6) below. The construction of the new or modified source shall not commence until the source has received an effective permit to construct from the Department.

b.(b) A written request to obtain a conditional major operating permit shall be submitted to the Department, postmarked within fifteen (15) days after the actual date of initial startup of each new or altered source. This request shall include any additional information required in Section II-G-6(G)(6) below. These facilities will be issued conditional major operating permits without further public notice if no substantive changes to limitations are required. A satisfactory compliance inspection by a Department representative may precede the issuance of an operating permit for any newly constructed or modified source.

5.(5) Conditional Major Operating Permit Conditions

a.(a) Conditional major operating permits shall contain the standard permit conditions listed in Section II-J-4(J)(1) below, and any special permit conditions required to verify a source's compliance with the emissions limitations and operational requirements.

b.(b) The limitations and requirements listed as permit conditions shall be permanent, quantifiable, or otherwise enforceable as a practical matter.

e.(c) All conditional major operating permit conditions that constrain the operation of a source in an effort to limit potential to emit below major source threshold levels as defined in Regulation 61-62.70 shall be federally enforceable. Unless otherwise agreed by the Department and EPA, the Department shall provide to EPA on a timely basis a copy of each proposed (or draft) and final permit intended to be federally enforceable.

6.(6) Additional Requirements for Conditional Major Operating Permit Requests

a.(a) In addition to the minimum information required by Section II-C-3(C)(3) above, any facility requesting a conditional major operating permit must also provide the following:

i.(i) Potential emission calculations and proposed federally enforceable emission limitations for each emission unit at the facility verifying that the total emissions at the facility will be below the major source (or facility) thresholds;

ii.(ii) All proposed production and/or operational limitations that will constrain the operation of each emission unit that are to be identified as federally enforceable; and

iii.(iii) All proposed monitoring parameters, recordkeeping, and reporting requirements the source will use to determine and verify compliance with the requested federally enforceable limitations on a continuous basis. The source shall also provide the compliance status of these proposed parameters and requirements at the time of the request submittal.

b.(b) The request for general conditional major operating permits may deviate from the requirements of Section II-G-6(G)(6) provided that such request includes all information necessary to determine qualification for, and to assure compliance with, the general permit.

7.(7) General Conditional Major Operating Permits

~~a.~~(a) The Department may, after notice and opportunity for public participation provided under Section II.~~N(N)~~ below, issue a general conditional major operating permit applicable to similar sources.

~~b.~~(b) Any general conditional major operating permit shall incorporate all requirements applicable to the operation of similar conditional major sources and shall identify criteria by which sources may qualify for a general permit.

~~e.~~(c) Coverage under a General Conditional Major Operating Permit

(1) Sources may submit a permit application to the Department with a request for coverage under the conditions and terms of a general conditional major operating permit for similar sources. The Department shall grant a general conditional major operating permit to sources certifying qualification for and agreeing to the conditions and terms of a general conditional major operating permit for similar sources.

(2) A source that has submitted an individual permit application to the Department and has not requested coverage under the conditions and terms of a general conditional major operating permit for similar sources, but which is determined to qualify for coverage under a general conditional major operating permit, may be granted coverage under the general conditional major operating permit at the sole discretion of the Department.

~~d.~~(d) The source shall be subject to enforcement action for operation without a valid permit if the source is later determined not to qualify for the conditions and terms of coverage under a general conditional major operating permit.

~~e.~~(e) The Department may grant a source's request for authorization to operate under a general conditional major operating permit without further public notice, but such a grant shall be a final permit action for purposes of judicial review.

~~f.~~(f) The Department shall provide timely notice to the public of any authorization given to a facility to operate under the terms of a general conditional major operating permit. Such notice may be made on a periodic, summarized basis covering all facilities receiving authorization since the last notice.

(g) A source that qualifies for coverage under a Department issued general conditional major operating permit may submit a permit application to the Department and request an individual conditional major operating permit in lieu of coverage under a general conditional major operating permit.

~~H.~~(H) Operating Permit Renewal Requests

(1) Submission of a request for renewal meeting the requirements in Section II(H)(2)-(5) below, shall allow the owner or operator to continue operating pursuant to the most recent operating permit until such time as the Department has taken final action on the request for renewal.

~~1.~~(2) Any source that wishes to have its operating permit renewed must submit a written request to the Department.

~~2.~~(3) The provisions of Section II.~~H(H)~~ shall apply only to those sources not subject to Regulation 61-62.70. For sources covered by an effective Title V operating permit, the operating permit renewal request required by Regulation 61-62.70 shall serve as the request to operate for the purposes of this regulation.

3-(4) For sources not subject to Regulation 61-62.70, the owner or operator shall submit an operating permit renewal request to the Department within ninety (90) days prior to the operating permit expiration date. The source may be inspected by the Department in order to decide whether to renew the permit. Past records of compliance and future probability of compliance will be considered in making the decision regarding renewal.

4-(5) Operating permit renewal requests shall include a description of any changes at the facility that have occurred since issuance of the last operating permit that may affect the operating permit or operating permit review. In general, the description shall include any addition, alteration, or removal of sources, including sources exempt from construction permit requirements; addition, alteration, or removal of emission limitations; any changes to monitoring, recordkeeping, or reporting requirements; and any changes or additions to special permit conditions. The following items should be addressed as part of the operating permit renewal request:

a-(a) The facility name ~~and the name, mailing address, and telephone number of the owner or operator for the facility~~(the name used to identify the facility at the location requesting the permit);

b-(b) The location of the facility including its street address ~~and the name, mailing address, and telephone number of the facility's contact person;~~

c The name, mailing address, e-mail address, and telephone number of the owner or operator for the facility;

d The name, mailing address, e-mail address, and telephone number of the facility's air permit contact person;

e-(e) The facility's Federal Employer Identification Number or Federal Tax ID Number;

e-(f) Any change to the SIC Code or NAICS Codes of the products or product lines;

e-(g) Any construction permits to be incorporated into the operating permit, either whole or in part, any listed information descriptions that have been removed or decommissioned, and any changes to exempted sources listed in the current operating permit;

f-(h) Any change to the facility's planned operating schedules or description of the facility's current and/or proposed processes, including the physical and chemical properties and feed rate of the materials used and produced (in lb/hr) from which the facility determined actual and potential emissions;

g-(i) Any changes to current process flow diagram or production process layout shall be addressed, showing the flow of materials and intermediate and final products. Updated process flow diagram or production process layout must identify major equipment, machines, and process steps or product lines within the production process; all product streams; all exhaust streams (emission points) including fugitive within the production process; all waste streams; and all control devices including inherent process control devices used within the production process;

h-(j) A description, including the CAS number (if applicable), of all emissions from each source. Mass emission data and emission calculations, including the potential uncontrolled and controlled mass emission rate of each criteria pollutant and other air contaminants such as VOCs, TAPs, and HAPs emitted from each source. Emission calculations must be based on proper documentation that supports the basis of the emission rates such as stack test data, AP-42 emission factors, material balance, and/or engineering estimates. All assumptions used in the emission calculations must be provided. Fugitive emissions (for

example, emissions from filling operations, pumps, valves, flanges, etc.) must be included in the emission calculations. A summary of facility-wide potential uncontrolled and controlled emissions with a regulatory applicability determination must be provided. If existing data supplied to the Department remains correct, identify documents referenced to comply with this requirement;

~~i.~~(k) A description of stack, vent, or fugitive emission parameters associated with each non-exempt emission source. For each emission point/source, this information should include, as appropriate, Universal Transverse Mercator or latitude and longitude coordinates of the emission location, the minimum height above ground, maximum internal dimensions of the emission point/vent, discharge orientation, emission exit velocity, emission exit temperature, dimensions describing the volume or area of fugitive emissions, existence of any rain protection device or other impediment to vertical dispersion, etc. If existing data supplied to the Department remains correct, identify the document(s) submitted to comply with this requirement; and

~~j.~~(l) Other information as may be necessary for proper evaluation of the operating permit request.

~~I.~~(l) Registration Permits

~~I.~~(1) Development of Registration Permits

~~a.~~(a) The Department may develop and issue a registration permits applicable to similar sources.

~~b.~~(b) Any registration permit developed shall specify compliance with incorporate all requirements applicable to the construction and operation of that specific category of stationary similar sources and shall identify criteria by which sources may qualify for coverage under the a registration permit.

~~b.~~(c) Registration permits will be developed only for specific stationary source groups with uncontrolled potential to emit less than the threshold for major source groups, in accordance with Regulation 61-62.70, Title V Operating Permit Program; Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration; Regulation 61-62.5, Standard No. 7.1, Nonattainment New Source Review; and where equipment similarities and simplicity remove the need for in depth site-specific review.

~~2.~~(2) Application for Coverage Under a Registration Permit

~~a.~~(a) Coverage under a Registration Permit

~~(1) A source that qualifies may elect to apply~~ Sources may submit a permit application to the Department with a request for coverage under the conditions and terms of a registration permit for similar sources in lieu of a construction and operating permit as provided in Section II.~~A(A)~~ and ~~F(F)~~ above. The Department shall grant a registration permit to sources certifying qualification for and agreeing to the conditions and terms of the registration permit applicable to similar sources.

~~(2) A source that has submitted an individual permit application to the Department and has not requested coverage under the conditions and terms of a registration permit for similar sources, but which is determined to qualify for a registration permit, may be granted coverage under the registration permit at the sole discretion of the Department.~~

~~b.~~(b) The source shall be subject to enforcement action for operation without a valid permit if the source is later determined not to qualify for the conditions and terms of coverage under a registration permit.

~~c.~~(c) The Department reserves the right to require a construction and/or operating permit; the

requirement for a permit(s) will be made by the Department on a case-by-case basis. This determination will take into consideration, but may not be limited to, the nature and amount of the pollutants, location, and proximity to residences and commercial establishments.

~~e.~~(d) The Department may grant a source's request for authorization to operate under a registration permit, but such a grant shall be a final permit action for purposes of judicial review.

(e) A source that qualifies for coverage under a Department issued registration permit may submit a permit application to the Department and request an individual permit in lieu of coverage under a general registration permit.

3.(3) Registration Permit Conditions

~~a.~~(a) Registration permits shall contain any applicable permit conditions listed in Section II ~~J.~~(J) below as the Department finds appropriate.

~~b.~~(b) Registration permits shall contain any applicable special permit conditions required to verify a source's compliance with any emissions limitations and operational requirements.

~~4.~~(4) Any registration permit may be reopened by the Department for cause or to include any new standard or regulation which becomes applicable to a source during the life of the permit.

J.(J) Permit Conditions

1.(1) Standard Permit Conditions

All construction and operating permits shall contain the following standard permit conditions.

~~a.~~(a) No applicable law, regulation, or standard will be contravened.

~~b.~~(b) All official correspondence, plans, permit applications, and written statements are an integral part of the permit. Any false information or misrepresentation in the application for a construction or operating permit may be grounds for permit revocation.

~~e.~~(c) For sources not required to have continuous emission monitors, any malfunction of air pollution control equipment or system, process upset, or other equipment failure which results in discharges of air contaminants lasting for one (1) hour or more and which are greater than those discharges described for normal operation in the permit application, shall be reported to the Department within twenty-four (24) hours after the beginning of the occurrence and a written report shall be submitted to the Department within thirty (30) days. The written report shall include, at a minimum, the following:

~~i.~~(i) The identity of the stack and/or emission point where the excess emissions occurred;

~~ii.~~(ii) The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the excess emissions;

~~iii.~~(iii) The time and duration of the excess emissions;

~~iv.~~(iv) The identity of the equipment causing the excess emissions;

~~v.~~(v) The nature and cause of such excess emissions;

~~vi.~~(vi) The steps taken to remedy the malfunction and the steps taken or planned to prevent the recurrence of such malfunction;

~~vii.~~(vii) The steps taken to limit the excess emissions; and

~~viii.~~(viii) Documentation that the air pollution control equipment, process equipment, or processes were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with good practice for minimizing emissions.

~~d.~~(d) Sources required to have continuous emission monitors shall submit reports as specified in applicable parts of the permit, law, regulations, or standards.

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

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

~~g.~~(g) A copy of the Department issued construction and/or operating permit must be kept readily available at the facility at all times. The owner or operator shall maintain such operational records; make reports; install, use, and maintain monitoring equipment or methods; sample and analyze emissions or discharges in accordance with prescribed methods at locations, intervals, and procedures as the Department shall prescribe; and provide such other information as the Department reasonably may require. All records required to demonstrate compliance with the limits established under a permit shall be maintained on site for a period of at least five (5) years from the date the record was generated.

~~2.~~(2) Special Permit Conditions

As the Department finds appropriate, permits shall include special permit conditions such as, but not limited to, production limits, operational limits, source performance testing, operation and maintenance requirements, notification requirements, recordkeeping requirements, reporting requirements, and other monitoring as required.

~~a.~~(a) When special permit conditions contain production or operational limits, the permit shall have monitoring and/or recordkeeping requirements to verify a source's compliance with the limitations.

~~b.~~(b) When special permit conditions require an add-on air pollution control device to be operated at a specified destruction and removal efficiency level, the permit shall have monitoring and recordkeeping requirements to determine the add-on air pollution control device's performance on a short-term basis.

~~e.~~(c) The time period over which a permit limitation on production or operation extends will be as short as possible. For the purpose of determining compliance, permit limitations will, in general, not exceed one (1) month and shall not exceed an annual limit with a rolling monthly average or sum.

~~d.~~(d) An owner or operator of stationary sources that desires or is required to conduct performance tests to verify emissions limitations shall ensure that source tests are conducted in accordance with the provisions of Regulation 61-62.1, Section IV, Source Tests.

~~e.~~(e) An hourly emission limit shall be sufficient only if the permit condition(s) require the installation, calibration, maintenance, and operation of a CEMS or any other monitoring approved by the Department. All monitoring data shall be defined and recorded for showing compliance with the emission limit(s).

~~f.~~(f) The limitations and requirements listed in the permit conditions shall be permanent, quantifiable, or otherwise enforceable as a practical matter.

~~K.~~(K) Exceptions

~~1.~~(1) Upon request, the Department may alter operating permits, compliance schedules, or other restrictions on operation of a source provided that resulting ambient air concentration levels will not exceed any national or state ambient air quality standard. Factors to be considered by the Department may include, but are not limited to, technology, economics, national energy policy, and existing air quality. The request by the source must also show the following:

~~a.~~(a) Good faith efforts have been made to comply with the state requirements;

~~b.~~(b) The source is unable to comply with the state requirements because the necessary technology or other alternative methods of control are not reasonably available or have not been available for a sufficient period of time;

~~e.~~(c) Any available operating procedures or control measures reducing the impact of the source on ambient air concentrations have been implemented; and

~~d.~~(d) The request is submitted in a timely manner.

~~2.~~(2) The provisions of this paragraph shall not apply to mass emission limits which are imposed upon any source by the following requirements:

~~a.~~(a) Federal New Source Performance Standards (NSPS);

~~b.~~(b) National Emission Standards for Hazardous Air Pollutants (NESHAP);

~~e.~~(c) Federal or State Prevention of Significant Deterioration (PSD) Regulations; or

~~d.~~(d) Nonattainment requirements.

~~3.~~(3) Where a permanent increase in the visible emission limitation for a source is requested, the source must demonstrate that it will remain in compliance with the applicable particulate emission standard.

~~4.~~(4) Any alternative compliance schedule shall provide for compliance with the applicable regulations as expeditiously as practicable based on a plan submitted with the request for the alternative compliance schedule.

~~5.~~(5) Any request under this section will be subjected to public notice and opportunity for a public hearing. Upon approval by the Board, the recommendations of this Department shall be sent to the Administrator, or his designated representative, for approval or disapproval.

~~6.~~(6) Where alternative compliance schedule provisions are contained elsewhere in the air pollution control regulations, those provisions shall supersede the requirements in this section.

~~L.~~(L) Emergency Provisions

~~1.~~(1) An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, in which a situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

~~2.~~(2) An emergency may be documented through properly signed, contemporaneous operating logs and other relevant evidence that verify:

~~a.~~(a) An emergency occurred and the owner or operator can identify the cause(s) of the emergency;

~~b.~~(b) The permitted source was, at the time the emergency occurred, being properly operated;

~~e.~~(c) During the period of the emergency, the owner or operator took all reasonable steps to minimize levels of emissions that exceeded the emission standards or other requirements in the permit; and

~~d.~~(d) The owner or operator gave a verbal notification of the emergency to the Department within twenty-four (24) hours of the time when emission limitations were exceeded, followed by a written report within thirty (30) days. The written report shall include, at a minimum, the information required by Section II, ~~J.1.e.i(J)(1)(c)(i)~~ through ~~J.1.e.viii(J)(1)(c)(viii)~~ above. The written report shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

~~3.~~(3) This provision is in addition to any emergency or upset provision contained in any applicable requirement.

~~M.~~(M) Transfer of Ownership/Operation

Within thirty (30) days of the transfer of ownership/operation of a facility, the current permit holder and prospective new owner/operator shall submit to the Department a written request for transfer of the source operating or construction permit(s). The written request for transfer of the source operating or construction permit(s) shall include any changes pertaining to the facility name; the name, mailing address, and telephone number of the owner or operator for the facility; and any proposed changes to the permitted activities of the source. Transfer of the operating or construction permit(s) will be effective upon written approval by the Department.

~~N.~~(N) Public Participation Procedures

~~1.~~(1) When determined to be appropriate by the Department (or specified by regulation), notice of permitting activity shall be provided to the public and other entities for their review and comment. Public notice shall be given by publication in a newspaper of general circulation in the area where the source is located, or by posting ~~on to a public website identified by~~ the Department's website, or by publication in

the South Carolina State Register, and to persons on a mailing list developed by the Department, including those who request in writing to be on the list. The Department may use ~~other~~ **additional** means of public notice, **including, but not limited to public meetings**.

~~2.~~**(2)** The notice shall include the following:

~~a.~~**(a)** The name and physical address of the facility;

~~b.~~**(b)** The name and address of the Department;

~~e.~~**(c)** Applicable activities involved in the permit action;

~~d.~~**(d)** Applicable emission change involved in any permit modification;

~~e.~~**(e)** The name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, and all other materials available to the Department that are relevant to the permit decision, except for information entitled to confidential treatment (the contents of any proposed or draft permit shall not be treated as confidential information);

~~f.~~**(f)** A brief description of the comment procedures; and

~~g.~~**(g)** The time and place of any public hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled).

~~3.~~**(3)** The Department shall provide at least thirty (30) days for public and EPA comment and shall give notice of any public hearing at least thirty (30) days in advance of the hearing.

~~a.~~**(a)** The Department shall keep a record of the commenters and the comments made during the public comment period.

~~b.~~**(b)** The Department shall consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application.

~~4.~~**(4)** A newly constructed or modified source issued a federally enforceable final construction permit will not require an additional public comment period and/or hearing to obtain an operating permit, unless the source proposes a change in the original construction and/or operational plan, prior to commencing construction, which the Department determines would require an additional public comment period and/or hearing.

~~5.~~**(5)** Any proposed new or modified stationary source required to undergo a public comment period shall not commence any construction until all public participation procedures of this section are completed, and the source has received an effective construction permit from the Department.

~~6.~~**(6)** Maintenance activities, repairs, and replacements which the Department determines to be routine for that source category shall not, by themselves, be required to undergo the public participation procedures of Section II, ~~N(N)~~.

~~O.~~**(O)** Inspection and Entry

Upon presentation of credentials and other documents as may be required by law, the owner or operator shall allow the Department or an authorized representative to perform the following:

~~1.~~(1) Enter the facility where emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

~~2.~~(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

~~3.~~(3) Inspect any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under this permit; and

~~4.~~(4) As authorized by the Clean Air Act and/or the South Carolina Pollution Control Act, sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

SECTION III – EMISSIONS INVENTORY AND EMISSIONS STATEMENTS

~~A.~~(A) General

~~1.~~(1) An emissions inventory is a study or compilation of pollutant emissions. The purposes of emissions inventories are to locate air pollution sources, to define the type and size of sources, to define the type and amount of emissions from each source, to determine pollutant frequency and duration, to determine the relative contributions to air pollution from classes of sources and of individual sources, to provide a basis for air permit fees, and to determine the adequacy of regulations and standards. The requirements of this section notwithstanding, an emissions inventory may be required from any source at any time.

~~2.~~(2) An emissions statement is a less detailed statement which focuses on emissions estimates for pollutants associated with a nonattainment designation.

~~B.~~(B) Emissions Inventory Reporting Requirements

~~1.~~(1) Beginning with the effective date of this regulation, sources must submit an emissions inventory for the previous calendar year by March 31 at a frequency as outlined below:

~~a.~~(a) Type A Sources are Title V Sources with annual emissions greater than or equal to any of the emission thresholds listed for Type A Sources in Table 1 below. Type A Sources must submit an emissions inventory every year.

Pollutants	Type A Sources: Annual Cycle	Potential¹ or Actual²
SO _x	≥2500	Potential
VOC	≥250	Potential
NO _x	≥2500	Potential
CO	≥2500	Potential
Pb	≥0.50 ²	Actual
PM ₁₀	≥250	Potential

Table 1 - Minimum Point Source Reporting Thresholds by Pollutant (tons per year)		
Pollutants	Type A Sources: Annual Cycle	Potential¹ or Actual²
PM _{2.5}	≥250	Potential
NH ₃	≥250	Potential

¹ Tons per year (tpy) 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, will be treated as part of its design if the limitation is enforceable by the Administrator and included in the source's permit prior to the end of the reporting year.

² The EPA considers that the ambient monitoring rule threshold is 0.5 tons of actual emissions; therefore, this criterion is based on actual emissions rather than the potential-to-emit approach taken for other criteria pollutant and precursor thresholds.

b-(b) All other Title V Sources with annual emissions less than the emission thresholds listed for Type A Sources in Table 1 above must submit emissions inventories every three (3) years beginning with calendar year 2014 data.

e-(c) Nonattainment area (NAA) Sources are sources located in a NAA with annual emissions during any year of the three (3) year cycle greater than or equal to any of the emission thresholds listed for NAA Sources in Table 2 below. These sources that are not also Type A Sources must submit emissions inventories every three (3) years beginning with calendar year 2014 data.

Table 2 - Minimum Point Source Reporting Thresholds by Pollutant (tons per year)		
Pollutant	NAA³ Sources: Three-year Cycle	Potential¹ or Actual²
SO _x	≥100	Potential
VOC	≥100 (moderate O ₃ NAA)	Potential
	≥50 (serious O ₃ NAA)	
	≥25 (severe O ₃ NAA)	
	≥10 (extreme O ₃ NAA)	
NO _x	≥100 (all O ₃ NAA)	Potential
CO	≥100 (all O ₃ NAA)	Potential
	≥100 (all CO NAA)	
Pb	≥0.50	Actual
PM ₁₀	≥100 (moderate PM ₁₀ NAA)	Potential
	≥70 (serious PM ₁₀ NAA)	
PM _{2.5}	≥100	Potential
NH ₃	≥100	Potential

¹ Tons per year (tpy) 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, will be treated as part of its design if the limitation is enforceable by the Administrator and included in the source's permit prior to the end of the reporting year.

² The EPA considers that the ambient monitoring rule threshold is 0.5 tons of actual emissions; therefore, this criterion is based on actual emissions rather than the potential-to-emit approach taken for other criteria pollutant and precursor thresholds.

³ Special point source reporting thresholds apply for certain pollutants by type of NAA. The pollutants by nonattainment area are:
Ozone: VOC, NO_x, and CO;
Carbon Monoxide: CO; and
Particulate matter less than 10 microns: PM₁₀.

2-(2) Other Requirements

a-(a) Unless otherwise indicated, all emissions inventories must be submitted to the Department by March 31 following the year of inventory. All applicable information must be recorded in the current format for reporting emissions data provided by the Department.

b-(b) All newly permitted and constructed Title V Sources which have obtained or are in the process of obtaining a Title V permit and all newly permitted and constructed NAA Sources must complete and submit to the Department an initial emissions inventory for the source's first partial calendar year of operation and an emissions inventory for the source's first full calendar year of operation.

i-(i) The partial year emissions inventory must be submitted to the Department no later than March 31 of the year following the source's partial year of operation and must include an emissions inventory from the source's operation start date through December 31 of the same year.

ii-(ii) The first full calendar year emissions inventory must be submitted to the Department by March 31 of the year following the source's first calendar year of operation.

iii-(iii) Sources must submit future emissions inventories on the schedule as described in paragraph **B.1.a(B)(1)(a)**, paragraph **B.1.b(B)(1)(b)**, and paragraph **B.1.e(B)(1)(c)** of this section.

e-(c) Any existing sources that are determined by the Department to be subject to Regulation 61-62.70, Title V Operating Permit Program, and/or NAA Sources must complete and submit to the Department an emissions inventory for the previous calendar year within ninety (90) days. These sources must then submit future emissions inventories on the schedule as described in paragraph **B.1.a(B)(1)(a)**, paragraph **B.1.b(B)(1)(b)**, and paragraph **B.1.e(B)(1)(c)** of this section.

d-(d) Submittal of emissions inventories outside of the schedules in this section will be accepted and reviewed only if a modification has occurred that required issuance of an air quality permit since the last emissions inventory submittal by the source. This modification must alter the quantity or character of the source's emissions. These sources may submit a new emissions inventory following the first full calendar year of operation after the modification. These sources must then submit future emissions inventories on

the schedule described in paragraph B-1.a(B)(1)(a), paragraph B-1.b(B)(1)(b), and paragraph B-1.e(B)(1)(c) of this section.

e.(e) Information required in an emissions inventory submittal to the Department must include the following:

- i.(i) Information on fuel burning equipment;
- ii.(ii) Types and quantities of fuel used;
- iii.(iii) Fuel analysis;
- iv.(iv) Exhaust parameters;
- v.(v) Control equipment information;
- vi.(vi) Raw process materials and quantities used;
- vii.(vii) Design, normal, and actual process rates;
- viii.(viii) Hours of operation;
- ix.(ix) Significant emission generating points or processes as discussed in the current format for reporting emissions data provided by the Department;
- x.(x) Any desired information listed in 40 CFR Part 51 Subpart A (December 17, 2008) that is requested by the Department;
- xi.(xi) Emissions data from all regulated pollutants; and
- xii.(xii) Any additional information reasonably related to determining if emissions from an air source are causing standards of air quality to be exceeded.

f.(f) A source may submit a written request to the Department for approval of an alternate method for estimating emissions outside of those methods prescribed by the Department. Such requests will be reviewed by the Department's emissions inventory staff on a case-by-case basis to determine if the alternate method better characterizes actual emissions for the reporting period than the Department's prescribed methods.

g.(g) Emission estimates from insignificant activities listed on a source's permit are required only in the initial emissions inventory submitted by the source. If emissions from these insignificant activities have not been included in a past emissions inventory submitted to the Department, the source must include these emissions in their next required emissions inventory submittal.

h.(h) Copies of all records and reports relating to emissions inventories as required in this section must be retained by the owner/operator at the source for a minimum of five (5) years.

C.(C) Emissions Statement Requirements

1.(1) Sources in areas designated nonattainment for an ozone National Ambient Air Quality Standard (NAAQS) must submit to the Department by March 31 for the previous calendar year an emissions statement which includes emissions estimates for both VOCs and nitrogen oxides (NO_x) beginning with the effective date of this regulation.

2.(2) The statement must contain a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement.

3.(3) All applicable information must be recorded in the current format for reporting emissions data provided by the Department.

4.(4) Copies of all records and reports relating to emissions statements as required in this section must be retained by the owner or operator at the source for a minimum of five (5) years.

SECTION IV – SOURCE TESTS

~~A-~~(A) Applicability

~~1-~~(1) This section shall apply to the owner, operator, or representative of any source which conducts:

~~a-~~(a) A source test required under an applicable standard or permit condition; or pursuant to a judicial or administrative order, consent agreement, or any other such binding requirement entered into after the effective date of this standard; or

~~b-~~(b) Any other source test from which data will be submitted to the Department for any purpose including but not limited to: determination of applicability of regulatory requirements, development of emission factors, establishment of parameters for compliance assurance monitoring, continuous emission monitor performance specification testing, and Relative Accuracy Test Audits (RATA).

~~2-~~(2) The Department may, on a case-by-case basis, exempt from the requirements of this section source tests which are performed for development of emission factors or for determination of applicability of regulations.

~~B-~~(B) Submission and Approval of a Site-Specific Test Plan

~~1-~~(1) Prior to conducting a source test subject to this section, the owner, operator, or representative shall ensure that:

~~a-~~(a) A written site-specific test plan, including all of the information required in Section IV ~~-C(C)~~ below, has been developed and submitted to the Department. If the Department has previously approved a site-specific test plan, the owner, operator, or representative may submit a letter which references the approved plan and which includes a thorough description of amendments to the plan; and

~~b-~~(b) Written Department approval of the site-specific test plan or amended test plan, methods, and procedures has been received.

~~2-~~(2) All test methods included in the site-specific test plan must be either EPA Reference Methods described in 40 CFR ~~Part~~ 51, Appendix M; or 40 CFR ~~Part~~ 60, Appendix A; or 40 CFR ~~Part~~ 61, Appendix B; or 40 CFR ~~Part~~ 63, Appendix A. If an applicable air regulation or permit provides for a choice of test methods, the selected method must be approved by the Department. If an applicable air regulation or permit does not specify use of an EPA standard reference method, the alternative test method to be used must be approved by the Department.

~~3.a-~~(3)(a) The owner, operator, or representative of a source proposing to use alternative source test methods shall ensure that the alternative source test method is either validated according to EPA Reference Method 301 (40 CFR ~~Part~~ 63, Appendix A, December 29, 1992) and any subsequent amendments or editions, or approved by the Department.

~~b-~~(b) The owner, operator, or representative shall ensure that requests for approval of alternative source test methods are submitted to the Department along with the site-specific test plan, and that the submission contains all of the information required by Section IV ~~-C(C)~~ below.

~~4-~~(4) The Department shall determine whether any source test method proposed in the site-specific test plan is appropriate for use.

~~5-a(5)(a)~~ The owner, operator, or representative shall submit site-specific test plans or a letter which amends a previously approved test plan at least forty-five (45) days prior to the proposed test date, ~~or as otherwise specified by a relevant federal or state requirement.~~ Sources conducting tests for substances listed in Regulation 61-62.5, Standard No. 8, shall submit site-specific test plans or a letter which amends a previously approved test plan at least sixty (60) days prior to the proposed test date.

~~b.(b)~~ If the only amendments to a previously approved test plan are to facility information included in Section IV, ~~C-1.a(C)(1)(a)~~ and ~~C-1.b(C)(1)(b)~~ below, the requirement in Section IV, ~~B-5.a(B)(5)(a)~~ above will not apply. The owner, operator, or representative however, shall submit the amendments at least two (2) weeks prior to the proposed test date.

~~6.(6)~~ Within thirty (30) days of site-specific test plan receipt, the Department will notify the owner, operator, or representative of site-specific test plan approval or denial or will request additional information.

~~7.(7)~~ The owner, operator, or representative shall submit any additional information requested by the Department necessary to facilitate the review of the site-specific test plan.

~~8.(8)~~ Approval of a site-specific test plan for which an owner, operator, or representative fails to submit any additional requested information will be denied.

~~9.(9)~~ Neither the submission of a site-specific test plan, nor the Department's approval or disapproval of a plan, nor the Department's failure to approve or disapprove a plan in a timely manner shall relieve an owner, operator, or representative of legal responsibility to comply with any applicable provisions of this section or with any other applicable federal, state, or local requirement or prevent the Department from enforcing this section.

~~C.(C)~~ Requirements for a Site-Specific Test Plan

A site-specific test plan shall include, at a minimum, the following ~~(Section IV, C-1(C)(1) through C-8)(C)(8)~~:

~~1.(1)~~ General Information:

~~a.(a)~~ Facility name, address, telephone number, and name of facility contact;

~~b.(b)~~ Facility permit number and source identification number;

~~e.(c)~~ Name, address, and telephone number of the company contracted to perform the source test; and

~~d.(d)~~ Name, address, and telephone number of the laboratory contracted to perform the analytical analysis of the source test samples.

~~2.(2)~~ Test Objectives:

~~a.(a)~~ Description and overall purpose of the tests (for example, to demonstrate compliance, to establish emission factors, etc.); and

~~b.(b)~~ Citation of any applicable state or federal regulation or permit condition requiring the tests.

~~3.(3)~~ Process Descriptions:

a.(a) Description of the process including a description of each phase of batch or cyclic processes and the time required to complete each phase;

b.(b) Process design rates ~~and~~, normal operating rates, and operating rates specified by applicable regulation;

c.(c) Proposed operating rate and conditions for the source test;

d.(d) Methods including proposed calculations, equations, and other related information that will be used to demonstrate and verify the operating rate during the source test;

e.(e) Description of any air pollution control equipment;

f.(f) Description of any stack gas or opacity monitoring systems;

g.(g) Description of all air pollution control monitors (for example, pressure gauges, flow indicators, cleaning cycle timers, electrostatic precipitator voltage meters, etc.) when applicable; and

h.(h) A list of process and air pollution control operating parameters that will be recorded during the tests, the responsible party who will record these readings, and the frequency at which readings will be recorded.

4.(4) Safety Considerations:

a.(a) Identification of any risks associated with sampling location and accessibility, toxic releases, electrical hazards, or any other unsafe conditions; and a plan of action to correct or abate these hazards; and

b.(b) List of all necessary or required safety equipment including respirators, safety glasses, hard hats, safety shoes, hearing protection, and other protective equipment.

5.(5) Sampling and Analytical Procedures:

a.(a) Description of sampling methods to be used;

b.(b) Description of analytical methods to be used;

c.(c) Number of tests to be conducted;

d.(d) Number of runs comprising a test;

e.(e) Duration of each test run;

f.(f) Description of minimum sampling volumes for each test run;

g.(g) Location where samples will be recovered;

h.(h) Explanation of how blank and recovery check results and analytical non-detects will be used in final emission calculations;

i.(i) Maximum amount of time a sample will be held after collection prior to analysis; and

~~j.(j)~~ Method of storing and transporting samples.

~~6.(6)~~ Sampling Locations and Documentation:

~~a.(a)~~ Schematics of sampling sites (include stack dimensions and distances upstream and downstream from disturbances);

~~b.(b)~~ A description of all emission points, including fugitive emissions, associated with the process to be tested, and when applicable, the method that will be used to measure or include these emissions during the source test; and

~~e.(c)~~ Procedure for verifying absence of cyclonic or non-parallel stack gas flow.

~~7.(7)~~ Internal Quality Assurance/Quality Control (QA/QC) Measures - for each proposed test method when applicable:

~~a.(a)~~ Citation of the QA/QC procedures specified in the EPA Reference Methods and the EPA Quality Assurance Handbook for Air Pollution Measurement Systems, Volume III;

~~b.(b)~~ Chain-of-custody procedures and copies of chain-of-custody forms;

~~e.(c)~~ Procedure for conditioning particulate matter filters (before and after source testing);

~~d.(d)~~ Procedure for conducting leak checks on vacuum lines, pitot tubes, flexible bags, orsats, etc.;

~~e.(e)~~ Equipment calibration frequencies, ranges, and acceptable limits;

~~f.(f)~~ Minimum detection limits of analytical instrumentation;

~~g.(g)~~ Names, addresses, and responsible persons of all sub-contracting laboratories and a description of analytical methods to be used, chain-of-custody procedures, and QA/QC measures;

~~h.(h)~~ QA/QC measures associated with the collection and analysis of process or raw material samples and the frequency at which these samples will be collected;

~~i.(i)~~ Methods for interference and matrix effects checks, and number of replicate analyses;

~~j.(j)~~ Methods and concentrations for internal standards (standards additions prior to extraction);

~~k.(k)~~ Methods and concentrations for surrogate standards (standards additions to collection media prior to sampling);

~~l.(l)~~ Methods for recovery checks, field blanks, lab blanks, reagent blanks, proof rinse blanks, and analytical blanks;

~~m.(m)~~ Proposed range of recoveries for data acceptability and method of data interpretation if sample recovery is not within the proposed range; and

~~n.(n)~~ Procedure for obtaining, analyzing, and reporting source test method performance audit samples and results.

8-(8) Final Test Report Content:

a-(a) Final report outline;

b-(b) Example calculations when using alternative test methods or for calculation of process operating rates; and

c-(c) Proposed report submission date if more than thirty (30) days after the source test will be needed to complete the report.

D-(D) Notification and Conduct of Source Tests

1-(1) Prior to conducting a source test subject to this section, the owner, operator, or representative shall ensure that a complete written notification is submitted to the Department at least two (2) weeks prior to the test date **or as otherwise specified by a relevant federal or state requirement**. Submission of a site-specific test plan or amendments to a previously approved test plan does not constitute notification. Requirements for a complete notification include the following:

a-(a) Facility name, permit number, mailing address, physical address, and contact name and phone number;

b-(b) Source(s) being tested, source identification number(s), and pollutant(s) being tested;

c-(c) Proposed test date and start time for each source being tested; and

d-(d) Approved test plan being used to conduct the test identified by Department approval date.

2-(2) In the event the owner, operator, or representative is unable to conduct the source test on the date specified in the notification, the owner, operator, or representative shall notify the Department as soon as practical by telephone and follow up in writing within thirty (30) days. Telephone notification shall include a description of the circumstance(s) causing the cancellation of the test, and a projected retest date. The written follow-up report shall include a description of the condition(s) which prevented the source test from being conducted, and when applicable, what corrective action was performed, or what equipment repairs were required.

3-(3) Rescheduling of canceled source tests must meet the two-week notice requirement. However, shorter notification periods may be allowed subject to Department approval.

4-(4) All tests shall be conducted by or under the direction of a person qualified by training and/or experience in the field of air pollution testing or, where required by federal regulation, meeting the minimum competency requirements for air emissions testing as specified in ASTM D7036-04, Standard Practice for Competence of Air Emission Testing Bodies.

5-(5) Unless approved otherwise by the Department, the owner, operator, or representative shall ensure that source tests are conducted while the source is operating at the maximum expected production rate or other production rate or operating parameter which would result in the highest emissions for the pollutants being tested **or as otherwise specified in a relevant federal or state requirement**. Examples of the operating parameters that may affect emission rates are: type and composition of raw materials and fuels, isolation of control equipment modules, product types and dimensions, thermal oxidizer combustion temperature, atypical control equipment settings, etc. Some sources may have to spike fuels or raw materials to avoid

being permitted at a more restrictive feed or process rate. Any source test performed at a production rate less than the rated capacity may result in permit limits on emission rates, including limits on production if necessary.

6.(6) When conducting a source test subject to this section, the owner, operator, or representative of a source shall provide the following:

- a.(a)** Department access to the facility to observe source tests;
- b.(b)** Sampling ports adequate for test methods;
- c.(c)** Safe sampling site(s);
- d.(d)** Safe access to sampling site(s);
- e.(e)** Utilities for sampling and testing equipment; and
- f.(f)** Equipment and supplies necessary for safe testing of a source.

E.(E) Source Test Method Performance Audit Program

1.(1) The Department may request that samples collected during any source tests be split with the Department for analysis by an independent or Department laboratory. Any request for split samples will be made in advance of the source test.

2.(2) Performance testing shall include a test method performance audit (PA) during the performance test if a PA sample is commercially available.

a.(a) PAs consist of blind audit samples supplied by an accredited audit sample provider (AASP) and analyzed during the performance test in order to provide a measure of test data bias.

b.(b) An “accredited audit sample provider (AASP)” is an organization that has been accredited to prepare audit samples by an independent, third party accrediting body.

3.(3) The source owner, operator, or representative of the tested facility shall obtain an audit sample, if commercially available, from an AASP for each test method used for regulatory compliance purposes.

a.(a) No audit samples are required for the following test methods: Methods 3A and 3C of Appendix A-2 of 40 CFR **Part** 60; Methods 6C, 7E, 9, and 10 of Appendix A-4 of 40 CFR **Part** 60; Method 18 of Appendix A-6 of 40 CFR **Part** 60; Methods 20, 22, and 25A of Appendix A-7 of 40 CFR **Part** 60; and Methods 303, 318, 320, and 321 of Appendix A of 40 CFR Part 63.

b.(b) If multiple sources at a single facility are tested during a compliance test event, only one audit sample is required for each method used during a compliance test.

c.(c) Upon request, the Department may waive the requirement to include an audit sample if the Department determines that an audit sample is not necessary. A waiver of the performance audit requirements to conduct a PA for a particular source does not constitute a waiver of performance audit requirements for future source tests.

~~d.~~(d) “Commercially available” means that two or more independent AASPs have blind audit samples available for purchase. If the source owner, operator, or representative cannot find an audit sample for a specific method, the owner, operator, or representative shall consult the EPA Web site at the following URL, <http://www.epa.gov/ttn/emc>, to confirm whether there is an AASP that can supply an audit sample for that method.

~~e.~~(e) If the EPA Web site does not list an available audit sample at least 60 days prior to the beginning of the compliance test, the source owner, operator, or representative shall not be required to include an audit sample as part of the quality assurance program for the compliance test.

~~f.~~(f) When ordering an audit sample, the source, operator, or representative shall give the AASP an estimate for the concentration of each pollutant that is emitted by the source or the estimated concentration of each pollutant based on the permitted level and the name, address, and phone number of the Department.

~~g.~~(g) The source owner, operator, or representative shall report the results for the audit sample along with a summary of the emission test results for the audited pollutant to the Department and shall report the results of the audit sample to the AASP. The source owner, operator, or representative shall make both reports at the same time and in the same manner or shall report to the Department first and then report to the AASP.

~~h.~~(h) If the method being audited is a method that allows the samples to be analyzed in the field and the tester plans to analyze the samples in the field, the tester may analyze the audit samples prior to collecting the emission samples provided a representative of the Department is present at the testing site. The source owner, operator, or representative may request in the test protocol a waiver to the requirement that a representative of the Department must be present at the testing site during the field analysis of an audit sample.

~~i.~~(i) The final test report shall document any attempt to obtain an audit sample and, if an audit sample was ordered and utilized, the pass/fail results as applicable.

~~4.~~(4) The Department shall have discretion to require any subsequent remedial actions of the owner, operator, or representative based on the split samples and/or performance audit results.

~~F.~~(F) Final Source Test Report

~~1.~~(1) The owner, operator, or representative of a source subject to this section shall submit a written report of the final source test results to the Department by the close of business on the 30th day following the completion of the test, unless an alternative date has been requested in and approved with the site-specific test plan prior to testing or is otherwise specified in a relevant federal or state ~~standard requirement~~.

~~2.~~(2) The final test report for each site-specific test plan shall contain, at a minimum, the following supporting information when applicable:

~~a.~~(a) Summary of the results;

~~b.~~(b) Emission calculations and emission rates in units of the applicable standard, permit limit, etc.;

~~e.~~(c) Allowable emission rates in units of the applicable standard, permit limit, etc.;

~~d.~~(d) Source compliance status;

e-(e) Process operating rates;

f-(f) Methods including actual calculations, equations, and other related information that were used to demonstrate and verify the operating rate during the source test;

g-(g) Chain of custody records;

h-(h) Certification of all reference standards used;

i-(i) Signature of a responsible facility representative who can verify process operating rates and parameters;

j-(j) Legible copies of all raw laboratory data (for example, filter tare and final weights, titrations, chromatograms, spectrograms, analyzer measurements, etc.);

k-(k) Legible copies of all raw field data (for example, strip charts, field data forms, field calibration forms, etc.);

l-(l) Legible copies of applicable stack gas or opacity monitoring system readings identified in the approved site-specific test plan;

m-(m) Legible copies of all applicable process and air pollution control operating parameter readings identified in the approved site-specific test plan;

n-(n) Results of all calibrations and QA/QC measures and checks identified in the approved site-specific test plan;

o-(o) Results of performance audits pursuant to Section IV-~~E(E)~~ above or documentation that no audit sample was commercially available 60 days prior to the beginning of the compliance test;

p-(p) Description of any deviations from the proposed process operations as approved in the site-specific test plan during testing;

q-(q) Description of any deviations from approved sampling methods/procedures;

r-(r) Description of any deviations from approved analytical procedures;

s-(s) Description of any problems encountered during sampling and analysis, and explanation of how each was resolved; and

t-(t) Legible copies of any applicable or required certifications (for example, Visible Emission Observer, Qualified Source Testing Individual (QSTI), etc.).

G-(G) Noncompliant Results

Within fifteen (15) days of submission of a test report indicating noncompliance, the owner, operator, or representative shall submit to the Department a written plan which includes at a minimum:

1-(1) Interim actions being taken to minimize emissions pending demonstration of compliance;

2-(2) Corrective actions that have been taken or that are proposed to return the source to compliance;

3-(3) Method that will be used to demonstrate the source has returned to compliance (for example, retest and proposed date); and

4-(4) Any changes necessary to update the site-specific test plan prior to a retest.

H-(H) Analytical Observation

Upon request by the Department, the owner, operator, representative, or the source test consultant shall ensure that Department representatives are provided access to the analytical laboratory for observation of instrument calibrations and analysis of field and audit samples.

I-(I) Site Inspection

Upon request by the Department and prior to approval of the site-specific test plan, the owner, operator, or representative shall ensure Department representatives are provided access to the site for inspection of the source(s) to be tested.

J-(J) Modifications

Modifications to the approved site-specific test plan must have prior Department approval. Approval shall be considered on a case-by-case basis. Failure to obtain prior Department approval may cause final test results to be unacceptable.

SECTION V – CREDIBLE EVIDENCE

A-(A) The Department promulgated Regulation 61-62, Air Pollution Control Regulations and Standards, and developed the South Carolina Air Quality Implementation Plan to provide enforceable emission limitations; to establish an adequate enforcement program; to require owners or operators of stationary sources to monitor emissions, submit periodic reports of such emissions, and maintain records as specified by various regulations and permits; and to evaluate reports and records for consistency with the applicable emission limitation or standard on a continuing basis over time. The monitoring data collected and records of operations would serve as the basis for a source to certify compliance, and could be used by the Department as direct evidence of an enforceable violation of the underlying emission limitation or standard.

B-(B) The purpose of this section is:

1-(1) To clarify the statutory authority of Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan, whereby non-reference test data and various kinds of information already available and utilized for other purposes may be used to demonstrate compliance or noncompliance with emission standards;

2-(2) To eliminate any potential ambiguity regarding language that has been interpreted to provide for exclusive reliance on reference test methods as the means of certifying compliance with various emission limits; and

3-(3) To curtail language that limits the types of testing or monitoring data that may be used for determining compliance and for establishing violations.

~~6-(C)~~ The following are applicable in the determination of noncompliance by the Department or for compliance certification by the owners or operators of stationary sources:

~~1-(1)~~ Enforcement - Consistent with South Carolina’s Environmental Audit Privilege and Voluntary Disclosure Act, codified as S.C. Code Ann. Sections 48-57-10 et seq., and notwithstanding any other provision in the South Carolina Air Quality Implementation Plan, 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 had been performed, can be used to establish whether or not a person has violated or is in violation of any standard in the plan; and

~~2-(2)~~ Compliance Certifications - Consistent with South Carolina’s Environmental Audit Privilege and Voluntary Disclosure Act, codified as S.C. Code Ann. Sections 48-57-10 et seq., and notwithstanding any other provision in the South Carolina Air Quality Implementation Plan, the owner or operator may use 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 had been performed for the purpose of submitting compliance certifications.

61-62.5. Standard No. 2. Ambient Air Quality Standards.

The following table, unless otherwise noted, constitutes the primary and secondary ambient air quality standards for the State of South Carolina. The computations for determining if the applicable standard is met, along with the analytical methods to be used, will be those applicable Federal Reference Methods and Interpretations published in the Appendices to 40 Code of Federal Regulations (CFR) ~~Part 50~~, or those methods designated as Federal Equivalent Methods (FEM) in accordance with 40 CFR ~~Part 53~~. ~~In the case of Gaseous Fluorides, either the double paper tape sampler method (ASTM D 3266-91 or later), the sodium bicarbonate coated glass tube and particulate filter method (ASTM D 3268-91 or later), or an approved method may be used.~~

Pollutant	Reference	Measuring Interval	Standard Level			
			mg/m ³	µg/m ³	Ppm	ppb
Sulfur Dioxide	40 CFR 50.4 40 CFR 50.5	3 hour (secondary)	-	1300	0.5	-
	40 CFR 50.17	1- hour (primary)	-	-	-	75
PM ₁₀	40 CFR 50.6	24 hour	-	150	-	-
PM _{2.5}	40 CFR 50.13	24 hour (primary)	-	35	-	-
	40 CFR 50.18	Annual (primary)	-	12	-	-
		24 hour (secondary)	-	35		
		Annual (secondary)	-	15		
Carbon Monoxide	40 CFR 50.8	1 hour (no secondary)	40	-	35	-
		8 hour (no secondary)	10	-	9	-
Ozone	40 CFR 50.15	8 hour (2008)	-	-	0.075	-

Pollutant	Reference	Measuring Interval	Standard Level			
			mg/m ³	µg/m ³	Ppm	ppb
	40 CFR 50.19	8 hour (2015)	-	-	0.070	-
Nitrogen Dioxide	40 CFR 50.11	Annual	-	100	0.053	53
		1-hour				100
Lead	40 CFR 50.16	Rolling 3-month Average	-	0.15	-	-

61-62.5. Standard No. 5.2. Control of Oxides of Nitrogen (NO_x).

SECTION I - APPLICABILITY

A-(A) Except as provided in paragraph **B-(B)** of this part, the provisions of this regulation shall apply to any stationary source that emits or has the potential to emit oxides of nitrogen (NO_x) generated from fuel combustion. A stationary source becomes an affected source under this regulation upon meeting one or more of the criteria specified in paragraphs (A)(1), (A)(2), and (A)(3) below:

(1) Any new source that is constructed after June 25, 2004;

(2) Any existing source where a burner assembly is replaced with another burner assembly after the effective date of this regulation, regardless of size or age of the burner assembly to be replaced shall become an existing affected source and is subject to sections **(V)**, **(VI)**, and **(VII)** below. The replacement of individual components such as burner heads, nozzles, or windboxes does not trigger affected source status.

(3) Any existing source removed from its presently permitted facility (either from in-state or out-of-state) and moved to another permitted facility in-state after the effective date of this regulation shall be considered a new affected source. Any existing sources relocated between permitted facilities within the State under common ownership shall not become an existing affected source until Section **(I)(A)(2)** is triggered.

B-(B) Exemptions:

The following sources are exempt from all requirements of this regulation unless otherwise specified:

~~(1) Any source emitting NO_x listed on the Regulation 61-62.1, Section II(B), Exemptions.~~

~~(2) Any source emitting NO_x listed on the Department maintained list under Regulation 61-62.1, Section II(B)(3).~~

(1) Boilers of less than 10 million British thermal unit per hour (BTU/hr) rated input.

(2) Any source that qualifies as exempt under Regulation 61-62.1, II(B)(2) or II(B)(3).

(3) Any source with total uncontrolled potential to emit less than 5 tons per year of NO_x.

~~(3)(4)~~ Any source which has undergone a Best Available Control Technology (BACT) analysis or Lowest Achievable Emission Rate (LAER) for NO_x in accordance with Regulation 61-62.5, Standard No. 7, and 7.1, respectively.

~~(4)~~(5) Any stationary internal combustion engine with a mechanical power output of less than two hundred (200) brake horsepower (bhp) or 149kW.

~~(5)~~(6) Any device functioning solely as a combustion control device. Waste heat recovery from these combustion control devices shall not be considered primary grounds for exclusion from this exemption.

~~(6)~~(7) Any equipment that has NO_x limits pursuant to the requirements of 40 Code of Federal Regulations (CFR) Parts 60, 61, or 63 where such limits are equivalent to, or more stringent than, the requirements of this regulation.

~~(7)~~(8) Any source that has NO_x limits pursuant to the requirements of Regulation 61-62.9~~67~~, Cross-State Air Pollution Rule (CSAPR) Trading Program, where such limits are equivalent to, or more stringent than, the requirements of this regulation.

~~(8)~~(9) Any source that has NO_x limits pursuant to the requirements of Regulation 61-62.99.

~~(9)~~(10) Air Curtain Incinerators.

~~(10)~~(11) Engines Test Cells and/or Stands.

~~(11)~~(12) Portable and temporary internal combustion (IC) engines such as those associated with generators, air compressors, or other applications provided that they fall in the categories listed in 40 CFR Part 89, (Control of Emissions from New and In-Use Nonroad Compression-Ignition Engines), 40 CFR Part 1039 (Control of Emissions from New and In-Use Nonroad Compression-Ignition Engines), and 40 CFR Part 1068 (General Compliance Provisions for Highway, Stationary, and Nonroad Programs).

~~(12)~~(13) Combustion sources that operate at an annual capacity factor of ten (10) percent or less per year.

~~(13)~~(14) Special use burners, such as startup/shutdown burners, that are operated less than 500 hours a year are exempt from the existing source replacement requirements.

~~(14)~~(15) Liquor guns on a recovery boiler are only exempt from the standard requirements in Section IV below.

~~(15)~~(16) Portable sources such as asphalt plants or concrete batch plants are considered existing sources only and become existing affected sources when the burner assembly is replaced under Section ~~(4)~~(A)(2).

~~(16)~~(17) The Department reserves the right to consider any other exemptions from this regulation on a case-by-case basis as appropriate.

SECTION II - DEFINITIONS

For the purposes of this regulation, the following definitions shall apply:

~~A-~~(A) Annual Capacity Factor: Means the ratio between the actual heat input to a combustion unit from the fuels during a calendar year and the potential heat input to the steam generating unit had it been operated for 8,760 hours during a calendar year at the maximum steady state design heat input capacity.

~~B-~~(B) Burner Assembly: Means any complete, pre-engineered device that combines air (or oxygen) and fuel in a controlled manner and admits this mixture into a combustion chamber in such a way as to ensure

safe and efficient combustion. A self-contained chamber such as is found on a combustion turbine is not a burner assembly for the purposes of this regulation.

C-(C) Case-by-Case NO_x Control: Means an emissions limitation based on the maximum degree of reduction for NO_x which would be emitted from any new source which the Department, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source through application of production processes or available methods, systems, and techniques. In no event shall application of NO_x control result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard. If the Department determines that technological or economic limitations on the application of measurement methodology to a particular source would make the impositions of an emission standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of NO_x control. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

D-(D) Combustion Control Device: Means, but is not limited to, any equipment that is used to destroy or remove air pollutant(s) prior to discharge to the atmosphere, excluding boilers, process heaters, dryers, furnaces, digesters, ovens, combustors, and similar combustion devices. Such equipment includes, but is not limited to, thermal oxidizers, catalytic oxidizers, and flares.

E-(E) Constructed: Means the on-site fabrication, erection, or installation of the NO_x emitting source.

F-(F) Equivalent Technology: Means any item that is identical or functionally equivalent to the existing component. This component may serve the same purpose or function as the replaced component, but may be different in some respects or improved in some ways.

G-(G) Existing affected source: Means sources constructed on or before June 25, 2004, and that meet the applicability requirements of Section ~~(4)~~(A)(2).

H-(H) Fuel: Means the following fuels, any combination of the fuels or any combustible material the Department determines to be a fuel including, but not limited to:

- (1) Virgin fuel, waste, waste fuel, and clean wood (biomass fuel) as defined in Regulation 61-62.1.
- (2) Biodiesel: Means a mono-alkyl ester derived from vegetable oil and animal fat and conforming to ASTM D6751.
- (3) Biofuel: Means any biomass-based solid fuel that is not a solid waste. This includes, but is not limited to, animal manure, including litter and other bedding materials; vegetative agricultural and silvicultural materials, such as logging residues (slash), nut and grain hulls and chaff (for example, almond, walnut, peanut, rice, and wheat), bagasse, orchard prunings, corn stalks, coffee bean hulls and grounds.
- (4) Digester gas: Means any gaseous by-product of wastewater treatment typically formed through the anaerobic decomposition of organic waste materials and composed principally of methane and CO₂.
- (5) Fossil Fuel: Means natural gas, petroleum, coal, and any form of solid, liquid, or gaseous fuel derived from such material for the purpose of creating useful heat. Petroleum for facilities constructed, reconstructed, or modified before May 4, 2011, means crude oil or a fuel derived from crude oil, including, but not limited to, distillate oil and residual oil. For units constructed, reconstructed, or modified after May

3, 2011, petroleum means crude oil or a fuel derived from crude oil, including, but not limited to, distillate oil, residual oil, and petroleum coke.

(6) Landfill Gas: Means a gaseous by-product of the land application of municipal refuse typically formed through the anaerobic decomposition of waste materials and composed principally of methane and CO₂.

~~I.(I)~~ New affected source: Means any affected source which has been constructed after June 25, 2004, or meets the applicability requirements of Section ~~(4)I~~(A)(3). A new affected source will not be considered an existing affected source at burner assembly replacement under Section ~~(4)I~~(A)(2).

~~(J) Non-routine maintenance is an unforeseen failure of a single burner assembly in an existing affected source with multiple burner application forcing an unplanned replacement of the existing burner.~~

~~J.(K) Source: Means an individual NO_x emission unit, a stationary NO_x emission unit, comprised of one or more burners.~~

SECTION III - STANDARD REQUIREMENTS FOR NEW AFFECTED SOURCES

~~A.(A)~~ Those affected sources as defined in Section I(A)(1) and (A)(3) above shall apply NO_x controls to achieve the limitations provided in Table 1 of this section. Unless otherwise noted, all emission limits for affected sources required to use Continuous Emissions Monitoring (CEMS) shall be based on thirty (30) day rolling averages.

~~B.(B)~~ An affected source may request an alternate control limitation by submitting a demonstration that the alternate limitation is a Case-by-Case NO_x Control as defined in Section II above.

~~C.(C)~~ The Department reserves the right to request that the owner or operator submit additional information for those affected sources that request alternate control limitation in accordance with Section III(B) above.

~~D.(D)~~ Affected sources required to install post combustion technology for the control of NO_x shall be required to use post combustion for the control of NO_x during the ozone season.

Table 1 - NO_x Control Standards

Source Type	Emission Limit
Propane and/or Natural Gas-Fired Boilers	
≥10 million British thermal units per hour (← MMBtu/hr) (MMBtu/hr) and < 100 MMBtu/hr	Low-NO _x Burners or equivalent technology, shall achieve 0.036 pounds per million metric British thermal units (lb/MMBtu)
≥100 MMBtu/hr	Low-NO _x Burners + Flue Gas Recirculation or equivalent technology, shall achieve 0.036 lb/MMBtu
Distillate Oil-Fired Boilers	
≥10 MMBtu/hr and < 100 MMBtu/hr	Low-NO _x Burners or equivalent technology, shall achieve 0.15 lb/MMBtu
≥100 MMBtu/hr	Low-NO _x Burners + Flue Gas Recirculation or equivalent technology, shall achieve 0.14 lb/MMBtu
Residual Oil-Fired Boilers	

Source Type	Emission Limit
≥10 MMBtu/hr and < 100 MMBtu/hr	Low-NO _x Burners or equivalent technology, shall achieve 0.3 lb/MMBtu
≥100 MMBtu/hr	Low-NO _x Burners + Flue Gas Recirculation or equivalent technology, shall achieve 0.3 lb/MMBtu
Multiple Fuel Boilers	
The emission limits for boilers burning multiple fuels are calculated in accordance with the formulas below. Additional fuels or combination of fuels not otherwise listed in this table shall be addressed on a case-by-case basis.	
≥10 MMBtu/hr and < 100 MMBtu/hr	$E_n = [(0.036 \text{ lb/MMBtu } H_{ng}) + (0.15 \text{ lb/MMBtu } H_{do}) + (0.3 \text{ lb/MMBtu } H_{ro}) + (0.35 \text{ lb/MMBtu } H_c) + (0.2 \text{ lb/MMBtu } H_w)] / (H_{ng} + H_{do} + H_{ro} + H_c + H_w)$ <p>where:</p> <p>E_n is the nitrogen oxides emission limit (expressed as nitrogen dioxide (NO₂)), ng/J (lb/million Btu), H_{ng} is the heat input from combustion of natural gas, and/or propane, H_{do} is the heat input from combustion of distillate oil, H_{ro} is the heat input from combustion of residual oil, H_c is the heat input from combustion of coal, and H_w is the heat input from combustion of wood residue.</p>
≥100 MMBtu/hr	$E_n = [(0.036 \text{ lb/MMBtu } H_{ng}) + (0.14 \text{ lb/MMBtu } H_{do}) + (0.3 \text{ lb/MMBtu } H_{ro}) + (0.25 \text{ lb/MMBtu } H_c) + (0.2 \text{ lb/MMBtu } H_w)] / (H_{ng} + H_{do} + H_{ro} + H_c + H_w)$ <p>where:</p> <p>E_n is the nitrogen oxides emission limit (expressed as NO₂), ng/J (lb/million Btu), H_{ng} is the heat input from combustion of natural gas, and/or propane, H_{do} is the heat input from combustion of distillate oil, H_{ro} is the heat input from combustion of residual oil, H_c is the heat input from combustion of coal, and H_w is the heat input from combustion of wood residue.</p>
Wood Residue Boilers	
All types	Combustion controls to minimize NO _x emissions or equivalent technology, shall achieve 0.20 lb/MMBtu
Coal-Fired Stoker Fed Boilers	
< 250 MMBtu/hr	Combustion controls to minimize NO _x emissions or equivalent technology, shall achieve 0.35 lb/MMBtu
≥ 250 MMBtu/hr	Combustion controls to minimize NO _x emissions or equivalent technology, shall achieve 0.25 lb/MMBtu
Pulverized Coal-Fired Boilers	
< 250 MMBtu/hr	Low-NO _x Burners + Combustion controls to minimize NO _x emissions or equivalent technology, shall achieve 0.35 lb/MMBtu
≥ 250 MMBtu/hr	Low-NO _x Burners + Combustion controls to minimize NO _x emissions + Selective Catalytic Reduction (SCR) or equivalent technology, shall achieve 0.14 lb/MMBtu

Source Type	Emission Limit
Municipal Refuse-Fired Boilers	
< 250 MMBtu/hr	Combustion modifications to minimize NO _x emissions + Flue Gas Recirculation or equivalent technology, shall achieve 195 ppmv at 12 percent CO ₂ (0.35 lb/MMBtu)
≥ 250 MMBtu/hr	Staged Combustion and Automatic Combustion Air Control + SCR or equivalent technology, shall achieve 0.18 lb/MMBtu
Internal Combustion Engines	
Compression Ignition	Timing Retard ≤ 4 degrees + Turbocharger with Intercooler or equivalent technology, shall achieve 490 ppmv at 15 percent O ₂ (7.64 gram per bhp-hour (gm/bhp-hr))
Spark Ignition	Lean-Burn Technology or equivalent technology, shall achieve 1.0 gm/bhp-hr
Landfill or Digester Gas-Fired	Lean-Burn Technology or equivalent technology, shall achieve 1.25 gm/bhp-hr
Gas Turbines	
Simple Cycle – Natural Gas	
< 50 Megawatts	Combustion Modifications (for example, dry low-NO _x combustors) to minimize NO _x emissions or equivalent technology, shall achieve 25 ppmv at 15 percent O ₂ Dry Basis
≥ 50 Megawatts	Combustion Modifications (for example, dry low-NO _x combustors) to minimize NO _x emissions or equivalent technology, shall achieve 9.0 ppmv at 15 percent O ₂ Dry Basis
Combined Cycle – Natural Gas	
< 50 Megawatts	Dry Low-NO _x Combustors or equivalent technology, shall achieve 9.0 ppmv at 15 percent O ₂ Dry Basis
≥ 50 Megawatts	Dry Low-NO _x Combustors + SCR or equivalent technology, shall achieve 3.0 ppmv at 15 percent O ₂ Dry Basis
Simple Cycle – Distillate Oil Combustion	
< 50 Megawatts	Combustion Modifications and water injection to minimize NO _x emissions or equivalent technology, shall achieve 42 ppmv at 15 percent O ₂ Dry Basis
≥ 50 Megawatts	Combustion Modifications and water injection to minimize NO _x emissions or equivalent technology, shall achieve 42 ppmv at 15 percent O ₂ Dry Basis
Combined Cycle - Distillate Oil Combustion	
< 50 Megawatts	Dry Low-NO _x Combustors with water injection or equivalent technology, shall achieve 42 ppmv at 15 percent O ₂ Dry Basis
≥ 50 Megawatts	Dry Low-NO _x Combustors, water injection, and SCR or equivalent technology, shall achieve 10 ppmv at 15 percent O ₂ Dry Basis
Landfill Gas-Fired	Water or steam injection or low-NO _x turbine design or equivalent technology, shall achieve 25 ppmv at 15 percent O ₂ Dry Basis
Fluidized Bed Combustion (FBC) Boiler	
Bubbling Bed	Selective Non-catalytic Reduction (SNCR) shall achieve 0.15 lbs/MMBtu
Circulating Bed	SNCR shall achieve 0.07 lbs/MMBtu
Other	

Source Type	Emission Limit
Recovery Furnaces	Forth Fourth (4 th) level or air to recovery furnace/good combustion practices or equivalent technology, shall achieve 100 ppmv at 8 percent O ₂ Dry Basis
Cement Kilns	Low-NO _x burners or equivalent technology, shall achieve 30 percent reduction from uncontrolled levels.
Lime Kilns	Combustion controls or equivalent technology, shall achieve 175 ppmv at 10 percent O ₂ Dry Basis.
Fuel Combustion Sources burning any non-specified fuel not listed in Table above. (Examples include but are not limited to process heaters not meeting the definition of "boiler" in Regulation 61-62.1 Section I, dryers, furnaces, ovens, duct burners, incinerators, and smelters)	Low-NO _x burners or equivalent technology, shall achieve 30 percent reduction from uncontrolled levels.

SECTION IV - MONITORING, RECORD KEEPING, AND REPORTING REQUIREMENTS FOR NEW AFFECTED SOURCES

~~A.~~(A) Boilers

With the exception of fuel certification and tune-up requirements, compliance with required NO_x monitoring in 40 CFR ~~Part~~ 60 shall constitute compliance with the monitoring requirements in this section.

Affected sources that are not subject to 40 CFR ~~Part~~ 60 shall comply with the applicable requirements in this section.

(1) CEMS

(a) Except as allowed by the Department, the owner or operator of a boiler rated two hundred (200) MMBtu/hr or greater permitted for solid fuel, shall install, calibrate, maintain, and operate CEMS for measuring NO_x, and Oxygen (O₂) or Carbon Dioxide (CO₂) emissions discharged to the atmosphere, and shall record the output of the system.

(b) The CEMS required under this section shall be operated and data recorded during all periods of operation of the affected source except for CEMS breakdowns and repairs. Data is to be recorded during calibration checks and zero and span adjustments.

(c) The CEMS required under this section shall be installed, calibrated, maintained, and operated in accordance with approved methods in Regulation 61-62.60 or 61-62.72, or as approved by the Department.

(d) Excess Emissions

(i) Excess emissions and monitoring systems performance reports shall be submitted semiannually. All reports shall be postmarked by the thirtieth (30th) day following the end of each six (6) month period. Written reports of excess emissions shall include the following information:

(A) The magnitude of excess emissions, any conversion factor(s) used, the date and time of commencement and completion of each time period of excess emissions, the process operating time during the reporting period.

(B) Specific identification of each period of excess emissions that occurs during **startups, shutdowns, and** malfunctions of the affected source. The nature and cause of any malfunction (if known), the corrective action taken, or preventative measures adopted.

(C) 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 the system repairs or adjustments.

(D) When no excess emissions have occurred or the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be stated in the reports.

(2) Periodic Monitoring and/or Source Test

(a) Unless required to operate a CEMS, testing requirements apply to boilers rated thirty (30) MMBtu/hr or greater or permitted for solid fuels and boilers rated greater than one hundred (100) MMBtu/hr permitted for any other fuels.

(b) Except as allowed by the Department, an initial source test for NO_x emissions shall be conducted within one hundred and eighty (180) days after startup.

(c) Periodic source tests for NO_x shall be conducted every twenty-four (24) months, or as determined by the Department on a case by case basis in the permit condition for the affected source. Source tests will be used to show compliance with the NO_x standard.

(d) The Department reserves the right to require periodic source testing for any affected sources. All source testing shall be conducted in accordance with Regulation 61-62.1, Section IV.

(3) Fuel Certification

The owner or operator shall record monthly records of the amounts and types of each fuel combusted and maintain these records on site.

(4) Tune-ups

If the owner or operator of a boiler is required to comply with federal tune-up requirements in 40 CFR Part 63, then the federal requirements shall meet the compliance requirements of this paragraph. **If the owner or operator of a boiler is not subject to the federal tune-up requirements (40 CFR Part 63), then the following requirements are applicable:**

(a) The first tune-up shall be conducted no more than twenty-four (24) months from start-up of operation for new affected sources.

~~(a)~~(b) The owners or operator shall perform tune-ups every twenty-four (24) months in accordance with manufacturer's specifications or with good engineering practices.

~~(b)~~(c) All tune-up records are required to be maintained on site and available for inspection by the Department for a period of five (5) years from the date generated.

~~(e)~~(d) The owner or operator shall develop and retain a tune-up plan on file.

(5) Other Requirements

The owner or operator shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected source; any malfunction of the air pollution control equipment; and any periods during which a continuous monitoring system or monitoring device is inoperative.

B-(B) Internal Combustion Engines

With the exception of fuel certification and tune-up requirements, compliance with required NO_x monitoring in 40 CFR Part 60 shall constitute compliance with the monitoring requirements in this section.

Affected sources that are not subject to 40 CFR Part 60 shall comply with all applicable requirements in this section.

The owner or operator of an affected source shall comply with either (B)(1) or (B)(2) below.

(1) Manufacturer's Certification

(a) Operate and maintain the stationary internal combustion engine and control device according to the manufacturer's emission-related written instructions;

(b) Change only those emission-related settings that are permitted by the manufacturer.

(2) Periodic Monitoring and/or Source Test

(a) Except as allowed by the Department, an initial source test for NO_x shall be conducted within one hundred eighty (180) days after startup.

(b) Periodic source tests for NO_x shall be conducted every twenty-four (24) months, or as determined by the Department on a case by case basis in the permit condition for the affected source. Source tests will be used to show compliance with the NO_x standard.

(c) The owner or operator shall operate the affected source(s) within the parameter(s) established during the most recent compliant source tests. A copy of the most recent Department issued source test summary letter(s) that established the parameter(s) shall be maintained with the required permit.

(d) The Department reserves the right to require periodic source testing for any affected sources. All source testing shall be conducted in accordance with Regulation 61-62.1, Section IV.

(3) Tune-Ups

If the owner or operator of an internal combustion engine is required to comply with federal requirements in 40 CFR Part 63 for the internal combustion engine, then the federal requirements shall meet the tune-up requirements of this section. If the owner or operator of an internal combustion engine is not subject to the federal tune-up requirements (40 CFR Part 63), then the following requirements are applicable:

(a) The owner or operator shall perform tune-ups every twenty-four (24) months in accordance with manufacturer's specifications or with good engineering practices.

(b) All tune-up records are required to be maintained on site and available for inspection by the Department for a period of five (5) years from the date generated.

(c) The owner or operator shall develop and retain a tune-up plan on file.

(4) Fuel Certification

The owner or operator shall record monthly the amounts and types of each fuel combusted by the affected sources and maintain these records on site.

(5) Other Requirements

The owner or operator shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected source; any malfunction of the air pollution control equipment; and any periods during which a continuous monitoring system or monitoring device is inoperative.

~~C.(C)~~ Turbines

With the exception of fuel certification and tune-up requirements, compliance with required NO_x monitoring in 40 CFR Part 60 shall constitute compliance with the monitoring requirements in this section.

Affected sources that are not subject to 40 CFR Part 60 shall comply with all applicable requirements in this section.

The owner or operator of an affected source shall comply with either (C)(1) or (C)(2) below.

(1) CEMS

(a) Except as allowed by the Department, the owner or operator shall install, calibrate, maintain, and operate CEMS on the turbine for measuring NO_x, and Oxygen (O₂) or Carbon Dioxide (CO₂) emissions discharged to the atmosphere, and shall record the output of the system.

(b) The CEMS required under this section shall be operated and data recorded during all periods of operation of the affected source except for CEMS breakdowns and repairs. Data is to be recorded during calibration checks and zero and span adjustments.

(c) The CEMS required under this section shall be installed, calibrated, maintained, and operated in accordance with approved methods in Regulation 61-62.60 or 61-62.72, or as approved by the Department.

(d) Excess Emissions

(i) Excess emissions and monitoring systems performance reports shall be submitted semiannually. All reports shall be postmarked by the thirtieth (30th) day following the end of each six (6) month period. Written reports of excess emissions shall include the following information:

(A) The magnitude of excess emissions, any conversion factor(s) used, the date and time of commencement and completion of each time period of excess emissions, and the process operating time during the reporting period.

(B) Specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the affected source. The nature and cause of any malfunction (if known), the corrective action taken, or preventative measures adopted.

(C) 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 the system repairs or adjustments.

(D) When no excess emissions have occurred or the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be stated in the reports.

(2) Parametric Monitoring

(a) Unless required to operate a CEMS, the owner or operator using water or steam injection to control NO_x shall install, calibrate, maintain, and operate a continuous monitoring system to monitor and record the fuel consumption and the ratio of water or steam to fuel being fired in the turbine.

(b) Unless required to operate a CEMS, the owner or operator using a diffusion flame turbine without add-on selective catalytic reduction controls (SCR) to control NO_x, shall define at least four parameters indicative of the unit's NO_x formation characteristics and shall monitor these parameters continuously.

(c) Unless required to operate a CEMS, for any lean premix stationary combustion turbine, the owner or operator shall continuously monitor the appropriate parameters to determine whether the unit is operating in low-NO_x mode.

(d) Unless required to operate a CEMS, for any turbine that uses SCR to reduce NO_x, the owner or operator shall continuously monitor appropriate parameters to verify the proper operation of the emission controls.

(3) Periodic Monitoring and/or Source Test

(a) This requirement only applies to turbines not required to operate a CEMS.

(b) The steam or water to fuel ratio or other parameters that are continuously monitored as described in this section shall be monitored during the performance test required under this section to establish acceptable values and ranges. The owner or operator may supplement the performance test data with engineering analyses, design specifications, manufacturer's recommendations, and other relevant information to define the acceptable parametric ranges more precisely. The owner or operator shall develop and keep on-site a parameter monitoring plan which explains the procedures used to document proper operation of the NO_x emission controls. The plan shall include the parameter(s) monitored and the acceptable range(s) of the parameter(s) as well as the basis for designating the parameter(s) and acceptable range(s). Any supplemental data such as engineering analyses, design specifications, manufacturer's recommendations, and other relevant information shall be included in the monitoring plan.

(c) Except as allowed by the Department, an initial source test for NO_x emissions shall be conducted within one hundred eighty (180) days after startup.

(d) Periodic source tests for NO_x shall be conducted every twenty-four (24) months, or as determined by the Department on a case by case basis in the permit condition for the affected source. Source tests will be used to show compliance with the NO_x standard.

(e) The Department reserves the right to require periodic source testing for any affected sources. All source testing shall be conducted in accordance with Regulation 61-62.1, Section IV.

(4) Tune-Ups

(a) The owner or operator shall perform tune-ups every twenty-four (24) months in accordance with manufacturer's specifications or with good engineering practices.

(b) All tune-up records are required to be maintained on site and available for inspection by the Department for a period of five (5) years from the date generated.

(c) The owner or operator shall develop and retain a tune-up plan on file.

(5) Fuel Certification

The owner or operator shall record monthly the amounts and types of each fuel combusted by the affected sources and maintain these records on site.

(6) Other Requirements

The owner or operator shall maintain records of the occurrence and duration of any ~~startup, shutdown, or~~ malfunction in the operation of an affected source; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

~~D.(D)~~ All Other Affected Source Types

With the exception of fuel certification and tune-up requirements, compliance with required NO_x monitoring in 40 CFR ~~Part~~ 60 shall constitute compliance with the monitoring requirements in this section.

If the owner or operator is not required to comply with federal requirements in 40 CFR ~~Part~~ 60 for monitoring NO_x, then the monitoring requirements for the affected source shall be established on a case by case basis.

(1) Tune-Ups

(a) The owner or operator of a combustion source shall perform tune-ups every twenty-four (24) months in accordance with manufacturer's specifications or with good engineering practices.

(b) All tune-up records are required to be maintained on site and available for inspection by the Department for a period of five (5) years from the date generated.

(c) The owner or operator shall develop and retain a tune-up plan on file.

(2) Periodic Monitoring and/or Source Test

(a) Except as allowed by the Department, an initial source test for NO_x shall be conducted within one hundred eighty (180) days after startup.

(b) Periodic source tests for NO_x shall be conducted every twenty-four (24) months, or as determined by the Department on a case by case basis in the permit condition for the affected source. Source tests will be used to show compliance with the NO_x standard.

(c) The Department reserves the right to require periodic source tests for any affected sources. All source testing shall be conducted in accordance with Regulation 61-62.1, Section IV.

(3) Fuel Certification

The owner or operator shall record and maintain monthly records of the amounts and types of each fuel combusted by the affected sources and maintain these records on site.

(4) Other Requirements

The owner or operator shall maintain records of the occurrence and duration of any malfunction in the operation of an affected source; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

SECTION V - STANDARD REQUIREMENTS FOR EXISTING AFFECTED SOURCES

~~A.~~(A) For those affected sources subject to the requirements of this regulation as defined in Section I(A)(2) above where an existing burner assembly is replaced after the effective date of this regulation, the burner assembly shall be replaced with a low-NO_x burner assembly or equivalent technology, and shall achieve a thirty (30) percent reduction from uncontrolled NO_x emission levels based upon manufacturer's specifications. An exemption from this requirement shall be granted when a single burner assembly is being replaced in an affected source with multiple burners due to non-routine maintenance.

~~B.~~(B) For those sources defined in Section I(A)(2) above where an existing burner assembly is replaced after the effective date of this regulation, the owner or operator shall notify and register the replacement with the Department in accordance with Section VI below.

~~C.~~(C) An affected source may request an alternative control methodology to the one specified in paragraph (A) above of this section provided that they can demonstrate to the Department why the NO_x control limits specified are not economically or technically feasible for this specific circumstance. The Department reserves the right to request that the owner or operator submit additional information as necessary for the alternative control methodology determination. Alternative control methodologies granted under this part are not effective until notification is submitted to and approved by the Department.

SECTION VI - NOTIFICATION REQUIREMENTS FOR EXISTING AFFECTED SOURCES

~~A.~~(A) Burner Assembly Replacement Notifications for Existing Affected Sources

(1) Except for those affected sources that wish to request an alternative control methodology as specified in Section V(C) above, the notification requirements specified in this section shall apply only to existing affected sources as defined in Section I(A)(2) above where an existing burner assembly is replaced after the effective date of this regulation.

(2) Within seven (7) days of replacing an existing burner assembly, the owner or operator shall submit written notification to register the replacement unit with the Department.

(3) Notification shall satisfy the permitting requirements consistent with Regulation 61-62.1, Section II(a).

(4) Notification shall contain replacement unit information as requested in the format provided by the Department. Replacement unit information shall include, at a minimum, all affected units at the source and the date the replacement unit(s) commenced operation.

(5) Those affected sources that wish to receive an emission reduction credit for the control device will be required to submit a permit application prior to replacement of the burner assembly(s).

SECTION VII – TUNE-UP REQUIREMENTS FOR EXISTING SOURCES

~~A.(A)~~ The owner or operator shall perform tune-ups every twenty-four (24) months in accordance with manufacturer's specifications or with good engineering practices. ~~The first tune-up shall be conducted no more than twenty-four (24) months from start-up of operation for affected new sources and Tune-ups shall be conducted~~ no more than twenty-four (24) months from replacement of a burner assembly for affected existing sources. Each subsequent tune-up shall be conducted no more than twenty-four (24) months after the previous tune-up.

~~B.(B)~~ All tune-up records are required to be maintained on site and available for inspection by the Department for a period of five (5) years from the date generated.

~~C.(C)~~ The owner or operator shall develop and retain a tune-up plan on file.

61-62.5. Standard No. 7. Prevention of Significant Deterioration.

~~(a)(A)~~(1) Reserved.

(2) Applicability procedures.

~~(i)(a)~~ The requirements of this regulation apply to the construction of any new major stationary source (as defined in paragraph ~~(b)(B)~~(32)) or any project at an existing major stationary source in an area designated as attainment or unclassifiable under 40 Code of Federal Regulations (CFR) 81.341.

~~(ii)(b)~~ The requirements of paragraphs ~~(j)(J)~~ through ~~(r)(R)~~ apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this section otherwise provides.

~~(iii)(c)~~ No new major stationary source or major modification to which the requirements of paragraphs ~~(j)(J)~~ through ~~(r)(R)~~(5) apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The Department has authority to issue any such permit.

~~(iv)(d)~~ The requirements of the program will be applied in accordance with the principles set out in paragraphs ~~(a)(2)(iv)(a)(A)(2)(d)(i)~~ through ~~(f)(A)(2)(d)(vi)~~.

~~(a)(i)~~ Except as otherwise provided in paragraphs ~~(a)(2)(v)~~ and ~~(vi)(A)(2)(e)~~, and consistent with the definition of major modification contained in paragraph ~~(b)(B)~~(30), a project is a major modification for a regulated New Source Review (NSR) pollutant if it causes two types of emissions increases – a significant emissions increase (as defined in paragraph ~~(b)(B)~~(50)), and a significant net emissions increase (as defined in paragraphs ~~(b)(B)~~(34) and ~~(b)(B)~~(49)). 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)(ii) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (that is, the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (a)(2)(iv)(e)(A)(2)(d)(iii) through (A)(2)(d)(vi). The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (that is, the second step of the process) is contained in the definition in paragraph (b)(B)(34). Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(e)(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 paragraph (b)(B)(41)) and the baseline actual emissions (as defined in paragraphs (b)(4)(i)(B)(4)(a) and (ii)(B)(4)(b)), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in paragraph (b)(B)(49)).

(d)(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 paragraph (b)(B)(37)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in paragraph (b)(4)(iii)(B)(4)(c)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in paragraph (b)(B)(49)).

(e)(v) [Reserved]

(f)(vi) **Hybrid test for projects that involve multiple types of emissions units.** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs (a)(2)(iv)(e)(A)(2)(d)(iii) and (A)(2)(d)(iv) 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 paragraph (b)(B)(49)).

(v)(e) For any major stationary source for a Plantwide Applicability Limitation (PAL) for a regulated NSR pollutant, the major stationary source shall comply with the requirements under paragraph (aa) Section (AA).

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

— For the purposes of this regulation:

(1)(i)(a) **“Actual emissions”** means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (b)(1)(ii)(B)(1)(b) through (b)(1)(iv)(B)(1)(d), except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under paragraph (aa) Section (AA). Instead, paragraphs (b)(B)(41) and (b)(B)(4) shall apply for those purposes.

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

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

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

(2) **“Adverse impact on visibility”** means visibility impairment which interferes with the management, protection, preservation or enjoyment of 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 visibility impairment, and how these factors correlate with (1) times of visitor use of the Class I area, and (2) the frequency and timing of natural conditions that reduce visibility.

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

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

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

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

(4) **“Baseline actual emissions”** means the rate of emissions, in **tpy tons per year**, of a regulated NSR pollutant, as determined in accordance with paragraphs (b)(4)(i)(B)(4)(a) through (iv)(B)(4)(d).

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

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

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

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

(d)(iv) The average rate shall not be based on any consecutive **twenty-four (24)**-month period for which there is inadequate information for determining annual emissions, in **tpy tons per year**, and for adjusting this amount if required by paragraph (b)(4)(i)(b)(B)(4)(a)(ii).

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

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

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

(c)(iii) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive ~~twenty-four (24)~~-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR ~~Part 63~~, the baseline actual emissions need only be adjusted if the State has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

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

(e)(v) The average rate shall not be based on any consecutive ~~twenty-four (24)~~-month period for which there is inadequate information for determining annual emissions, in ~~tpy tons per year~~, and for adjusting this amount if required by paragraphs ~~(b)(4)(ii)(B)(4)(b)(ii)~~ and ~~(c)(B)(4)(b)(iii)~~.

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

(iv)(d) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph ~~(b)(4)(i)(B)(4)(a)~~, for other existing emissions units in accordance with the procedures contained in paragraph ~~(b)(4)(ii)(B)(4)(b)~~, and for a new emissions unit in accordance with the procedures contained in paragraph ~~(b)(4)(iii)(B)(4)(c)~~.

(5)(i)(a) **"Baseline area"** means any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section 107(d)(1)(A)(ii) or (iii) of the Clean Air Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: Equal to or greater than one (1) microgram(s) per cubic meter ($\mu\text{g}/\text{m}^3$) (annual average) for SO_2 , NO_2 , or PM_{10} ; or equal or greater than $0.3 \mu\text{g}/\text{m}^3$ (annual average) for $\text{PM}_{2.5}$.

~~(ii)(b)~~ Area redesignations under Section 107(d)(1)(A)(ii) or 107(d)(1)(A)(iii) of the Clean Air Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

~~(a)(i)~~ Establishes a minor source baseline date; or

~~(b)(ii)~~ Is subject to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.166; and would be constructed in the same state as the state proposing the redesignation.

~~(iii)(c)~~ 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, except that such baseline area shall not remain in effect if the Department rescinds the corresponding minor source baseline date in accordance with paragraph ~~(b)(31)(iv)(B)(31)(d)~~.

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

~~(a)(i)~~ The actual emissions, as defined in paragraph ~~(b)(B)~~(1), representative of sources in existence on the applicable minor source baseline date, except as provided in paragraph ~~(b)(6)(ii)(B)(6)(b)~~; and

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

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

~~(a)(i)~~ Actual emissions, as defined in paragraph ~~(b)(B)~~(1), from any major stationary source on which construction commenced after the major source baseline date; and

~~(b)(ii)~~ Actual emissions increases and decreases, as defined in paragraph ~~(b)(B)~~(1), at any stationary source occurring after the minor source baseline date.

(7) **“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 underground pipework and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

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

Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(9)(a) **“Building, structure, facility, or installation”** means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same “Major Group” (that is, which have the same first two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and ~~003-005-00176-0~~ 003-005-00716-0, respectively).

(b) Notwithstanding the provisions of paragraph (B)(9)(a), building, structure, facility, or installation means, for onshore activities under Standard Industrial Classification (SIC) Major Group 13: Oil and Gas Extraction, all of the pollutant-emitting activities included in Major Group 13 that are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities shall be considered adjacent if they are located on the same surface site; or if they are located on surface sites that are located within one-fourth (1/4) of a mile of one another (measured from the center of the equipment on the surface site) and they share equipment. Shared equipment includes, but is not limited to, produced fluids storage tanks, phase separators, natural gas dehydrators or emissions control devices. Surface site, as used in this paragraph (b)(9)(b), has the same meaning as in 40 CFR 63.761.

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

(11) **“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 twenty (20) percent of the total cost of the demonstration project.

(12) **[Reserved]**

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

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

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

(14) **“Complete”** means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

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

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

(17) **“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).

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

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

(20) **“Emissions unit”** means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit as defined in paragraph (b)(B)(19). For purposes of this regulation, there are two types of emissions units as described in paragraphs (b)(20)(i)(B)(20)(a) and (ii)(B)(20)(b).

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

(ii)(b) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (b)(20)(i)(B)(20)(a). A replacement unit, as defined in paragraph (b)(B)(45), is an existing emissions unit.

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

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

(23) **“Fugitive emissions”** means those emissions to the outdoor environment which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(24) **“High terrain”** means any area having an elevation 900 feet or more above the base of the stack of a source.

(25) **“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.

(26) **“Indian Reservation”** means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(27) **“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.

(28) **“Low terrain”** means any area other than high terrain.

(29) **“Lowest achievable emission rate (LAER)”** is as defined in paragraph ~~(e)(5)(B)(20)~~ of Regulation 61-62.5 Standard 7.1, “Nonattainment New Source Review.”

(30) ~~(i)(a)~~ **“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 paragraph ~~(b)(B)(50)~~) of a regulated NSR pollutant (as defined in paragraph ~~(b)(B)(44)~~); and a significant net emissions increase of that pollutant from the major stationary source.

~~(ii)(b)~~ Any significant emissions increase (as defined in paragraph ~~(b)(B)(50)~~) from any emissions units or net emissions increase (as defined in paragraph ~~(b)(B)(34)~~) at a major stationary source that is significant for volatile organic compounds (VOCs) or ~~oxides of nitrogen~~ **oxides** shall be considered significant for ozone.

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

~~(a)(i)~~ Routine maintenance, repair and replacement;

~~(b)(ii)~~ Use of an alternative fuel or raw material by reason of an order under ~~sections Sections~~ 2(a) and 2(b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

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

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

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

(1) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR ~~subpart Part 51, Subpart I~~ or 40 CFR 51.166; or

(2) The source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.166;

~~(f)~~(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR ~~subpart Part 51, Subpart I~~ or 40 CFR 51.166.

~~(g)~~(vii) Any change in ownership at a stationary source

~~(h)~~(viii) [Reserved]

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

(1) The State Implementation Plan for the state in which the project is located, and

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

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

~~(k)~~(xi) The reactivation of a very clean coal-fired electric utility steam generating unit.

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

~~(v)~~(e) ~~Fugitive emissions shall not be included in determining for any of the purposes of this section whether a physical change in or change in the method of operation of a major stationary source is a major modification, unless the source belongs to one of the source categories listed in paragraph b(32)(iii) of this section.~~[Reserved]

(31)~~(i)~~(a) **“Major source baseline date”** means:

~~(a)~~(i) In the case of PM₁₀ and sulfur dioxide, January 6, 1975;

~~(b)~~(ii) In the case of nitrogen dioxide, February 8, 1988; and

~~(c)~~(iii) In the case of PM_{2.5}, October 20, 2010.

~~(ii)~~(b) **“Minor source baseline date”** means the earliest date after the trigger date on which a major stationary source or a major modification subject to 40 CFR 52.21 or to regulations approved pursuant to 40 CFR 51.166 submits a complete application under the relevant regulations. The trigger date is:

~~(a)~~(i) In the case of PM₁₀ and sulfur dioxide, August 7, 1977;

~~(b)~~(ii) In the case of nitrogen dioxide, February 8, 1988; and

(e)(iii) In the case of PM_{2.5}, October 20, 2011.

(iii)(c) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(a)(i) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section 107(d)(1)(A)(ii) or (iii) of the Clean Air Act for the pollutant on the date of its complete application under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.166; and

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

(iv)(d) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that the Department shall rescind a minor source baseline date where it can be shown, to the satisfaction of the Department, that the emissions increase from the major stationary source, or net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM₁₀ emissions.

(32)(i)(a) **“Major stationary source”** means:

(a)(i) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, **one hundred (100) tpy tons per year** or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 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 250 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 North American Industrial Classification System (NAICS) codes 325193 or 312140), fossil fuel boilers (or combinations 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, and charcoal production plants;

(b)(ii) Notwithstanding the stationary source size specified in paragraph **(b)(32)(i)(B)(32)(a)(i)**, any stationary source which emits, or has the potential to emit, **250 tpy tons per year** or more of a regulated NSR pollutant; or

(e)(iii) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph **(b)(B)(32)** as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii)(b) A major stationary source that is major for VOCs or **oxides of nitrogen oxides** shall be considered major for ozone.

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

- (a)(i) Coal cleaning plants (with thermal dryers);
- (b)(ii) Kraft pulp mills;
- (c)(iii) Portland cement plants;
- (d)(iv) Primary zinc smelters;
- (e)(v) Iron and steel mills;
- (f)(vi) Primary aluminum ore reduction plants;
- (g)(vii) Primary copper smelters;
- (h)(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i)(ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (j)(x) Petroleum refineries;
- (k)(xi) Lime plants;
- (l)(xii) Phosphate rock processing plants;
- (m)(xiii) Coke oven batteries;
- (n)(xiv) Sulfur recovery plants;
- (o)(xv) Carbon black plants (furnace process);
- (p)(xvi) Primary lead smelters;
- (q)(xvii) Fuel conversion plants;
- (r)(xviii) Sintering plants;
- (s)(xix) Secondary metal production plants;
- (t)(xx) 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;
- (u)(xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v)(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w)(xxiii) Taconite ore processing plants;

(x)(xxiv) Glass fiber processing plants;

(y)(xxv) Charcoal production plants;

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

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

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

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

(a)(i) The increase in emissions from a particular physical change or change in method of operation at a stationary source as calculated pursuant to paragraph (a)(2)(iv)(A)(2)(d); and

(b)(ii) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this paragraph (b)(34)(i)(b)(B)(34)(a)(ii) shall be determined as provided in paragraph (b)(B)(4), except that paragraphs (b)(4)(i)(e)(B)(4)(a)(iii) and (b)(4)(ii)(d)(B)(4)(b)(iv) shall not apply.

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

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

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

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

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

~~(b) [Reserved]~~

~~(c) It occurs within five years before construction on the particular change commences.~~

~~(d)(ii) 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 (b)(32)(iii) of this section or it occurs at an emission unit that is located at a major stationary source that belongs to one of the listed source categories. [Reserved]~~

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

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

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

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

(b)(ii) It is federally enforceable at and after the time that actual construction on the particular change begins; and

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

(vii)(g) [Reserved]

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

(ix)(i) Paragraph (b)(1)(ii)(B)(1)(b) shall not apply for determining creditable increases and decreases.

(35) [Reserved]

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

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

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

(39) **"Prevention of Significant Deterioration (PSD) program"** means the EPA-implemented major source preconstruction permit programs or a major source preconstruction permit program that has been approved by the Administrator and incorporated into the State Implementation Plan pursuant to 40 CFR 51.166 to implement the requirements of that section. Any permit issued under such a program is a major NSR permit.

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

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

(ii)(b) In determining the projected actual emissions under paragraph **(b)(41)(i)(B)(41)(a)** (before beginning actual construction), the owner or operator of the major stationary source:

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

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

(c)(iii) Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit’s emissions following the project that an existing unit could have accommodated during the consecutive **twenty-four (24)**-month period used to establish the baseline actual emissions under paragraph **(b)(B)(4)** and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

(d)(iv) In lieu of using the method set out in paragraph **(b)(41)(ii)(a)(B)(41)(b)(i)** through **(b)(41)(ii)(c)(B)(41)(b)(iii)**, may elect to use the emissions unit’s potential to emit, in **tpy tons per year**, as defined under paragraph **(b)(B)(37)**.

(42) **“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)(a) Has not been in operation for the two **(2)**-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 permitting authority’s emissions inventory at the time of enactment;

(ii)(b) Was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than eight-five (85) percent and a removal efficiency for particulates of no less than ninety-eight (98) percent;

(iii)(c) Is equipped with low-NO_x burners prior to the time of commencement of operations following reactivation; and

(iv)(d) Is otherwise in compliance with the requirements of the Clean Air Act.

(43) **“Reasonably available control technology (RACT)”** is as defined in 40 CFR 51.100(o).

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

(i)(a) Any pollutant for which a national ambient air quality standard has been promulgated. This includes, but is not limited to, the following:

(a)(i) PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for PM_{2.5} and PM₁₀ 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;

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

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

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

(3) Nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas, unless the State demonstrates to the 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_{2.5} concentrations.

(4) Volatile organic compounds are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area, unless the State demonstrates to the 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_{2.5} concentrations.

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

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

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

(v)(e) [Reserved]

(45) **"Replacement unit"** means an emissions unit for which all the criteria listed in paragraphs (b)(45)(i)(B)(45)(a) through (iv)(B)(45)(d) are met. No credible credible emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

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

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

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

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

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

(ii)(b) 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.

(iii)(c) The Department 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.

(47) **Reserved**

(48) **“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 the stationary source modification which causes secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, from a vessel; or from the following:

(i)(a) Emissions from ships or trains coming to or from the new or modified stationary source; and

(ii)(b) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

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

Pollutant and Emissions Rate

- Carbon monoxide: 100 tpy
- Nitrogen oxides: 40 tpy
- Sulfur dioxide: 40 tpy
- Particulate matter:
 - 25 tpy of particulate matter emissions;
 - 15 tpy of PM₁₀ emissions
 - 10 tpy of direct PM_{2.5};
 - 40 tpy of sulfur dioxide emissions;
 - 40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM_{2.5} precursor under paragraph (b)(44) of this section
- Ozone: 40 tpy of VOCs or oxides of nitrogen
- Lead: 0.6 tpy
- Fluorides: 3 tpy
- Sulfuric acid mist: 7 tpy
- Hydrogen sulfide (H₂S): 10 tpy
- Total reduced sulfur (including H₂S): 10 tpy
- Reduced sulfur compounds (including H₂S): 10 tpy
- Municipal waste combustor organics (measured as total tetra through octa chlorinated dibenzo p dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tpy).
- Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tpy)
- Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tpy)
- Municipal solid waste landfills emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tpy)

<u>Pollutant</u>		<u>Emissions Rate (tons per year)</u>
Carbon monoxide		100
Nitrogen oxides		40
Sulfur dioxide		40
Particulate matter:	Particulate matter emissions	25
	PM ₁₀ emissions	15
	Direct PM _{2.5}	10
	Sulfur dioxide emissions	40

Pollutant		Emissions Rate (tons per year)
	Nitrogen oxide emissions unless demonstrated not to be a PM _{2.5} precursor under paragraph (B)(44) of this section	40
Ozone:	Volatile organic compounds (VOCs)	40
	Nitrogen Oxides	40
Lead		0.6
Fluorides		3
Sulfuric acid mist		7
Hydrogen sulfide (H ₂ S)		10
Total reduced sulfur (including H ₂ S)		10
Reduced sulfur compounds (including H ₂ S)		10
Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans):		3.2 x 10 ⁻⁶ megagrams per year (3.5 x 10 ⁻⁶ tons per year)
Municipal waste combustor metals (measured as particulate matter)		14 megagrams per year (15 tons per year)
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)		36 megagrams per year (40 tons per year)
Municipal solid waste landfills emissions (measured as nonmethane organic compounds)		45 megagrams per year (50 tons per year)

(ii)(b) **“Significant”** means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that paragraph (b)(49)(i)(B)(49)(a), does not list, any emissions rate.

(iii)(c) Notwithstanding paragraph (b)(49)(i)(B)(49)(a), significant means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within ten (10) kilometers of a Class I area, and have an impact on such area equal to or greater than 1 µg/m³, (twenty-four (24)-hour average).

(50) **“Significant emissions increase”** means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in paragraph (b)(B)(49)) for that pollutant.

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

(52) **“Temporary clean coal technology demonstration project”** means a clean coal technology demonstration project that is operated for a period of five (5) years or less, and which complies with the State Implementation Plans for the state in which the project is located and other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.

(53) **“Volatile organic compounds (VOC)”** is as defined in Regulation 61-62.1, Section (I), Definitions.

(e)(C) Ambient air increments.

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

CLASS I		
Pollutant		Maximum Allowable Increase (micrograms per cubic meter)
PM _{2.5} :	annual arithmetic mean	1
	24-hr maximum	2
PM ₁₀ :	annual arithmetic mean	4
	24-hr maximum	8
Sulfur dioxide:	annual arithmetic mean	2
	24-hr maximum	5
	3-hr maximum	25
Nitrogen dioxide:	annual arithmetic mean	2.5

CLASS II		
Pollutant		Maximum Allowable Increase (micrograms per cubic meter)
PM _{2.5} :	annual arithmetic mean	4
	24-hr maximum	9
PM ₁₀ :	annual arithmetic mean	17
	24-hr maximum	30
Sulfur dioxide:	annual arithmetic mean	20
	24-hr maximum	91
	3-hr maximum	512
Nitrogen dioxide:	annual arithmetic mean	25

CLASS III		
Pollutant		Maximum Allowable Increase (micrograms per cubic meter)
PM _{2.5} :	annual arithmetic mean	8
	24-hr maximum	18
PM ₁₀ :	annual arithmetic mean	34
	24-hr maximum	60
Sulfur dioxide:	annual arithmetic mean	40
	24-hr maximum	182
	3-hr maximum	700
Nitrogen dioxide:	annual arithmetic mean	50

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

~~(d)~~(D) **Ambient air ceilings.** No concentration of a pollutant shall exceed:

- (1) The concentration permitted under the national secondary ambient air quality standard; or

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

~~(e)~~(E) Restrictions on area classifications.

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

~~(i)~~(a) International parks;

~~(ii)~~(b) National wilderness areas which exceed 5,000 acres in size;

~~(iii)~~(c) National memorial parks which exceed 5,000 acres in size; and

~~(iv)~~(d) National parks which exceed 6,000 acres in size.

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

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

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

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

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

~~(f)~~(F) [Reserved]

~~(g)~~(G) Redesignation.

(1) All areas (except as otherwise provided under paragraph ~~(e)~~(E)) are designated Class II as of December 5, 1974. Redesignation (except as otherwise precluded by paragraph ~~(e)~~(E)) may be proposed by the respective states or Indian Governing Bodies, as provided below, subject to approval by the Administrator as a revision to the applicable State Implementation Plan.

(2) The state may submit to the Administrator a proposal to redesignate areas of the state Class I or Class II provided that:

~~(i)~~(a) At least one public hearing has been held in accordance with procedures established in 40 CFR 51.102;

~~(ii)~~(b) Other states, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation were notified at least thirty (30) days prior to the public hearing;

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

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

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

(3) Any area other than an area to which paragraph ~~(e)(E)~~ refers may be redesignated as Class III if –

~~(i)(a)~~ The redesignation would meet the requirements of paragraph ~~(g)(G)~~(2);

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

~~(iii)(c)~~ The redesignation would not cause, or contribute to, a concentration of any air pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any National Ambient Air Quality Standard; and

~~(iv)(d)~~ Any permit application for any major stationary source or major modification, subject to review under paragraph ~~(4)(L)~~, which could receive a permit under this section only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available insofar as was practicable for public inspection prior to any public hearing on redesignation of the area as Class III.

(4) Lands within the exterior boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body. The appropriate Indian Governing Body may submit to the Department a proposal to redesignate areas Class I, Class II, or Class III. ~~Provided, That provided that:~~

~~(i)(a)~~ The Indian Governing Body has followed procedures equivalent to those required of a state under paragraphs ~~(g)(G)~~(2), ~~(g)(3)(iii)(G)(3)(c)~~, and ~~(g)(3)(iv)(G)(3)(d)~~; and

~~(ii)(b)~~ Such redesignation is proposed after consultation with the state(s) in which the Indian Reservation is located and which border the Indian Reservation.

(5) The Administrator shall disapprove, within ninety (90) days of submission, a proposed redesignation of any area only if it is found, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements of this paragraph or is inconsistent with paragraph ~~(e)(E)~~. If any such

disapproval occurs, the classification of the area shall be that which was in effect prior to the redesignation which was disapproved.

(6) If the Administrator disapproves any proposed redesignation, the state or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the Administrator.

(h)(H) Stack heights.

(1) The degree of emission limitation required for control of any air pollutant under this section shall not be affected in any manner by;

(i)(a) So much of the stack height of any source as exceeds good engineering practice; or

(ii)(b) Any other dispersion technique.

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

(i)(I) Exemptions.

(1) The requirements of paragraphs (j)(J) through (r)(R) shall not apply to a particular major stationary source or major modification, if:

(i)(a) Construction commenced on the source or modification before August 7, 1977. The regulations at 40 CFR 52.21 as in effect before August 7, 1977, shall govern the review and permitting of any such source or modification; or

(ii)(b) The source or modification was subject to the review requirements of 40 CFR 52.21(d)(1) as in effect before March 1, 1978, and the owner or operator:

(a)(i) Obtained under 40 CFR 52.21 a final approval effective before March 1, 1978;

(b)(ii) Commenced construction before March 19, 1979; and

(c)(iii) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time; or

(ii)(c) The source or modification was subject to 40 CFR 52.21 as in effect before March 1, 1978, and the review of an application for approval for the stationary source or modification under 40 CFR 52.21 would have been completed by March 1, 1978, but for an extension of the public comment period pursuant to a request for such an extension. In such case, the application shall continue to be processed, and granted or denied, under 40 CFR 52.21 as in effect prior to March 1, 1978; or

(iv)(d) The source or modification was not subject to 40 CFR 52.21 as in effect before March 1, 1978, and the owner or operator:

(a)(i) Obtained all final federal, state and local preconstruction approvals or permits necessary under the applicable State Implementation Plan before March 1, 1978;

(b)(ii) Commenced construction before March 19, 1979; and

~~(e)(iii)~~ Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time; or

~~(v)(e)~~ The source or modification was not subject to 40 CFR 52.21 as in effect on June 19, 1978 or under the partial stay of regulations published on February 5, 1980 (45 FR 7800), and the owner or operator:

~~(a)(i)~~ Obtained all final federal, state and local preconstruction approvals or permits necessary under the applicable State Implementation Plan before August 7, 1980;

~~(b)(ii)~~ Commenced construction within eighteen (18) months from August 7, 1980, or any earlier time required under the applicable State Implementation Plan; and

~~(e)(iii)~~ Did not discontinue construction for a period of eighteen (18) months or more and completed construction within a reasonable time; or

~~(vi)(f)~~ The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the Governor of the state in which the source or modification would be located requests that it be exempt from those requirements; or

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

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

~~(b)(ii)~~ Kraft pulp mills;

~~(e)(iii)~~ Portland cement plants;

~~(d)(iv)~~ Primary zinc smelters;

~~(e)(v)~~ Iron and steel mills;

~~(f)(vi)~~ Primary aluminum ore reduction plants;

~~(g)(vii)~~ Primary copper smelters;

~~(h)(viii)~~ Municipal incinerators capable of charging more than 250 tons of refuse per day;

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

~~(j)(x)~~ Petroleum refineries;

~~(k)(xi)~~ Lime plants;

~~(l)(xii)~~ Phosphate rock processing plants;

~~(m)(xiii)~~ Coke oven batteries;

~~(n)(xiv)~~ Sulfur recovery plants;

~~(o)~~(xv) Carbon black plants (furnace process);

~~(p)~~(xvi) Primary lead smelters;

~~(q)~~(xvii) Fuel conversion plants;

~~(r)~~(xviii) Sintering plants;

~~(s)~~(xix) Secondary metal production plants;

~~(t)~~(xx) 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;

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

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

~~(w)~~(xxiii) Taconite ore processing plants;

~~(x)~~(xxiv) Glass fiber processing plants;

~~(y)~~(xxv) Charcoal production plants;

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

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

~~(viii)~~(h) The source is a portable stationary source which has previously received a permit under this section, and:

~~(a)~~(i) The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary; and

~~(b)~~(ii) The emissions from the source would not exceed its allowable emissions; and

~~(c)~~(iii) The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

~~(d)~~(iv) Reasonable notice is given to the Department prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the Department not less than ten (10) days in advance of the proposed relocation unless a different time duration is previously approved by the Department.

~~(ix)~~(i) The source or modification was not subject to 40 CFR 52.21 with respect to particulate matter, as in effect before July 31, 1987, and the owner or operator:

~~(a)~~(i) Obtained all final Federal, State, and local preconstruction approvals or permits necessary under the applicable State implementation plan before July 31, 1987;

~~(b)~~(ii) Commenced construction within eighteen (18) months after July 31, 1987, or any earlier time required under the State Implementation Plan; and

~~(c)~~(iii) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable period of time.

~~(x)~~(j) The source or modification was subject to 40 CFR 52.21, with respect to particulate matter, as in effect before July 31, 1987, and the owner or operator submitted an application for a permit under this section before that date, and the Department subsequently determines that the application as submitted was complete with respect to the particulate matter requirements then in effect in this section. Instead, the requirements of paragraphs ~~(j)~~(J) through ~~(r)~~(R) that were in effect before July 31, 1987, shall apply to such source or modification.

(2) The requirements of paragraphs ~~(j)~~(J) through ~~(r)~~(R) shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under ~~section~~Section 107 of the Clean Air Act.

(3) The requirements of paragraphs ~~(k)~~(K), ~~(m)~~(M), and ~~(o)~~(O) shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification:

~~(i)~~(a) Would impact no Class I area and no area where an applicable increment is known to be violated; and

~~(i)~~(b) Would be temporary.

(4) The requirements of paragraphs ~~(k)~~(K), ~~(m)~~(M), and ~~(o)~~(O) as they relate to any maximum allowable increase for a Class II area shall not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of BACT would be less than fifty (50) ~~tpy tons per year~~.

(5) The Department may exempt a stationary source or modification from the requirements of paragraph ~~(m)~~(M), with respect to monitoring for a particular pollutant if:

~~(i)~~(a) The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts 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;
- ~~Particulate matter~~ 10 $\mu\text{g}/\text{m}^3$ of PM_{10} , 24 hour average;
- ~~Sulfur dioxide~~ 13 $\mu\text{g}/\text{m}^3$, 24 hour average;
- ~~Ozone~~;¹
- ~~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 µg/m³, 1-hour average; or

Pollutant	Concentration	Averaging Period
Carbon monoxide	575 µg/m ³	8-hour average
Nitrogen dioxide	14 µg/m ³	annual average
PM ₁₀	10 µg/m ³	24-hour average
Sulfur dioxide	13 µg/m ³	24-hour average
Ozone: ¹		
Lead	0.1 µg/m ³	3-month average
Fluorides	0.25 µg/m ³	24-hour average
Total reduced sulfur	10 µg/m ³	1-hour average
Hydrogen sulfide	0.2 µg/m ³	1-hour average
Reduced sulfur compounds	10 µg/m ³	1-hour average; or

¹ No de minimis air quality level is provided for ozone. However, any net emissions increase of one hundred (100) ~~tpy~~-tons per year or more of VOCs or nitrogen oxides subject to PSD would be required to perform an ambient impact analysis including the gathering of ambient air quality data.

~~(i)(b)~~ The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in paragraph ~~(i)(5)(i)(D)(5)(a)~~, or the pollutant is not listed in paragraph ~~(i)(5)(i)(D)(5)(a)~~.

(6) The requirements for BACT in paragraph ~~(j)(J)~~ and the requirements for air quality analyses in paragraph ~~(m)(M)(1)~~, shall not apply to a particular stationary source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if the owner or operator of the source or modification submitted an application for a permit under those regulations before August 7, 1980, and the Department subsequently determines that the application as submitted before that date was complete. Instead, the requirements at 40 CFR 52.21(j) and (n) as in effect on June 19, 1978 apply to any such source or modification.

(7)~~(i)(a)~~ The requirements for air quality monitoring in paragraphs ~~(m)(1)(ii)(M)(1)(b)~~ through ~~(iv)(M)(1)(d)~~ shall not apply to a particular source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if the owner or operator of the source or modification submits an application for a permit under this section on or before June 8, 1981, and the Department subsequently determines that the application as submitted before that date was complete with respect to the requirements of this regulation other than those in paragraphs ~~(m)(1)(ii)(M)(1)(b)~~ through ~~(iv)(M)(1)(d)~~, and with respect to the requirements for such analyses at 40 CFR 52.21(m)(2) as in effect on June 19, 1978. Instead, the latter requirements shall apply to any such source or modification.

~~(i)(b)~~ The requirements for air quality monitoring in paragraphs ~~(m)(1)(ii)(M)(1)(b)~~ through ~~(iv)(M)(1)(d)~~ shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if the owner or operator of the source or modification submits an application for a permit under this section on or before June 8, 1981, and the Department subsequently determines that the application as submitted before that date was complete, except with respect to the requirements in paragraphs ~~(m)(1)(ii)(M)(1)(b)~~ through ~~(iv)(M)(1)(d)~~.

(8)~~(i)(a)~~ At the discretion of the Department, the requirements for air quality monitoring of PM₁₀ in paragraphs ~~(m)(1)(i)(M)(1)(a)~~ through ~~(m)(1)(iv)(M)(1)(d)~~ may not apply to a particular source or

modification when the owner or operator of the source or modification submits an application for a permit under this section on or before June 1, 1988 and the Department subsequently determines that the application as submitted before that date was complete, except with respect to the requirements for monitoring particulate matter in paragraphs ~~(m)(1)(i)(M)(1)(a)~~ through ~~(i)(M)(1)(d)~~.

~~(ii)(b)~~ The requirements for air quality monitoring of PM₁₀ in paragraphs ~~(m)(M)(1)~~, ~~(m)(1)(ii)(M)(1)(b)~~, ~~(m)(1)(iv)(M)(1)(d)~~, and ~~(m)(M)(3)~~ 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 ~~(m)(1)(viii)(M)(1)(h)~~, except that if the Department determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four (4) months), the data that paragraph ~~(m)(1)(iii)(M)(1)(c)~~ requires shall have been gathered over a shorter period.

(9) The requirements of paragraph ~~(k)(K)(2)~~ shall not apply to a stationary source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted an application for a permit under this section before the provisions embodying the maximum allowable increase took effect as part of the applicable implementation plan and the Department subsequently determined that the application as submitted before that date was complete.

(10) The requirements in paragraph ~~(k)(K)(2)~~ shall not apply to a stationary source or modification with respect to any maximum allowable increase for PM₁₀ if:

~~(i)(a)~~ The owner or operator of the source or modification submitted an application for a permit under this section before the provisions embodying the maximum allowable increases for PM₁₀ took effect in an implementation plan to which this section applies; and

~~(ii)(b)~~ The Department subsequently determined that the application as submitted before that date was otherwise complete. Instead, the requirements in paragraph ~~(k)(K)(2)~~ shall apply with respect to the maximum allowable increases for TSP as in effect on the date the application was submitted.

(11) The requirements of Section (K) shall not apply to a permit application for a stationary source or modification with respect to the revised national ambient air quality standards for ozone published on October 26, 2015, if:

(a) The Department has determined the permit application subject to this section to be complete on or before October 1, 2015. Instead, the requirements in Section (K) shall apply with respect to the national ambient air quality standards for ozone in effect at the time the Department determined the permit application to be complete; or

(b) The Department has first published before December 28, 2015, a public notice of a preliminary determination or draft permit for the permit application subject to this section. Instead, the requirements in Section (K) shall apply with respect to the national ambient air quality standards for ozone in effect on the date the Department first published a public notice of a preliminary determination or draft permit.

~~(j)(J)~~ Control technology review.

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

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

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

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

~~(k)~~(K) Source impact analysis.

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

- (1) Any National Ambient Air Quality Standard in any air quality control region; or
- (2) Any applicable maximum allowable increase over the baseline concentration in any area.

~~(l)~~(L) Air quality models.

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

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

~~(m)~~(M) Air quality analysis.

- (1) Preapplication analysis.

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

~~(a)~~(i) For the source, each pollutant that it would have the potential to emit in a significant amount;

~~(b)~~(ii) For the modification, each pollutant for which it would result in a significant net emissions increase.

(ii)(b) With respect to any such pollutant for which no National Ambient Air Quality Standard exists, the analysis shall contain such air quality monitoring data as the Department determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

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

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

(v)(e) For any application which becomes complete, except as to the requirements of paragraphs (m)(1)(iii)(M)(1)(c) and (iv)(M)(1)(d), between June 8, 1981, and February 9, 1982, the data that paragraph (m)(1)(iii)(M)(1)(c) requires shall have been gathered over at least the period from February 9, 1981, to the date the application becomes otherwise complete, except that:

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

(b)(ii) If the Department determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four (4) months), the data that paragraph (m)(1)(iii)(M)(1)(c) requires shall have been gathered over at least that shorter period.

(e)(iii) If the monitoring data would relate exclusively to ozone and would not have been required under 40 CFR 52.21 as in effect on June 19, 1978, the Department may waive the otherwise applicable requirements of this paragraph (v)(M)(1)(e) to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

(vi)(f) The owner or operator of a proposed stationary source or modification of VOCs who satisfies all conditions of 40 CFR Part 51 Appendix S, Section IV may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under paragraph (m)(M)(1).

(vii)(g) For any application that becomes complete, except as to the requirements of paragraphs (m)(1)(iii)(M)(1)(c) and (iv)(M)(1)(d) pertaining to PM₁₀, after December 1, 1988, and no later than August 1, 1989, the data that paragraph (m)(1)(iii)(M)(1)(c) requires shall have been gathered over at least the period from August 1, 1988, to the date the application becomes otherwise complete, except that if the Department determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four (4) months), the data that paragraph (m)(1)(iii)(M)(1)(c) requires shall have been gathered over that shorter period.

(viii)(h) With respect to any requirements for air quality monitoring of PM₁₀ under paragraphs (i)(11)(i)(11)(a) and (ii)(11)(b), the owner or operator of the source or modification shall use a monitoring method approved by the Department and shall estimate the ambient concentrations of PM₁₀ using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Department.

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

(3) Operations of monitoring stations. The owner or operator of a major stationary source or major modification shall meet the requirements of Appendix B to 40 CFR Part 58 of during the operation of monitoring stations for purposes of satisfying paragraph ~~(m)~~(M).

~~(n)~~(N) Source information.

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

(1) With respect to a source or modification to which paragraphs ~~(j)~~(J), ~~(l)~~(L), ~~(n)~~(N), and ~~(p)~~(P) apply, such information shall include:

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

~~(ii)~~(b) A detailed schedule for construction of the source or modification;

~~(iii)~~(c) A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that BACT would be applied.

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

~~(i)~~(a) The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

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

~~(o)~~(O) Additional impact analyses.

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

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

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

(P) Sources impacting Federal Class I areas - additional requirements.

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

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

(3) Visibility analysis. The Department shall consider any analysis performed by the Federal Land Manager, provided within thirty (30) days of the notification required by paragraph **(P)(1)**, that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in any Class I area. Where the Department finds that such an analysis does not demonstrate to the satisfaction of the Department that an adverse impact on visibility will result in the Federal Class I area, the Department must, in the notice of public hearing on the permit application, either explain its decision or give notice as to where the explanation can be obtained.

(4) Denial- impact on air quality related values. The Federal Land Manager of any such lands may demonstrate to the Department that the emissions from a proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Department concurs with such demonstration, then the permit shall not be issued.

(5) Class I variances. The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with such demonstration and so certifies, the state may authorize the Administrator: **Provided, That, provided that** the applicable requirements of this regulation are otherwise met, to issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide, PM_{2.5}, PM₁₀, and nitrogen oxides would not exceed the following maximum allowable increases over minor source baseline concentration for such pollutants:

Pollutant		Maximum Allowable Increase (micrograms per cubic meter)
PM _{2.5} :	annual arithmetic mean	4
	24-hr maximum	9

Pollutant		Maximum Allowable Increase (micrograms per cubic meter)
PM ₁₀ :	annual arithmetic mean	17
	24-hr maximum	30
Sulfur dioxide:	annual arithmetic mean	20
	24-hr maximum	91
	3-hr maximum	325
Nitrogen dioxide:	annual arithmetic mean	25

(6) Sulfur dioxide variance by Governor with Federal Land Manager's concurrence. The owner or operator of a proposed source or modification which cannot be approved under paragraph (e)(Q)(4) may demonstrate to the Governor that the source cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of twenty-four (24) hours or less applicable to any Class I area and, in the case of Federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The Governor, after consideration of the Federal Land Manager's recommendation (if any) and concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the Department shall issue a permit to such source or modification pursuant to the requirements of paragraph (e)(Q)(7): **Provided, provided** that the applicable requirements of this regulation are otherwise met.

(7) Variance by the Governor with the President's concurrence. In any case where the Governor recommends a variance in which the Federal Land Manager does not concur, the recommendations of the Governor and the Federal Land Manager shall be transmitted to the President. The President may approve the Governor's recommendation if it is found that the variance is in the national interest. If the variance is approved, the Department shall issue a permit pursuant to the requirements of paragraph (e)(Q)(7): **Provided, provided** that the applicable requirements of this regulation are otherwise met.

(8) Emission limitations for Presidential or gubernatorial variance. In the case of a permit issued pursuant to paragraph (e)(Q)(5) or (e)(Q)(6) the source or modification shall comply with such emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of twenty-four (24) hours or less for more than eighteen (18) days, not necessarily consecutive, during any annual period:

MAXIMUM ALLOWABLE INCREASE (Micrograms per cubic meter)		
Period of exposure	Terrain Areas	
	Low	High
24-hr maximum	36	62
3-hr maximum	130	221

(e)(Q) Public participation.

(1) Within thirty (30) days after receipt of an application to construct, or any addition to such application, the Department shall advise the applicant of any deficiency in the application or in the information

submitted and transmit a copy of such application to EPA. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this regulation, the date on which the Department received all required information.

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

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

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

~~(iii)(c) Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source or modification would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment. Alternatively, these notifications may be made on a public website identified by the Department. However, the Department's selected notification method (i.e., either newspaper or website), known as the "consistent noticing method," shall be used for all permits subject to notice under this section and may, when appropriate, be supplemented by other noticing methods on individual permits. If the Department selects website notice as its consistent noticing method, the notice shall be available for the duration of the public comment period and shall include the notice of public comment, the draft permit, information on how to access the administrative record for the draft permit and how to request and/or attend a public hearing on the draft permit. posting the notice, for the duration of the public comment period, on a public website identified by the Department. This consistent noticing method shall be used for all draft permits subject to notice under this section. The public website notice shall include a notice of public comment including notice of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment. The public website notice shall also include the draft permit, information on how to access the administrative record for the draft permit and how to request and/or attend a public hearing on the draft permit. The Department may use additional means to provide adequate notice to the affected public, including by publishing the notice in a newspaper of general circulation in each region in which the proposed source or modification would be constructed (or in a state publication designed to give general public notice).~~

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

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

(vi)(f) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing in making a final decision on the approvability of the application. No later than ten (10) days after the close of the public comment period, the applicant

may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same location or on the same website where the Department made available preconstruction information relating to the proposed source or modification.

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

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

~~(ix)(i)~~ Notify EPA of every action related to the consideration of the permit.

(3) The requirements of Section ~~(q)(Q)~~, Public Participation, of this standard shall not apply to any major plant or major modification which Section ~~(j)(J)~~, Exemptions, would exempt from the requirements of Sections ~~(k)(K)~~, ~~(m)(M)~~, and ~~(o)(O)~~, but only to the extent that, with respect to each of the criteria for construction approval under the South Carolina State Implementation Plan and for exemption under Section ~~(j)(J)~~, requirements providing the public with at least as much participation in each material determination as those of Section ~~(q)(Q)~~ have been met in the granting of such construction approval.

~~(r)(R)~~ Source obligation.

In addition to all other applicable requirements specified in this regulation, the owner or operator shall comply with the requirements of paragraphs ~~(r)(R)~~(1) through ~~(r)(R)~~(8).

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

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

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

(4) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements or paragraphs ~~(j)(J)~~ through ~~(r)(R)~~ shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(5) Reserved

(6) **Monitoring, recordkeeping and reporting.** The provisions of this paragraph ~~(e)(R)(6)~~ apply ~~to~~ **with respect to any regulated NSR pollutant emitted from** projects at an existing emissions unit at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in paragraphs ~~(b)(41)(ii)(a)(B)(41)(b)(i)~~ through ~~(e)(B)(41)(b)(iii)~~ for calculating projected actual emissions.

~~(i)(a)~~ If the project requires construction permitting under Regulation 61-62.1, Section II, "Permit Requirements," the owner or operator shall provide a copy of the information set out in paragraph ~~(e)(6)(ii)(R)(6)(b)~~ as part of the permit application to the Department. If construction permitting under Regulation 61-62.1, Section II, "Permit Requirements," is not required, the owner or operator shall maintain the information set out in paragraph ~~(e)(6)(ii)(R)(6)(b)~~.

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

~~(a)(i)~~ A description of the project;

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

~~(e)(iii)~~ A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph ~~(b)(41)(ii)(e)(B)(41)(b)(iii)~~ and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(c) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in paragraph (R)(6)(b) of this section to the Department. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the Department before beginning actual construction.

~~(iii)(d)~~ The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph ~~(e)(6)(ii)(b)(R)(6)(b)(ii)~~; and calculate and maintain a record of the annual emissions, in ~~tpy tons per year~~ on a calendar year basis, for a period of five (5) years following resumption of regular operations after the change, or for a period of ten (10) years following resumption of regular operations after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at such emissions unit.

~~(iv)(e)~~ If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Department within ~~sixty (60)~~ days after the end of each year during which records must be generated under paragraph ~~(e)(6)(iii)(R)(6)(d)~~ setting out the unit's annual emissions during the calendar year that preceded submission of the report.

~~(v)(f)~~ If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the Department if the annual emissions, in ~~tpy tons per year~~, from the project identified in paragraph ~~(e)(6)(ii)(R)(6)(b)~~, exceed the baseline actual emissions (as documented and maintained pursuant to paragraph ~~(e)(6)(ii)(e)(R)(6)(b)(iii)~~), by a significant amount (as defined in paragraph ~~(b)(B)(49)~~) for that regulated NSR pollutant, and if such emissions differ from the

preconstruction projection as documented and maintained pursuant to paragraph ~~(R)(6)(b)(iii)~~~~(R)(6)(ii)(e)~~. Such report shall be submitted to the Department within ~~sixty~~ (60) days after the end of such year. The report shall contain the following:

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

~~(b)~~(ii) The annual emissions as calculated pursuant to paragraph ~~(R)(6)(iii)~~(R)(6)(d); and

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

(g) A "reasonable possibility" under paragraph (R)(6) of this section occurs when the owner or operator calculates the project to result in either:

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

(ii) A projected actual emissions increase that, added to the amount of emissions excluded under paragraph (B)(41)(b)(iii) of this section, sums to at least fifty (50) percent of the amount that is a "significant emissions increase," as defined under paragraph (B)(50) of this section (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of paragraph (R)(6)(g)(ii) of this section, and not also within the meaning of paragraph (R)(6)(g)(i) of this section, then provisions (R)(6)(c) through (R)(6)(f) do not apply to the project.

(7) If a project at a source with a PAL requires construction permitting under Regulation 61-62.1, Section II, "Permit Requirements", the owner or operator shall provide notification of source status as part of the permit application to the Department.

(8) The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph ~~(R)~~(6) available for review upon a request for inspection by the Department or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).

~~(S)~~(S) through ~~(U)~~(U)(3) [Reserved]

~~(U)~~(U)(4) In the case of a source or modification which proposes to construct in a Class III area, emissions from which would cause or contribute to air quality exceeding the maximum allowable increase applicable if the area were designated a Class II area, and where no standard under Section 111 of the Clean Air Act has been promulgated for such source category, the Administrator must approve the determination of BACT as set forth in the permit.

~~(V)~~(V) **Innovative control technology.**

(1) An owner or operator of a proposed major stationary source or major modification may request the Department in writing no later than the close of the comment period under 40 CFR 124.10 to approve a system of innovative control technology.

(2) The Department shall, with the consent of the governor(s) of the affected state(s), determine that the source or modification may employ a system of innovative control technology, if:

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

~~(ii)~~(b) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under paragraph ~~(j)~~(J)(2), by a date specified by the Department. Such date shall not be later than four (4) years from the time of startup or seven (7) years from permit issuance;

~~(iii)~~(c) The source or modification would meet the requirements of paragraphs ~~(j)~~(J) and ~~(k)~~(K), based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Department;

~~(iv)~~(d) The source or modification would not before the date specified by the Department:

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

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

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

~~(vi)~~(f) The provisions of paragraph ~~(p)~~(P) (relating to Class I areas) have been satisfied with respect to all periods during the life of the source or modification.

(3) The Department shall withdraw any approval to employ a system of innovative control technology made under this section, if:

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

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

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

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

~~(w)~~(W) Permit rescission.

(1) Any permit issued under this section or a prior version of this regulation shall remain in effect, unless and until it expires or is rescinded under this paragraph ~~(w)~~(W).

(2) Any owner or operator of a stationary source or modification who holds a permit issued under this section for the construction of a new source or modification that meets the requirement in paragraph ~~(w)~~(W)(3) of this section may request that the Department rescind the permit or a particular portion of the permit.

(3) The Department may grant an application for rescission if the application shows that this section would not apply to the source or modification.

(4) If the Department rescinds a permit under this paragraph, the Department shall post a notice of the rescission determination on a public website identified by the Department within sixty (60) days of the rescission.

~~(x)(X)~~ [Reserved]

~~(y)(Y)~~ [Reserved]

~~(z)(Z)~~ [Reserved]

~~(aa)(AA)~~ **Actuals PALs.** The provisions in paragraphs ~~(aa)(AA)~~(1) through ~~(aa)(AA)~~(15) govern actuals PALs.

(1) **Applicability.**

~~(i)(a)~~ The Department may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in paragraphs ~~(aa)(AA)~~(1) through ~~(aa)(AA)~~(15). The term “PAL” shall mean “actuals PAL” throughout ~~paragraph (aa)~~ Section (AA).

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

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

~~(b)(ii)~~ Does not have to be approved through Regulation 61-62.5, Standard 7, Prevention of Significant Deterioration. However, the change will be reviewed through ~~R. Regulation~~ 61-62.1, Section II, A. Permit Requirements; and

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

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

(2) **Definitions.** The definitions in paragraphs ~~(aa)(2)(i)(AA)(2)(a)~~ through ~~(aa)(2)(xi)(AA)(2)(k)~~ shall apply to actual PALs consistent with paragraphs ~~(aa)(AA)~~(1) through ~~(aa)(AA)~~(15). When a term is not defined in these paragraphs, it shall have the meaning given in paragraph ~~(b)(B)~~ or in the Clean Air Act.

~~(i)(a)~~ **Actuals PAL** for a major stationary source means a PAL based on the baseline actual emissions (as defined in paragraph ~~(b)(B)~~(4)) of all emissions units (as defined in paragraph ~~(b)(B)~~(20)) at the source, that emit or have the potential to emit the PAL pollutant.

~~(ii)(b)~~ **“Allowable emissions”** means “allowable emissions” as defined in paragraph ~~(b)(B)~~(3), except as this definition is modified according to paragraphs ~~(aa)(2)(i)(a)(AA)(2)(b)(i)~~ and ~~(aa)(2)(ii)(b)(AA)(2)(b)(ii)~~.

~~(a)~~(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.

~~(b)~~(ii) An emissions unit's potential to emit shall be determined using the definition in paragraph ~~(b)~~(B)(37), except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

~~(iii)~~(c) **"Small emissions unit"** means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in paragraph ~~(b)~~(B)(49) or in the Clean Air Act, whichever is lower.

~~(iv)~~(d) **"Major emissions unit"** means:

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

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

~~(v)~~(e) **"Plantwide applicability limitation (PAL)"** means an emission limitation expressed in tpy 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 ~~(aa)~~(AA)(1) through ~~(aa)~~(AA)(15).

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

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

~~(viii)~~(h) **"PAL major modification"** means, notwithstanding paragraphs ~~(b)~~(B)(30) and ~~(b)~~(B)(34) (the definitions for major modification and net emissions increase), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

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

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

~~(xi)~~(k) **"Significant emissions unit"** means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in paragraph ~~(b)~~(B)(49) 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 ~~(aa)~~(2)(iv)(AA)(2)(d).

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

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

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

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

(4) **General requirements for establishing PALs.**

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

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

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

~~(c)~~(iii) The PAL permit shall contain all the requirements of paragraph ~~(aa)(AA)(7)~~.

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

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

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

~~(g)~~(vii) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in paragraphs ~~(aa)(AA)(12)~~ through ~~(aa)(AA)(14)~~ for each emissions unit under the PAL through the PAL effective period.

~~(ii)~~(b) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under 40 CFR 51.165(a)(3)(ii) unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

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

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

(i)(a) Except as provided in paragraph ~~(aa)(6)(ii)(AA)(6)(b)~~, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in paragraph ~~(b)(B)(4)~~) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under paragraph ~~(b)(B)(49)~~ or under the Clean Air Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive twenty-four (24)-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive twenty-four (24)-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this twenty-four (24)-month period must be subtracted from the PAL level. The Department shall specify a reduced PAL level(s) (in ~~tpy tons per year~~) in the PAL permit to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the Department is aware of prior to the issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of sixty (60) parts per million (ppm) NO_x to a new rule limit of thirty (30) ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).

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

(7) **Contents of the PAL permit.** The PAL permit must contain, at a minimum, the information in paragraphs ~~(aa)(7)(i)(AA)(7)(a)~~ through ~~(aa)(7)(x)(AA)(7)(j)~~.

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

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

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

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

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

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

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

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

~~(ix)(i)~~ A requirement to submit the reports required under paragraph ~~(aa)(AA)~~(14) by the required deadlines.

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

(8) PAL effective period and reopening of the PAL permit. The requirements in paragraphs ~~(aa)(8)(i)(AA)(8)(a)~~ and ~~(aa)(8)(ii)(AA)(8)(b)~~ apply to actuals PALs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(iv)(d)~~ Any physical change or change in the method of operation at the major stationary source will be subject to major NSR requirements if such change meets the definition of major modification in paragraph ~~(b)(B)~~(30).

~~(v)(e)~~ The major stationary source owner or operator shall continue to comply with any state or federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to paragraph ~~(r)(R)~~(4), but were eliminated by the PAL in accordance with the provisions in paragraph ~~(aa)(1)(ii)(e)(AA)(1)(b)(iii)~~.

(10) **Renewal of a PAL.**

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

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

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

~~(a)(i)~~ The information required in paragraphs ~~(aa)(3)(i)(AA)(3)(a)~~ through ~~(aa)(3)(iii)(AA)(3)(c)~~.

~~(b)(ii)~~ A proposed PAL level.

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

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

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

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

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

~~(e)(iii)~~ Notwithstanding paragraphs ~~(aa)(10)(iv)(a)(AA)(10)(d)(i)~~ and ~~(aa)(10)(iv)(b)(AA)(10)(d)(ii)~~:

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

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

~~(v)(e)~~ If the compliance date for a state or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Department has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or Title V permit renewal, whichever occurs first.

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

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

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

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

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

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

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

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

(12) Monitoring requirements for PALs.

(i)(a) General requirements.

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

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

(e)(iii) Notwithstanding paragraph (aa)(12)(i)(b)(AA)(12)(a)(ii), the owner or operator may also employ an alternative monitoring approach that meets paragraph (aa)(12)(i)(a)(AA)(12)(a)(i) if approved by the Department.

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

~~(ii)(b)~~ Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs ~~(aa)(12)(iii)(AA)(12)(c)~~ through ~~(aa)(12)(ix)(AA)(12)(b)(i)~~:

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

~~(b)(ii)~~ CEMS;

~~(e)(iii)~~ CPMS or PEMS; and

~~(d)(iv)~~ Emission factors.

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

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

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

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

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

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

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

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

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

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

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

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

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

(c)(iii) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six (6) months of PAL permit issuance, unless the Department determines that testing is not required.

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

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

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

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

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

(13) Recordkeeping requirements.

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

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

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

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

(14) **Reporting and notification requirements.** The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Department in accordance with ~~the applicable title V operating permit program Regulation 61-62.70~~. The reports shall meet the requirements in paragraphs (aa)(14)(i)(AA)(14)(a) through (aa)(14)(iii)(AA)(14)(c).

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

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

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

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

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

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

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

~~(g)(vii)~~ A signed statement by the responsible official (as defined by ~~the applicable title V operating permit program Regulation 61-62.70~~) certifying the truth, accuracy, and completeness of the information provided in the report.

(ii)(b) Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program implementing 40 CFR 70.6(a)(3)(iii)(B). The reports shall contain the following information:

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

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

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

~~(d)(iv)~~ A signed statement by the responsible official (as defined by ~~the applicable title V operating permit program Regulation 61-62.70~~) certifying the truth, accuracy, and completeness of the information provided in the report.

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

(15) Transition requirements.

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

(ii)(b) The Department may supersede any PAL that was established prior to the date these provisions become effective with a PAL that complies with the requirements of paragraphs (aa)(AA)(1) through (aa)(AA)(15).

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

61-62.5. Standard No. 7.1. Nonattainment New Source Review (NSR)

(a)(A) Applicability.

(1) This rule applies to all major stationary sources constructed or modified in any nonattainment area as designated in 40 Code of Federal Regulations (CFR) 81.341 ("nonattainment area") if the emissions from such facility will cause or contribute to concentrations of a regulated NSR pollutant (as defined in paragraph (e)(13)(B)(32)) for which the nonattainment area was designated as nonattainment. Applicability to this regulation shall be based on the pollutant emission rate set out in paragraph (e)(14)(B)(37) for only those pollutants for which the area's designation is based.

(A)(a) The requirements of paragraph (d) this regulation apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as provided in paragraph (b) Section(A)(10).

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

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

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

(b) Applicability procedures.

(1)(4) Except as otherwise provided in paragraphs (b)(7)(A)(9), and consistent with the definition of major modification contained as defined in paragraph (e)(6)(A)(B)(21)(a), a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases – a significant emissions increase (as defined in paragraph (e)(15)(B)(38)), and a significant net emissions increase (as defined in paragraphs (e)(8)(B)(24) and (15)(B)(37)). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(2)(5) The procedure for calculating (before beginning actual construction), whether a significant emissions increase (the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (b)(1)(A)(6) through (6)(A)(8). The procedure for calculating (before beginning actual construction), whether a significant net emissions increase will occur at the major stationary source (the second step of the process) is contained in the definition in paragraph (e)(8)(B)(24).

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

(3)(6) Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in paragraph ~~(e)(14)(B)(31)~~) and the baseline actual emissions (as defined in paragraphs ~~(e)(2)(A)(B)(3)(a)~~ and ~~(B)(B)(3)(b)~~, as applicable), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in paragraph ~~(e)(14)(B)(37)~~).

(4)(7) Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in paragraph ~~(b)(37)~~ of Regulation 61-62.5 Standard 7, "Prevention of Significant Deterioration" ("Standard 7") ~~(B)(27)~~) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in paragraph ~~(e)(2)(C)(B)(3)(c)~~) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in paragraph ~~(e)(14)(B)(37)~~).

~~(5) [Reserved]~~

(6)(8) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs ~~(b)(3)(A)(6)~~ and ~~(4)(A)(7)~~ 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 paragraph ~~(e)(14)(B)(37)~~).

(7)(9) For any major stationary source for a Plantwide Applicability Limitation (PAL) for a regulated NSR pollutant, the major stationary source shall comply with requirements under ~~paragraph Section (4)(N)~~

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

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

(b) Kraft pulp mills:

(c) Portland cement plants:

(d) Primary zinc smelters:

(e) Iron and steel mills:

(f) Primary aluminum ore reduction plants:

(g) Primary copper smelters:

(h) Municipal incinerators capable of charging more than 250 tons of refuse per day:

(i) Hydrofluoric, sulfuric, or nitric acid plants:

(j) Petroleum refineries;

(k) Lime plants;

(l) Phosphate rock processing plants;

(m) Coke oven batteries;

(n) Sulfur recovery plants;

(o) Carbon black plants (furnace process);

(p) Primary lead smelters;

(q) Fuel conversion plants;

(r) Sintering plants;

(s) Secondary metal production plants;

(t) Chemical process plants - The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

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

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

(w) Taconite ore processing plants;

(x) Glass fiber processing plants;

(y) Charcoal production plants;

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

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

(e)(B) Definitions. The following definitions apply to this Standard only. Any other term contained within this Standard is as defined where indicated in Regulation 61.62.5, Standard 7, Prevention of Significant Deterioration. For the purposes of this regulation:

(1)(A)(a) **“Actual emissions”** means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (e)(1)(B)(1)(b) through (D)(B)(1)(d), except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under paragraph Section (i)(N). Instead, paragraphs (e)(2)(B)(3) and (e)(11)(B)(31) shall apply for those purposes.

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

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

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

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

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

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

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

~~(2)~~(3) **"Baseline actual emissions"** means the rate of emissions, in tpy tons per year, of a regulated NSR pollutant, as determined in accordance with paragraphs ~~(e)(2)(A)(B)(3)(a)~~ through ~~(D)(B)(3)(d)~~.

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

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

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

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

(iv) The average rate shall not be based on any consecutive twenty-four (24)-month period for which there is inadequate information for determining annual emissions, in tpy tons per year, and for adjusting this amount if required by paragraph ~~(e)(2)(A)(ii)(B)(3)(a)(ii)~~.

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

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

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

(iii) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive ~~twenty-four (24)~~-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR ~~Part 63~~, the baseline actual emissions need only be adjusted if the state has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of paragraph ~~(d)(1)(e)(viii)(D)(7)~~.

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

(v) The average rate shall not be based on any consecutive ~~twenty-four (24)~~-month period for which there is inadequate information for determining annual emissions, in ~~tpy tons per year~~, and for adjusting this amount if required by paragraphs ~~(e)(2)(B)(ii)(B)(3)(b)(ii)~~ and ~~(iii)(B)(3)(b)(iii)~~.

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

~~(D)~~(d) For a PAL for a major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph ~~(e)(2)(A)(B)(3)(a)~~, for other existing emissions units in accordance with the procedures contained in paragraph ~~(e)(2)(B)(B)(3)(b)~~, and for a new emissions unit in accordance with the procedures contained in paragraph ~~(e)(2)(C)(B)(3)(c)~~.

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

~~(3)~~(5) ⁴**Best available control technology (BACT)**² means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which

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

~~(4) [Reserved]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (B)(16)(a) of this section. A replacement unit, as defined in paragraph (B)(33), is an existing emissions unit.

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

(18) Federally enforceable means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements

within any applicable State implementation plan, any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I, including operating permits issued under an EPA-approved program that is incorporated into the State implementation plan and expressly requires adherence to any permit issued under such program.

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

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

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

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

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

(i) A significant emissions increase of a regulated NSR pollutant (as defined in paragraph (e)(13)(B)(32)); and

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

(B)(b) Any significant emissions increase (as defined in paragraph (e)(15)(B)(38)) from any emissions units or net emissions increase (as defined in paragraph (e)(8)(B)(24)) at a major stationary source that is significant for volatile organic compounds or oxides of nitrogen oxides shall be considered significant for ozone.

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

(i) Routine maintenance, repair, and replacement;

(ii) Use of an alternative fuel or raw material by reason of an order under sections Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

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

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

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

(a)(1) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after

December 21, 1976, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or Section 51.166; or

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

(vi) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or 40 CFR 51.166;

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

(viii) [Reserved]

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

(a)(1) The South Carolina State Implementation Plan, and

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

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

(e) [Reserved]

(7)(A)(22)(a) **“Major stationary source”** means:

(i) Any stationary source of air pollutants which that emits, or has the potential to emit, one-hundred (100) tpy tons per year or more of any regulated NSR pollutant, except that lower emissions thresholds shall apply in areas subject to Subpart 2, Subpart 3, or Subpart 4 of Part D, Title I of the Clean Air Act, according to paragraphs (e)(7)(A)(i)(a) through (e) of this section, the following table:

(a) 50 tpy of volatile organic compounds or oxides of nitrogen in any serious ozone nonattainment area.

(b) 50 tpy of volatile organic compounds or oxides of nitrogen in an area within an ozone transport region, except for any severe or extreme ozone nonattainment area.

(c) 25 tpy of volatile organic compounds or oxides of nitrogen in any severe ozone nonattainment area.

(d) 10 tpy of volatile organic compounds or oxides of nitrogen in any extreme ozone nonattainment area, or

Nonattainment Area Classification	NO _x	VOC	CO	SO ₂	PM ₁₀	PM _{2.5}
	All values expressed in tons per year					
Ozone: Marginal and Moderate	100	100				

Ozone: Serious	50	50				
Ozone: Severe	25	25				
Ozone: Extreme	10	10				
CO			100			
CO: Serious, where stationary sources contribute significantly to CO levels			50			
PM ₁₀					100	
PM ₁₀ : Serious					70	
PM _{2.5}	100	100		100		100
PM _{2.5} in any serious nonattainment area for PM _{2.5} .	70	70		70		70
SO ₂				100		
NO _x	100					

(ii) Any physical change that would occur at a stationary source not qualifying under paragraph (e)(7)(A)(i)(B)(22)(a) as a major stationary source, if the change would constitute a major stationary source by itself.

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

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

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 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 – The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

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

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

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

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

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

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

~~(8)(A)(24)(a)~~ **“Net emissions increase”** means, with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

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

(ii) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this paragraph ~~(e)(8)(A)(ii)(B)(24)(a)(ii)~~ shall be determined as

provided in paragraph ~~(e)(2)(B)(3)~~, except that paragraphs ~~(e)(2)(A)(iii)(B)(3)(a)(iii)~~ and ~~(e)(2)(B)(iv)(B)(3)(b)(iv)~~ shall not apply.

~~(B)(b)~~ An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs ~~before the date that the increase from the particular change occurs;~~ ~~between:~~

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

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

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

~~(i) It occurs within five years before construction on the particular change commences; and~~

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

~~(ii) [Reserved]~~

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

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

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

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

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

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

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

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

~~(9)(25)~~ **“Nonattainment major new source review (NSR) program”** means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of this regulation, or a program that implements 40 CFR Part 51, ~~appendix Appendix S~~, Sections I through VI. Any permit issued under such a program is a major NSR permit.

~~(10) [Reserved]~~

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

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

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

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

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

~~(11)(A)(31)(a)~~ **"Projected actual emissions"** means, the maximum annual rate, in ~~tpy tons per year~~, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the ~~five (5)~~ years ~~(twelve (12)-month period)~~ following the date the unit resumes regular operation after the project, or in any one of the ~~ten (10)~~ years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

~~(B)(b)~~ In determining the projected actual emissions under paragraph ~~(e)(11)(A)(B)(31)(a)~~ before beginning actual construction, the owner or operator of the major stationary source:

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

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

(iii) Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive ~~twenty-four (24)~~-month period used to establish the baseline actual emissions under paragraph ~~(e)(2)(B)(3)~~ and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,

(iv) In lieu of using the method set out in paragraphs ~~(e)(11)(B)(i)(B)(31)(b)(i)~~ through ~~(iii)(B)(31)(b)(iii)~~ may elect to use the emissions unit's potential to emit, in ~~tpy tons per year~~, as defined under paragraph ~~(b)(37)~~ of Standard 7 in paragraph (B)(27) of this section.

~~(12) "Prevention of Significant Deterioration (PSD) permit" means any permit that is issued under a major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of 40 CFR 51.166, or under the program in 40 CFR 52.21.~~

~~(13)(32)~~ **"Regulated NSR pollutant,"** for purposes of this regulation, means the following:

~~(A)(a)~~ **Oxides of nitrogen**~~Nitrogen oxides~~ or any volatile organic compounds;

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

~~(C)(c)~~ Any pollutant that is identified under this paragraph as a constituent or precursor of a general pollutant listed under paragraphs ~~(e)(13)(A)(B)(32)(a)~~ or ~~(B)(B)(32)(b)~~, provided that a such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

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

~~(b)(ii)~~ Sulfur dioxide ~~is a precursor, volatile organic compounds, nitrogen oxides, and ammonia are precursors~~ to PM_{2.5} in ~~all any~~ PM_{2.5} nonattainment areas;

~~(c) Nitrogen oxides are presumed to be precursors to PM_{2.5} in all PM_{2.5} nonattainment areas, unless the state demonstrates to the 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_{2.5} concentrations;~~

~~(d) Volatile organic compounds and ammonia are presumed not to be precursors to PM_{2.5} in any PM_{2.5} nonattainment area, unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds or ammonia from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations; or~~

~~(D)(d)~~ PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity, which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM_{2.5} and PM₁₀ in nonattainment major NSR permits issued under this ruling. Compliance with emissions limitations for PM_{2.5} and PM₁₀ issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.

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

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

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

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

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

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

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

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

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

Pollutant Emission Rate

Carbon monoxide: 100 tpy

Nitrogen oxides: 40 tpy

Particulate matter:

— 15 tpy of PM₁₀ emissions

— 10 tpy of direct PM_{2.5};

— 40 tpy of sulfur dioxide emissions;

— 40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM_{2.5} precursor under paragraph 13 of this section

Sulfur dioxide: 40 tpy

Ozone: 40 tpy of volatile organic compounds or oxides of nitrogen

Lead: 0.6 tpy

Pollutant		Emissions Rate (tons per year)
Carbon monoxide	Marginal and Moderate Nonattainment Areas	100
	Serious Nonattainment Areas	50*
Nitrogen oxides		40
Sulfur dioxide		40
PM₁₀		15
PM_{2.5}	of direct PM_{2.5}	10
	of SO₂, NO_x, or VOC	40
Ozone	Marginal and Moderate Nonattainment Areas	40 (of VOC or NO_x)
	Serious and Severe Nonattainment Areas	25 (of VOC or NO_x)
	Extreme Nonattainment Areas	Any (of VOC or NO_x)
Lead		0.6

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

(15)(38) "Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in paragraph (e)(14)(B)(37)) for that pollutant.

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

(16)(40) "Volatile organic compounds (VOC)" is as defined in Regulation 61-62.1, Section (I), Definitions.

(d) **Permitting requirements**

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

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

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

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

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

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

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

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

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

(D) Offset standards.

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

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

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

(iii)(a)(4) Emissions reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels may be generally credited ~~if such reductions are permanent, quantifiable, federally enforceable, occurred on or after the date of the most recent emissions inventory, and if the area has an EPA approved attainment plan.~~ for offsets if the shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this paragraph, the

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

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

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

~~(b) if the The applicant can establish that the proposed new source is a replacement for the shutdown or curtailed source, and the cutoff date provision of paragraph (d)(C)(iii)(a) are observed emission reductions achieved by the shutdown or curtailment met the requirements of paragraph (D)(4).~~

~~(iv)(6) No emissions credit may 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 shall be federally enforceable and surplus;~~

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

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

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

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

~~(1) To be eligible to be an emission offset:~~

~~(A) A reduction in emissions shall be permanent, quantifiable, enforceable, and surplus and must have occurred after December 31 of the base year inventory for those pollutants that are designated nonattainment by the EPA. The base year inventory date is two years preceding the date of nonattainment designation. However, the Department may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units.~~

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

~~(2)~~(12) Emission reductions may be created by any of, or a combination of, the following methods:

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

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

~~(C)~~(c) A reduction in actual emission rates; or

~~(D)~~ A reduction in hours of operation;

~~(E)~~ Production curtailment or reduction in throughput;

~~(F)~~ Shutdown of emitting sources; or

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

~~(3)~~(13) A completed emissions offset submittal must be received by the Department within one (1) year of the date of the creation of the reductions. Emission offsets not requested within one (1) year of the date of the creation of the reductions will be permanently retired. Prior to commencing operation of a permitted emissions unit, Department approval for the required emission offsets must be granted.

~~(4)~~(14) The following emission reductions that are not considered surplus, are ineligible for emission offsets:

~~(A)~~ Emission reductions that are not considered surplus, such as:

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

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

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

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

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

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

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

~~(E) (b)~~ Calculation of Emission Offsets

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

~~(A)(a)~~ The source shall calculate average annual actual emissions, in tpy-tons per year, before the emission reduction using data from the twenty-four (24)-month period immediately preceding the reduction in emissions. With the Department's approval, the use of a different time period, not to exceed ten (10) years immediately preceding the reduction in emissions, may be allowed if the owner or operator of the source documents that such period is more representative of normal source operation, but not prior to the base year inventory date, which is the last day of the two (2) years preceding the date of nonattainment designation; and

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

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

~~(F) (vi)~~ Location of offsetting emissions. Emission offsets shall be obtained from sources currently operating within the same designated nonattainment area as the new or modified stationary source. Emission offsets may be obtained from another nonattainment area with the Department's approval only if: (a) the other area has an equal or higher nonattainment classification than the area in which the proposed source is located and (b) emissions from the other area contribute to a violation of the NAAQS in the nonattainment area in which the source is located.

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

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

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

~~(a)(1)~~ Emissions for carbon monoxide (CO), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), lead (Pb), and particulate matter (PM₁₀ and PM_{2.5}) nonattainment areas shall be offset at a ratio greater than one to one.

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

Designation	Offset ratios
<u>Subpart I</u>	<u>>1 to 1</u>
Marginal	1.1 to 1
Moderate	1.15 to 1
Serious	1.2 to 1
Severe	1.3 to 1
Extreme	1.5 to 1

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

~~(ix) [Reserved]~~

~~(x) [Reserved]~~

~~(xi) The total tonnage of increased emissions, in tpy, resulting from a major modification that must be offset in accordance with section 173 of the Clean Air Act shall be determined by summing the difference between the allowable emissions after the modification (as defined by paragraph (b)(3) of Standard 7) and the actual emissions before the modification (as defined in paragraph (c)(1)) for each emissions unit.~~

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

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

(H) Interpollutant offsetting.

(1) In meeting the emissions offset requirements of Section (D) the emissions offsets obtained shall be for the same regulated NSR pollutant unless interpollutant offsetting is permitted for a particular pollutant as specified in this paragraph.

(a) The offset requirement(s) of Section (D) for emissions of the ozone precursors NO_x and VOC may be satisfied by offsetting reductions of emissions of either of those precursors, if all other requirements for such offsets are also satisfied.

(b) The offset requirements of Section (D) for direct PM_{2.5} emissions or emissions of precursors of PM_{2.5} may be satisfied by offsetting reductions of direct PM_{2.5} emissions or emissions of any PM_{2.5} precursor identified under paragraph (B)(32)(c) if such offsets comply with the interprecursor trading hierarchy and ratio established in the approved plan for a particular nonattainment area.

(2) The control requirements applicable to major stationary sources and major modifications of PM_{2.5} shall also apply to major stationary sources and major modifications of PM_{2.5} precursors in a PM_{2.5}

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

(I) Banking of emission offsets. For new sources obtaining permits by applying offsets after January 16, 1979, the Department may allow offsets that exceed the requirement of reasonable progress toward attainment to be "banked" (i.e., saved to provide offsets for a source seeking a permit in the future) for future use. Likewise, the Department may allow the owner of an existing source that reduces its own emissions to bank any resulting reductions beyond those required by the State Implementation Plan for future use.

(J) [Reserved]

(K) [Reserved]

(L) Source obligation.

~~(2)~~(A)(1) Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this section or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this section who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

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

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

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

~~(3)~~(5) Monitoring, Recordkeeping, and Reporting. The following provisions apply ~~to~~ with respect to any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in paragraphs ~~(e)(11)(B)(i)(B)(31)(b)(i)~~ through ~~(iii)(B)(31)(b)(iii)~~ for calculating projected actual emissions.

~~(A)~~(a) If the project requires construction permitting under Regulation 61-62.1, Section II “Permit Requirements,” the owner or operator shall provide a copy of the information set out in paragraph ~~(d)(3)(B)(L)(5)(b)~~ as part of the permit application to the Department. If construction permitting under Regulation 61-62.1, Section II “Permit Requirements,” is not required, the owner or operator shall maintain the information set out in paragraph ~~(d)(3)(L)(5)~~.

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

(i) A description of the project;

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

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph ~~(e)(11)(B)(iii)(B)(31)(b)(iii)~~ and an explanation for why such amount was excluded, and any netting calculations, if applicable.

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

~~(C)~~(d) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions units identified in paragraph ~~(d)(3)(B)(ii)(L)(5)(b)(ii)~~; and calculate and maintain a record of the annual emissions, in tpy tons per year on a calendar year basis, for a period of five (5) years following resumption of regular operations after the change, or for a period of ten (10) years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.

~~(D)~~(e) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Department within sixty (60) days after the end of each year during which records must be generated under paragraph ~~(d)(3)(B)(L)(5)(b)~~ setting out the unit’s annual emissions during the year that preceded submission of the report.

~~(E)~~(f) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the Department if the annual emissions, in tpy tons per year, from the project identified in paragraph ~~(d)(3)(B)(L)(5)(b)~~, exceed the baseline actual emissions (as documented and maintained pursuant to paragraph ~~(d)(3)(B)(iii)(L)(5)(b)(iii)~~, by a significant amount (as defined in paragraph ~~(e)(14)(B)(37)~~) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph ~~(d)(3)(B)(iii)(L)(5)(b)(iii)~~. Such report shall be submitted to the Department within sixty (60) days after the end of such year. The report shall contain the following:

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

(ii) The annual emissions as calculated pursuant to paragraph ~~(d)(3)(C)(L)(5)(d)~~; and

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

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

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

(b) A projected actual emissions increase that, added to the amount of emissions excluded under paragraph (B)(31)(b)(iii), sums to at least fifty (50) percent of the amount that is a "significant emissions increase," as defined under paragraph (B)(38) (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of this paragraph, and not also within the meaning of paragraph (L)(6)(a), then provisions (L)(5)(c) through (L)(5)(f) do not apply to the project.

~~— (4) If a project at a source with a PAL requires construction permitting under Regulation 61-62.1, Section II, "Permit Requirements," the owner or operator shall provide notification of source status as part of the permit application to the Department.~~

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

(M) Public participation.

~~(6) Public Participation(1) Within thirty (30) days after receipt of an application to construct, or any addition to such application, the Department shall advise the applicant of any deficiency in the application or in the information submitted and transmit a copy of such application to EPA. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this regulation, the date on which the Department received all required information.~~

~~(7)(2) In accordance with Regulation 61-30, Environmental Protection Fees, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner:~~

~~(i)(a) For the purposes of this paragraph (d)(7) section, the time frame for making a final determination shall be consistent with R-Regulation 61-30, Environmental Protection Fees, paragraph (H)(2)(c)(iii).~~

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

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

~~(iv)(d) Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed plant or modification would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the plant or modification, and~~

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

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

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

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

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

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

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

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

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

~~(B) Kraft pulp mills;~~

~~(C) Portland cement plants;~~

- ~~(D) Primary zinc smelters;~~
- ~~(E) Iron and steel mills;~~
- ~~(F) Primary aluminum ore reduction plants;~~
- ~~(G) Primary copper smelters;~~
- ~~(H) Municipal incinerators capable of charging more than 250 tons of refuse per day;~~
- ~~(I) Hydrofluoric, sulfuric, or nitric acid plants;~~
- ~~(J) Petroleum refineries;~~
- ~~(K) Lime plants;~~
- ~~(L) Phosphate rock processing plants;~~
- ~~(M) Coke oven batteries;~~
- ~~(N) Sulfur recovery plants;~~
- ~~(O) Carbon black plants (furnace process);~~
- ~~(P) Primary lead smelters;~~
- ~~(Q) Fuel conversion plants;~~
- ~~(R) Sintering plants;~~
- ~~(S) Secondary metal production plants;~~
- ~~(T) Chemical process plants — The term chemical process plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;~~
- ~~(U) Fossil fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;~~
- ~~(V) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;~~
- ~~(W) Taconite ore processing plants;~~
- ~~(X) Glass fiber processing plants;~~
- ~~(Y) Charcoal production plants;~~
- ~~(Z) Fossil fuel fired steam electric plants of more than 250 million British thermal units per hour heat input; and~~
- ~~(AA) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Clean Air Act.~~

~~(f)~~ ~~[Reserved]~~

~~(g)~~ ~~[Reserved]~~

~~(h)~~ ~~[Reserved]~~

~~(i)(N)~~ **Actuals PALs.** The provisions in paragraphs ~~(i)(1)(N)(1)~~ through ~~(15)(N)(15)~~ govern actuals PALs.

(1) Applicability.

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

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

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

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

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

~~(C)(iii)~~ Is not subject to the provisions in paragraph ~~(d)(2)(D)(L)(4)~~ (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the nonattainment major NSR program).

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

(2) Definitions. The definitions in paragraphs ~~(i)(2)(i)(N)(2)(a)~~ through ~~(i)(N)(2)(k)~~ shall apply to actuals PALs consistent with paragraphs ~~(i)(1)(N)(1)~~ through ~~(15)(N)(15)~~. When a term is not defined in these paragraphs, it shall have the meaning given in ~~paragraph~~ ~~Section~~ ~~(e)(B)~~ of this regulation; ~~paragraph (b) of Regulation 61-62.5, Standard 7, "Prevention of Significant Deterioration" ("Standard 7");~~ or in the Clean Air Act.

~~(i)(a)~~ **Actuals PAL** for a major stationary source means a PAL based on the baseline actual emissions (as defined in paragraph ~~(e)(1)(B)(3)~~) of all emissions units (as defined in paragraph ~~(b)(20) of Standard 7 (B)(16) of this regulation~~) at the source, that emit or have the potential to emit the PAL pollutant.

~~(i)(b)~~ **Allowable emissions** means "allowable emissions" as defined in paragraph ~~(b)(3) of Standard 7 (B)(2) of this regulation~~, except as this definition is modified according to paragraphs ~~(i)(2)(i)(A)(N)(2)(b)(i)~~ through ~~(B)(N)(2)(b)(ii)~~.

~~(A)(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.

~~(B)~~(ii) An emissions unit's potential to emit shall be determined using the definition in paragraph ~~(b)(37)~~ of ~~Standard 7 (B)(27)~~, except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

~~(iii)~~(c) **Small emissions unit** means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in paragraph ~~(e)(14)(B)(37)~~ or in the Clean Air Act, whichever is lower.

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

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

~~(B)~~(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 Section~~ 182(c) of the Clean Air Act, an emissions unit would be a major emissions unit for VOC if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit ~~fifty (50)~~ or more tons of VOC per year.

~~(v)~~(e) **Plantwide applicability limitation (PAL)** means an emission limitation expressed in ~~tpy 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 ~~(i)(1)(N)(1)~~ through ~~(15)(N)(15)~~.

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

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

~~(viii)~~(h) **PAL major modification** means, notwithstanding paragraphs ~~(e)(6)(B)(21)~~ and ~~(8)(B)(24)~~ (the definitions for major modification and net emissions increase), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

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

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

~~(xi)~~(k) **Significant emissions unit** means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in paragraph ~~(e)(13)(B)(37)~~ or in the Clean Air Act, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in paragraph ~~(i)(2)(iv)(N)(2)(d)~~.

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

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

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

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

(4) General requirements for establishing PALs.

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

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

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

~~(C)(iii)~~ The PAL permit shall contain all the requirements of paragraph ~~(i)(7)(N)(7)~~

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

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

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

~~(G)(vii)~~ The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in paragraphs ~~(i)(12)(N)(12)~~ through ~~(14)(N)(14)~~ for each emissions unit under the PAL through the PAL effective period.

~~(ii)(b)~~ At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of offsets under ~~paragraph (d)(1)(e)-Section (D) Offset standards~~ unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

(5) Public participation requirement for PALs. PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent ~~with paragraph (d)(6) and (d)(7)-Section M.~~ This includes the requirement that the Department provide the public with notice of the

proposed approval of a PAL permit and at least a thirty (30)-day period for submittal of public comment. The Department must address all material comments before taking final action on the permit.

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

~~(i)(a)~~ Except as provided in paragraph ~~(i)(6)(ii)(N)(6)(b)~~, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in paragraph ~~(e)(2)(B)(3)~~) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under paragraph ~~(e)(14)(B)(37)~~ or under the Clean Air Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive twenty-four (24)-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive twenty-four (24)-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this twenty-four (24)-month period must be subtracted from the PAL level. The Department shall specify a reduced PAL level(s) ~~(in tons/yr)~~ in tons per year in the PAL permit to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the Department is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of sixty (60) ppm NO_x to a new rule limit of thirty (30) ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(iv)(d)~~ Any physical change or change in the method of operation at the major stationary source will be subject to the nonattainment major NSR requirements if such change meets the definition of major modification in paragraph ~~(e)(6)(B)(21)~~.

~~(v)(e)~~ The major stationary source owner or operator shall continue to comply with any State or Federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to paragraph ~~(d)(2)(D)(L)(4)~~, but were eliminated by the PAL in accordance with the provisions in paragraph ~~(i)(1)(iii)(C)(N)(1)(c)(iii)~~.

(10) Renewal of a PAL.

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

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

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

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

~~(B)~~(ii) A proposed PAL level.

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

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

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

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

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

~~(C)~~(iii) Notwithstanding paragraphs ~~(i)(10)(iv)(A)~~(N)(10)(d)(i) and ~~(B)~~(N)(10)(d)(ii),

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

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

~~(v)~~(e) If the compliance date for a state or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Department has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or Title V permit renewal, whichever occurs first.

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

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

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

~~(B)~~(ii) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s) exceeds the PAL. The

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

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

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

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

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

(12) Monitoring requirements for PALs.

~~(i)~~(a) General Requirements.

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

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

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

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

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

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

~~(B)~~(ii) Continuous emissions monitoring system (CEMS);

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

~~(D)~~(iv) Emission Factors.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(C)~~(iii) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within ~~six (6)~~ months of PAL permit issuance, unless the Department determines that testing is not required.

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

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

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

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

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

(13) Recordkeeping requirements.

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

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

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

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

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

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

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

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

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

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

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

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

~~(G)~~(vii) A signed statement by the responsible official (as defined by Regulation 61-62.70, **Title V Operating Permit Program**) certifying the truth, accuracy, and completeness of the information provided in the report.

~~(ii)~~(b) Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program implementing 40 CFR 70.6(a)(3)(iii)(B). The reports shall contain the following information:

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

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

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

~~(D)~~(iv) A signed statement by the responsible official (as defined by ~~the applicable Title V operating permit program Regulation 61-62.70~~) certifying the truth, accuracy, and completeness of the information provided in the report.

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

(15) Transition requirements.

~~(i)~~(a) The Department may not issue a PAL that does not comply with the requirements in paragraphs ~~(aa)(1)(N)(1)~~ through ~~(45)(N)(15)~~ after the date these provisions become effective.

~~(ii)~~(b) The Department may supersede any PAL which was established prior to the date of approval of the plan by the Administrator with a PAL that complies with the requirements of paragraphs ~~(i)(4)(N)(1)~~ through ~~(45)(N)(15)~~.

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

61-62.70. Title V Operating Permit Program.

Regulation 61-62.70.7 (h)(1), shall be revised as follows:

(1) Notice shall be given by ~~one of the following methods: By publishing the notice in a newspaper of general circulation in the area where the source is located (or in a State publication designed to give general public notice) or by posting the notice~~ **and the draft permit**, for the duration of the public comment period, on a public website identified by the Department, ~~if the Department has selected website noticing as its as the "consistent noticing method."~~ **The This** consistent noticing method shall be used for all draft permits subject to notice under this paragraph. ~~If website noticing is selected as the consistent noticing method, the draft permit shall also be posted, for the duration of the public comment period, on a public website identified by the Department.~~ In addition, notice shall be given to persons on a mailing list developed by the Department using generally accepted methods (e.g., hyperlink sign-up function or radio button on an agency website, sign-up sheet at a public hearing, etc.) that enable interested parties to subscribe to the mailing list. The Department may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Department may delete from the list the name of any person who fails to respond to such a request within a reasonable timeframe. The Department may use ~~other~~ **additional** means to provide adequate notice to the affected public, **including by publishing the notice in a newspaper of general circulation in the area where the source is located (or in a State publication designed to give general public notice);**

ATTACHMENT B

28 DRAFTING NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

Notice of Drafting:

The Department of Health and Environmental Control (Department) proposes amending Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (“State Implementation Plan” or “SIP”). This Notice of Drafting supersedes the previous Notice of Drafting for proposed amendments to R.61-62 published in the October 27, 2017 State Register. Interested persons are invited to submit comments on the Department’s proposed amendments in writing to Marie Brown, Regulation and SIP Management Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or via email at brownmf@dhec.sc.gov. To be considered, the Department must receive comments by 5:00 p.m. on December 27, 2018, the close of the drafting comment period.

Synopsis:

- (1) The Department proposes amending Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements, to expand and improve consistency in language regarding general and registration permits.
- (2) The Department proposes amending the introductory paragraph to Regulation 61-62.5, Standard No. 2, Ambient Air Quality Standards, to remove the sentence describing the test method for Gaseous Fluorides to improve the accuracy and clarity of the regulation’s text.
- (3) The Department proposes amending Regulation 61-62.5, Standard No. 5.2, Control of Oxides of Nitrogen (NO_x), to update applicability and exemptions, as well as to propose corrections for internal consistency, punctuation, codification, and spelling.
- (4) The Department proposes amending Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration, to update applicability and exemptions, as well as to propose corrections for internal consistency, punctuation, codification, and spelling.
- (5) The Department proposes amending Regulation 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR), to improve the overall clarity and structure of the regulation, as well as to propose corrections for internal consistency, punctuation, codification, and spelling.
- (6) The Department proposes amending Regulation 61-62.70, Title V Operating Permit Program; Regulation 61-62.1, Definitions and General Requirements; Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration; and Regulation 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR), to update public participation procedures.

The Department may also propose other changes to Regulation 61-62, Air Pollution Control Regulations and Standards, that may include definitional updates, clarification of certain permitting provisions, and other changes or additions as deemed necessary, as well as corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

In accordance with S.C. Code Section 1-23-120(A) (Supp. 2016), these amendments will require legislative review.