

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

Permitting Requirements

CHAPTER 6

Section 13. Nonattainment new source review permit requirements.

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

(b) Definitions. For purposes of this section:

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

“Actual emissions” means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (i) through (iii) of this definition, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a plantwide applicability limitation (PAL) under paragraph (g)(i) of this section. Instead, the definitions for “Projected actual emissions” and “Baseline actual emissions” of this section shall apply for those purposes.

(i) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Division shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit’s actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

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

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

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

“Allowable emissions” means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable

limits which restrict the operating rate or hours of operation, or both) and the most stringent of the following:

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

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

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

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

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

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

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

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

(D) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraph (i)(B) of this definition.

(ii) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Division for a Chapter 6, Section 13 permit, or under a plan approved by the EPA Administrator, whichever is earlier, except that the 10-year period shall not include any

period earlier than November 15, 1990.

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

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

(C) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period; however, if an emission limitation is part of a maximum achievable control technology standard that the EPA Administrator proposed or promulgated under 40 CFR 63, the baseline actual emissions need only be adjusted if the Division has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of (e)(vii) of this section.

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

(E) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraphs (ii)(B) and (C) of this definition.

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

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

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

“Best available control technology” means an emission limitation (including a visible

emission standard) based on the maximum degree of reduction of each pollutant-subject to regulation under these Standards and Regulations or regulation under the Act, which would be emitted from or which results from any proposed major stationary source or major modification which the Administrator, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emission standard infeasible, he may instead prescribe a design, equipment, work practice or operational standard or combination thereof to satisfy the requirement of Best Available Control Technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results. Application of BACT shall not result in emissions in excess of those allowed under Chapter 5, Section 2 or Section 3 of these regulations and any other new source performance standard or national emission standards for hazardous air pollutants promulgated by the EPA but not yet adopted by the State of Wyoming.

“Clean coal technology” means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reduction in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

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

“Commence”, as applied to construction of a major stationary source or major modification, means that the owner or operator has obtained a Construction Permit required by Chapter 6, Section 2 and either has (i) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time or (ii) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

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

“Continuous emissions monitoring system (CEMS)” means all of the equipment that may be required to meet the data acquisition and availability requirements of this section, to

sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

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

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

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

“Electric utility steam generating unit” means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric utility steam generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

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

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

(ii) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (i) of this definition. A replacement unit, as defined in this section, is an existing emissions unit.

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

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

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

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

(i) The most stringent emissions limitation which is contained in the implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

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

“Major modification” means any physical change in or change in the method of operation of a major stationary source that would result in: a significant emissions increase (as defined in the definition for “Significant emissions increase” in this section) of a regulated NSR pollutant (as defined in the definition for “Regulated NSR pollutant” in this section); and a significant net emissions increase of that pollutant from the major stationary source. Any significant emissions increase (as defined in the definition for “Significant emissions increase” in this section) from any emissions units or net emissions increase (as defined in the definition for “Net emissions increase” in this section) at a major stationary source that is significant for volatile organic compounds (VOCs) or NO_x shall be considered significant for ozone.

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

(A) Routine maintenance, repair and replacement;

(B) Use of an alternative fuel or raw material by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

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

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

(E) Use of an alternative fuel or raw material, if prior to December 21, 1976, the source was capable of accommodating such fuel or material unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division, or if the

source is approved to use such fuel or material through an enforceable permit issued under these regulations;

(F) An increase in the hours of operation or in the production rate, if such increase does not exceed the operating design capacity of the major stationary source unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division;

(G) Change in ownership of the stationary source;

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

(I) The Wyoming State Implementation Plan; and

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

(ii) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under paragraph (g)(i) of this section for a PAL for that pollutant. Instead, the definition in paragraph (g)(i)(B) for “PAL major modification” of this section shall apply.

(iii) For the purposes of applying the requirements of paragraph (f)(i) of this section to modifications at major stationary sources of nitrogen oxides located in ozone nonattainment areas or in ozone transport regions, whether or not subject to subpart 2, part D, title I of the Act, any significant net emissions increase of nitrogen oxides is considered significant for ozone.

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

“Major stationary source”

(i) Means:

(A) Any stationary source of air pollutants that emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant, except that lower emissions thresholds shall apply in areas subject to subpart 2, subpart 3, or subpart 4 of part D, title I of the Act, according to paragraphs (I) through (VI) below:

(I) 50 tons per year of VOCs in any serious ozone nonattainment

area.

(II) 50 tons per year of VOCs in an area within an ozone transport region, except for any severe or extreme ozone nonattainment area.

(III) 25 tons per year of VOCs in any severe ozone nonattainment area.

(IV) 10 tons per year of VOCs in any extreme ozone nonattainment area.

(V) 50 tons per year of carbon monoxide in any serious nonattainment area for carbon monoxide, where stationary sources contribute significantly to carbon monoxide levels in the area (as determined under rules issued by the EPA Administrator).

(VI) 70 tons per year of PM₁₀ in any serious nonattainment area for PM₁₀;

(B) For the purposes of applying the requirements of paragraph (f)(i) of this section to stationary sources of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, any stationary source which emits, or has the potential to emit, 100 tons per year or more of nitrogen oxides emissions, except that the emission thresholds in paragraphs (I) through (VI) below shall apply in areas subject to subpart 2 of part D, title I of the Act:

(I) 100 tons per year or more of nitrogen oxides in any ozone nonattainment area classified as marginal or moderate.

(II) 100 tons per year or more of nitrogen oxides in any ozone nonattainment area classified as a transitional, submarginal, or incomplete or no data area, when such area is located in an ozone transport region.

(III) 100 tons per year or more of nitrogen oxides in any area designated under section 107(d) of the Act as attainment or unclassifiable for ozone that is located in an ozone transport region.

(IV) 50 tons per year or more of nitrogen oxides in any serious nonattainment area for ozone.

(V) 25 tons per year or more of nitrogen oxides in any severe nonattainment area for ozone.

(VI) 10 tons per year or more of nitrogen oxides in any extreme nonattainment area for ozone; or

(C) Any physical change that would occur at a stationary source not

qualifying under paragraphs (i)(A) or (B) of this definition as a major stationary source, if the change would constitute a major stationary source by itself.

(ii) A major stationary source that is major for VOCs shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this paragraph whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources: coal cleaning plants (with thermal dryers); kraft pulp mills; Portland cement plants; primary zinc smelters; iron and steel mills; primary aluminum ore reduction plants; primary copper smelters; municipal incinerators capable of charging more than 250 tons of refuse per day; hydrofluoric, sulfuric, or nitric acid plants; petroleum refineries; lime plants; phosphate rock processing plants; coke oven batteries; sulfur recovery plants; carbon black plants (furnace process); primary lead smelters; fuel conversion plants; sintering plants; secondary metal production plants; chemical process plants--the term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140; fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input; petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels; taconite ore processing plants; glass fiber processing plants; charcoal production plants; fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

“Net emissions increase” means,

(i) With respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

(A) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to paragraph (c)(ii)(B) of this section;

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

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

(A) The date five years before construction on the particular change commences; and

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

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

(A) It occurs within a reasonable period specified by the Division;

(B) The Division has not relied on it in issuing a Chapter 6, Section 13 permit for the source, which is in effect when the increase in actual emissions from the particular change occurs; and

(C) As it pertains to an increase or decrease in fugitive emissions (to the extent quantifiable), it occurs at an emissions unit that is part of one of the source categories listed in paragraph (iii) in the definition of “Major stationary source” of this section or it occurs at an emissions unit that is located at a major stationary source that belongs to one of the listed source categories. Fugitive emission increases or decreases are not creditable for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in paragraph (iii) in the definition of “Major stationary source” of this section and are not, by themselves, part of a listed source category.

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

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

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

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

(C) The Division has not relied on it in issuing any permits approved pursuant to 40 CFR part 51 subpart I or in demonstrating attainment or reasonable further progress;

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

(vi) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(vii) The definition of “Actual emissions” of this section, shall not apply for determining creditable increases and decreases after a change.

“Potential to emit” means the maximum capacity of a stationary source to emit a

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

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

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

“Projected actual emissions” means the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit’s design capacity or its potential to emit that regulated NSR pollutant, and full utilization of the unit would result in a significant emissions increase, or a significant net emissions increase at the major stationary source.

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

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

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

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

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

“Regulated NSR pollutant”, for purposes of this section, means the following:

(i) Nitrogen oxides or any VOCs.

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

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

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

(B) Sulfur dioxide is a precursor to PM_{2.5} in all PM_{2.5} nonattainment areas.

(C) Nitrogen oxides are presumed to be precursors to PM_{2.5} in all nonattainment areas, unless the State demonstrates to the EPA Administrator’s satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area’s ambient PM_{2.5} concentrations.

(D) VOCs and ammonia are presumed not to be precursors to PM_{2.5} in any nonattainment area, unless the State demonstrates to the EPA Administrator’s satisfaction or EPA demonstrates that emissions of VOCs from sources in a specific area are a significant contributor to that area’s ambient PM_{2.5} concentrations.

(iv) PM_{2.5} emissions and PM₁₀ emissions. 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 Chapter 6, Section 13 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 subsection unless the applicable implementation plan required condensable particulate matter to be included.

“Replacement unit” means an emissions unit for which all the criteria listed below in this definition are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

(i) The emissions unit is a reconstructed unit within the meaning of

40 CFR part 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

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

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

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

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

“Secondary emissions” means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or modification of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle or from a train, or from a vessel.

“Significant” means:

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

POLLUTANT AND EMISSIONS RATE

Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
PM ₁₀ :	15 tpy of PM ₁₀ emissions
PM _{2.5} :	10 tpy of direct PM _{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM _{2.5} precursor under the definition

Ozone: of “Regulated NSR pollutant” in this section
40 tpy of VOCs or nitrogen oxides
Lead: 0.6 tpy

(ii) Notwithstanding the significant emissions rate for ozone in paragraph (i) of this definition, “significant” means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of VOCs that would result from any physical change in, or change in the method of operation of, a major stationary source locating in a serious or severe nonattainment area that is subject to subpart 2, part D, title I of the Act, if such emissions increase of VOCs exceeds 25 tons per year.

(iii) For the purpose of applying the requirements of paragraph f(i) of this section to modifications at major stationary sources of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, the significant emission rates and other requirements for VOCs in paragraphs (i), (ii) and (v) of this definition shall apply to nitrogen oxide emissions.

(iv) Notwithstanding the significant emissions rate for carbon monoxide under paragraph (i) of this definition, “significant” means, in reference to an emissions increase or net emissions increase, any increase in actual emissions of carbon monoxide that would result from any physical change in, or change in the method of operation of, a major stationary source in a serious area for carbon monoxide if such increase equals or exceeds 50 tons per year, provided the EPA Administrator has determined that stationary sources contribute significantly to carbon monoxide levels in the area.

(v) Notwithstanding the significant emission rates for ozone under paragraphs (i) and (ii) of this definition, any increase in actual emissions of VOCs from any emissions unit at a major stationary source of VOCs located in an extreme ozone nonattainment area that is subject to subpart 2, part D, title I of the Act shall be considered a significant net emissions increase.

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

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

“Structure, building, facility, equipment, installation, or operation” means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same *Major Group* (i.e., which have the same two-digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

“Temporary clean coal technology demonstration project” means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Wyoming State Implementation Plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

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

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

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

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

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

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

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

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

(D) Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in the definition for “Potential to emit” in Section 13(b)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in the definition for “Baseline actual emissions” in Section 13(b)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in the definition for “Significant” in Section 13(b)).

(E) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs (C) through (D) above as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in the definition for “Significant” in Section 13(b)).

(d) NNSR Permit.

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

(ii) The following specific provisions apply to projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where the owner or operator elects to use the method specified in paragraphs (i)(A) through (C) of the definition for “Projected actual emissions” for calculating projected actual emissions.

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

(I) A description of the project;

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

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

(B) Before beginning actual construction, the owner or operator shall

provide the information set out in paragraph (d)(ii)(A) of this section to the Division as a Chapter 6, Section 2 permit application.

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

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

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

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

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

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

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

(i) If the emissions limit allows greater emissions than the potential to emit of the

unit, the emission offset credit is allowed only for the control below the potential to emit of the unit;

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

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

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

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

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

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

(viii) The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emission unit;

(ix) External offsets or those emission limitations from sources not owned, operated, or controlled by an applicant for a permit shall be made through a revision of the permit conditions of the participating source or sources. At no time may the baseline be

exceeded;

(x) The offset ratio of total actual emissions reductions to the emissions increase shall be at least 1 to 1 unless an alternative ratio is provided in accordance with the ozone nonattainment offset requirements listed below in (x)(A) through (D):

(A) The Administrator may impose an alternative ratio that is more stringent than the applicable numerical ratios listed in (B) through (D).

(B) For ozone nonattainment areas subject to subpart 2, part D, title I of the Act, the ratio of total actual emissions reductions of VOCs to the emission increase of VOCs shall be as follows:

(I) In any marginal nonattainment area for ozone--at least 1.1:1;

(II) In any moderate nonattainment area for ozone--at least 1.15:1;

(III) In any serious nonattainment area for ozone--at least 1.2:1;

(IV) In any severe nonattainment area for ozone--at least 1.3:1 (except that the ratio may be at least 1.2:1 if the approved State Implementation Plan also requires all existing major sources in such nonattainment area to use BACT for the control of VOCs); and

(V) In any extreme nonattainment area for ozone--at least 1.5:1 (except that the ratio may be at least 1.2:1 if the approved State Implementation Plan also requires all existing major sources in such nonattainment area to use BACT for the control of VOCs).

(C) Notwithstanding the requirements of paragraph (x)(A) of this section, the ratio of total actual emissions reductions of VOCs to the emissions increase of VOCs shall be at least 1.15:1 for all areas within an ozone transport region that is subject to subpart 2, part D, title I of the Act, except for serious, severe and extreme nonattainment areas that are subject to subpart 2, part D, title I of the Act.

(D) For ozone nonattainment areas subject to subpart 1, part D, title I of the Act (but are not subject to subpart 2, part D, title I of the Act, including 8-hour ozone nonattainment areas subject to 40 CFR 51.902(b)), the ratio of total actual emissions reductions of VOCs to the emission increase of VOCs shall be at least 1:1.

(f) Application in ozone, PM₁₀, and PM_{2.5} nonattainment areas

(i) Requirements of this section which apply to major stationary sources and major modifications of VOCs shall also apply to nitrogen oxides emissions from major stationary sources and major modifications of nitrogen oxides in an ozone transport region or in any ozone nonattainment area, except in ozone nonattainment areas or portions of an ozone

transport region where the EPA Administrator has granted a NO_x waiver applying the standards set forth under section 182(f) of the Act and the waiver continues to apply.

(ii) Except as provided under paragraph f(iii) below, requirements of this section which apply to major stationary sources and major modifications of PM₁₀ shall also apply to major stationary sources and major modifications of PM₁₀ precursors, except where the EPA Administrator determines that such sources do not contribute significantly to PM₁₀ levels that exceed the PM₁₀ ambient standards in the area.

(iii) Requirements of this section shall not apply in the Sheridan PM₁₀ nonattainment area, where a major source construction ban is in place per the requirements of Chapter 6, Section 2(c)(ii)(B) of these regulations.

(iv) In meeting the requirements of Section 13(e), the emission offsets obtained shall be for the same regulated NSR pollutant, with the following exception provided for PM_{2.5}. Direct PM_{2.5} emissions or emissions of precursors of PM_{2.5} may be offset by direct PM_{2.5} emissions or any PM_{2.5} precursors identified in the definition for “Regulated NSR pollutant” in Section 13(b) if such offsets comply with the interprecursor trading hierarchy and ratio established in the Wyoming State Implementation Plan.

(g) Actuals Plantwide Applicability Limitations (PALs).

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

(A) Applicability.

(I) The term “PAL” shall mean “actuals PAL” throughout subsection (g)(i). The Division will not allow an actuals PAL for VOC or NO_x for any major stationary source located in an extreme ozone nonattainment area.

(II) Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in paragraphs (g)(i)(A) through (O) of this section, and complies with the PAL permit:

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

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

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

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

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

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

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

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

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

“Major emissions unit” means:

(I) Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or

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

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

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

“PAL major modification” means, notwithstanding the definitions for “Major modification” and “Net emissions increase” in Section 13(b), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

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

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

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

“Significant emissions unit” means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in the definition for “Significant” in Section 13(b) or in the Act, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a “Major emissions unit” as defined in this section.

“Small emissions unit” means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in the definition for “Significant” in Section 13(b) or in the Act, whichever is lower.

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

(I) A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, Federal or State of Wyoming applicable requirements, emission limitations, or work practices apply to each unit;

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

(III) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph (g)(i)(M)(I) of this section.

(D) General Requirements for Establishing PALs.

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

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

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

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

(4.) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

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

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

(7.) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in paragraphs (g)(i)(L) through (N) of this section for each emissions unit under the PAL through the PAL effective period.

(II) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under paragraph (e) of this section unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

(E) Public Participation Requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or increased, through a procedure that is consistent with Chapter 6, Section 2. This includes the requirement that the Division provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for

submittal of public comment. The Division must address all material comments before taking final action on the permit.

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

(I) Except as provided in paragraph (g)(i)(F)(II) of this section, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in the definition for “Baseline actual emissions” in Section 13(b)) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under the definition of “Significant” in Section 13(b) or under the Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units; however, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Division shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable Federal or State of Wyoming regulatory requirement(s) that the Division is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).

(II) For newly constructed units (which do not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in paragraph (g)(i)(F)(I) of this section, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

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

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

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

(III) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with paragraph (g)(i)(J) of this section before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Division;

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

(V) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of paragraph (g)(i)(I) of this section;

(VI) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph (g)(i)(C)(III) of this section;

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

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

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

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

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

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

(II) Reopening of the PAL Permit.

(1.) During the PAL effective period, the Division shall reopen the PAL permit to:

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

b. Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Section 13(e); and

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

(2.) The Division may reopen the PAL permit for the following:

a. Reduce the PAL to reflect newly applicable

Federal requirements (for example, NSPS) with compliance dates after the PAL effective date;

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

c. Reduce the PAL if the Division determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an AQRV that has been identified for a Federal Class I Area by a Federal Land Manager and for which information is available to the general public.

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

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

(I) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the procedures in paragraphs (g)(i)(I)(I)(1.) and (2.) of this section.

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

(2.) The Division shall decide whether and how the PAL-allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Division determines is appropriate.

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

(III) Until the Division issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (g)(i)(I)(I)(2.) of this section, the source shall continue to comply with a source-wide,

multi-unit emissions cap equivalent to the level of the PAL emission limitation.

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

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

(J) Renewal of a PAL.

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

(II) Application Deadline. A major stationary source owner or operator shall submit a timely application to the Division to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

(III) Application Requirements. The application to renew a PAL permit shall contain the information required in paragraphs (g)(i)(J)(III)(1.) through (4.) of this section.

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

(2.) A proposed PAL level;

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

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

(IV) PAL Adjustment. In determining whether and how to adjust the PAL, the Division shall consider the options outlined in paragraphs (g)(i)(J)(IV)(1.) and (2.)

of this section; however, in no case may any such adjustment fail to comply with paragraph (g)(i)(J)(IV)(3.) of this section.

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

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

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

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

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

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

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

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

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

(2.) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable

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

(3.) The owner or operator obtains a Chapter 6, Section 4 permit for all emissions unit(s) identified in paragraph (g)(i)(K)(I)(1.) of this section, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the Chapter 6, Section 13 process (for example, LAER), even though they have also become subject to the PAL or continue to be subject to the PAL.

(4.) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

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

(III) The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of paragraph (g)(i)(E) of this section.

(L) Monitoring Requirements for PALs.

(I) General Requirements.

(1.) Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

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

(3.) Notwithstanding paragraph (g)(i)(L)(I)(2.) of this section, an alternative monitoring approach that meets paragraph (g)(i)(L)(I)(1.) of this section

may be employed if approved by the Division.

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

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

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

(2.) CEMS;

(3.) CPMS or PEMS; and

(4.) Emission factors.

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

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

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

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

(IV) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

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

(2.) CEMS must sample, analyze, and record data at least every 15 minutes while the emissions unit is operating.

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

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

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

(VI) Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

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

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

(3.) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the Division determines that testing is not required.

(VII) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

(VIII) Notwithstanding the requirements in paragraphs (g)(i)(L)(III) through (VII) of this section, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Division shall, at the time of permit issuance:

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

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

(IX) Re-validation. All data used to establish the PAL pollutant

must be re-validated through performance testing or other scientifically valid means approved by the Division. Such testing must occur at least once every 5 years after issuance of the PAL.

(M) Recordkeeping Requirements.

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

(II) The PAL permit shall require an owner or operator to retain a copy of the following records, for the duration of the PAL effective period plus 5 years:

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

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

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

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

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

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

(3.) All data relied upon, including, but not limited to, any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions;

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

(5.) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken;

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

(7.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(II) Deviation Report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to Chapter 6, Section 3(h)(i)(C)(III)(2.) shall satisfy this reporting requirement. The deviation reports shall be submitted as prescribed by Chapter 6, Section 3(h)(i)(C)(III)(2.). The reports shall contain the following information:

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

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

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

(4.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

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

(O) Transition Requirements.

(I) The Division shall not issue a PAL that does not comply with the requirements in paragraphs (g)(i)(A) through (O) of this section after the EPA Administrator has approved this regulation into the Wyoming State Implementation Plan.

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

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

Section 14. Incorporation by reference.

(a) Code of Federal Regulations (CFR). Except as otherwise noted, all Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices, revised and published as of July 1, 2014, not including any later amendments, are incorporated by reference. Copies of the Code of Federal Regulations are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Division of Air Quality, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at <http://deq.wyoming.gov/>. Copies of the CFRs can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>