

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 Section I.B.35. of Part A of this regulation) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in Section II.A.4. of this part) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in Section II.A.42. of this part).

I.B.3. 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 methods specified in Sections I.B.1. through I.B.3. of this part as applicable with respect to each type of emissions unit, equals or exceeds the significant amount for that pollutant (as defined in Section II.A.42. of this part).

I.B.4. An owner or operator of a major stationary source who conducts the actual-to-projected-actual test for a project that requires a minor permit modification in accordance with Section X. of Part C, requires a significant permit modification in accordance with Section I.A.3. of Part C, a modification as defined in Section I.B.26. of Part A or that requires a minor source permit under Part B shall submit a permit application including:

- I.B.4.a. All calculations and supporting documentation used to determine baseline actual emissions of each emissions unit affected by the project;*
- I.B.4.b. All calculations and supporting documentation used to determine projected actual emissions of each existing emissions unit affected by the project;*
- I.B.4.c. A determination of that portion of each existing unit's emissions following the project that the unit could have accommodated during the consecutive twenty-four month period used to establish the baseline actual emissions and that are unrelated to the project, including any increased utilization due to product demand growth; and,*
- I.B.4.d. Any other information requested by the Division that may be needed to determine if a major modification will occur at each emissions unit affected by the project.*

The information submitted in accordance with Section I.B.4.a. through I.B.4.d., above, shall be incorporated into an appendix to the major stationary source's Title V Operating permit or as a permit note in the construction permit.

The requirement that the owner or operator of a major stationary source who conducts the actual-to-projected-actual test for a project that requires a minor permit modification submit information in accordance with Sections I.B.4.a. through I.B.4.d., as set out in this Subsection I.B.4., shall not be federally enforceable and shall not be incorporated into the state implementation plan.

I.C. For any major stationary source requesting, or operating under, a Plant-wide Applicability Limitation (as defined in Section II.A.32.) for a regulated NSR pollutant, the major stationary source shall comply with the requirements of Section XV. of this part.

II. Definitions

II.A. The following definitions apply specifically to the provisions contained in this Part D.

II.A.1. Actual Emissions

The actual rate of emission of a *regulated NSR* pollutant from an emissions unit, determined as follows:

II.A.1.a. 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 ~~two-year consecutive twenty-four month~~ period that precedes the particular date and is representative of normal unit operation. A different period may be used if it is more representative of normal unit operation. Actual emissions shall be calculated using *the unit's* actual operating hours, production rates, and types of materials *processed*, stored or combusted or actual emission data during the selected time period;

II.A.1.b. The Division may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit only if actual emissions cannot be determined pursuant to Section II.A.1.a., above;

II.A.1.c. For any emissions unit ~~(other than an electric utility steam generating 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.

II.A.1.d. *This definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Section XV. of Part D of this regulation. Instead, Sections II.A.36. and II.A.4. of this part shall apply for these purposes.*

~~II.A.1.e. For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the Division on an annual basis, for a period of five years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed ten years, may be required by the Division if it determines such a period to be more representative of normal source post change operations.~~

II.A.2. Actuals PAL

For a major stationary source, means a PAL based on the baseline actual emissions (as defined in Section II.A.4. of this part) of all emissions units (as defined in the Common Provisions regulation) at the source that emit or have the potential to emit the PAL pollutant.

II.A.3. Air Quality Related Value

Any value of an area that may be affected by a change in air quality. Examples include flora, fauna, soil, water, visibility, cultural, and odor.

II.A.4. Baseline Actual Emissions

The rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with Sections II.A.4.a. through II.A.4.d. below.

- II.A.4.a. *For any existing electric utility steam generating unit (as defined in Section II.A.14. of this part), baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive twenty-four month period selected by the owner or operator within the five 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.*
- II.A.4.a.(i) *The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.*
- II.A.4.a.(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 month period.*
- II.A.4.a.(iii) *For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive twenty-four month period may be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive twenty-four month period can be used for each regulated NSR pollutant.*
- II.A.4.a.(iv) *The average rate shall not be based on any consecutive twenty-four month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Section II.A.4.a.(ii).*
- II.A.4.b. *For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive twenty-four month period selected by the owner or operator within the ten 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 permit required under this Part D, except that the ten year period shall not include any period earlier than November 15, 1990.*
- II.A.4.b.(i) *The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.*
- II.A.4.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 month period.*
- II.A.4.b.(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 the major stationary source been required to comply with such limitations during the consecutive twenty-four month period. However, if an emission limitation is part of a maximum achievable control technology standard contained in Part E of Regulation Number 8, 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.

II.A.4.b.(iv) *For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive twenty-four month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive twenty-four month period can be used for each regulated NSR pollutant.*

II.A.4.b.(v) *The average rate shall not be based on any consecutive twenty-four month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required under Sections II.A.4.b.(ii) and II.A.4.b.(iii) of this part.*

II.A.4.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 (as defined in Section I.B.35. of Part A of this regulation).*

II.A.4.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 Section II.A.4.a., for other existing emissions units in accordance with the procedures contained in Section II.A.4.b., and for a new emissions unit in accordance with the procedures contained in Section II.A.4.c.*

II.A.5. Baseline Area

~~II.A.5.a. Any intrastate area (and every part thereof) designated as attainment or unclassifiable under Sections 107(d)(1)(D) or (E) of the Federal Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than one microgram/cubic meter ((g/m³) (annual average) of the pollutant for which the minor source baseline date is established.~~

~~II.A.5.b. Area redesignations under Section 107(d)(1)(D) or (E) of the Federal Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification that:~~

~~II.A.5.b.(i) Establishes a minor source baseline date, or~~

~~II.A.5.b.(ii) Is subject to this Part D, and would be constructed in the same state as the state proposing the redesignation.~~

II.A.5.c. Any baseline area established originally for the total suspended particulate 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 permit authority rescinds the corresponding minor source baseline date in accordance with Section II.A.25.c.

II.A.6. Baseline Concentration

The 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:

- II.A.6.a. The actual emissions representative of sources in existence on the applicable minor source baseline date, except as otherwise provided in this definition; and
- II.A.6.b. The allowable emissions from 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.A.6.c. The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):
 - II.A.6.c.(i) Actual emissions from any major stationary source on which construction commenced after the major source baseline date; and
 - II.A.6.c.(ii) Actual emission increases and decreases at any stationary source occurring after the minor source baseline date.

II.A.7. *Begin Actual Construction*

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

II.A.8. Best Available Control Technology (BACT)

An emission limitation (including a visible emissions standard) based on the maximum degree of reduction of each ~~air regulated NSR pollutant subject to regulation under the Federal Act~~ that would be emitted from any proposed major stationary source or major modification that the Division or Commission, 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 the best available control technology result in emissions of any pollutant that would exceed emissions allowed by the applicable standards in the Code of Federal Regulations, Title 40, Parts 60 and 61 (Regulation Number 6, Part A, and Regulation Number 8, Part A) as in effect on the effective date of this clause, but not including later amendments, unless such amendments are specifically incorporated by reference in accordance with the provisions of Colorado Revised Statutes Section 24-4-103 (12.5). Information as to the availability of such standards may be obtained from the Director, Air Pollution Control Division, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

If the Division or Commission 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, it may instead prescribe designs, equipment, work practices, operational standards or combination thereof, to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equip-

ment, work practice or operation and shall provide for compliance by means that achieve equivalent results.

II.A.9. Clean Coal Technology

Any technology, including technologies applied at the pre-combustion, combustion, or post-combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

II.A.10. Clean Coal Technology Demonstration Project

A project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2.5 billion for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the U.S. EPA. The federal contribution for a qualifying project shall be at least twenty percent of the total cost of the demonstration project.

II.A.11. Complete

In reference to an application for a major NSR permit, an application that contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Division from requesting or accepting any additional information.

II.A.11.a. At a minimum, a complete application for a permit to construct a major source or major modification subject to the requirements of this Part D shall include:

II.A.11.a.(i) All monitoring data required pursuant to this regulation and an analysis of ambient air quality in accordance with Section VI.A.3. of this part;

II.A.11.a.(ii) The impact analysis required by Section VI.A.2. of this part, a written summary of the data inputs to the model, and a topographic presentation of the resultant concentrations of each pollutant modeled for each applicable ambient standard or Prevention of Significant Deterioration increment within the impact area of the source;

II.A.11.a.(iii) A report of the regulatory status of the model pursuant to Section VIII.A.1. of Part A;

II.A.11.a.(iv) A demonstration that the proposed technological system of continuous emission reduction that is to be used will enable such source to comply continuously with the standards of performance that are to apply to such source and that the emission inputs to the model for the impact analysis are equivalent to the emissions allowed by such standards of performance;

II.A.11.a.(v) A description of the devices or systems that will be installed to monitor the emissions of each pollutant that will be emitted in significant amounts, maintaining such devices or systems, and the schedule and format for reporting the results of such emission monitoring to the Division;

II.A.11.a.(vi) The additional impact analysis required by Section VI.A.6. of this part, any demonstration of facts needed to establish a claim by the applicant to qualify for any exemption or exclusion under Section VI.B. of this part;

II.A.11.a.(vii) A schedule of construction in accordance with Section III.G.2. of Part B;

II.A.11.a.(viii) An additional copy of the application for the federal land manager of each affected Class 1 area, for the U.S. EPA, for the county Commissioner, and for public notice (county clerk). Two additional copies shall be submitted for interested public groups.

II.A.12. Construction

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 actual emissions

II.A.13. Emissions Unit

Any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric steam-generating unit as defined in Section II.A.14. of this part. For purposes of this Part D, there are two types of emissions units described in Section II.A.13.a. and II.A.13.b., below.

II.A.13.a. A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than two years from the date such emissions unit first operated.

II.A.13.b. An existing emissions unit is any emissions unit that does not meet the requirements in Section II.A.13.a., above. A replacement unit (as defined in Section II.A.39. of this part) is an existing emissions unit.

II.A.14. Electric Utility Steam Generating Unit

Any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electrical output capacity and more than twenty-five megawatts 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.

II.A.15. Federal Land Manager (FLM)

With respect to any lands of the United States, the secretary of the department with authority over such lands.

II.A.16. High Terrain

Any area having an elevation nine hundred feet or more above the base of the stack of a source.

II.A.17. Hydrocarbon combustion flare

Either a flare used to comply with an applicable new source performance standard or maximum achievable control technology standard (including uses of flares during startup, shut-

down, or malfunction permitted under such standard), or a flare that serves to control emissions of waste streams comprised predominately of hydrocarbons and containing no more than 230 mg/dscm hydrogen sulfide.

II.A.18. Innovative Control Technology

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.

II.A.19. Low Terrain

Any area other than high terrain.

II.A.20. Lowest Achievable Emissions Rate (LAER)

For any source, the more stringent rate of emissions based on the following:

II.A.20.a. The most stringent emission limit contained in any state implementation plan for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limits are not achievable; or

II.A.20.b. The most stringent emission limitation that is achieved in practice ~~or can reasonably be expected to occur in practice~~ by such class or category of source, ~~taking into consideration the pollutant that must be controlled.~~ In no event shall *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 performance standard (Regulation Number 6).*

II.A.21. Major Emissions Unit

II.A.21.a. *Any emissions unit that emits or has the potential to emit one hundred tons per year or more of the PAL pollutant in an attainment area; or*

II.A.21.b. *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 stationary source threshold (as defined in Section II.A.24. of this part) for the PAL pollutant for nonattainment areas. For example, in accordance with the definition of a major stationary source (as defined in Section II.A.24. of this part), an emissions unit would be a major emissions unit for volatile organic compounds if the emissions unit is located in an ozone nonattainment area and emits or has the potential to emit one hundred or more tons of voc per year.*

II.A.22. Major Modification

Any physical change in or change in the method of operation of, ~~or addition to,~~ a major stationary source that would result in a significant net emissions increase of ~~any air a regulated NSR pollutant subject to regulation under the Federal Act or the State Act (taking into account all emissions decreases and increases at the source that would accompany the modification)~~ *and a significant net emissions increase of that pollutant from the major stationary source.*

- II.A.22.a. Any *significant emissions increase from any emissions units or net emissions increase at a major stationary source* that is significant for volatile organic compounds or NOx shall be considered significant for ozone.
- II.A.22.b. In the Denver Metropolitan PM10 nonattainment area, any net emission increase that is significant for sulfur dioxide or nitrogen oxides shall be considered significant for PM10.
- II.A.22.c. A physical change or change in the method of operation shall not include routine maintenance, repair, and replacement.
- II.A.22.d. A physical change or change in the method of operation, unless previously limited by any enforceable or federally enforceable permit condition that was established after January 6, 1975 for sources in attainment or unclassifiable areas and after December 21, 1976 for sources in nonattainment areas, shall not include:
- II.A.22.d.(i) Use of an alternative fuel or raw material by reason of an order in effect under Sections 2(a) and (b) of the Federal Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), a prohibition under the Power Plant and Industrial Fuel Use Act of 1978 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;
- II.A.22.d.(ii) Use of an alternative fuel because of an order or rule under Section 125 of the Federal Act;
- II.A.22.d.(iii) *Use of an alternative fuel at a steam-generating unit to the extent that the fuel is generated from municipal solid waste*
- II.A.22.d.(iv) Use of an alternative fuel or raw material that:
- II.A.22.d.(iv)(A) the stationary source in a nonattainment area was capable of accommodating prior to December 21, 1976, unless such change would be prohibited under a federally enforceable permit condition, or
- II.A.22.d.(iv)(B) the stationary source in an attainment or unclassifiable area was capable of accommodating prior to January 6, 1975 unless such change would be prohibited under a federally enforceable permit condition, or
- II.A.22.d.(iv)(C) the source is approved to use under any permit issued under this Regulation Number 3.
- II.A.22.d.(v) An increase in the production rate, unless such change would be prohibited under a federally enforceable permit condition;
- II.A.22.d.(vi) An increase in the hours of operation, unless such increase would be prohibited under a federally enforceable permit condition;
or
- II.A.22.d.(vii) Any change in ownership of a stationary source.

II.A.22.d.(viii) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, if the project complies with:

II.A.22.d.(viii)(A) The Colorado State Implementation Plan, and

II.A.22.d.(viii)(B) Other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.

II.A.22.d.(ix) For major stationary sources in attainment areas:

II.A.22.d.(ix)(A) The installation or operation of a permanent clean coal technology demonstration project that constitutes re-powering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. The exemption shall apply on a pollutant-by-pollutant basis.

II.A.22.d.(ix)(B) the reactivation of a very clean coal fired electric utility steam generating unit.

II.A.22.d.(x) The reactivation of a very clean coal fired electric utility steam generating unit.

II.A.22.e. This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under Section XV. of this Part D for a PAL for that pollutant. Instead, the definition in Section II.A.30. of this part shall apply.

II.A.22.f. Emissions caused by indirect sources of pollution, emissions from internal combustion engines on any vehicle, and emissions resulting from temporary construction or exploration activities shall be excluded in determining whether a major modification will occur.

Emissions from on-going construction are not considered to be temporary emissions, and are included in determining whether a major modification will occur.

Fugitive emissions from the listed sources in Section II.A.24.a. and any other stationary source category that, as of August 7, 1980 was regulated under Sections 111 or 112 of the Federal Act (as adopted in Regulations Nos. 6, Part A, and 8, Parts A and E) shall, to the extent quantifiable, be considered in calculating the potential to emit of the modification.

~~II.A.23. Major Source Baseline Date~~

~~II.A.23.a. In the case of particulate matter and sulfur dioxide, January 6, 1975; and~~

~~II.A.23.b. In the case of nitrogen dioxide, February 8, 1988.~~

II.A.24. Major Stationary Source

II.A.24.a. For the purpose of determining whether a source in an attainment or unclassifiable area is subject to the requirements of this Part D, major stationary source means:

II.A.24.a.(i) Any of the following stationary sources of air pollutants that emits, or has the potential to emit, one hundred tons per year or more of any pollutant subject to regulation under the Federal Act:

II.A.24.a.(i)(A) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input

II.A.24.a.(i)(B) Coal cleaning plants (with thermal dryers)

II.A.24.a.(i)(C) Kraft pulp mills

II.A.24.a.(i)(D) Portland cement plants

II.A.24.a.(i)(E) Primary zinc smelters

II.A.24.a.(i)(F) Iron and steel mill plants

II.A.24.a.(i)(G) Primary aluminum ore reduction plants

II.A.24.a.(i)(H) Primary copper smelters

II.A.24.a.(i)(I) Municipal incinerators capable of charging more than 250 tons of refuse per day

II.A.24.a.(i)(J) Hydrofluoric, sulfuric, and nitric acid plants

II.A.24.a.(i)(K) Petroleum refineries

II.A.24.a.(i)(L) Lime plants

II.A.24.a.(i)(M) Phosphate rock processing plants

II.A.24.a.(i)(N) Coke oven batteries

II.A.24.a.(i)(O) Sulfur recovery plants

II.A.24.a.(i)(P) Carbon black plants (furnace process)

II.A.24.a.(i)(Q) Primary lead smelters

II.A.24.a.(i)(R) Fuel conversion plants

II.A.24.a.(i)(S) Sintering plants

II.A.24.a.(i)(T) Secondary metal production plants

II.A.24.a.(i)(U) Chemical process plants

II.A.24.a.(i)(V) Fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input

II.A.24.a.(i)(W) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels

II.A.24.a.(i)(X) Taconite ore processing plants

II.A.24.a.(i)(Y) Glass fiber processing plants

II.A.24.a.(i)(Z) Charcoal production plants

II.A.24.a.(ii) Notwithstanding the stationary source size specified in Section II.A.24.a.(i), any stationary source that emits, or has the potential to emit, two hundred and fifty tons per year or more of any air pollutant subject to regulation under the Federal Act.

II.A.24.b. For the purpose of determining whether a source in a nonattainment area is subject to the requirements of Section V. of this part, and whether a source in an attainment area affecting a nonattainment area is subject to the requirements of Section VI.D. of this part, major stationary source means 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* ~~regulated under the Federal Act~~ for which the area is nonattainment. Additionally, a source causing or contributing to a violation of a national ambient air quality standard for any pollutant regulated under Section 110 of the Federal Act shall be considered a major stationary source when it has the potential to emit one hundred tons per year or more of that pollutant. The source will be considered to cause or contribute to a violation where the source exceeds the significance levels in the table under Section VI.D.2. of this Part D. Such source is subject to the requirements of Section VI. of this Part D.

II.A.24.c. Major stationary source includes any physical change that would occur at a stationary source not otherwise qualifying as a major stationary source under Sections II.A.24.a and II.A.24.b. of this part, if the change would constitute a major stationary source by itself.

II.A.24.d. A major stationary source that is major for volatile organic compounds or NO_x shall be considered major for ozone, except that emissions of negligibly reactive volatile organic compounds, as defined in the Common Provisions, shall not be included in the determination of major stationary source status for ozone.

II.A.24.e. The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the categories of stationary sources listed in Section II.A.24.a.(i) or any other stationary source category which, as of August 7, 1980, is regulated under Section 111 or 112 of the Federal Act.

II.A.24.f. Emissions caused by indirect air pollution sources (as defined in Section I.B.22. of Part A of this regulation), emissions from internal combustion engines on any vehicle, and emissions resulting from temporary activities, such as construction or exploration, shall be excluded in determining whether a source is a major stationary source. Emissions from on going construction are not considered to be temporary emissions and are included in determining whether a major modification will occur.

II.A.24.g. A major stationary source in the Denver Metro PM10 attainment/maintenance area that is major for sulfur dioxide or nitrogen oxides shall be considered major for PM10.

II.A.25. Minor Source Baseline Date

~~II.A.25.a. The earliest date after the trigger date that a major stationary source or a major modification subject to the requirements of Section VI. of this Part D submits a complete application under the relevant regulations. The trigger date is:~~

~~II.A.25.a.(i) In the case of particulate matter and sulfur dioxide, August 7, 1977; and~~

~~II.A.25.a.(ii) In the case of nitrogen dioxide, February 8, 1988.~~

~~II.A.25.b. The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:~~

~~II.A.25.b.(i) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Sections 107(d)(1)(D) or (E) of the Federal Act for the pollutant on the date of its complete application under Section VI. of this part; and~~

II.A.25.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.

II.A.25.c. Any minor source baseline date established originally for the Total Suspended Particulates increments shall remain in effect and shall apply for purposes of determining the amount of available PM10 increments, except that the Division may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Division, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM10 emissions.

II.A.26. Net Emissions Increase

II.A.26.a. *With respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:*

II.A.26.a.(i) The increase in ~~the actual~~ emissions from a particular physical change or change in the method of operation at a stationary source *calculated pursuant to Sections I.A.2. through I.A.3., and I.B. of this Part D;* and

II.A.26.a.(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 shall be determined as provided in the definition of baseline actual emissions, except that paragraphs II.A.4.a.(iii) and II.A.4.b.(iv) of this Part D shall not apply.*

- II.A.26.b. Contemporaneous - an increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs *within five years prior to the date that the increase from the particular change occurs.*
- II.A.26.c. An increase or decrease in actual emissions is creditable only if:
- II.A.26.c.(i) It occurs within five years before the date that the increase or decrease occurs;
 - II.A.26.c.(ii) The Division has not relied on it in issuing a permit for the source under Regulation Number 3, or the U.S. EPA has not relied on it in issuing a permit under Title I, Part C of the Federal Act, which permit is in effect when the increase in actual emissions from the particular change occurs; and
 - II.A.26.c.(iii) The owner or operator provides credible, demonstrable evidence to the Division of what actual emissions were before making the increase or decrease and what they were after making the increase or decrease; *and*
- II.A.26.d. In order to establish a baseline emissions rate, the owner or operator must submit an Air Pollutant Emission Notice to the Division prior to the increase or decrease indicating actual emissions (as defined in Section II.A.1. of this of part) and the owner or operator must submit a revised Air Pollutant Emission Notice to the Division within one year after the increase or decrease occurs, or
- II.A.26.e. An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM10 emissions can be used to evaluate the net emissions increase for PM10.
- II.A.26.f. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
- II.A.26.g. A decrease in actual emissions is creditable only to the extent that:
- II.A.26.g.(i) The Division has not relied on it in issuing any permit under this Part D, or has not relied on it in demonstrating attainment or reasonable further progress;
 - II.A.26.g.(ii) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
 - II.A.26.g.(iii) It is ~~federally~~ enforceable *as a practical matter* at and after the time that actual construction on the particular change begins; and
 - II.A.26.g.(iv) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

II.A.26.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 one hundred and eighty days.

II.A.26.i. *Section II.A.1.a. of this part shall not apply for determining creditable increases and decreases after a change.*

II.A.26.j. The organic compounds referenced in the common provisions definition of negligibly reactive volatile organic compounds are neither counted as reactive volatile organic compounds in determining significant ozone increases nor creditable against an increase in emissions of any volatile organic compound.

II.A.26.k. **Creditable Decreases for Fuel Switching.**

Generally, for credit to be given for the emissions reduction in potential to emit or actual emissions resulting from a physical change or change in method of operation of a major stationary source occurring on or after the effective date of this rule, an Air Pollutant Emission Notice reporting such reduction must be filed within one year after the reduction occurs unless an extension is requested by the source and approved by the Division due to uncertainty as to the permanence of such reduction. At the time credit for any reduction is requested, such reduction must be enforceable. Such reductions must be enforceable through permit conditions or source specific state implementation plan revisions.

II.A.27. *Nonattainment Major New Source Review (NSR) Program*

A major stationary source preconstruction permit program that has been approved by the Administrator and incorporated into this Regulation Number 3. Any permit issued under the program is a major NSR permit.

II.A.28. *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.

II.A.29. *PAL Effective Period*

The period beginning with the PAL effective date and ending ten years later.

II.A.30. *PAL Major Modification*

Notwithstanding Sections II.A.22 and II.A.26. of this Part D (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.

II.A.31. *PAL Permit*

The Operating Permit issued in accordance with this Part D that establishes a PAL for a major stationary source.

II.A.32. *PAL Pollutant*

The pollutant for which a PAL is established at a major stationary source.

II.A.33. *Plant-wide Applicability Limitation (PAL)*

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 Section XV. of this Part D.

II.A.34. *Prevention of Significant Deterioration (PSD) Permit*

Any permit that is issued in accordance with Section VI. of this Part D.

II.A.35. *Project*

A physical change in, or change in the method of operation of, an existing major stationary source.

II.A.36. *Projected Actual Emissions*

II.A.36.a. The maximum annual rate, in tons per year, at which an existing emissions unit at a major stationary source is projected to emit a regulated NSR pollutant in any one of the five years (twelve-month period) following the date the unit resumes regular operation after the project, or in any one of the ten 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.

II.A.36.b. In determining the projected actual emissions under Section II.A.36.a., above, before beginning actual construction, the owner or operator of the major stationary source:

II.A.36.b.(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; and

II.A.36.b.(ii) Shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and

II.A.36.b.(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 month period used to establish the baseline actual emissions under Section II.A.4. of this part D and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,

II.A.36.b.(iv) In lieu of using the method set out in Sections II.A.36.b.(i) through II.A.36.b.(iii), may elect to use the emissions unit's potential

to emit, in tons per year, as defined in Section I.B.35. of Part A of this regulation.

II.A.37. Reactivation of Very Clean Coal-fired Electric Utility Steam Generating Unit

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:

II.A.37.a. Has not been in operation for the two year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the permitting authority's emissions inventory at the time of the enactment;

II.A.37.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 eighty-five percent and a removal efficiency for particulates of no less than ninety-eight percent;

II.A.37.c. Is equipped with low-nitrogen oxide burners prior to the time of commencement of operations following reactivation; and

II.A.37.d. Is otherwise in compliance with the requirements of the Federal Act.

II.A.38. Regulated NSR Pollutant

II.A.38.a. Nitrogen oxides or any volatile organic compound;

II.A.38.b. Any pollutant for which a national ambient air quality standard has been promulgated;

~~II.A.38.c. Any pollutant that is a constituent or precursor of a general pollutant listed under Sections II.A.38.a. or II.A.38.b., above, (e.g. volatile organic compounds and oxides of nitrogen are precursors for ozone) provided that a constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant;~~

II.A.38.d. Any pollutant that is subject to any standard promulgated under Section 111 of the Federal Act;

II.A.38.e. Any pollutant that otherwise is subject to regulation under the Federal Act, except that any or all hazardous air pollutants either listed in Section 112 of the Federal Act (that have not been delisted pursuant to Section 112(b)(3) of the Federal Act) or Appendix B of this regulation are not regulated NSR pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under Section 108 of the Federal Act.

II.A.39. Replacement Unit

An emissions unit for which all the criteria listed in Sections II.A.39.a. through II.A.39.d. are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

- II.A.39.a. The emissions unit is a reconstructed unit within the meaning of Code of Federal Regulations Title 40, Section 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.*
- II.A.39.b. The emissions unit is identical to or functionally equivalent to the replaced emissions unit.*
- II.A.39.c. The replacement does not alter the basic design parameters of the process unit.*
- II.A.39.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.*

II.A.40. Repowering

- II.A.40.a. 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.A.40.b. Repowering shall also include any oil and/or gas-fired unit that have been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

II.A.40.5 Representative Actual Annual Emissions

~~The average rate, in tons per year, at which the source is projected to emit a pollutant for the two year period after a physical change or change in the method of operation of a unit, (or a different consecutive two-year period within ten years after the change, where the Division determines that such period is more representative of normal source operations), considering the effect any such change will have on increasing or decreasing the hourly emissions rate and on projected capacity utilization. In projecting future emissions, the Division shall:~~

~~II.A.40.5(a) Consider all relevant information, including but not limited to, historical operational data, the company's own representations, filings with the state or federal regulatory authorities, and compliance plans under Title IV of the Federal Act, and~~

- II.A.40.5(b) Exclude, in calculating any increase in emissions that results from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit's emissions following the change that could have been accommodated during the representative baseline period and is attributable to an increase in projected capacity utilization at the unit that is unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.

II.A.41. Secondary Emissions

Emissions that occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. *For the purpose of this Part D, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification that causes the secondary emissions.* Secondary emissions include emissions from any offsite support facility that would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions that come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

II.A.42. Significant

II.A.42.a. Unless the context otherwise requires, , a significant rate of emissions in tons per year is defined as a value that would equal or exceed any of the following:

- Carbon monoxide: 100 tons per year
- Nitrogen Oxides: 40 (nitric oxide + nitrogen dioxide) tons per year
- Sulfur dioxide: 40 tons per year
- Particulate matter: 25 tons per year particulate matter emissions or, 15 tons per year of PM10 emissions
- PM10 - Precursors in the Denver Metropolitan PM10 nonattainment area: 40 tons per year for each individual precursor (nitrogen oxides or sulfur oxides)
- Ozone: 40 tons per year of volatile organic compounds or NOx
- Lead: 0.6 tons per year
- Fluorides: 3 tons per year
- Sulfuric acid mist: 7 tons per year
- Hydrogen sulfide: 10 tons per year
- Total reduced sulfur (including hydrogen sulfide): 10 tons per year
- Reduced sulfur compounds (including hydrogen sulfide): 10 tons per year
- 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} 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 Landfill Gases (measured as non-methane organic compounds): 45 megagrams per year (50 tons per year)~~

II.A.42.b. Significant means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that this definition does not list, any emissions rate, except that this definition shall not apply to hazardous air pollutants listed in or pursuant to Section 112 of the Federal Act.

II.A.42.c. Notwithstanding the significant emission rates above, significant means any emissions rate or any net emissions increase associated with a major stationary source or major modification, that would construct within ten kilometers of a Class I area, and have an impact on such area equal to or greater than one microgram/cubic meter ((g/m³) (twenty-four hour average).

II.A.43. *Significant Emissions Increase*

For a regulated NSR pollutant, an increase in emissions that is significant (as defined in Section II.A.42. of this Part D) for that pollutant.

II.A.44. *Significant Emissions Unit*

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 Section II.A.42. of this Part D or in the Federal 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 Section II.A.21. of this part).

II.A.45. *Small Emissions Unit*

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 Section II.A.32. of this Part D or in the Federal Act, whichever is lower).

II.A.46. *Temporary Clean Coal Technology Demonstration Project*

A clean coal technology demonstration project that is operated for a period of five years or less, and that complies with the 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.

III. Permit Review Procedures

III.A. Major stationary sources subject to the requirements of this Part D must apply for and obtain a Construction Permit in accordance with the procedures and requirements in Part B or an Operating permit in accordance with the procedures and requirements in Part C.

III.B. The Division shall complete the processing of applications (including any requested public hearing) for sources subject Section VI. of this Part D within twelve months of receipt of a complete application.

IV. Public Comment Requirements

IV.A. When public comment is required, or when the Division determines that an application warrants public comment in accordance with Section III.C.3. of Part B of this regulation, the Division shall, within fifteen calendar days after the preparation of the preliminary analysis, cause public notice of the application to be published in a newspaper of general distribution in the