

mail to permitted sources that can be reasonably identified as emitting the pollutant in violation and affecting the area of violation.

X.A.4.c. Should the Commission determine that an increment violation exists, the Division shall review all sources affecting the area of increment violation and ensure that all such sources comply with all applicable permit conditions, and state and local regulations. Within thirty days after completing such a review, the Division shall recommend revisions, if necessary, to the Commission to correct the violation. Upon receipt of recommended revisions from the Division, the Commission shall as soon as practicable act to revise this regulation as it deems necessary.

X.A.5. Increment Consumption Restriction

X.A.5.a. No new major stationary source or major modification shall individually consume more than seventy-five percent of an applicable increment.

X.A.5.a.(i) Applicants may request a hearing before the Commission to request a waiver of this restriction. The hearing shall be heard in accordance with the provisions of Colorado Revised Statute Sections 25-7-114 (4)(h), 25-7-119 (Colorado Air Pollution Prevention and Control Act), and Colorado Revised Statute 24-4-105 (State Administrative Procedure Act).

X.A.5.a.(i)(A) The Commission shall not set a hearing date for a waiver request until submittal of comments, or evidence of an opportunity for submittal of comments by all appropriate regional planning agencies and councils of government organizations, affected municipalities and other affected political subdivisions has occurred.

X.A.5.a.(i)(B) Ambient Air Limits. No concentrations of a pollutant shall exceed a national ambient air quality standard or a state ambient air standard where no national ambient air quality standard has been established.

**XI. Exclusions From Increment Consumption**

XI.A. The following concentrations are excluded in determining compliance with a maximum allowable increase:

XI.A.1. Concentrations attributable to the increase in emissions from stationary sources that have converted from the use of petroleum products, natural gas, or both by 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) over the emissions from such sources before the effective date of such an order, but not more than five years after the effective date of such an order.

XI.A.2. Concentrations attributable to the increase in emissions from sources that have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal "Power Act" over the emissions from such sources before the effective date of such plan, but not more than five years after the effective date of the plan.

- XI.A.3. Concentrations of particulate matter attributable to an increase in emissions from construction or other temporary emission-related activities of new or modified sources.
- XI.A.4. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, or particulate matter, or nitrogen oxides from stationary sources that are affected by revisions of the Colorado State Implementation Plan that are approved by the Administrator of the U.S. EPA and that provide:
- XI.A.4.a. The time period of such temporary increase in emissions is not renewable and may not exceed two years in duration, unless a longer time is approved by the Division and the U.S. EPA;
- XI.A.4.b. Such temporary increase in emissions shall not impact a Class I area or an area where an applicable increment is known to be violated or cause or contribute to the violation of a national ambient air quality standard; and
- XI.A.4.c. Emission limitations shall be in effect at the end of the time period specified in the plan revision that will ensure that the emissions levels from stationary sources affected by the plan revision will not exceed those levels occurring from such sources before the plan revision was approved by the U.S. EPA.

## **XII. Innovative Control Technology**

- XII.A. An owner or operator of a proposed major stationary source or major modification otherwise subject to the requirements of Section VI. of this Part D may request the Division to grant a waiver from the Best Available Control Technology requirements and to approve a system of innovative control technology, in order to encourage the use of such technology.
- XII.B. The Division or the Commission may, with the consent of the governor(s) of other affected states, grant a waiver from the Best Available Control Technology requirements of Section VI.A.1. of this part necessary for the employment of innovative control technology and determine that the source or modification may employ such system if:
- XII.B.1. The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;
- XII.B.2. The owner or operator agrees to achieve a level of continuous emissions reduction greater than or equivalent to that which would have been required under Section VI.A.1. by a date specified by the Division. Such date shall not be later than four years from the time of startup or seven years from permit issuance;
- XII.B.3. The source or modification would meet the requirements of Sections VI.A.1. and VI.A.2. based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Division;
- XII.B.4. The source or modification would not, before the date specified by the Division under Section XII.B.2., above;
- XII.B.4.a. Cause or contribute to any violation of an applicable national ambient air quality standard; or
- XII.B.4.a.(i) Impact any area where an applicable increment is known to be violated;  
or