
Georgia EPD PSD Integrated Rule Document



AIR PROTECTION BRANCH

Revised June 2020

This page is intentionally blank

Disclaimer – Note that this document was prepared for the purposes of instruction and showing the differences between Georgia’s rule and the Federal Rule and is in no way considered to be an “official” version of either rule. Please see Georgia Rules for Air Quality 391-3-1-.02(7) and/or 40 CFR 52.21 for the actual regulatory requirements.

This version of the Georgia EPD PSD Integrated Rule is based on 40 CFR 52.21 (April 30, 2020) modified as follows:

<i>Federal Register Reference</i>		Topic	Discussion
Promulgation Date	Citation		
Effective Date			
1/1/2020 through 4/30/2020		No promulgated revisions to 40 CFR 52.21.	
CY2019		No promulgated revisions to 40 CFR 52.21	
CY2018		No promulgated revisions to 40 CFR 52.21.	
CY2017		No promulgated revisions to 40 CFR 52.21.	
11/7/2016 12/7/2016	81 FR 78043-78048	<p><u>Rescission of Preconstruction Permits Issued Under the Clean Air Act:</u> <i>This regulation removes a date restriction that limited the use of a provision allowing a PSD permit to be cancelled. Before, this revision, only permits based on rules issued on or before July 30, 1987 and any PSD greenhouse gas permits issued as part of Step 2 of the Tailoring Rule could be rescinded.</i></p> <p>Correct 40 CFR 52.21(w)(1) to reference 40 CFR 52.21(r) rather than 40 CFR 52.21(s).</p> <p>Remove the July 30, 1987 date restriction in 40 CFR 52.21(w)(2).</p> <p>EPA revised 40 CFR 52.21(w)(3) to make it clear that the provision does not create a mandatory duty on the Administrator to grant a rescission request. Specifically, the EPA replaced the word “shall” with the word “may” in this provision.</p> <p>Revisions to 40 CFR 52.21(w)(1), (w)(2), and (w)(3).</p>	<p>No action yet by Georgia EPD</p> <p>No action yet by Georgia EPD</p> <p>No action yet by Georgia EPD</p> <p>No action yet by Georgia EPD</p>

<i>Federal Register Reference</i>		Topic	Discussion
Promulgation Date	Citation		
10/18/2016 11/17/2016	81 FR71613-71631	<p><u>Revisions to Public Notice Provisions in Clean Air Act Permitting Programs</u> <i>This final rule removes the mandatory requirement to provide public notice of a draft air permit (as well as certain other program actions) through publication in a newspaper. This rule requires electronic notice (e-notice) for EPA actions (and actions by permitting authorities implementing the federal permitting rules) and allows for e-notice as an option for actions by permitting authorities implementing EPA-approved programs.</i></p> <p>Revision to 40 CFR 52.21(q)</p> <p>Revision to 40 CFR 52.21(w)(4)</p>	<p>Adopted by reference.</p> <p>Adopted by reference.</p>
8/19/2015 8/19/2015	80 FR 50199 - 50203	<p><u>NSR and Greenhouse Gases – GHG PSD and Title V Final Rule to Remove Vacated Elements</u></p> <p>Remove 40 CFR 52.21(b)(49)(v)</p>	<p>Adopted by reference.</p>
5/7/2015 7/6/2015	80 FR 26183-26189	<p><u>NSR and Greenhouse Gases – Providing Option for Rescission of the EPA-Tailoring Rule Step 2 PSD Permits</u></p> <p>Revision to 40 CFR 52.21(w)(2)</p> <p>Revision to 40 CFR 52.21(w)(3)</p>	<p>Adopted by reference.</p> <p>Not adopted by reference.</p>
3/6/2015 4/6/2015	80 FR 12264-12319	<p>Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements; Final Rule</p> <p>Revision to 40 CFR 52.21(i)(2)</p>	<p>Adopted by reference.</p>

<i>Federal Register Reference</i>		Topic	Discussion
Promulgation Date	Citation		
12/9/2013 12/9/2013	78 FR73698-73702	<p><i>The EPA is amending its regulations to remove the vacated PM_{2.5} SILs and SMC provisions from the PSD regulations in the CFR.</i></p> <p>40 CFR 52.21(i)(5)(i)(c)-Amended</p> <p>40 CFR 52.21(k)(2)-Removed</p>	<p>Adopted by reference.</p> <p>Adopted by reference.</p>
10/25/2012 12/24/2012	77FR 65107-65119	<p><i>The EPA is issuing a final rule that revised the definition of “regulated NSR pollutant” contained in two sets of PSD regulations and in the EPA’s Emission Offset Interpretative Rule.</i></p> <p>40 CFR 52.21(b)(50)</p>	<p>Adopted by reference.</p>
7/12/2012 8/13/2012		<p>PSD and Title V Greenhouse Gas Tailoring Rule Step 3 and GHG Plantwide Applicability Limits</p> <p>Revision to 40 CFR 52.21(aa)(5)</p> <p>Revision to 40 CFR 52.21(aa)(6)</p> <p>Revision to 40 CFR 52.21(aa)(10)</p>	<p>Not adopted by reference.</p> <p>Not adopted by reference.</p> <p>Not adopted by reference.</p>
5/18/2011 5/18/2011	76FR 28646-28661	<p><i>The EPA is repealing the “grandfather” provision for PM_{2.5}.</i></p> <p>Remove 40 CFR 52.21(i)(1)(xi)</p>	<p>Adopted by reference.</p>
3/30/2011 3/30/2011	61 FR 17548-17556	<p><u>Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Interim Rule; Stay and Revisions</u></p> <p><u>The stay as published on March 31, 2010 (75 FR 16012) is lifted for the following Title 40 subparagraphs:</u></p> <ul style="list-style-type: none"> -Part 52.21(a)(2)(iv)(b), -Part 52.21(b)(2)(v), -Part 52.21(b)(3)(iii)(c), -Part 52.21(b)(20), 	<p>Adopted by reference.</p>

<i>Federal Register Reference</i>			
Promulgation Date	Citation	Topic	Discussion
Effective Date			
		-Part 52.21(aa)(4)(i)(d)	
		<u>The following Title 40 CFR sections are stayed indefinitely per 76 FR 17548-17556:</u> -Part 52.21(b)(2)(v), and -Part 52.21(b)(3)(iii)(c).	Adopted by reference.
		<u>The following subparagraphs in Title 40 CFR are revised:</u> -Part 52.21(a)(2)(iv)(b) -Temporary paragraph 40 CFR 52.21(i)(1)(vii) is removed, -A new paragraph 52.21(i)(1)(vii) is added.	Adopted by reference.
		<u>The stay as published on March 31, 2010 (75 FR 16012) is lifted for the following Title 40 CFR subparagraphs:</u> -Part 52.21(b)(3)(iii)(b), -Part 52.21(b)(41)(ii)(b), -Part 52.21(b)(41)(ii)(d), -Part 52.21(b)(48)(i)(a), -Part 52.21(b)(48)(ii)(a), -Part 52.21(b)(48)(iii), -Part 52.21(b)(48)(iv), -Part 52.21(r)(6)(iii), and -Part 52.21(r)(6)(iv)	Not adopted by reference.
		<u>The following Title 40 CFR subparagraphs are revised:</u> -Part 52.21(b)(41)(ii)(b), -Part 52.21(b)(41)(ii)(d), -Part 52.21(b)(48)(ii)(a), -Part 52.21(b)(48)(iii), -Part 52.21(b)(48)(iv) -Part 52.21(r)(6)(iii), and -Part 52.21(r)(6)(iv)	Not adopted by reference.

<i>Federal Register Reference</i>		Topic	Discussion
Promulgation Date	Citation		
10/20/2010 12/20/2010	75 FR 64864-64907	<p><i>The EPA is adding maximum allowable increases in ambient pollutant concentrations (“increments”) and two screening tools, known as Significant Impact Levels (SILs) and a Significant Monitoring Concentration (SMC) for PM2.5.</i></p> <p><u>Revise 40 CFR 52.21(b)(14) as follows:</u> --40 CFR 52.21(b)(14)(i)(a) --40 CFR 52.21(b)(14)(i)(b) --Add 40 CFR 52.21(b)(14)(i)(c) --40 CFR 52.21(b)(14)(ii)(c) --40 CFR 52.21(b)(14)(iii)(a)</p> <p><u>Revise introductory text for:</u> --40 CFR 52.21(b)(15)(i) --40 CFR 52.21(b)(15)(ii)</p> <p>Revise the table in 40 CFR 52.21(c)</p> <p><u>Revise 40 CFR 52.21(i) as follows:</u> --40 CFR 52.21(i)(5)(i) --40 CFR 52.21(i)(9) --40 CFR 52.21(i)(10)</p> <p>Revise 40 CFR 52.21(k)</p> <p><u>Revise 40 CFR 52.21(p) as follows:</u> --40 CFR 52.21(p)(5) --The table in 40 CFR 52.21(p)(5)</p>	<p>Not adopted by reference.</p> <p>Adopted by reference.</p> <p>Adopted by reference.</p> <p>Adopted by reference.</p> <p>Adopted by reference.</p> <p>Adopted by reference.</p>

This page is intentionally blank

Title	40 CFR Part 52.21	Corresponding Georgia Rule Citation	Adopted by Reference or Adopted with changes?
Plan Disapproval	52.21(a)(1)	Not adopted	Not adopted
Applicability	52.21(a)(2)	391-3-1-.02(7)(a)3.	Adopted by reference.
Definition	52.21(b)	391-3-1-.02(7)(a)2.	Adopted by reference except as noted below.
Definition – Major Stationary Source	52.21(b)(1)	391-3-1-.02(7)(a)2.(iii)	Adopted with changes.
Definition – Net Emissions Increase	52.21(b)(3)	391-3-1-.02(7)(a)2.(ix)	Adopted with changes.
Definition – Potential to Emit	52.21(b)(4)	391-3-1-.02(7)(a)2.(v)	Adopted with changes.
Definition – Major Source Baseline Date (and Minor Source Baseline Date)	52.21(b)(14)	391-3-1-.02(7)(a)2.(vii)	Adopted with changes.
Definition – Allowable Emissions	52.21(b)(16)	391-3-1-.02(7)(a)2.(vi)	Adopted with changes.
Definition – Replacement Unit	52.21(b)(33)	391-3-1-.02(7)(a)2.(viii)	Adopted with changes.
Definition – Projected Actual Emissions	52.21(b)(41)	391-3-1-.02(7)(a)2.(ii)	Adopted with changes.
Definition – Baseline Actual Emissions	52.21(b)(48)	391-3-1-.02(7)(a)2.(i)	Adopted with changes.
Definition – Subject to Regulation	52.21(b)(49)	391-3-1-.02(7)(a)2.(iv)	Adopted with changes.
Ambient Increments	52.21(c)	391-3-1-.02(7)(b)1.	Adopted by reference.
Ambient Air Ceilings	52.21(d)	391-3-1-.02(7)(b)2.	Adopted by reference.
Restrictions on Area Classifications	52.21(e)	391-3-1-.02(7)(b)3.	Adopted by reference.
Redesignation	52.21(g)	391-3-1-.02(7)(b)4.	Adopted by reference.
Stack Height	52.21(h)	391-3-1-.02(7)(b)5.	Adopted by reference.
Exemptions	52.21(i)	391-3-1-.02(7)(b)6.	Adopted by reference.
Control Technology Review	52.21(j)	391-3-1-.02(7)(b)7.	Adopted by reference.
Source Impact Analysis	52.21(k)	391-3-1-.02(7)(b)8.	Adopted by reference.
Air Quality Models	52.21(l)	391-3-1-.02(7)(b)9.	Adopted by reference.

Title	40 CFR Part 52.21	Corresponding Georgia Rule Citation	Adopted by Reference or Adopted with changes?
Air Quality Analysis	52.21(m)	391-3-1-.02(7)(b)10.	Adopted by reference.
Source Information	52.21(n)	391-3-1-.02(7)(b)11.	Adopted with changes.
Additional Impact Analysis	52.21(o)	391-3-1-.02(7)(b)12.	Adopted by reference.
Source Impacting Federal Class I Areas – Additional Req'ts	52.21(p)	391-3-1-.02(7)(b)13.	Adopted with changes.
Public Participation	52.21(q)	391-3-1-.02(7)(b)14.	Adopted by reference.
Source Obligation	52.21(r)	391-3-1-.02(7)(b)15.	Adopted with changes.
Environmental Impact Statements	52.21(s)	None	Not adopted
Disputed Permits or Redesignations	52.21(t)	None	Not adopted
Delegation of Authority	52.21(u)	None	Not adopted
Innovative Control Technology	52.21(v)	391-3-1-.02(7)(b)16.	Adopted by reference.
Permit Rescission	52.21(w)	391-3-1-.02(7)(b)17.	Adopted with changes.
Reserved	52.21(x), (y), (z)	391-3-1-.02(7)(b)18., 19. 20.	Reserved
Actuals PALS	52.21(aa)	391-3-1-.02(7)(b)21.	Adopted by reference except as noted in the row below
Actuals PALS	52.21(aa)(5)	391-3-1-.02(7)(b)21.(ii)	Adopted with changes.
Actuals PALS	52.21(aa)(6)	391-3-1-.02(7)(b)21.(iii) – (iv)	Adopted with changes.
Actuals PALS	52.21(aa)(7)	391-3-1-.02(7)(b)21.(v)	Adopted with changes.
Actuals PALS	52.21(aa)(8)	391-3-1-.02(7)(b)21.(vi)	Adopted with changes.
Actuals PALS	52.21(aa)(10)	391-3-1-.02(7)(b)21.(vii)	Adopted with changes.
Actuals PALS	52.21(aa)(12)	391-3-1-.02(7)(b)21.(viii), (ix), and (xi)	Adopted with changes.
	52.21(bb)	None	Not adopted.
	52.21(cc)	None	Not adopted.

This page is intentionally blank.

TABLE OF CONTENTS FOR GEORGIA INTEGRATED PSD RULE

(a)(1) [Not adopted by Georgia] 1

(a)(2) Applicability procedures 1

(b) Definitions 4

 (1)(i) Major stationary source means: 4

 (2)(i) Major modification 7

 (3) Net emissions increase 10

 (4) Potential to emit 12

 (5) Stationary source 12

 (6) Building, structure, facility, or installation 12

 (7) Emissions unit 13

 (8) Construction 13

 (9) Commence 13

 (10) Necessary preconstruction approvals or permits 14

 (11) Begin actual construction 14

 (12) Best available control technology 14

 (13)(i) Baseline concentration 15

 (14) (i) Major source baseline date 15

 (15) (i) Baseline area 17

 (16) Allowable emissions 18

 (17) Federally enforceable 18

 (18) Secondary emissions 18

 (19) Innovative control technology 19

 (20) Fugitive emissions 19

 (21)(i) Actual emissions 19

 (22) Complete 20

 (23)(i) Significant 20

 (24) Federal Land Manager 21

 (25) High terrain 22

 (26) Low terrain 22

 (27) Indian Reservation 22

 (28) Indian Governing Body 22

 (29) Adverse impact on visibility 22

 (30) Volatile organic compounds (VOC) 22

 (31) Electric utility steam generating unit 22

 (32) [Reserved] 23

 (33) Replacement unit 23

 (34) Clean coal technology 25

 (35) Clean coal technology demonstration project 25

 (36) Temporary clean coal technology demonstration project 25

 (37) (i) Repowering 25

 (38) Reactivation of a very clean coal-fired electric utility steam generating unit 26

 (39) Pollution prevention 26

 (40) Significant emissions increase 27

 (41) Projected actual emissions 27

 (42) [Reserved] 30

(43) Prevention of Significant Deterioration (PSD) program.....	30
(44) Continuous emissions monitoring system (CEMS)	30
(45) Predictive emissions monitoring system (PEMS).....	30
(46) Continuous parameter monitoring system (CPMS)	31
(47) Continuous emissions rate monitoring system (CERMS).....	31
(48) Baseline actual emissions.....	31
(49) Subject to regulation.....	38
(51) Reviewing authority	42
(52) Project.....	43
(53) Lowest achievable emission rate (LAER).....	43
(54) Reasonably available control technology (RACT)	43
(55) Process Unit.....	43
(56) Functionally equivalent component	44
(57) Fixed capital cost.....	45
(58) Total capital investment	45
(c) Ambient air increments.	45
(d) Ambient air ceilings.	47
(e) Restrictions on area classifications.....	47
(f) [Reserved]	48
(g) Redesignation.	48
(h) Stack heights.	51
(i) Exemptions.....	51
(j) Control technology review	61
(k) Source impact analysis	62
(l) Air quality models.....	62
(m) Air quality analysis	63
(n) Source information.....	66
(o) Additional impact analyses	66
(p) Sources impacting Federal Class I areas—additional requirements	67
(q) Public participation	70
(r) Source obligation	71
(s) [Not Adopted by Georgia]	74
(t) [Not Adopted by Georgia]	74
(u) [Not Adopted by Georgia].....	75
(v) Innovative control technology.....	76
(w) Permit rescission.....	77
(x) [Reserved]	79
(y) [Reserved]	79
(z) [Reserved].....	79
(aa) Actuals PALs.....	79

**The Federal PSD Rule as of April 30, 2020 with Changes Based on The Georgia
EPD State PSD Rule, Effective September 26, 2019**

Note: Document formatted shaded to denote text changes between state and federal rule.

40 CFR 52.21 – Prevention of significant deterioration of air quality

(a)(1) [Not adopted by Georgia]

**Text of Federal Rule not adopted by Georgia - Plan disapproval. The provisions of this section are applicable to any State implementation plan which has been disapproved with respect to prevention of significant deterioration of air quality in any portion of any State where the existing air quality is better than the national ambient air quality standards. Specific disapprovals are listed where applicable, in subparts B through DDD of this part. The provisions of this section have been incorporated by reference into the applicable implementation plans for various States, as provided in subparts B through DDD of this part. Where this section is so incorporated, the provisions shall also be applicable to all lands owned by the Federal Government and Indian Reservations located in such State. No disapproval with respect to a State's failure to prevent significant deterioration of air quality shall invalidate or otherwise affect the obligations of States, emission sources, or other persons with respect to all portions of plans approved or promulgated under this part.*

(a)(2) Applicability procedures.

(i) The requirements of this section apply to the construction of any new major stationary source (as defined in paragraph (b)(1) of this section) or any project at an existing major stationary source in an area designated as attainment or unclassifiable under sections 107(d)(1)(A)(ii) or (iii) of the Act.

(ii) The requirements of paragraphs (j) through (r) of this section apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this section otherwise provides.

(iii) No new major stationary source or major modification to which the requirements of paragraphs (j) through (r)(5) of this section apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The ~~Administrator~~ Director has authority to issue any such permit.

(iv) The requirements of the program will be applied in accordance with the principles set out in paragraphs (a)(2)(iv)(a) through (f) of this section.

(a) Except as otherwise provided in paragraphs (a)(2)(v) and (vi) of this section, and consistent with the definition of major modification contained in paragraph (b)(2) of this section, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases—a significant emissions increase (as defined in paragraph (b)(40) of this section), and a significant net emissions increase (as defined in paragraphs (b)(3) and (b)(23) of this section). 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 (a)(2)(iv)(c) through (f) of this section. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (*i.e.*, the second step of the process) is contained in the definition in paragraph (b)(3) of this section. 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 paragraph (b)(41) of this section) and the baseline actual emissions (as defined in paragraphs (b)(48)(i) and (ii) of this section), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in paragraph (b)(23) of this section).

(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 paragraph (b)(4) of this section) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in paragraph (b)(48)(iii) of this section) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in paragraph (b)(23) of this section).

(e) [Reserved]

(f) *Hybrid test for projects that involve multiple types of emission units.* A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs (a)(2)(iv)(c) through (d) of this section as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in paragraph (b)(23) of this section).

(v) For any major stationary source for a PAL for a regulated NSR pollutant, the major stationary source shall comply with the requirements under paragraph (aa) of this section.

(b) Definitions.

For the purposes of this section:

(1)(i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), Kraft pulp mills, Portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i)(a) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant; or

*Georgia added “(a)” to the citation in the above paragraph.

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section, as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major source that is major for volatile organic compounds or NO_x 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 section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(a) Coal cleaning plants (with thermal dryers);

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) Primary zinc smelters;

(e) Iron and steel mills;

(f) Primary aluminum ore reduction plants;

(g) Primary copper smelters;

(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(i) Hydrofluoric, sulfuric, or nitric acid plants;

(j) Petroleum refineries;

(k) Lime plants;

(l) Phosphate rock processing plants;

- (m) Coke oven batteries;
- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants—The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;

(z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, and

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(2)(i) Major modification

means any physical change in or change in the method of operation of a major stationary source that would result in: a significant emissions increase (as defined in paragraph (b)(40) of this section) of a regulated NSR pollutant (as defined in paragraph (b)(50) of this section); and a significant net emissions increase of that pollutant from the major stationary source.

(ii) Any significant emissions increase (as defined at paragraph (b)(40) of this section) from any emissions units or net emissions increase (as defined in paragraph (b)(3) of this section) at a major stationary source that is significant for volatile organic compounds or NO_x shall be considered significant for ozone.

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

(a) Routine maintenance, repair and replacement;

Note to paragraph (b)(2)(iii)(a): By court order on December 24, 2003, the sentence below, as taken from, paragraph (b)(2)(iii)(a) is stayed indefinitely. The stayed provisions will become effective immediately if the court terminates the stay. At that time, EPA will publish a document in the Federal Register advising the public of the termination of the stay.

“Routine maintenance, repair and replacement shall include, but not be limited to, any activity(s) that meets the requirements of the equipment replacement provisions contained in paragraph (cc) of 40 CFR 52.21.”

(b) Use of an alternative fuel or raw material by reason of an order 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 plant pursuant to the Federal Power Act;

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

(d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(e) Use of an alternative fuel or raw material by a stationary source which:

(1) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR subpart I or 40 CFR 51.166; or

(2) The source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.166;

(f) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR subpart I or 40 CFR 51.166.

(g) Any change in ownership at a stationary source.

(h) [Reserved]

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

(1) The State implementation plan for the State in which the project is located, and

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

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

(k) The reactivation of a very clean coal-fired electric utility steam generating unit.

(iv) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under paragraph (aa) of this section for a PAL for that pollutant. Instead, the definition at paragraph (aa)(2)(viii) of this section shall apply.

40 CFR 52.21(b)(2)(v), as noted below, is stayed indefinitely on March 30, 2011, per 76 FR 17548-17556.

(v) Fugitive emissions shall not be included in determining for any of the purposes of this section whether a physical change in or change in the method of operation of a major stationary source is a major modification, unless the source belongs to one of the source categories listed in paragraph (b)(1)(iii) of this section.

(3) *Net emissions increase*

(i) *Net emissions increase* means, with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

(a) 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 (a)(2)(iv) of this section; and

(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 (b)(3)(i)(b) shall be determined as provided in paragraph (b)(48) of this section, except that paragraphs (b)(48)(i)(c) and (b)(48)(ii)(d) of this section 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) The ~~Administrator~~ Director or other reviewing authority has not relied on it in issuing a permit for the source under this section, which permit is in effect when the increase in actual emissions from the particular change occurs; and

(b) [Not adopted by Georgia]

**Text of Federal Rule not adopted by Georgia – “The increase or decrease in emissions did not occur at a Clean Unit except as provided in paragraphs (x)(8) and (y)(10) of this section”; and*

40 CFR 52.21(b)(3)(iii)(c), as denoted below, is stayed indefinitely on March 30, 2011, per 76 FR 17548-17556.

(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 (b)(1)(iii) of this section or it occurs at an emission unit that is located at a major stationary source that belongs to one of the listed source categories.

(iv) 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.

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

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

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

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

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

(vii) [Reserved]

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

(ix) Paragraph (b)(21)(ii) of this section shall not apply for determining creditable increases and decreases.

(4) Potential to emit

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

(5) Stationary source

means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

(6) Building, structure, facility, or installation

means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same “Major Group” (i.e., which have the same first two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977

Supplement (U. S. Government Printing Office stock numbers 4101–0066 and 003–005–00176–0, respectively).

(7) Emissions unit

means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit as defined in paragraph (b)(31) of this section. For purposes of this section, there are two types of emissions units as described in paragraphs (b)(7)(i) and (ii) of this section.

(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 (b)(7)(i) of this section. A replacement unit, as defined in paragraph (b)(33) of this section, is an existing emissions unit.

(8) Construction

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

(9) Commence

as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(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 cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(10) Necessary preconstruction approvals or permits

means those permits or approvals required under Federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

(11) Begin actual construction

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

(12) Best available control technology

means an emissions limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under the Act which would be emitted from any proposed major stationary source or major modification which the ~~Administrator~~ Director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR parts 60 and 61. If the ~~Administrator~~ Director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice,

operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(13)(i) Baseline concentration

means that ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(a) The actual emissions, as defined in paragraph (b)(21) of this section, representative of sources in existence on the applicable minor source baseline date, except as provided in paragraph (b)(13)(ii) of this section; and

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

(ii) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(a) Actual emissions, as defined in paragraph (b)(21) of this section, from any major stationary source on which construction commenced after the major source baseline date; and

(b) Actual emissions increases and decreases, as defined in paragraph (b)(21) of this section, at any stationary source occurring after the minor source baseline date.

(14) (i) Major source baseline date

means:

(a) In the case of PM10 and sulfur dioxide, January 6, 1975;

(b) In the case of nitrogen dioxide, February 8, 1988; and

(c) In the case of PM_{2.5}, October 20, 2010.

(ii) “*Minor source baseline date*” means the earliest date after the trigger date on which a major stationary source or a major modification subject to 40 CFR 52.21 or to regulations approved pursuant to 40 CFR 51.166 submits a complete application under the relevant regulations. The trigger date is:

(a) In the case of PM₁₀ and sulfur dioxide, August 7, 1977;

(b) In the case of nitrogen dioxide, February 8, 1988; and

(c) In the case of PM_{2.5}, October 20, 2011.

(iii) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(a) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.166; and

(b) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(iv) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that the ~~Administrator~~ Director shall rescind a minor source

baseline date where it can be shown, to the satisfaction of the ~~Administrator~~ Director, that the emissions increase from the major stationary source, or net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM-10 emissions.

(v) Baseline dates established prior to April 19, 2006 will remain in effect.

(15) (i) Baseline area

means any intrastate area (and every part thereof) designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: equal to or greater than 1 $\mu\text{g}/\text{m}^3$ (annual average) for SO₂, NO₂, or PM₁₀; or equal or greater than 0.3 $\mu\text{g}/\text{m}^3$ (annual average) for PM_{2.5}.

(ii) Area redesignations under section 107(d)(1)(A)(ii) or (iii) of the Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(a) Establishes a minor source baseline date; or

(b) Is subject to 40 CFR 52.21 and would be constructed in the same state as the state proposing the redesignation.

(iii) Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that such baseline area shall not remain in effect if the ~~Administrator~~ Director rescinds the corresponding minor source baseline date in accordance with paragraph (b)(14)(iv) of this section.

(16) Allowable emissions

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

- (i) The applicable standards as set forth in 40 CFR parts 60 and 61;
- (ii) The applicable State Implementation Plan emissions limitation, including those with a future compliance date; or
- (iii) The emissions rate specified as ~~a federally~~ an enforceable permit condition, including those with a future compliance date.

(17) Federally enforceable

means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR parts 60 and 61, requirements within any applicable State implementation plan, any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I, including operating permits issued under an EPA-approved program that is incorporated into the State implementation plan and expressly requires adherence to any permit issued under such program.

(18) Secondary emissions

means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile

source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(i) Emissions from ships or trains coming to or from the new or modified stationary source; and

(ii) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(19) Innovative control technology

means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.

(20) Fugitive emissions

means those emissions which could not reasonable pass through a stack, chimney, vent, or other functionally equivalent opening.

(21)(i) Actual emissions

means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (b)(21)(ii) through (iv) of this section, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under paragraph (aa) of this section. Instead, paragraphs (b)(41) and (b)(48) of this section shall apply for those purposes.

(ii) 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 ~~Administrator~~ Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(iii) The ~~Administrator~~ Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(iv) 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.

(22) Complete

means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

(23)(i) Significant

means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant	Significant Emission Rate
Carbon Monoxide (CO)	100 tpy
Nitrogen Oxides (NO _x)	40 tpy
Sulfur Dioxide (SO ₂)	40 tpy
Particulate Matter (PM)	25 tpy
Particulate Matter less than 10 microns in diameter (PM ₁₀)	15 tpy
Particulate Matter less than 2.5 microns in diameter (PM _{2.5})	10 tpy of direct PM _{2.5} emissions; 40 tpy of SO ₂ emissions; 40 tpy of NO _x emissions unless demonstrated not to be a PM _{2.5} precursor under paragraph (b)(50) of this section
Ozone	40 tpy of volatile organic compounds (VOCs) or

Pollutant	Significant Emission Rate
	40 tpy of NO _x
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric Acid Mist	7 tpy
Hydrogen Sulfide (H ₂ S)	10 tpy
Total Reduced Sulfur (including H ₂ S)	10 tpy
Reduced Sulfur Compounds (including H ₂ S)	10 tpy
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year)
Municipal waste combustor metals (measured as particulate matter)	14 megagrams per year (15 tons per year)
Municipal waste combustor metals (measured as particulate matter): Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)	36 megagrams per year (40 tons per year)
Municipal solid waste landfills emissions (measured as nonmethane organic compounds)	45 megagrams per year (50 tons per year)

(ii) *Significant* means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that paragraph (b)(23)(i) of this section, does not list, any emissions rate.

(iii) Notwithstanding paragraph (b)(23)(i) of this section, *significant* means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than $1 \mu\text{g}/\text{m}^3$, (24-hour average).

(24) *Federal Land Manager*

means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(25) High terrain

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

(26) Low terrain

means any area other than high terrain.

(27) Indian Reservation

means any federally recognized reservation established by Treaty, Agreement, executive order, or act of Congress.

(28) Indian Governing Body

means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(29) Adverse impact on visibility

means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairment, and how these factors correlate with (1) times of visitor use of the Federal Class I area, and (2) the frequency and timing of natural conditions that reduce visibility.

(30) Volatile organic compounds (VOC)

is as defined in §51.100(s) of this chapter.

(31) 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 generator that

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

(32) *[Reserved]*

(33) *Replacement unit*

means an emissions unit for which all the criteria listed in paragraphs (b)(33)(i) through (iv) of this section are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

(i) The emissions unit is a reconstructed unit within the meaning of §60.15(b)(1) of this chapter, 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 alter the basic design parameters of the process unit. Basic design parameters are defined as follows:

(a) Except as provided in paragraph (b)(33)(iii)(c) of this section {Georgia text – subparagraph (7)(a)2(viii)(III) of this rule}, for a process unit as a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on British Thermal Units content shall be used for determining the basic design parameter(s) for a coal-fired electric utility steam generating unit.

(b) Except as provided in paragraph (b)(33)(iii)(c) of this section {Georgia text- subparagraph (7)(a)2(viii)(III) of this rule}, the basic design parameter(s) for any

process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.

(c) If the owner or operator believes the basic design parameter(s) in paragraphs (b)(33)(iii)(a) and (b) of this section {Georgia text-subparagraphs (7)(a)2.(viii)(I) and (II) of this rule} is (are) not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Division an alternative basic design parameter(s) for the source's process unit(s). If the Director approves of the use of an alternative basic design parameter(s), he or she shall issue a permit that is legally enforceable that records such basic design parameter(s) and requires the owner or operator to comply with such parameter(s).

(d) The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameter(s) specified in paragraphs (b)(33)(iii)(a) and (b) of this section. {Georgia text – subparagraphs (7)(a)2.(viii)(I) and (II) of this rule}

(e) If design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameter(s) using the maximum value achieved by the process unit in the 5-year period immediately preceding the planned activity.

(f) Efficiency of a process unit is not a basic design parameter.

(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.

(34) Clean coal technology

means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen 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.

(35) 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.

(36) 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 State implementation plans for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

(37) (i) Repowering

means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction

relative to the performance of technology in widespread commercial use as of November 15, 1990.

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

(iii) The ~~Administrator~~ Director shall give expedited consideration to permit applications for any source that satisfies the requirements of this subsection and is granted an extension under section 409 of the Clean Air Act.

(38) Reactivation of a very clean coal-fired electric utility steam generating unit

means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

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

(ii) Was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent;

(iii) Is equipped with low-NO_x burners prior to the time of commencement of operations following reactivation; and

(iv) Is otherwise in compliance with the requirements of the Clean Air Act.

(39) Pollution prevention

means any activity that through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air

pollutants (including fugitive emissions) and other pollutants to the environment prior to recycling, treatment, or disposal; it does not mean recycling (other than certain “in-process recycling” practices), energy recovery, treatment, or disposal.

(40) Significant emissions increase

means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in paragraph (b)(23) of this section) for that pollutant.

(41) Projected actual emissions

*Georgia has adopted its own version of this definition.

(i) 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 five 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.

(ii) In determining the projected actual emissions under paragraph (b)(41)(i) of this section {Georgia Text – subparagraph (7)(a)2(ii)(I) of this rule} (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 under the approved State Implementation Plan; and

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

emissions and/or emissions associated with startups, shutdowns, and malfunctions shall or may be excluded in accordance with the following:

{Georgia text – subparagraphs A, B, and C}

40 CFR 52.21(b)(41)(ii)(b) – per 76 FR 17548-17556, March 30, 2011 – lifts the stay of this paragraph as published on March 31, 2010 (75 FR 16012). In addition, the March 30, 2011 version of 40 CFR 52.21(b)(41)(ii)(b) reads as follows: “*shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and* Revision to (b)(41)(ii)(b) published in Federal Register on March 30, 2011 **has NOT BEEN adopted** by Georgia.

(1) If projected fugitive emissions or emissions from startups, shutdowns, and/or malfunctions are not quantifiable and are therefore not included in the calculation of projected actual emissions, then fugitive emissions or emissions from startups, shutdowns, and/or malfunctions, respectively, shall not be included in the calculation of baseline actual emissions (as defined in paragraph (b)(48) of this rule. {Georgia text – (as defined in subparagraph (7)(a)2.(i) of this rule)}).

(2) The owner or operator may elect to omit malfunctions from the calculation of projected actual emissions. If the owner or operator elects to do so, then malfunctions shall also be omitted from the calculation of baseline actual emissions (as defined in paragraph (b)(48) of this rule. {Georgia text – (as defined in subparagraph (7)(a)2.(i) of this rule.)}

(3) If the project involves increasing the emissions unit’s design capacity or its potential to emit that regulated NSR pollutant and the increase in projected emissions associated with startups, shutdowns, and malfunctions is not proportional to the increase in the emission unit’s design capacity or its potential to emit that regulated NSR pollutant, the owner or operator must

include with the information required under paragraph (r)(6)(i) of this rule {Georgia text – subparagraph (7)(b)15.(i)(I) of this rule} documentation that supports the projected emissions associated with startups, shutdowns, and malfunctions subsequent to completion of the project; and

(c) May 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 paragraph (b)(48) of this section {Georgia text – subparagraph (7)(a)2(i) of this rule} and that is also unrelated to the particular project, including any increased utilization due to product demand growth (the increase in emissions that may be excluded under this subparagraph shall hereinafter be referred to as “demand growth emissions”);

(1) If the project involves increasing the emissions unit’s design capacity of its potential to emit that regulated NSR pollutant, the owner or operator shall either;

(A) not exclude demand growth emissions, or

(B) must include in the information required under paragraph (r)(6)(i) of this rule {Georgia text – subparagraph (7)(b)15.(i)(I) of this paragraph}, documentation that demand growth emissions are emissions that the emissions unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions, are not related to the particular project, and are due to product demand growth; must have documentation supporting the portion of the emissions increase that is due to demand growth; and, following the change, must be able to track the emissions increase due to demand growth; or

(d) In lieu of using the method set out in paragraphs (b)(41)(ii)(a) through (c) of this section {Georgia text – subparagraphs (7)(a)2(ii)(II)I through III of this rule}, may elect to use the emissions unit's potential to emit, in tons per year, as defined under paragraph (b)(4) of this section.

40 CFR 52.21(b)(41)(ii)(d) – per 76 FR 17548-17556, March 30, 2011 – lifts the stay of this paragraph as published on March 31, 2010 (75 FR 16012). In addition, the March 30, 2011 version of 40 CFR 52.21(b)(41)(ii)(d) reads as follows: “*In lieu of using the method set out in paragraphs (a)(41)(ii)(a) through (c) of this section, may elect to use the emissions unit’s potential to emit, in tons per year, as defined under paragraph (b)(4) of this section.*”

Revision to (b)(41)(ii)(d) published in Federal Register on March 30, 2011 **has NOT BEEN adopted** by Georgia.

(42) *[Reserved]*

(43) *Prevention of Significant Deterioration (PSD) program*

means the EPA-implemented major source preconstruction permit programs under this section or a major source preconstruction permit program that has been approved by the Administrator and incorporated into the State Implementation Plan pursuant to §51.166 of this chapter to implement the requirements of that section. Any permit issued under such a program is a major NSR permit.

(44) *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.

(45) *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.

(46) 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.

(47) 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).

(48) Baseline actual emissions

**Georgia has adopted its own version of this definition.*

means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with paragraphs (b)(48)(i) through (iv) of this section {Georgia text – subparagraphs (7)(a)2(i)(I) through (IV) of this rule}.

(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 Director 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. However, fugitive emissions and/or emissions associated with startups, shutdowns, and

malfunctions shall or may be excluded in accordance with the following subparagraphs (1) and (2) {Georgia text – subparagraphs A and B}:

40 CFR 52.21(b)(48)(i)(a) – per 76 FR 17548-17556 FR, March 30, 2011 – lifts the stay on this paragraph as published on March 31, 2010 (75 FR 16012). In addition, the March 30, 2011 version of 40 CFR 52.21(b)(48)(i)(a) reads as follows: *“The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startup, shutdowns, and malfunctions.”*

Revision to (b)(48)(i)(a) published in Federal Register on March 30, 2011 **has NOT BEEN** adopted by Georgia.

(1) If fugitive emissions or emissions from startups, shutdowns, and/or malfunctions during the consecutive 24-month period selected by the owner or operator are not quantifiable and are therefore not included in the calculation of baseline actual emissions, then fugitive emissions or emissions from startup, shutdowns, and/or malfunctions, respectively, shall not be included in the calculation of projected actual emissions (as defined in section (b)(41) of this rule). {Georgia text (as defined in subparagraph (7)(a)2(ii) of this rule)}

(2) The owner or operator may elect to omit malfunctions from the calculation of baseline actual emissions. If the owner or operator elects to do so, then malfunctions shall also be omitted from the calculation of projected actual emissions (as defined in section (b)(41) of this rule). {Georgia text – (as defined in subparagraph (7)(a)2(ii) of this rule)}

(b) 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 24-month period.

(c) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period may 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, or for which there is inadequate information for adjusting this amount downward to exclude any non-compliant emissions as required by (b)(48)(i)(b) of this section. {Georgia text – subparagraph (7)(a)2(i)(I)II of this rule}

(e) If any physical change(s) or change(s) in the method of operation subsequent to the consecutive 24-month period selected by the owner or operator resulted in a permanent change in a basic design parameter (as defined in paragraph (b)(33)(iii) of this rule) {Georgia text – (as defined in subparagraph (7)(a)2.(viii) of this rule)}, not including the voluntary addition of air pollution control equipment or increase in removal or collection efficiency of existing air pollution control equipment, and thus resulted in a corresponding reduction in actual emissions of a regulated NSR pollutant, the baseline actual emissions shall be adjusted downward by a proportional reduction in emissions in tons per year or lbs/unit of production.

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

[Note to reader: As of the date of publication of this rule, the Division has taken credit for VOC and NO_x reductions from all maximum available control technology (MACT) standards that the Administrator of U.S. EPA has promulgated under 40 CFR, Part 63, that had a compliance date during or prior to calendar year 2002 in an attainment plan or maintenance plan. Therefore, baseline actual VOC and NO_x emissions must be adjusted for all MACT standards with a compliance date during or prior to 2002.]

(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 permit required under this paragraph or by the reviewing authority for a permit required by a plan, whichever is earlier.

(a) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. However, fugitive emissions and/or emissions associated with startups, shutdowns, and malfunctions shall or may be excluded in accordance with the following subparagraphs (1) and (2): {Georgia text – subparagraphs A and B }

40 CFR 52.21(b)(48)(ii)(a) – per 76 FR 17548-17556, March 30, 2011 – lifts the stay of this paragraph as published on March 31, 2010 (75 FR 16012). The March 30, 2011 version of 40 CFR 52.21(b)(48)(ii)(a) reads as follows: “*The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.*”

Revision to (b)(48)(ii)(a) dated March 30, 2011 **has NOT BEEN** adopted by Georgia.

(1) If fugitive emissions or emissions from startups, shutdowns, and/or malfunctions during the consecutive 24-month period selected by the owner or operator are not quantifiable and are therefore not included in the calculation of baseline actual emissions, then fugitive emissions or emissions from startups, shutdowns, and/or malfunctions, respectively, shall not be included in the calculation of projected actual emissions (as defined in section (b)(41) of this rule). {Georgia text – (as defined in subparagraph (7)(a)2(ii) of this rule)}

(2) The owner or operator may elect to omit malfunctions from the calculation of baseline actual emissions. If the owner or operator elects to do so, then malfunctions shall also be omitted from the calculation of projected actual emissions (as defined in section (b)(41) of this rule). {Georgia text-(as defined in subparagraph (7)(a)2(ii) of this rule)}

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

[Note to reader: As of the date of publication of this rule, the Division has taken credit for VOC and NO_x reductions from all maximum achievable control technology (MACT) standards that the Administrator of U.S. EPA has promulgated under 40 CFR, Part 63, that had a compliance date during or prior to calendar year 2002 in an attainment plan or maintenance plan. Therefore, baseline actual VOC and NO_x emissions must be adjusted for all MACT standards with a compliance date during or prior to 2002.]

(d) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period may be used to determine the baseline actual emissions for all 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, or for which there is inadequate information for adjusting this amount downward to exclude any non-compliant emissions as required by section (b)(48)(i)(b) or (c) of this rule. {Georgia text – subparagraphs (7)(a)2(i)(II)II or III of this rule}

(f) if any physical change(s) or change(s) in the method of operation subsequent to the consecutive 24-month period selected by the owner or operator resulted in a permanent change in the basic design parameter (as defined in paragraph (b)(33)(iii) of this rule) {Georgia text – (as defined in subparagraph (7)(a)2.(viii)}, not including the voluntary addition of air pollution control equipment or increase in removal or collection efficiency of existing air pollution control equipment, and thus resulted in a corresponding reduction in actual emissions of a regulated NSR pollutant, the baseline actual emissions shall be adjusted downward by a proportional reduction in emissions in tons per year or in lbs/unit of production.

(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 [as long as the unit remains a “new emissions unit” as defined in 40 CFR, Part 52.21(b)(7)(i)].

Revised 40 CFR 52.21 (b)(48)(iii) 76 FR 17556 March 30, 2011 reads as follows:

“(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.”

Revision to (b)(48)(iii) dated March 30, 2011 **has NOT BEEN** adopted by Georgia.

(iv) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (b)(48)(i) of this section {Georgia Text – subparagraph (7)(a)2(i)(I) of this rule}, for other existing emissions units in accordance with the procedures contained in paragraph (b)(48)(ii) {Georgia Text – subparagraph (7)(a)2(i)(II)} and for a new emissions unit in accordance with the procedures contained in paragraph (b)(48)(iii) of this section {Georgia Text – subparagraph (7)(a)(2)(i)(III)}. For existing emission units, the baseline actual emissions shall be based on any consecutive 24-month period selected by the operator within the appropriate PAL baseline period. For existing electric steam generating units, the PAL baseline period is the 5-year period (or different period allowed by the Director that is more representative of normal source operation) immediately preceding submission of a complete PAL application to the Division. For other existing emission units, the PAL baseline period is the 10-year period immediately preceding submission of a complete PAL permit application to the Division.

Revised 40 CFR 52.21 (b)(48)(iv) 76 FR 17556 March 30, 2011 reads as follows:
“(iv) For a PAL for a stationary source, the baseline actual emission shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (b)(48)(i) of this section, for other existing emissions units in accordance with the procedures contained in paragraph (b)(48)(ii) of this section, and for a new emissions unit in accordance with the procedures contained in paragraph (b)(48)(iii) of this section.”

Revision to (b)(48)(iv) dated March 30, 2011 **has NOT BEEN** adopted by Georgia.

(49) Subject to regulation

means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(i) *Greenhouse gases (GHGs)*, the air pollutant defined in §86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraphs (b)(49)(iv) through (v) of this section shall not be subject to regulation if the stationary source maintains its total source-wide emissions below the GHG PAL level, meets the requirements in paragraphs (aa)(1) through (15) of this section, and complies with the PAL permit containing the GHG PAL.

(ii) For purposes of paragraphs (b)(49)(iii) through (v) of this section, the term *typy CO₂ equivalent emissions (CO_{2e})* shall represent an amount of GHGs emitted, and shall be computed as follows:

- (a) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter—Global Warming Potentials. For purposes of this paragraph, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal waste, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).
- (b) Sum the resultant value from paragraph (b)(49)(ii)(a) of this section for each gas to compute a tpy CO_{2e}.
- (iii) The term *emissions increase* as used in paragraphs (b)(49)(iv) through (v) of this section shall mean that both a significant emissions increase (as calculated using the procedures in paragraph (a)(2)(iv) of this section) and a significant net emissions increase (as defined in paragraphs (b)(3) and (b)(23) of this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO_{2e}, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and “significant” is defined as 75,000 tpy CO_{2e} instead of applying the value in paragraph (b)(23)(ii) of this section.
- (iv) Beginning January 2, 2011, the pollutant GHGs is subject to regulation if:
- (a) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO_{2e} or more; or

(b) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO_{2e} or more; and,

(v) [Reserved]

Note: The shaded text in paragraph (vi) below is based on the September 26, 2019 effective version of Georgia Rule 391-3-1-.02(7)(b)(iv).

(vi) In the event all or any portion of 40 CFR, Part 52.21 containing the term:

(a) declared or adjudged to be invalid or unconstitutional or stayed by the United States Court of Appeals for the Eleventh Circuit or for the District of Columbia Circuit; or

(b) withdrawn, repealed, revoked or otherwise rendered of no force and effect by the United States Environmental Protection Agency, Congress, or Presidential Executive Order. Such action shall render the regulation as incorporated herein, or that portion thereof that may be affected by such action, as invalid, void, stayed, or otherwise without force and effect for such purposes of this rule upon the date such action becomes final and effective; provided, further, that such declaration, adjudication, stay, or other action described herein shall not affect the remaining portions, if any, of the regulation as incorporated herein, which shall remain of full force and effect as if such portion so declared or adjudged invalid or unconstitutional or stayed or otherwise invalidated or effected were not originally a part of this rule. The Board declares that it would have incorporated the remaining parts of the federal regulation if it had known

that such portion thereof would be declared or adjudged invalid or unconstitutional or stayed or otherwise rendered of no force and effect.

(50) Regulated NSR pollutant,

(i) Any pollutant for which a national ambient air quality standard has been promulgated. This includes, but is not limited to, the following:

(a) PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity, which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for PM_{2.5} and PM₁₀ issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determination made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.

(b) Any pollutant identified under this paragraph (b)(50)(i)(b) as a constituent or precursor for a pollutant for which a national ambient air quality standard has been promulgated. Precursors identified by the Administrator for purposes of NSR are the following:

(1) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(2) Sulfur dioxide is a precursor to PM_{2.5} in all attainment and unclassifiable areas.

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

(4) Volatile organic compounds are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations.

(ii) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Act;

(iv) Any pollutant that otherwise is subject to regulation under the Act as defined in paragraph (b)(49) of this section.

(v) Notwithstanding paragraphs (b)(50)(i) through (iv) of this section, the term *regulated NSR pollutant* shall not include any or all hazardous air pollutants either listed in section 112 of the Act, or added to the list pursuant to section 112(b)(2) of the Act, and which have not been delisted pursuant to section 112(b)(3) of the Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act.

(51) Reviewing authority

means the State air pollution control agency, local agency, other State agency, Indian tribe, or other agency authorized by the Administrator to carry out a permit program under

§51.165 and §51.166 of this chapter, or the Administrator in the case of EPA-implemented permit programs under this section.

(52) Project

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

(53) Lowest achievable emission rate (LAER)

is as defined in §51.165(a)(1)(xiii) of this chapter.

(54) Reasonably available control technology (RACT)

is as defined in §51.100(o) of this chapter.

(55) Process Unit

(i) In general, *process unit* means any collection of structures and/or equipment that processes, assembles, applies, blends, or otherwise uses material inputs to produce or store an intermediate or a completed product. A single stationary source may contain more than one process unit, and a process unit may contain more than one emissions unit.

(ii) Pollution control equipment is not part of the process unit, unless it serves a dual function as both process and control equipment. Administrative and warehousing facilities are not part of the process unit.

(iii) For replacement cost purposes, components shared between two or more process units are proportionately allocated based on capacity.

(iv) The following list identifies the process units at specific categories of stationary sources.

(a) For a steam electric generating facility, the process unit consists of those portions of the plant that contribute directly to the production of electricity. For example, at a pulverized coal-fired facility, the process unit would generally be the combination of those systems from the coal receiving equipment through the emission stack (excluding post-combustion pollution controls), including the coal handling equipment, pulverizers or coal crushers, feedwater heaters, ash handling, boiler, burners, turbine-generator set, condenser, cooling tower, water treatment system, air preheaters, and operating control systems. Each separate generating unit is a separate process unit.

(b) For a petroleum refinery, there are several categories of process units: those that separate and/or distill petroleum feedstocks; those that change molecular structures; petroleum treating processes; auxiliary facilities, such as steam generators and hydrogen production units; and those that load, unload, blend or store intermediate or completed products.

Note to paragraph (b)(55): By a court order on December 24, 2003, this paragraph (b)(55) is stayed indefinitely. The stayed provisions will become effective immediately if the court terminates the stay. At that time, EPA will publish a document in the Federal Register advising the public of the termination of the stay.

(c) For an incinerator, the process unit would consist of components from the feed pit or refuse pit to the stack, including conveyors, combustion devices, heat exchangers and steam generators, quench tanks, and fans.

(56) Functionally equivalent component

means a component that serves the same purpose as the replaced component.

Note to paragraph (b)(56): By a court order on December 24, 2003, this paragraph (b)(56) is stayed indefinitely. The stayed provisions will become effective immediately

if the court terminates the stay. At that time, EPA will publish a document in the Federal Register advising the public of the termination of the stay.

(57) Fixed capital cost

means the capital needed to provide all the depreciable components. “Depreciable components” refers to all components of fixed capital cost and is calculated by subtracting land and working capital from the total capital investment, as defined in paragraph (b)(58) of this section.

Note to paragraph (b)(57): By a court order on December 24, 2003, this paragraph (b)(57) is stayed indefinitely. The stayed provisions will become effective immediately if the court terminates the stay. At that time, EPA will publish a document in the Federal Register advising the public of the termination of the stay.

(58) Total capital investment

means the sum of the following: all costs required to purchase needed process equipment (purchased equipment costs); the costs of labor and materials for installing that equipment (direct installation costs); the costs of site preparation and buildings; other costs such as engineering, construction and field expenses, fees to contractors, startup and performance tests, and contingencies (indirect installation costs); land for the process equipment; and working capital for the process equipment.

Note to paragraph (b)(58): By a court order on December 24, 2003, this paragraph (b)(58) is stayed indefinitely. The stayed provisions will become effective immediately if the court terminates the stay. At that time, EPA will publish a document in the Federal Register advising the public of the termination of the stay.

(c) Ambient air increments.

In areas designated as Class I, II or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

Pollutant	Maximum allowable increase (micrograms per cubic meter)
Class I Area	
PM2.5, annual arithmetic mean	1
PM2.5, 24-hr maximum	2
PM-10, annual arithmetic mean	4
PM-10, 24-hr maximum	8
Sulfur Dioxide, Annual arithmetic mean	2
Sulfur Dioxide, 24-hr maximum	5
Sulfur Dioxide, 3-hr maximum	25
Nitrogen dioxide, Annual Arithmetic Mean	2.5
Class II Area	
PM2.5, annual arithmetic mean	4
PM2.5, 24-hr maximum	9
PM-10, annual arithmetic mean	17
PM-10, 24-hr maximum	30
Sulfur Dioxide, Annual arithmetic mean	20
Sulfur Dioxide, 24-hr maximum	91
Sulfur Dioxide, 3-hr maximum	512
Nitrogen Dioxide, Annual arithmetic mean	25
Class III Area	
PM2.5, Annual arithmetic mean	8
PM2.5, 24-hr maximum	18
PM-10, annual arithmetic mean	34

Pollutant	Maximum allowable increase (micrograms per cubic meter)
PM-10, 24-hr maximum	60
Sulfur Dioxide, Annual arithmetic mean	40
Sulfur Dioxide, 24-hr maximum	182
Sulfur Dioxide, 3-hr maximum	700
Nitrogen Dioxide, Annual arithmetic mean	50

(d) Ambient air ceilings.

No concentration of a pollutant shall exceed:

- (1) The concentration permitted under the national secondary ambient air quality standard, or
- (2) The concentration permitted under the national primary ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

(e) Restrictions on area classifications.

(1) All of the following areas which were in existence on August 7, 1977, shall be Class I areas and may not be redesignated:

- (i) International parks,
- (ii) National wilderness areas which exceed 5,000 acres in size,
- (iii) National memorial parks which exceed 5,000 acres in size, and
- (iv) National parks which exceed 6,000 acres in size.

(2) Areas which were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I, but may be redesignated as provided in this section.

(3) Any other area, unless otherwise specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in this section.

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

(i) An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and

(ii) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

(f) [Reserved]

(g) Redesignation.

(1) All areas (except as otherwise provided under paragraph (e) of this section) are designated Class II as of December 5, 1974. Redesignation (except as otherwise precluded by paragraph (e) of this section) may be proposed by the respective States or Indian Governing Bodies, as provided below, subject to approval by the Administrator as a revision to the applicable State implementation plan.

(2) The State may submit to the Administrator a proposal to redesignate areas of the State Class I or Class II provided that:

(i) At least one public hearing has been held in accordance with procedures established in §51.102 of this chapter;

(ii) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation were notified at least 30 days prior to the public hearing;

(iii) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

(iv) Prior to the issuance of notice respecting the redesignation of an area that includes any Federal lands, the State has provided written notice to the appropriate Federal Land Manager and afforded adequate opportunity (not in excess of 60 days) to confer with the State respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any Federal Land Manager had submitted written comments and recommendations, the State shall have published a list of any inconsistency between such redesignation and such comments and recommendations (together with the reasons for making such redesignation against the recommendation of the Federal Land Manager); and

(v) The State has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(3) Any area other than an area to which paragraph (e) of this section refers may be redesignated as Class III if—

(i) The redesignation would meet the requirements of paragraph (g)(2) of this section;

(ii) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the Governor of the State, after consultation with the

appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session (unless State law provides that the redesignation must be specifically approved by State legislation) and if general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation:

(iii) The redesignation would not cause, or contribute to, a concentration of any air pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any national ambient air quality standard; and

(iv) Any permit application for any major stationary source or major modification, subject to review under paragraph (1) of this section, which could receive a permit under this section only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available insofar as was practicable for public inspection prior to any public hearing on redesignation of the area as Class III.

(4) Lands within the exterior boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body. The appropriate Indian Governing Body may submit to the Administrator a proposal to redesignate areas Class I, Class II, or Class III: *Provided, That:*

(i) The Indian Governing Body has followed procedures equivalent to those required of a State under paragraphs (g)(2), (g)(3)(iii), and (g)(3)(iv) of this section; and

(ii) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located and which border the Indian Reservation.

(5) The Administrator shall disapprove, within 90 days of submission, a proposed redesignation of any area only if he finds, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements of this paragraph or is inconsistent with paragraph (e) of this section. If any such disapproval occurs, the

classification of the area shall be that which was in effect prior to the redesignation which was disapproved.

(6) If the Administrator disapproves any proposed redesignation, the State or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the Administrator.

(h) Stack heights.

(1) The degree of emission limitation required for control of any air pollutant under this section shall not be affected in any manner by—

- (i) So much of the stack height of any source as exceeds good engineering practice, or
- (ii) Any other dispersion technique.

(2) Paragraph (h)(1) of this section shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

(i) Exemptions.

(1) The requirements of paragraphs (j) through (r) of this section shall not apply to a particular major stationary source or major modification, if;

- (i) Construction commenced on the source or modification before August 7, 1977. The regulations at 40 CFR 52.21 as in effect before August 7, 1977, shall govern the review and permitting of any such source or modification; or
- (ii) The source or modification was subject to the review requirements of 40 CFR 52.21(d)(1) as in effect before March 1, 1978, and the owner or operator:

- (a) Obtained under 40 CFR 52.21 a final approval effective before March 1, 1978;

- (b) Commenced construction before March 19, 1979; and

- (c) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time; or

- (iii) The source or modification was subject to 40 CFR 52.21 as in effect before March 1, 1978, and the review of an application for approval for the stationary source or modification under 40 CFR 52.21 would have been completed by March 1, 1978, but for an extension of the public comment period pursuant to a request for such an extension. In such a case, the application shall continue to be processed, and granted or denied, under 40 CFR 52.21 as in effect prior to March 1, 1978; or

- (iv) The source or modification was not subject to 40 CFR 52.21 as in effect before March 1, 1978, and the owner or operator:
 - (a) Obtained all final Federal, state and local preconstruction approvals or permits necessary under the applicable State Implementation Plan before March 1, 1978;

 - (b) Commenced construction before March 19, 1979; and

 - (c) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time; or

- (v) The source or modification was not subject to 40 CFR 52.21 as in effect on June 19, 1978 or under the partial stay of regulations published on February 5, 1980 (45 FR 7800), and the owner or operator:
 - (a) Obtained all final Federal, state and local preconstruction approvals or permits necessary under the applicable State Implementation Plan before August 7, 1980;

- (b) Commenced construction within 18 months from August 7, 1980, or any earlier time required under the applicable State Implementation Plan; and
- (c) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time; or
- (vi) The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the governor of the state in which the source or modification would be located requests that it be exempt from those requirements; or
- (vii) The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:
 - (a) Coal cleaning plants (with thermal dryers);
 - (b) Kraft pulp mills;
 - (c) Portland cement plants;
 - (d) Primary zinc smelters;
 - (e) Iron and steel mills;
 - (f) Primary aluminum ore reduction plants;
 - (g) Primary copper smelters;

- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;
- (m) Coke oven batteries;
- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants—The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - (w) Taconite ore processing plants;
 - (x) Glass fiber processing plants;
 - (y) Charcoal production plants;
 - (z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
 - (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act; or
- (viii) The source is a portable stationary source which has previously received a permit under this section, and
- (a) The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary; and
 - (b) The emissions from the source would not exceed its allowable emissions; and
 - (c) The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and
 - (d) Reasonable notice is given to the ~~Administrator~~ Director prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the ~~Administrator~~ Director not less than

10 days in advance of the proposed relocation unless a different time duration is previously approved by the ~~Administrator~~ Director.

(ix) The source or modification was not subject to §52.21, with respect to particulate matter, as in effect before July 31, 1987, and the owner or operator:

(a) Obtained all final Federal, State, and local preconstruction approvals or permits necessary under the applicable State implementation plan before July 31, 1987;

(b) Commenced construction within 18 months after July 31, 1987, or any earlier time required under the State implementation plan; and

(c) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable period of time.

(x) The source or modification was subject to 40 CFR 52.21, with respect to particulate matter, as in effect before July 31, 1987 and the owner or operator submitted an application for a permit under this section before that date, and the ~~Administrator~~ Director subsequently determines that the application as submitted was complete with respect to the particular matter requirements then in effect in the section. Instead, the requirements of paragraphs (j) through (r) of this section that were in effect before July 31, 1987 shall apply to such source or modification.

(2) The requirements of paragraphs (j) through (r) of this section shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under section 107 of the Act. Nonattainment designations for revoked NAAQS, as contained in 40 CFR part 81, shall not be viewed as current designations under section 107 of the Act for purposes of determining the applicability of paragraphs (j) through (r) of this section to a major stationary source or major modification after the revocation of that NAAQS is effective.

(3) The requirements of paragraphs (k), (m) and (o) of this section shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification:

(i) Would impact no Class I area and no area where an applicable increment is known to be violated, and

(ii) Would be temporary.

(4) The requirements of paragraphs (k), (m) and (o) of this section as they relate to any maximum allowable increase for a Class II area shall not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of best available control technology would be less than 50 tons per year.

(5) The ~~Administrator~~ Director may exempt a stationary source or modification from the requirements of paragraph (m) of this section, with respect to monitoring for a particular pollutant if:

(i) The emissions increases of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:

(a) Carbon monoxide – $575 \mu\text{g}/\text{m}^3$, 8 –hour average;

(b) Nitrogen dioxide - $14 \mu\text{g}/\text{m}^3$, annual average;

(c) PM_{2.5} - 0 µg/m³, Note to paragraph (i)(5)(i)(c): In accordance with *Sierra Club v. EPA*, 706 F. 3d 428 (DC Cir. 2013), no exemption is available with regard to PM_{2.5}. [Per 78 FR 73698-73702, 12/9/2013]

(d) PM₁₀ - 10 µg/m³, 24 –hour average;

(e) Sulfur dioxide - 13 µg/m³, 24 –hour average;

(f) Ozone, refer to **note to paragraph (c)(50)(i)(f)**:

(g) Lead – 0.1 µg/m³, 3 –month average;

(h) Fluorides – 0.25 µg/m³, 24 –hour average;

(i) Total reduced sulfur - 10 µg/m³, 1 –hour average;

(j) Hydrogen sulfide – 0.2 µg/m³, 1 –hour average;

(k) Reduced sulfur compounds - 10 µg/m³, 1 –hour average; or

Note to paragraph (c)(50)(i)(f): No de minimis air quality level is provided for ozone. However, any net emissions increase of 100 tons per year or more of volatile organic compounds or nitrogen oxides subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.

(ii) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in paragraph (i)(5)(i) of this section; or

(iii) The pollutant is not listed in paragraph (i)(5)(i) of this section.

(6) The requirements for best available control technology in paragraph (j) of this section and the requirements for air quality analyses in paragraph (m)(1) of this section, shall not apply to a particular stationary source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if the owner or operator of the source or modification submitted an application for a permit under those regulations before August 7, 1980, and the ~~Administrator~~ Director subsequently determines that the application as submitted before that date was complete. Instead, the requirements at 40 CFR 52.21(j) and (n) as in effect on June 19, 1978 apply to any such source or modification.

(7) (i) The requirements for air quality monitoring in paragraphs (m)(1) (ii) through (iv) of this section shall not apply to a particular source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if the owner or operator of the source or modification submits an application for a permit under this section on or before June 8, 1981, and the ~~Administrator~~ Director subsequently determines that the application as submitted before that date was complete with respect to the requirements of this section other than those in paragraphs (m)(1) (ii) through (iv) of this section, and with respect to the requirements for such analyses at 40 CFR 52.21(m)(2) as in effect on June 19, 1978. Instead, the latter requirements shall apply to any such source or modification.

(ii) The requirements for air quality monitoring in paragraphs (m)(1) (ii) through (iv) of this section shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if the owner or operator of the source or modification submits an application for a permit under this section on or before June 8, 1981, and the ~~Administrator~~ Director subsequently determines that the application as submitted before that date was complete, except with respect to the requirements in paragraphs (m)(1) (ii) through (iv).

(8)(i) At the discretion of the ~~Administrator~~ Director, the requirements for air quality monitoring of PM₁₀ in paragraphs (m)(1) (i)–(iv) of this section may not apply to a particular source or modification when the owner or operator of the source or

modification submits an application for a permit under this section on or before June 1, 1988 and the ~~Administrator~~ Director subsequently determines that the application as submitted before that date was complete, except with respect to the requirements for monitoring particulate matter in paragraphs (m)(1) (i)–(iv).

(ii) The requirements for air quality monitoring of PM₁₀ in paragraphs (m)(1), (ii) and (iv) and (m)(3) of this section shall apply to a particular source or modification if the owner or operator of the source or modification submits an application for a permit under this section after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions set forth under paragraph (m)(1)(viii) of this section, except that if the ~~Administrator~~ Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that paragraph (m)(1)(iii) requires shall have been gathered over a shorter period.

(9) The requirements of paragraph (k)(1)(ii) of this section shall not apply to a stationary source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted an application for a permit under this section before the provisions embodying the maximum allowable increase took effect as part of the applicable implementation plan and the ~~Administrator~~ Director subsequently determined that the application as submitted before that date was complete.

(10) The requirements in paragraph (k)(2) of this section shall not apply to a stationary source or modification with respect to any maximum allowable increase for PM–10 if

(i) the owner or operator of the source or modification submitted an application for a permit under this section before the provisions embodying the maximum allowable increases for PM–10 took effect in an implementation plan to which this section applies, and

(ii) the ~~Administrator~~ Director subsequently determined that the application as submitted before that date was otherwise complete. Instead, the requirements in paragraph (k)(1)(ii)

shall apply with respect to the maximum allowable increases for TSP as in effect on the date the application was submitted.

(11) The requirements of paragraph (k)(1) of this section shall not apply to a stationary source or modification with respect to the national ambient air quality standards for PM_{2.5} in effect on March 18, 2013 if:

(i) The ~~Administrator~~ Director has determined a permit application subject to this section to be complete on or before December 14, 2012. Instead, the requirements in paragraph (k)(1) of this section shall apply with respect to the national ambient air quality standards for PM_{2.5} in effect at the time the ~~Administrator~~ Director determined the permit application to be complete; or

(ii) The ~~Administrator~~ Director has first published before March 18, 2013 a public notice that a draft permit subject to this section has been prepared. Instead, the requirements in paragraph (k)(1) of this section shall apply with respect to the national ambient air quality standards for PM_{2.5} in effect on the date the ~~Administrator~~ Director first published a public notice that a draft permit has been prepared.

(j) Control technology review

(1) A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable emissions standard and standard of performance under 40 CFR parts 60 and 61.

(2) A new major stationary source shall apply best available control technology for each regulated NSR pollutant that it would have the potential to emit in significant amounts.

(3) A major modification shall apply best available control technology for each regulated NSR pollutant for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase

in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(4) For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

(k) Source impact analysis

(1) Required demonstration. The owner or operator of the proposed source of modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

- (i) Any national ambient air quality standard in any air quality control region; or
- (ii) Any applicable maximum allowable increase over the baseline concentration in any area.

(2) [Reserved]

(l) Air quality models.

(1) All estimates of ambient concentrations required under this paragraph shall be based on applicable air quality models, data bases, and other requirements specified in appendix W of part 51 of this chapter (Guideline on Air Quality Models).

(2) Where an air quality model specified in appendix W of part 51 of this chapter (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model

substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific state program. Written approval of the Administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures developed in accordance with paragraph (q) of this section.

(m) Air quality analysis

(1) Preapplication analysis.

(i) Any application for a permit under this section shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

(a) For the source, each pollutant that it would have the potential to omit {GA EPD Note: term “omit” should read as “emit”} in a significant amount;

(b) For the modification, each pollutant for which it would result in a significant net emissions increase.

(ii) With respect to any such pollutant for which no National Ambient Air Quality Standard exists, the analysis shall contain such air quality monitoring data as the ~~Administrator~~ Director determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

(iii) With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

(iv) In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceding receipt of the application, except that, if the ~~Administrator~~ Director determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period.

(v) For any application which becomes complete, except as to the requirements of paragraphs (m)(1) (iii) and (iv) of this section, between June 8, 1981, and February 9, 1982, the data that paragraph (m)(1)(iii) of this section, requires shall have been gathered over at least the period from February 9, 1981, to the date the application becomes otherwise complete, except that:

(a) If the source or modification would have been major for that pollutant under 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over at least the period required by those regulations.

(b) If the ~~Administrator~~ Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four months), the data that paragraph (m)(1)(iii) of this section, requires shall have been gathered over at least that shorter period.

(c) If the monitoring data would relate exclusively to ozone and would not have been required under 40 CFR 52.21 as in effect on June 19, 1978, the ~~Administrator~~ Director may waive the otherwise applicable requirements of this paragraph (v) to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

(vi) The owner or operator of a proposed stationary source or modification of volatile organic compounds who satisfies all conditions of 40 CFR part 51 Appendix S, section

IV may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under paragraph (m)(1) of this section.

(vii) For any application that becomes complete, except as to the requirements of paragraphs (m)(1) (iii) and (iv) pertaining to PM₁₀, after December 1, 1988 and no later than August 1, 1989 the data that paragraph (m)(1)(iii) requires shall have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete, except that if the ~~Administrator~~ Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that paragraph (m)(1)(iii) requires shall have been gathered over that shorter period.

(viii) With respect to any requirements for air quality monitoring of PM₁₀ under paragraphs (i)(11) (i) and (ii) of this section the owner or operator of the source or modification shall use a monitoring method approved by the ~~Administrator~~ Director and shall estimate the ambient concentrations of PM₁₀ using the data collected by such approved monitoring method in accordance with estimating procedures approved by the ~~Administrator~~ Director.

(2) Post-construction monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the ~~Administrator~~ Director determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

(3) Operations of monitoring stations. The owner or operator of a major stationary source or major modification shall meet the requirements of Appendix B to part 58 of this chapter during the operation of monitoring stations for purposes of satisfying paragraph (m) of this section.

(n) Source information

The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under this section.

(1) With respect to a source or modification to which paragraphs (j), (l), (o) and (p) of this section apply, such information shall include:

(i) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

(ii) A detailed schedule for construction of the source or modification;

(iii) A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that best available control technology would be applied.

(2) Upon request of the ~~Administrator~~ Director, the owner or operator shall also provide information on:

(i) The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

(ii) The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.

(o) Additional impact analyses

(1) The owner or operator shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or

modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

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

(3) *Visibility monitoring.* The Administrator may require monitoring of visibility in any Federal class I area near the proposed new stationary source for major modification for such purposes and by such means as the Administrator deems necessary and appropriate.

(p) Sources impacting Federal Class I areas—additional requirements

(1) *Notice to Federal land managers.* The ~~Administrator~~ Director shall provide written notice of any permit application for a proposed major stationary source or major modification, the emissions from which may affect a Class I area, to the Federal land manager and the Federal official charged with direct responsibility for management of any lands within any such area. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in the Federal Class I area. The ~~Administrator~~ Director shall also provide the Federal land manager and such Federal officials with a copy of the preliminary determination required under paragraph (q) of this section, and shall make available to them any materials used in making that determination, promptly after the ~~Administrator~~ Director makes such determination. Finally, the ~~Administrator~~ Director shall also notify all affected Federal land managers within 30 days of receipt of any advance notification of any such permit application.

(2) *Federal Land Manager.* The Federal Land Manager and the Federal official charged with direct responsibility for management of such lands have an affirmative responsibility to protect the air quality related values (including visibility) of such lands and to consider,

in consultation with the Administrator, whether a proposed source or modification will have an adverse impact on such values.

(3) *Visibility analysis.* The ~~Administrator~~ Director shall consider any analysis performed by the Federal land manager, provided within 30 days of the notification required by paragraph (p)(1) of this section, that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in any Federal Class I area. Where the ~~Administrator~~ Director finds that such an analysis does not demonstrate to the satisfaction of the ~~Administrator~~ Director that an adverse impact on visibility will result in the Federal Class I area, the ~~Administrator~~ Director must, in the notice of public hearing on the permit application, either explain his decision or give notice as to where the explanation can be obtained.

(4) *Denial—impact on air quality related values.* The Federal Land Manager of any such lands may demonstrate to the ~~Administrator~~ Director that the emissions from a proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the ~~Administrator~~ Director concurs with such demonstration, then he shall not issue the permit.

(5) *Class I variances.* The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal land manager concurs with such demonstration and he so certifies, the State may authorize the ~~Administrator~~ Director: *Provided*, That the applicable requirements of this section are otherwise met, to issue the permit with such emission limitations as may be necessary to

assure that emissions of sulfur dioxide, PM_{2.5}, PM₁₀, and nitrogen oxides would not exceed the following maximum allowable increases over minor source baseline concentration for such pollutants:

Pollutant	Maximum allowable increase (micrograms per cubic meter)
PM _{2.5} , Annual arithmetic mean	4
PM _{2.5} , 24-hr maximum	9
PM ₁₀ , annual arithmetic mean	17
PM ₁₀ , 24-hr maximum	30
Sulfur Dioxide, Annual arithmetic mean	20
Sulfur Dioxide, 24-hr maximum	91
Sulfur Dioxide, 3-hr maximum	325
Nitrogen Dioxide, Annual arithmetic mean	25

(6) *Sulfur dioxide variance by Governor with Federal Land Manager's concurrence.* The owner or operator of a proposed source or modification which cannot be approved under paragraph (q)(4) of this section may demonstrate to the Governor that the source cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of twenty-four hours or less applicable to any Class I area and, in the case of Federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the ~~Administrator~~ Director shall issue a permit to such source or modification pursuant to the requirements of paragraph (q)(7) of this section: *Provided*, That the applicable requirements of this section are otherwise met.

(7) *Variance by the Governor with the President's concurrence.* In any case where the Governor recommends a variance in which the Federal Land Manager does not concur, the recommendations of the Governor and the Federal Land Manager shall be transmitted to the President. The President may approve the Governor's recommendation if he finds that the variance is in the national interest. If the variance is approved, the **Administrator** **Director** shall issue a permit pursuant to the requirements of paragraph (q)(7) of this section: *Provided*, That the applicable requirements of this section are otherwise met.

(8) *Emission limitations for Presidential or gubernatorial variance.* In the case of a permit issued pursuant to paragraph (p)(6) or (7) of this section the source or modification shall comply with such emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

Maximum Allowable Increase

[Micrograms per cubic meter]

Period of exposure	Terrain areas	
	Low	High
24-hr maximum	36	62
3-hr maximum	130	221

(q) Public participation

The administrator shall follow the applicable procedures of 40 CFR 124 in processing applications under this section.

(r) Source obligation

(1) Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this section or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this section who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

(2) Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The ~~Administrator~~ Director may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

(3) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State implementation plan and any other requirements under local, State, or Federal law.

(4) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements or paragraphs (j) through (s) of this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(5) [Reserved]

(6) The provisions of this paragraph (r)(6) {Georgia Text – Georgia Rule 391-3-1-.02(7)(b)15(i)} apply to projects at an existing emissions units at a major stationary source (other than projects at a source with a PAL) that are required to obtain a permit under the Construction (SIP) Permit requirements of paragraph 391-3-1-.03(1) of the Georgia Rules for Air Quality Control and the owner or operator elects to use the method specified subparagraphs of Georgia Rule 391-3-1-.02(7)(a)2.(ii)(II)I. through III. for calculating projected actual emissions.

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

(a) A description of the project;

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

(c) 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 subparagraphs of Georgia Rule 391-3-1-.02(7)(a)2.(ii)(II)III. and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(d) The records required in paragraph (r)(6)(i) of this section {Georgia Text – subparagraph (7)(b)15.(i)(I)} shall be retained for a period of 10 years following resumption of regular operations after the change, or for a period of 15 years following resumption of regular operations after the change if the project increases the design capacity of or potential to emit of a regulated NSR pollutant at such emissions unit.

(ii) The owner or operator shall provide a copy of the information set out in subparagraph (r)(6)(i) of this section {Georgia Text – subparagraph (7)(b)15.(i)(I) of

this rule} with the application for construction required under 391-3-1-.03(1) of the Georgia Rules for Air Quality Control.

(iii) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph (r)(6)(i)(b) of this section {Georgia Text – subparagraph (7)(b)15.(i)(I)II. of this rule}; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of five years following resumption of regular operations after the change, or for a period of ten years following resumption of regular operations after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at such emissions unit. These records shall be retained for a period of five years past the end of each calendar year. If an owner or operator is required to or elects to exclude emissions associated with startups, shutdowns, and/or malfunctions from estimations of projected actual emissions for PSD applicability purposes as allowed by subparagraph of Georgia Rule 391-3-1-.02(7)(a)2.(ii)(II)II., the owner or operator may exclude such emissions from the calculation of annual emissions.

(iv) If the owner or operator excluded demand growth emissions from the projected actual emissions for a project and that project is subject to the requirements of subparagraph(b)(41)(ii)(c)(1)(B) of this rule {Georgia Text – subparagraph (7)(a)2.(ii)(II)III.A.(B) of this rule}, the owner or operator shall calculate the actual increase in emissions due to demand growth, in tons per year on a calendar year basis, for a period of 10 years following resumption of regular operations after the change. These records shall be retained for a period of five years past the end of each calendar year.

(v) 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 paragraphs (r)(6)(iii) and (iv) of this section {Georgia Text – subparagraphs (7)(b)15(i)(III) and (IV) of this rule} setting out the unit's annual emissions and, if applicable, the unit's actual increase

in emissions due to demand growth during the calendar year that preceded submission of the report.

(vi) [Reserved]

(7) The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph (r)(6) of this section available for review upon a request for inspection by the ~~Administrator~~ Director or the general public pursuant to the requirements contained in §70.4(b)(3)(viii) of this chapter.

(s) [Not Adopted by Georgia]

**Text of Federal Rule Not adopted by Georgia - Environmental impact statements. Whenever any proposed source or modification is subject to action by a Federal Agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the Administrator conducted pursuant to this section shall be coordinated with the broad environmental reviews under that Act and under section 309 of the Clean Air Act to the maximum extent feasible and reasonable.*

(t) [Not Adopted by Georgia]

**Text of Federal Rule Not adopted by Georgia - Disputed permits or redesignations. If any State affected by the redesignation of an area by an Indian Governing Body, or any Indian Governing Body of a tribe affected by the redesignation of an area by a State, disagrees with such redesignation, or if a permit is proposed to be issued for any major stationary source or major modification proposed for construction in any State which the Governor of an affected State or Indian Governing Body of an affected tribe determines will cause or contribute to a cumulative change in air quality in excess of that allowed in this part within the affected State or Indian Reservation, the Governor or Indian Governing Body may request the Administrator to enter into negotiations with the parties involved to resolve such dispute. If requested by any State or Indian Governing Body involved, the Administrator shall make a recommendation to resolve the dispute and protect the air*

quality related values of the lands involved. If the parties involved do not reach agreement, the Administrator shall resolve the dispute and his determination, or the results of agreements reached through other means, shall become part of the applicable State implementation plan and shall be enforceable as part of such plan. In resolving such disputes relating to area redesignation, the Administrator shall consider the extent to which the lands involved are of sufficient size to allow effective air quality management or have air quality related values of such an area.

(u) [Not Adopted by Georgia]

**Text of Federal Rule Not adopted by Georgia - Delegation of authority.*

(1) The Administrator shall have the authority to delegate his responsibility for conducting source review pursuant to this section, in accordance with paragraphs (u)(2) of this section.

(2) Where the Administrator delegates the responsibility for conducting source review under this section to any agency other than a Regional Office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the delegate agency is not an air pollution control agency, it shall consult with the appropriate State, tribe, and local air pollution control agency prior to making any determination under this section. Similarly, where the delegate agency does not have continuing responsibility for managing land use, it shall consult with the appropriate State, tribe, and local agency primarily responsible for managing land use prior to making any determination under this section.

(ii) The delegate agency shall send a copy of any public comment notice required under paragraph (r) of this section to the Administrator through the appropriate Regional Office.

(3) In the case of a source or modification which proposes to construct in a class III area, emissions from which would cause or contribute to air quality exceeding the maximum allowable increase applicable if the area were designated a class II area, and where no

standard under section 111 of the act has been promulgated for such source category, the Administrator must approve the determination of best available control technology as set forth in the permit.

(v) Innovative control technology

(1) An owner or operator of a proposed major stationary source or major modification may request the ~~Administrator~~ Director in writing no later than the close of the comment period under 40 CFR 124.10 to approve a system of innovative control technology.

(2) The ~~Administrator~~ Director shall, with the consent of the governor(s) of the affected state(s), determine that the source or modification may employ a system of innovative control technology, if:

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

(ii) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under paragraph (j)(2) of this section, by a date specified by the ~~Administrator~~ Director. Such date shall not be later than 4 years from the time of startup or 7 years from permit issuance;

(iii) The source or modification would meet the requirements of paragraphs (j) and (k) of this section, 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 ~~Administrator~~ Director;

(iv) The source or modification would not before the date specified by the ~~Administrator~~ Director:

(a) Cause or contribute to a violation of an applicable national ambient air quality standard; or

- (b) Impact any area where an applicable increment is known to be violated; and

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

 - (vi) The provisions of paragraph (p) of this section (relating to Class I areas) have been satisfied with respect to all periods during the life of the source or modification.
- (3) The ~~Administrator~~ Director shall withdraw any approval to employ a system of innovative control technology made under this section, if:
- (i) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

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

 - (iii) The ~~Administrator~~ Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.
- (4) If a source or modification fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with paragraph (v)(3) of this section, the ~~Administrator~~ Director may allow the source or modification up to an additional 3 years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

(w) Permit rescission

- (1) Any permit issued under this section or a prior version of this section shall remain in effect, unless and until it expires under paragraph (r) of this section or is rescinded.

(2) Any owner or operator of a stationary source or modification who holds a permit for the source or modification may request that the Administrator rescind the permit or a particular portion of the permit if the permit for the source or modification was issued:

(i) Under 40 CFR 52.21 as in effect on July 30, 1987 or any earlier version of this section;

(ii) Under 40 CFR 52.21 between July 1, 2011 and July 6, 2015 to a source that was classified as a major stationary source under paragraph 40 CFR 52.21(b)(1) solely on the basis of potential emissions of greenhouse gases, which were defined as a regulated NSR pollutant through the application of 40 CFR 52.21(b)(49)(v) as in effect during this time period; or

(iii) Under 40 CFR 52.21 between July 1, 2011 and July 6, 2015 for a modification that was classified as a major modification under 40 CFR 52.21(b)(2) solely on the basis of an increase in emissions of greenhouse gases, which were defined as a regulated NSR pollutant through the application of 40 CFR 52.21(b)(49)(v)(b) as in effect during this time period.

(3) The Administrator shall grant an application for rescission if the application shows that this section would not apply to the source or modification. As a result of a decision of the United States Supreme Court, this section does not apply to sources or modifications that meet only the applicability criteria in 40 CFR 52.21(b)(49)(v).

(4) If the Administrator rescinds a permit under this paragraph, the Administrator shall post a notice of the rescission determination on a public Web site identified by the Administrator within 60 days of the rescission.

Promulgated: November 7, 2016, 81 FR 78043-78048

Effective: December 7, 2016

Revision to 40 CFR 52.21(w)(1), (w)(2), and (w)(3) dated November 7, 2016 has NOT BEEN adopted by Georgia

(w)(1) Any permit issued under this section or a prior version of this section shall remain in effect, unless and until it expires under paragraph (r) of this section or is rescinded under this paragraph (w).

(w)(3) The Administrator may grant an application for rescission if the application shows that this section would not apply to the source of modification.

(x) [Reserved]

(y) [Reserved]

(z) [Reserved]

(aa) Actuals PALs

The provisions in paragraphs (aa)(1) through (15) of this section govern actuals PALs.

(1) *Applicability.*

(i) The ~~Administrator~~ Director may approve the use of an actuals PAL, including for GHGs on either a mass basis or a CO₂e basis, for any existing major stationary source or any existing GHG-only source if the PAL meets the requirements in paragraphs (aa)(1) through (15) of this section. The term “PAL” shall mean “actual PAL” throughout paragraph (aa) of this section.

(ii) Any physical change in or change in the method of operation of a major stationary source or a GHG-only source that maintains its total source-wide emissions below the PAL level, meets the requirements in paragraph (aa)(1) through (15) of this section, and complies with the PAL permit:

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

(b) Does not have to be approved through the PSD program;

(c) Is not subject to the provisions in paragraph (r)(4) of this section (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major NSR program); and

(d) Does not make GHGs subject to regulation as defined by paragraph (b)(49) of this section.

(iii) Except as provided under paragraph (aa)(1)(ii)(c) of this section, a major stationary source or a GHG-only source shall continue to comply with all applicable Federal or State requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

(2) *Definitions.* For the purposes of this section, the definitions in paragraphs (aa)(2)(i) through (xi) of this section apply. When a term is not defined in these paragraphs, it shall have the meaning given in paragraph (b) of this section or in the Act.

(i) *Actuals PAL* for a major stationary source means a PAL based on the baseline actual emissions (as defined in paragraph (b)(48) of this section) of all emissions units (as defined in paragraph (b)(7) of this section) at the source, that emit or have the potential to emit the PAL pollutant. For a GHG-only source, *actuals PAL* means a PAL based on the baseline actual emissions (as defined in paragraph (aa)(2)(xiii) of this section)

of all emissions units (as defined in paragraph (aa)(2)(xiv) of this section) at the source, that emit or have the potential to emit GHGs.

(ii) *Allowable emissions* means “allowable emissions” as defined in paragraph (b)(16) of this section, except as this definition is modified according to paragraphs (aa)(2)(ii)(a) and (b) of this section.

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

(b) An emissions unit's potential to emit shall be determined using the definition in paragraph (b)(4) of this section, except that the words “or enforceable as a practical matter” should be added after “federally enforceable.”

(iii) *Small emissions unit* means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in paragraph (b)(23) of this section or in the Act, whichever is lower. For a GHG PAL issued on a CO₂e basis, *small emissions unit* means an emissions unit that emits or has the potential to emit less than the amount of GHGs on a CO₂e basis defined as “significant” for the purposes of paragraph (b)(49)(iii) of this section at the time the PAL permit is being issued.

(iv) *Major emissions unit* means:

(a) Any emissions unit that emits or has the potential to emit 100 tons per year or

(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 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 VOC if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOC per year.

(c) For a GHG PAL issued on a CO₂e basis, any emissions unit that emits or has the potential to emit equal to or greater than the amount of GHGs on a CO₂e basis that would be sufficient for a new source to trigger permitting requirements under paragraph (b)(49) of this section at the time the PAL permit is being issued.

(v) *Plantwide applicability limitation (PAL)* means an emission limitation expressed on a mass basis in tons per year, or expressed in tons per year CO₂e for a CO₂e-based GHG emission limitation, for a pollutant at a major stationary source or GHG-only source, that is enforceable as a practical matter and established source-wide in accordance with paragraphs (aa)(1) through (15) of this section.

(vi) *PAL effective date* generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(vii) *PAL effective period* means the period beginning with the PAL effective date and ending 10 years later.

(viii) *PAL major modification* means, notwithstanding paragraphs (b)(2), (b)(3), and (b)(49) of this section (the definitions for major modification, net emissions increase, and subject to regulation), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

(ix) *PAL permit* means the major NSR permit, the minor NSR permit, or the State operating permit under a program that is approved into the State Implementation Plan,

or the title V permit issued by the ~~Administrator~~ Director that establishes a PAL for a major stationary source or a GHG-only source.

(x) *PAL pollutant* means the pollutant for which a PAL is established at a major stationary source or a GHG-only source. For a GHG-only source, the only available PAL pollutant is greenhouse gases.

(xi) *Significant emissions unit* means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in paragraph (b)(23) of this section 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 paragraph (aa)(2)(iv) of this section. For a GHG PAL issued on a CO₂e basis, *significant emissions unit* means any emissions unit that emits or has the potential to emit GHGs on a CO₂e basis in amounts equal to or greater than the amount that would qualify the unit as small emissions unit as defined in paragraph (aa)(2)(iii) of this section, but less than the amount that would qualify the unit as a major emissions unit as defined in paragraph (aa)(2)(iv)(c) of this section.

(xii) *GHG-only source* means any existing stationary source that emits or has the potential to emit GHGs in the amount equal to or greater than the amount of GHGs on a mass basis that would be sufficient for a new source to trigger permitting requirements for GHGs under paragraph (b)(1) of this section and the amount of GHGs on a CO₂e basis that would be sufficient for a new source to trigger permitting requirements for GHGs under paragraph (b)(49) of this section at the time the PAL permit is being issued, but does not emit or have the potential to emit any other non-GHG regulated NSR pollutant at or above the applicable major source threshold. A GHG-only source may only obtain a PAL for GHG emissions under paragraph (aa) of this section.

(xiii) *Baseline actual emissions* for a GHG PAL means the average rate, in tons per year CO₂e or tons per year GHG, as applicable, at which the emissions unit actually

emitted GHGs 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 ~~Administrator~~ Director for a permit required under this section or by the permitting authority for a permit required by a plan, whichever is earlier. For any existing electric utility steam generating unit, *baseline actual emissions* for a GHG PAL means the average rate, in tons per year CO₂e or tons per year, GHG, as applicable, at which the emissions unit actually emitted the GHGs during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding either the date the owner or operator begins actual construction of the project, except that the ~~Administrator~~ Director 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) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the stationary source must currently comply, had such stationary source been required to comply with such limitations during the consecutive 24-month period.

- (d) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual GHG emissions and for adjusting this amount if required by paragraphs (aa)(2)(xiii)(b) and (c) of this section.

(xiv) *Emissions unit* with respect to GHGs means any part of a stationary source that emits or has the potential to emit GHGs. For purposes of this section, there are two types of emissions units as described in the following:

(a) 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.

(b) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (aa)(2)(xiv)(a) of this section.

(xv) *Minor source* means any stationary source that does not meet the definition of major stationary source in paragraph (b)(1) of this section for any pollutant at the time the PAL is issued.

(3) *Permit application requirements.* As part of a permit application requesting a PAL, the owner or operator of a major stationary source or a GHG-only source shall submit the following information to the ~~Administrator~~ Director 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 applicable requirements, emission limitations, or work practices apply to each unit.

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

(iii) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual

emissions based on a 12-month rolling total for each month as required by paragraph (aa)(13)(i) of this section.

(iv) As part of a permit application requesting a GHG PAL, the owner or operator of a major stationary source or a GHG-only source shall submit a statement by the source owner or operator that clarifies whether the source is an existing major source as defined in paragraph (b)(1)(i)(a) and (b) of this section or a GHG-only source as defined in paragraph (aa)(2)(xii) of this section.

(4) General requirements for establishing PALs.

(i) The ~~Administrator~~ Director is allowed to establish a PAL at a major stationary source or a GHG-only source, provided that at a minimum, the requirements in paragraphs (aa)(4)(i)(a) through (g) of this section are met.

(a) 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.

(b) The PAL shall be established in a PAL permit that meets the public participation requirements in paragraph (aa)(5) of this section.

(c) The PAL permit shall contain all the requirements of paragraph (aa)(7) of this section.

- (d) 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 or GHG-only source.
 - (e) Each PAL shall regulate emissions of only one pollutant.
 - (f) Each PAL shall have a PAL effective period of 10 years.
 - (g) The owner or operator of the major stationary source or GHG-only source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in paragraphs (aa)(12) through (14) 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 §51.165(a)(3)(ii) of this chapter unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.
- (5) *Public participation requirements for PALs.* ~~PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with §§51.160 and 51.161 of this chapter. This included the requirement that the Administrator 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 Administrator must address all material comments before taking final action on the permit.~~ PALs for existing major stationary sources shall be established, renewed, or increased through the procedures for Title V Permit issuance, renewal, and reopenings, and revisions specified in subparagraph 391-3-1-.03(10)(e) of the Georgia Rules for Air Quality.

Promulgated Revision to paragraph (aa)(5) - July 12, 2012

Effective Date of revision is August 13, 2012

Revision to 40 CFR 52.21(aa)(5) dated July 12, 2012 has NOT BEEN adopted by Georgia.

Public participation requirements for PALs. PALs for existing major stationary sources or GHG-only sources shall be established, renewed, or increased through a procedure that is consistent with §§51.160 and 51.161 of this chapter. This includes the requirement that the Administrator 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 Administrator must address all material comments before taking final action on the permit.

(6) *Setting the 10-year actuals PAL level.*

(i) Except as provided in paragraph (aa)(6)(ii) and (iii) of this section, the plan shall provide that the actuals PAL level for a major stationary source or a GHG-only source shall be established as the sum of the baseline actual emissions (as defined in paragraph (b)(48) of this section or, for GHGs, paragraph (aa)(2)(xiii) of this section) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under paragraph (b)(23) of this section or under the Act, whichever is lower. Additionally, the PAL level 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 24-month period used to determine the baseline actual emissions for the PAL pollutant.

(ii) For newly constructed units (which do not include modifications to existing units) on which actual construction began after the consecutive 24-month period selected for setting the 10-year actuals PAL level, in lieu of adding the baseline emissions as specified in paragraph (aa)(6)(i) of this section {Georgia Text – 40 CFR, Part 52.21}, the emissions must be added to the PAL level as follows:

(a) For an emissions unit on which actual operation commenced less than 36 months prior to submission of a complete PAL permit application, the emissions must be added to the PAL level in an amount equal to the potential to emit of the unit.

(b) For an emissions unit on which actual operation commenced greater than or equal to 36 months and less than 48 months prior to submission of a complete PAL permit application, the emissions must be added in an amount equal to the rate, in tons per year, at which the unit actually emitted the PAL pollutant during any consecutive 12-month period, selected by the owner or operator, that preceded submission of the PAL permit application.

(c) For an emissions unit on which actual operation commenced greater than or equal to 48 months prior to submission of a complete PAL permit application, the

emissions must be added in an amount equal to the average rate, in tons per year, at which the unit actually emitted the PAL pollutant during any consecutive 24-month period, selected by the owner or operator, that preceded submission of the PAL permit application.

Promulgated Addition to paragraph (aa)(6)(iii) - July 12, 2012

Effective Date of revision is August 13, 2012

Revision to 40 CFR 52.21(aa)(6)(iii) dated July 12, 2012 has NOT BEEN adopted by Georgia.

For CO₂e based GHG PAL, the actuals PAL level shall be established as the sum of the GHGs baseline actual emissions (as defined in paragraph (aa)(2)(xiii) of this section) of GHGs for each emissions unit at the source, plus an amount equal to the amount defined as “significant” on a CO₂e basis for the purposes of paragraph (b)(49)(iii) at the time the PAL permit is being issued. When establishing the actuals PAL level for a CO₂e-based PAL, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The reviewing authority shall specify a reduced PAL level (in tons per year CO₂e) in the PAL permit to become effective on the future compliance date(s) of any applicable Federal or state regulatory requirement(s) that the reviewing authority is aware of prior to issuance of the PAL permit.

(7) *Contents of the PAL permit.* The PAL permit must contain, at a minimum, the information in paragraphs (aa)(7)(i) through (xi) of this section.

(i) The PAL pollutant and the applicable source-wide emission limitation in tons per year or tons per year CO₂e.

(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 or a GHG-only source owner or operator applies to renew a PAL in accordance with paragraph (aa)(10) 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 a reviewing authority.

(iv) A requirement that emission calculations for compliance purposes must include emissions from startups, shutdowns, and malfunctions.

(v) A requirement that, once the PAL expires, the major stationary source or GHG-only source is subject to the requirements of paragraph (aa)(9) of this section.

(vi) The calculation procedures that the major stationary source or GHG-only 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 as required by paragraph (aa)(13)(i) of this section.

(vii) A requirements that the major stationary source or GHG-only source owner or operator monitor all emissions units in accordance with the provisions under paragraph (aa)(12) of this section.

(viii) A requirement to retain the records required under paragraph (aa)(13) of this section on site. Such records may be retained in an electronic format.

(ix) A requirement to submit the reports required under paragraph (aa)(14) of this section by the required deadlines.

(x) Any other requirements that the ~~Administrator~~ Director deems necessary to implement and enforce the PAL.

(xi) A permit for a GHG PAL issued to a GHG-only source shall also include a statement denoting that GHG emissions at the source will not be subject to regulation under paragraph (b)(49) of this section as long as the source complies with the PAL.

The PAL permit must contain a requirement that emissions calculations for compliance purposes must include non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable and that were in excess of that allowed by any state or Federal air quality regulation or permit condition.

(8) *PAL effective period and reopening of the PAL permit.* The requirements in paragraphs (aa)(8)(i) and (ii) of this section apply to actuals PALs.

(i) *PAL effective period.* The ~~Administrator~~ Director shall specify a PAL effective period of 10 years.

(ii) *Reopening of the PAL permit.*

(a) During the PAL effective period, the ~~Administrator~~ Director must reopen the PAL permit to:

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

(2) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under §51.165(a)(3)(ii) of this chapter; and

(3) Revise the PAL to reflect an increase in the PAL as provided under paragraph (aa)(11) of this section.

(b) The ~~Administrator~~ Director shall have discretion to reopen the PAL permit for the following:

(1) Reduce the PAL to reflect newly applicable Federal requirements (for example, NSPS) with compliance dates after the PAL effective date;

(2) Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the State may impose on the major stationary source or GHG-only source under the State Implementation Plan; and

(3) Reduce the PAL if the reviewing authority determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an air quality related value that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.

(c) All reopenings shall be carried out in accordance with the procedures for Title V Permit issuance, renewal, and reopenings, and revisions specified in subparagraph 391-3-1-.03(10)(e) of the Georgia Rules for Air Quality Control.

(9) *Expiration of a PAL.* Any PAL that is not renewed in accordance with the procedures in paragraph (aa)(10) of this section shall expire at the end of the PAL effective period, and the requirements in paragraphs (aa)(9)(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 (aa)(9)(i)(a) and (b) of this section.

(a) Within the time frame specified for PAL renewals in paragraph (aa)(10)(ii) of this section, the major stationary source or GHG-only 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 ~~Administrator~~ Director) by distributing the PAL allowable emissions for the major stationary source or GHG-only source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph (aa)(10)(v) of this section, such distribution shall be made as if the PAL had been adjusted.

(b) The ~~Administrator~~ Director 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 ~~Administrator~~ Director determines is appropriate.

(ii) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The ~~Administrator~~ Director 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 ~~Administrator~~ Director issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (aa)(9)(i)(b) 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 or GHG-only source will be subject to major NSR requirements if such change meets the definition of major modification in paragraph (b)(2) of this section.

(v) The major stationary source or GHG-only source owner or operator shall continue to comply with any State or Federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to paragraph (r)(4) of this section, but were eliminated by the PAL in accordance with the provisions in paragraph (aa)(1)(ii)(c) of this section.

(10) *Renewal of a PAL.*

(i) The ~~Administrator~~ Director shall follow the procedures specified in paragraph (aa)(5) of this section in approving any request to renew a PAL for a major stationary source or a GHG-only 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 ~~Administrator~~ Director.

(ii) *Application deadline.* A major stationary source or GHG-only source owner or operator shall submit a timely application to the ~~Administrator~~ Director to request renewal of 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 or GHG-only 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 (aa)(10)(iii)(a) through (d) of this section.

(a) The information required in paragraphs (aa)(3)(i) through (iii) of this section.

(b) A proposed PAL level.

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

(d) Any other information the owner or operator wishes the ~~Administrator~~ Director to consider in determining the appropriate level for renewing the PAL.

(iv) *PAL adjustment.* The Director shall set the PAL level for a renewed PAL permit in accordance with paragraphs (aa)(10)(iv)(a) and (b) of this section {Georgia Text-subparagraphs (7)(b)21.(vii)(I) and (II) of this rule}. However, in no case may any PAL level fail to comply with paragraph (aa)(10)(iv)(c) of this section {Georgia Text – subparagraph (7)(b)21.(viii)(III) of this rule}.

(a) If the emissions level calculated in accordance with paragraph (aa)(6) of this section {Georgia Text – 40 CFR, Part 52.21} and paragraphs (aa)(6)(i) and (ii) of this rule {Georgia Text – subparagraph (7)(b)21.(iii) and (iv) of this rule} is equal to or greater than 80 percent of the PAL level, the ~~Administrator~~ Director may renew the PAL at the same level. If the emissions level calculated in accordance with (aa)(6)(i) of 40 CFR, Part 52.21 and Georgia Rule 391-3-1-.02(7)(b)21.(iii) and (iv) is less than 80 percent of the PAL level, the Director may renew the PAL at a level determined using the procedures set forth in 40 CFR, Part 52.21(aa)(6) and Georgia Rule 391-3-1-.02(7)(b)21.(iii) and (iv) of this rule}

(b) The Director may set the PAL at a level that he or she determines to be more representative of the source's baseline actual emissions, or that he or she determines to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage

the source's voluntary emissions reductions, or other factors as specifically identified by the Director in his or her written rationale.

(c) Notwithstanding paragraphs (aa)(10)(iv)(a) and (b) of this section {Georgia Text – subparagraphs (7)(b)21.(vii)(I) and (II) of this rule}:

(1) If the potential to emit of the major stationary source is less than the PAL, the Director shall adjust the PAL to a level no greater than the potential to emit of the source; and

(2) The Director shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of paragraph (aa)(11) of this section {Georgia Text – 40 CFR, Part 52.21} (increasing a PAL).

Promulgated Revision to paragraphs (aa)(10)(iv)(c)(1) and (2) - July 12, 2012
Effective Date of revision is August 13, 2012, **Revision to 40 CFR 52.21(aa)(10)(iv)(c)(1) and (2) dated July 12, 2012 has NOT BEEN adopted by Georgia.**

(1) If the potential to emit of the major stationary source or GHG-only source is less than the PAL, the Administrator shall adjust the PAL to a level no greater than the potential to emit of the source; and

(2) The Administrator shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source or GHG-only source has complied with the provisions of paragraph (aa)(11) of this section (increasing a PAL).

(v) If the compliance date for a State or Federal requirement that applies to the PAL source occurs during the PAL effective period, and if the ~~Administrator~~ Director has

not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or title V permit renewal, whichever occurs first.

(11) *Increasing a PAL during the PAL effective period.*

(i) The ~~Administrator~~ Director may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (aa)(11)(i)(a) through (d) of this section.

(a) The owner or operator of the major stationary source or GHG-only 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 or GHG-only source's emissions to equal to exceed its PAL.

(b) As part of this application, the major stationary source or GHG-only 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.

(c) The owner or operator obtains a major NSR permit for all emissions unit(s) identified in paragraph (aa)(11)(i)(a) 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 major NSR process (for example, BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.

(d) 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 ~~Administrator~~ Director shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with paragraph (aa)(11)(i)(b)), 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 (aa)(5) of this section.

(12) *Monitoring requirements for PALs.*

(i) *General requirements.*

(a) 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 or CO₂e per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(b) The PAL monitoring system must employ one of the general monitoring approaches meeting the minimum requirements set forth in paragraphs (aa)(12)(i) of this section and must be approved by the Director.

- (c) Notwithstanding paragraph (aa)(12)(i)(b) of this section, you may also employ an alternative monitoring approach that meets paragraph (aa)(12)(i)(a) of this section if approved by the ~~Administrator~~ Director.
- (d) 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 (aa)(12)(iii) through (ix) of this section:
- (a) Mass balance calculations for activities using coatings or solvents;
 - (b) CEMS;
 - (c) CPMS or PEMS; ~~and~~
 - (d) Emission factors; ~~and~~
 - (e) Mass balance calculations for sulfur dioxide emissions from fuel combustion.

(iii) *Mass balance calculations.* An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents ~~or from sulfur dioxide emissions from fuel combustion~~ shall meet the following requirements:

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

- (b) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and
- (c) 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 ~~Administrator~~ Director 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:
- (a) CEMS must comply with applicable Performance Specifications found in 40 CFR part 60, appendix B; and
- (b) 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:
- (a) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and
- (b) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the ~~Administrator~~ Director, 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:

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

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

(c) 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 ~~Administrator~~ Director 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 (aa)(12)(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 ~~Administrator~~ Director shall, at the time of permit issuance:

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

- (b) 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 ~~Administrator~~ Director. Such testing must occur at least once every 5 years after issuance of the PAL.
- (13) *Recordkeeping requirements.*
- (i) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of paragraph (aa) 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:
- (a) A copy of the PAL permit application and any applications for revisions to the PAL; and
- (b) Each annual certification of compliance pursuant to title V and the data relied on in certifying the compliance.
- (14) *Reporting and notification requirements.* The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the ~~Administrator~~ Director in accordance with the applicable title V operating permit program. The reports shall meet the requirements in paragraphs (aa)(14)(i) through (iii) of this section.

(i) *Semi-annual report.* The semi-annual report shall be submitted to the Administrator Director within 30 days of the end of each reporting period. This report shall contain the information required in paragraphs (aa)(14)(i)(a) through (g) of this section.

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

(b) Total annual emissions (expressed on a mass-basis in tons per year, or expressed in tons per year CO₂e) based on a 12-month rolling total for each month in the reporting period recorded pursuant to paragraph (aa)(13)(i) of this section.

(c) 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 shall not be submitted with the semiannual report specified in paragraph (aa)(14)(i)(c) of 40 CFR, Part 52.21, but shall be retained in permanent form suitable for inspection and submission to the Division. The records shall be retained for at least five years following the end of each calendar year.

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

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

(f) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by (aa)(12)(vii).

(g) A signed statement by the responsible official (as defined by the applicable title V operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(ii) *Deviation report.* The major stationary source or GHG-only 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 §70.6(a)(3)(iii)(B) of this chapter shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program implementing §70.6(a)(3)(iii)(B) of this chapter. The reports shall contain the following information:

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

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

(c) Emissions resulting from the deviation or the exceedance; and

(d) A signed statement by the responsible official (as defined by the applicable title V 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 ~~Administrator~~ Director the results of any re-validation test or method within 3 months after completion of such test or method.

(15) *Transition requirements.*

(i) The ~~Administrator~~ Director may not issue a PAL that does not comply with the requirements in paragraphs (aa)(1) through (15) of this section after March 3, 2003.

(ii) The ~~Administrator~~ Director may supersede any PAL that was established prior to March 3, 2003 with a PAL that complies with the requirements of paragraphs (aa)(1) through (15) of this section.

(bb) [Not Adopted by Georgia]

**Text of Federal Rule not adopted by Georgia: 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.*

Note to paragraph (cc) below: By a court order on December 24, 2003, this paragraph (cc) is stayed indefinitely. The stayed provisions will become effective immediately if the court terminates the stay. At that time, EPA will publish a document in the Federal Register advising the public of the termination of the stay.

[43 FR 26403, June 19, 1978]

(cc) [Not Adopted by Georgia]

- Text of Federal Rule not adopted by Georgia for (cc): Without regard to other considerations, routine maintenance, repair and replacement includes, but is not limited to, the replacement of any component of a process unit with an identical or functionally equivalent component(s), and maintenance and repair activities that are part of the replacement activity, provided that all of the requirements in paragraphs (cc)(1) through (3) of this section are met.

(1) Capital cost threshold for equipment replacement. (i) For an electric utility steam generating unit, as defined in §52.21(b)(31), the fixed capital cost of the replacement component(s) plus the cost of any associated maintenance and repair activities that are part of the replacement shall not exceed 20 percent of the replacement value of the process unit, at the time the equipment is replaced. For a process unit that is not an electric utility steam generating unit the fixed capital cost of the replacement component(s) plus the cost

of any associated maintenance and repair activities that are part of the replacement shall not exceed 20 percent of the replacement value of the process unit, at the time the equipment is replaced.

(ii) In determining the replacement value of the process unit; and, except as otherwise allowed under paragraph (cc)(1)(iii) of this section, the owner or operator shall determine the replacement value of the process unit on an estimate of the fixed capital cost of constructing a new process unit, or on the current appraised value of the process unit.

(iii) As an alternative to paragraph (cc)(1)(ii) of this section for determining the replacement value of a process unit, an owner or operator may choose to use insurance value (where the insurance value covers only complete replacement), investment value adjusted for inflation, or another accounting procedure if such procedure is based on Generally Accepted Accounting Principles, provided that the owner or operator sends a notice to the reviewing authority. The first time that an owner or operator submits such a notice for a particular process unit, the notice may be submitted at any time, but any subsequent notice for that process unit may be submitted only at the beginning of the process unit's fiscal year. Unless the owner or operator submits a notice to the reviewing authority, then paragraph (cc)(1)(ii) of this section will be used to establish the replacement value of the process unit. Once the owner or operator submits a notice to use an alternative accounting procedure, the owner or operator must continue to use that procedure for the entire fiscal year for that process unit. In subsequent fiscal years, the owner or operator must continue to use this selected procedure unless and until the owner or operator sends another notice to the reviewing authority selecting another procedure consistent with this paragraph or paragraph (cc)(1)(ii) of this section at the beginning of such fiscal year.

(2) Basic design parameters. The replacement does not change the basic design parameter(s) of the process unit to which the activity pertains.

(i) Except as provided in paragraph (cc)(2)(iii) of this section, for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on British Thermal Units content shall be used for determining the basic design parameter(s) for a coal-fired electric utility steam generating unit.

(ii) Except as provided in paragraph (cc)(2)(iii) of this section, the basic design parameter(s) for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.

(iii) If the owner or operator believes the basic design parameter(s) in paragraphs (cc)(2)(i) and (ii) of this section is not appropriate for a specific industry or type of process unit, the owner or operator may propose to the reviewing authority an alternative basic design parameter(s) for the source's process unit(s). If the reviewing authority approves of the use of an alternative basic design parameter(s), the reviewing authority shall issue a permit that is legally enforceable that records such basic design parameter(s) and requires the owner or operator to comply with such parameter(s).

(iv) The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameter(s) specified in paragraphs (cc)(2)(i) and (ii) of this section.

(v) If design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameter(s) using the maximum value

achieved by the process unit in the five-year period immediately preceding the planned activity.

(vi) Efficiency of a process unit is not a basic design parameter.

(3) The replacement activity shall not cause the process unit to exceed any emission limitation, or operational limitation that has the effect of constraining emissions, that applies to the process unit and that is legally enforceable.