PROPOSED AMENDMENTS TO THE RULES OF THE DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION DIVISION AIR QUALITY CONTROL, CHAPTER 391-3-1

The Rules of the Department of Natural Resources, Chapter 391-3-1, Air Quality Control are hereby amended, added to, repealed in part, revised, as hereinafter explicitly set forth in the attached amendments, additions, partial repeals, and revisions for specific rules, or such subdivisions thereof as may be indicated.

[Note: Underlined text is proposed to be added. Lined-through text is proposed for deletion.]

Rule 391-3-1-.03(8), "Permit Requirements," is amended to read as follows:

(8) Permit Requirements.

(a) Each application for a permit to construct a new stationary source or modify an existing stationary source shall be subjected to a preconstruction or premodification review by the Director. The Director shall determine prior to issuing any permit that the proposed construction or modification will not cause or contribute to a failure to attain (as expeditiously as practicable) or maintain any ambient air quality standard, a significant deterioration of air quality, or a violation of any applicable emission limitation or standard of performance or other requirement under the Act or this Chapter (391-3-1). Each person applying to the Director for a permit to construct a new stationary source or modify an existing stationary source shall provide information required by the Director to make such determination.

(b) In addition to any other requirement under the Act, or this Chapter (391-3-1), no permit to construct a new stationary source or modify an existing stationary source shall be issued unless such proposed source meets all the requirements for review and for obtaining a permit prescribed in Title I, Part C of the Federal Act, and Section 391-3-1-.02(7) of these Rules.

(c) In addition to any other requirement under the Act or this Chapter (391-3-1), no permit to construct a new or modified major stationary source to be located in any area of the State determined and designated by the U.S. EPA Administrator or the Director as not attaining a National Ambient Air Quality Standard or in areas contributing to the ambient air levels of such pollutants in such areas of non-attainment shall be issued unless the following provisions are met. The provisions of 391-3-1-.02(7) apply to projects subject to this subparagraph as specified in Subparagraph (g) of this paragraph.

1. The Director determines that by the time the source is to commence operation, sufficient offsetting emissions reductions have been obtained, such that total allowable emissions from existing sources in the non-attainment area or areas designated by the Director as contributing to ambient air levels of such pollutants in the non-attainment area, from new or modified sources which are not major emitting facilities, and from the proposed sources, will be sufficiently less

than total emissions from existing sources allowed prior to the application for such permit to construct or modify, so as to represent (when considered together with other air pollution control measures legally enforced in such area or region) reasonable further progress (as defined in Section 171 of the Federal Act); and

2. The proposed source is required to comply with the lowest achievable emission rate; and

3. The owner or operator of the proposed new or modified source has demonstrated that all major stationary sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in this State, are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under the Act; and

4. An analysis (by the person proposing such construction or modification) of alternative sites, sizes, production processes and environmental control techniques for such proposed source demonstrates to the satisfaction of the Director that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its proposed location, construction, or modification; and

5. The State's Implementation Plan (approved by the Administrator pursuant to the Federal Act) is being carried out in the non-attainment area or an area designated by the Director as contributing to the ambient air level of any such pollutant in a non-attainment area in which the proposed source is to be constructed or modified in accordance with the requirements of Title I, Part D of the Federal Act.

6. The offset baseline for determining credits for emission reductions at a source is either the applicable emission limits in the Chapter or the actual emissions, in tons per year, at the time the application to construct is filed, whichever is less. The time period used to calculate the baseline emissions shall be the 24-month period immediately preceding the date the application to construct is filed. The Division may allow the use of a different time period upon a determination that such period is more representative of normal source operation.

7. (i) Emission reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels may be credited provided that the work force to be affected has been notified of the proposed shutdown or curtailment.

(ii) In addition, emissions reductions achieved by shutting down an existing emission unit or curtailing production or operating hours may be generally credited for offsets if they meet the requirements in subparagraphs (I) and (II) of this subparagraph:

(I) Such reductions are surplus, permanent, quantifiable, and federally enforceable.

(II) The shutdown or curtailment occurred after the last day of the base year for the most recently submitted attainment demonstration, maintenance plan, reasonable further progress plan, or rate of progress plan. For purposes of this paragraph, the Division may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected

emissions inventory used to develop the attainment demonstration, maintenance plan, reasonable further progress plan, or rate of progress plan explicitly includes the emissions from such previously shutdown or curtailed emission units. However, in no event may credit be given for shutdowns that occurred before August 7, 1977.

(iii) Emission reductions achieved by shutting down an existing emission unit or curtailing production or operating hours and that do not meet the requirements in subparagraph 7.(ii)(II) of this subparagraph may be generally credited only if:

(I) The shutdown or curtailment occurred on or after the date the construction permit application is filed; or

(II) The applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit, and the emissions reductions achieved by the shutdown or curtailment met the requirements of subparagraph 7.(ii)(I) of this subparagraph.

8. No emission offset credit may be allowed for replacing one VOC compound with another of less reactivity.

9. Procedures relating to the permissible location of offsetting emissions shall be followed which are at least as stringent as those contained in 40 CFR, Part 51, Appendix S, Section IV.D.

10. Offset credit for an emission reduction can be claimed to the extent that the Director has not relied on it in issuing any other permit or has not relied on it in demonstrating attainment of reasonable further progress.

11. The Director may elect not to consider fugitive emissions, to the extent they are quantifiable, in calculating the potential to emit from a stationary source or modification in determining whether the source is major and the source does not belong to any of the following categories:

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

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

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

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

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;

(xv) Carbon black plants (furnace process);

(xvi) Primary lead smelters;

(xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

(xx) Chemical process plants;

(xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

(xxvi) Fossil fuel-fired steam electric plants for more than 250 million British thermal units per hour heat input; and

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

12. Offsets.

(i) The owner or operator of a new or modified major stationary source may comply with any offset requirement in effect under this subsection for increased emissions of any air pollutant

only by obtaining emission reductions of such air pollutants from the same source or other sources in the same non-attainment area, except that the Director may allow the owner or operator of a source to obtain such emission reductions in another non-attainment area if:

(I) The other area has an equal or higher non-attainment classification than the area in which the source is located;

(II) Emissions from such other area contribute to a violation of the national ambient air quality standard in the non-attainment area in which the source is located; and

(III) Such emission reductions shall be, by the time a new or modified source commences operation, in effect and enforceable and shall assure that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air pollutant from the same or other sources in the area.

(ii) Emission reductions otherwise required by the Federal Act shall not be creditable as emissions reductions for purposes of any such offset requirement. Incidental emission reductions that are not otherwise required by the Federal Act shall be creditable as emission reductions for such purposes if such emission reductions meet the requirements of subparagraph (8)(c)1.

(iii) In order to be used as an offset under this subsection, emission reductions must satisfy the criteria in section (13), subsections (a) and (b).

(iv) At least 30 days prior to commencement of operation of the new or modified stationary source permitted under this subparagraph, the owner or operator shall provide documentation to the Division of the possession of sufficient offsets required under subparagraph (c)1. and as specified under subparagraph (c)~~13.,~~ 14.~~,~~ or 15., whichever is applicable, as follows:

(I) If offsets are obtained from the Emission Reduction Credit Banking Program specified under paragraph 391-3-1-.03(13), the owner or operator shall submit an application or applications for Use of Emission Reduction Credits as required under 391-3-1-.03(13)(f) using forms specified by the Division. If said offsets are not currently owned by the owner or operator, the current owner/operator must submit an application or applications to Transfer Ownership of Emission Reduction Credits as required under 391-3-1-.03(13)(g) using forms specified by the Division simultaneously with or prior to submittal of the application or applications to withdraw Emission Reduction Credits.

(II) If offsets are not obtained from the Emission Reduction Credit banking program, the owner or operator shall submit the following information. (If offsets are obtained from one or more enforceable mechanisms, items I through VI shall be submitted for each enforceable mechanism.):

I. The name of the permittee that generated the offsets.

II. The name of the plant or facility at which the offsets were generated.

III. The address (street address, city, state, zip code, and county) of the plant or facility at which the offsets were generated. (This should be for the physical location of the plant or facility.)

IV. Identification of the enforceable mechanism (permit number and date of issuance, permit amendment number and date of issuance, or date of permit revocation) that resulted from creation of the offsets.

V. The number of offsets from the permit, permit amendment, or permit revocation identified in IV, above, that will be used for the new or modified stationary source permitted under this subparagraph.

VI. If the offsets were created by an owner or operator other than the owner or operator which will be using the offsets for the new or modified stationary source permitted under this paragraph, a letter from the owner or operator that created the offsets shall be submitted to the Division stating that the offsets have been transferred to the owner or operator that will be using the offsets, the date of such transfer, the number of offsets transferred, and the information contained in I through IV above.

(v) [Reserved.]

(vi) When multiple new or modified emissions units are permitted at the same time but commence operation on different dates, the documentation required under subparagraph (iv) shall be submitted to the Division at least 30 days prior to commencement of each new or modified emissions unit in order to demonstrate that adequate offsets have been obtained for each new or modified emissions unit prior to commencement.

13. [Reserved.]~~Additional Provisions for Ozone Non-Attainment Areas for Counties that were Formerly Part of the 1-hour Ozone Non-Attainment Area.~~

~~(i) In Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale counties, the terms "major source" and "major stationary source" include any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 25 tons per year of volatile organic compounds or nitrogen oxides. Any physical change that would occur at a stationary source not qualifying as a major stationary source as defined in this subparagraph shall be considered a "major stationary source" if the change would constitute a major stationary source by itself.~~

~~(ii) Increased emissions of volatile organic compounds or nitrogen oxides resulting from any physical change in, or change in the method of operation of, a stationary source located in these counties shall not be considered de minimis for purposes of determining the applicability of the permit requirements established by this subsection unless the net emissions increase of such air pollutant from such source does not exceed 25 tons when aggregated over any period of five consecutive calendar years which includes the calendar year in which such increase occurred.~~

~~(iii) In the case of any major stationary source located in these counties which emits or has the potential to emit less than 100 tons of volatile organic compounds or nitrogen oxides per year, whenever any change (as described in Section 111(a)(4) of the Federal Act) at that source results in any increase (other than a de minimis increase) in emissions of volatile organic compounds or nitrogen oxides from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a modification for purposes of this subsection, unless the owner or operator of the source elects to offset the increase by a greater reduction in emissions of volatile organic compounds or nitrogen oxides from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1. If the owner or operator does not make such election, such change shall be considered a modification for such purposes. In applying this subsection in the case of any such modification, the best available control technology (BACT), as defined by the Federal Act, shall be substituted for the lowest achievable emission rate (LAER).~~

~~(iv) In the case of any major stationary source located in these counties which emits or has the potential to emit more than 100 tons of volatile organic compounds or nitrogen oxides per year, whenever any change (as described in Section 111(a)(4) of the Federal Act) at that source results in any increase (other than a de minimis increase) in emissions of volatile organic compounds or nitrogen oxides from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a modification for purposes of this subsection, except that if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of volatile organic compounds or nitrogen oxides from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1, the requirements of this subsection concerning lowest achievable emission rate (LAER) shall not apply.~~

~~(v) For purposes of satisfying the emission offset requirements of this subsection, the ratio of total emission reductions of volatile organic compounds or nitrogen oxides to total increased emissions of such air pollutant shall be at least 1.3 to 1 for emission offsets external to the contiguous area under common control at which the proposed new emission point is located.~~

14. Additional Provisions for Ozone Non-Attainment Areas ~~for Counties that were Not Formerly Part of the 1-hour Ozone Non-Attainment Area~~.

(i) In ~~Barrow,~~ Bartow, ~~Carroll,~~Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, ~~Hall,~~Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale~~Spalding, and Walton~~ counties the terms "major source" and "major stationary source" include any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 100 tons per year of volatile organic compounds or nitrogen oxides. Any physical change that would occur at a stationary source not qualifying as a major stationary source as defined in this subparagraph shall be considered a "major stationary source" if the change would constitute a major stationary source by itself.

(ii) Any physical change in or change in the method of operation of a major stationary source located in these counties that results in a net emissions increase of volatile organic compounds or nitrogen oxides equal to or exceeding 40 tons per year of such air pollutant shall be considered a modification when determining the applicability of the permit requirements established by this

subsection. "Net emissions increase" shall have the meaning defined in subparagraph (8)(g)1.(iii) of this rule.

(iii) [Reserved.]

(iv) For purposes of satisfying the emission offset requirements of this subsection, the ratio of total emission reductions of volatile organic compounds or nitrogen oxides to total increased emissions of such pollutants shall be at least 1.15 to 1 for emission offsets external or internal to the contiguous area under common control at which the proposed new emission point is located.

15. Additional Provisions for Electrical Generating Units Located in Areas Contributing to the Ambient Air Level of Ozone in the Metropolitan Atlanta Ozone Non-Attainment Area.

(i) In Banks, Barrow, Butts, Carroll, Chattooga, Clarke, Dawson, Floyd, Gordon, Hall, Haralson, Heard, Jackson, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Oconee, Pickens, Pike, Polk, Putnam, Spalding, Troup, ~~and~~ Upson, and Walton counties, the terms "major source" and "major stationary source" include any stationary source or group of sources located within a contiguous area and under common control, containing an electrical generating unit, and that emits, or has the potential to emit, at least 100 tons per year of nitrogen oxides from electrical generating units. Any physical change that would occur at a stationary source not qualifying as a major stationary source as defined in this subparagraph shall be considered a "major stationary source" if the change would constitute a major stationary source by itself.

(ii) Any physical change or change in the method of operation at a major stationary source in these counties that results in a net emissions increase of nitrogen oxides equal to or exceeding 40 tons per year of such air pollutant from the installation or modification of one or more electrical generating units shall be considered a modification when determining the applicability of the permit requirements established by this subsection. "Net emissions increase" shall have the meaning defined in subparagraph (8)(g)1.(iii) of this rule.

(iii) In the case of any new electrical generating unit or modified existing electrical generating unit located at a new or modified major stationary source in these counties, the requirements of 391-3-1-.03(8)(c)2. shall only apply to that electrical generating unit and best available control technology (BACT), as defined by the Federal Act, shall be substituted for the lowest achievable emission rate (LAER).

(iv) For purposes of satisfying the emission offset requirements of this subsection, the ratio of total emission reductions of nitrogen oxides to total increased emissions of such pollutant from the new or modified electrical generating units shall be at least 1.1 to 1 for emission offsets external or internal to the contiguous area under common control at which the proposed new or modified major stationary source is located.

(v) [Reserved.]

(vi) [Reserved.]

(vii) For the purpose of this subsection, "electrical generating unit" means a fossil fuel fired stationary boiler, combustion turbine, or combined cycle system that serves a generator that produces electricity for sale.

16. [reserved]

(d) [reserved]

(e) The Director shall, upon analysis of the ambient air in the State, determine, and so designate, those areas of the State, if any, which are not attaining any National Ambient Air Quality Standards specified under the Federal Act, and any area contributing to the ambient air level of any such pollutant (for which such a standard has been established) in such areas of non-attainment. The Director's analyses determinations, and designations hereunder shall be used for the purpose of implementing the requirements of this section, shall be continuing, and shall be conducted in a manner sufficient to meet the requirements of Title 1, Part D of the Federal Act.

1. The counties of Banks, Butts, Chattooga, Clarke, Dawson, Floyd, Gordon, Haralson, Heard, Jackson, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Oconee, Pickens, Pike, Polk, Putnam, Troup, and Upson have been determined by the Director as areas contributing to the ambient air level of ozone in the metropolitan Atlanta ozone non-attainment area which consists of the counties of Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding, and Walton. No permit to construct an electric generating unit at a new or modified major stationary source in this area shall be issued unless such proposed source meets all the requirements of Subsection (8)(c).

(f) In addition to any other requirement under the Act, or this Chapter 391-3-1, no permit to construct a new stationary source or modify an existing stationary source shall be issued unless such proposed source or modification meets all the requirements for review and for obtaining a permit prescribed in Paragraph 391-3-1-.02(9)(b)16. of this Rule.

(g) The following provisions of paragraph 391-3-1-.02(7) apply to projects subject to the permitting requirements of subparagraph (c) of this paragraph with respect to those pollutants subject to Subparagraph (c).

1. 391-3-1-.02(7)(a)2. Definitions, with the following exceptions and additions:

(i) The definition of "Major Stationary Source" does not apply.

(ii) Within the definition of "Major Modification,"

(I) The date within the "capable of accommodating" provision shall be December 21, 1976; and

(II) Paragraphs 40 CFR 52.21(b)(2)(iii)(*j*) and (*k*) do not apply.

(iii) The definition of "Net Emissions Increase," as it pertains to subparagraphs 8(c)14.(ii) and 8(c)15.(ii) of this rule, shall have the meaning defined in 40 CFR 51.165(a)(1)(vi) with the following exceptions:

(I) In lieu of (a)(1)(vi)(A)(1), the following shall apply: The increase in emissions from a particular change or change in the method of operation at a stationary source pursuant to paragraph 52.21(a)(2)(iv) as adopted in subparagraph (7)(a)3. of this rule; and

(II) In (a)(1)(vi)(A)(2), baseline actual emissions shall be determined as provided in subparagraph (7)(a)2.(i) of this rule, except that sub paragraphs (7)(a)2.(i)(I)III. and (7)(a)2.(i)(II)IV. do not apply.

(iv) To the definition of "Secondary Emissions," the following sentence is added: "Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions."

(v) The definition of "Significant" does not apply.

(vi) "Lowest achievable emission rate" or "LAER" means, for any source, the more stringent rate of emissions is based on the following:

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

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

2. 391-3-1-.02(7)(a)3., Applicability procedures, with the following exception:

(i) The term "significant amount" in subparagraph (7)(a)3. shall mean an increase ~~that is not considered de minimis as specified in 391-3-1-.03(8)(c)13.(ii) or~~ that is considered as a modification as specified in 391-3-1-.03(8)(c)14.(ii) or 15.(ii).

3. 391-3-1-.02(7)(a)4.

4. 391-3-1-.02(7)(b)14., Public participation.

5. 391-3-1-.02(7)(b)15., Source obligation, with the following exception:

(i) The term "significant amount" in subparagraph (7)(b)15.(i)(V) shall mean an increase ~~that is not considered de minimis as specified in 391-3-1-.03(8)(c)13.(ii) or~~ that is considered as a modification as specified in 391-3-1-.03(8)(c)14.(ii) or 15.(ii).

6. 391-3-1-.02(7)(b)21., Actual PALs, with the following exception:

(i) Under the provision for "Setting the 10-year actual PAL level" specified in paragraph 40 CFR 52.21(aa)(6), the amount added to the baseline actual emissions shall be the amount ~~that is considered de minimis as specified in 391-3-1-.03(8)(c)13.(ii) or~~ that is considered not to be a modification as specified in 391-3-1-.03(8)(c)14.(ii) or 15.(ii).

Subparagraph (a), "General Requirements," of **Rule 391-3-1-.03(10), "Title V Operating Permits,"** is amended to read as follows.

(10) Title V Operating Permits.

(a) General Requirements.

1. The provisions of this paragraph (10) shall apply to any source and the owner and operator of any such source subject to any requirements under 40 Code of Federal Regulations (hereinafter, 40 CFR), Part 70.

2. All sources subject to this paragraph (10) shall have a Part 70 Permit to operate that assures compliance by the source with all applicable requirements. Such Part 70 Permits will be issued consistent with the timing established in subparagraph (10)(c).

3. The requirements of this paragraph (10), including provisions regarding schedules for submission and approval or disapproval of permit applications, shall apply to the permitting of affected sources under the federal acid rain program except as provided herein or modified in federal regulations promulgated under Title IV of the federal Clean Air Act.

4. Definitions: For the purpose of this paragraph (10), 40 CFR Part 70.2 is hereby incorporated and adopted by reference, with the following exception(s):

(i) "Potential to emit" shall have the meaning ascribed in subparagraph (ddd) of rule 391-3-1-.01.

(ii) [Reserved.] ~~In addition to the major sources defined in 40 CFR 70.2, the following shall also be considered a major source: for the counties of Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale, sources with the potential to emit 25 tpy or more of volatile organic compounds or oxides of nitrogen.~~

(iii) The definition and use of the term "subject to regulation" in 40 CFR, Part 70.2 is hereby incorporated by reference; provided, however, that in the event all or any portion of 40 CFR, Part 70.2 containing that term is:

(I) 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

(II) 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 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 hereof would be declared or adjudged invalid or unconstitutional or stayed or otherwise rendered of no force and effect.

5. The subparagraphs of paragraph (10) that incorporate by reference portions of 40 CFR, Part 70 are as promulgated and published in the Federal Register through October 18, 2016, unless otherwise specified.

Authority: O.C.G.A. Section 12-9-1 et seq., as amended.