

The following are the draft NSR reform rules for the State of Georgia as of 4/27/2004. Changes to the 12/31/2002 Federal rule are highlighted in yellow.

### 391-3-1-.01 Definitions. Amended.

(qqqq) Pollution control project (PCP) means any activity, set of work practices or project (including pollution prevention as defined under paragraph (b)(39) of 40 CFR, Part 52.21) undertaken at an existing emissions unit that reduces emissions of air pollutants from such unit. Such qualifying activities or projects can include the replacement or upgrade of an existing emissions control technology with a more effective unit. Other changes that may occur at the source are not considered part of the PCP if they are not necessary to reduce emissions through the PCP. The replacement or reconstruction of an entire existing emissions unit with a newer or different one does not qualify as a PCP. Projects listed in subparagraphs (qqqq)1. through 8. of this subparagraph are presumed to be environmentally beneficial pursuant to Georgia Air Quality Control Rule 391-3-1-.02(7)(b)20. The Director has the authority to rebut the presumption that projects listed in subparagraphs (qqqq)1. through 8. are environmentally beneficial if the Division determines that a particular proposed PCP project would be improperly applied or site-specific factors indicate that the project's application would not be environmentally beneficial. Projects not listed in these subparagraphs may qualify for a case-specific PCP exclusion pursuant to the requirements of paragraphs Georgia Air Quality Control Rule 391-3-1-.02(7)(b)20.

1. Conventional or advanced flue gas desulfurization or sorbent injection for control of sulfur dioxide (SO<sub>2</sub>).
2. Electrostatic precipitators, baghouses, high efficiency multiclones, or scrubbers for control of particulate matter or other pollutants.
3. Flue gas recirculation, low-NOX burners or combustors, selective non-catalytic reduction, selective catalytic reduction, low emission combustion (for IC engines), and oxidation/absorption catalyst for control of oxides of nitrogen (NOX) except those that increase the fuel burning capacity of the emissions unit by more than two percent or 2.0 MMBtu/hr, whichever is less.
4. Regenerative thermal oxidizers, catalytic oxidizers, condensers, thermal incinerators, hydrocarbon combustion flares, biofiltration, absorbers and adsorbers, and floating roofs for storage vessels for control of volatile organic compounds or hazardous air pollutants. For the purpose of this section, "hydrocarbon combustion flare" means either a flare used to comply with an applicable New Source Performance Standard (NSPS) or Maximum Available Control Technology (MACT) standard (including uses of flares during startup, shutdown, or malfunction permitted under such a standard), or a flare that serves to control emissions of waste streams comprised predominately of hydrocarbons and containing no more than 230 mg/dscm hydrogen sulfide. Regenerative thermal oxidizers, catalytic oxidizers, or thermal incinerators that control gases containing sulfur bearing compounds and which result in a significant emissions increase (as defined in 40 CFR, Part 52.21(b)(23)(i)) of

sulfur dioxide or sulfuric acid mist must be equipped with a control device that has a control efficiency for sulfur bearing compounds of at least ninety percent.

5. Activities or projects undertaken to accommodate switching (or partially switching) to an inherently less polluting fuel, to be limited to the following fuel switches:

(i) Switching from a heavier grade of fuel oil to a lighter fuel oil, or any grade of oil to 0.05 percent or lower sulfur diesel as long as the switch is from a higher sulfur content fuel oil or diesel fuel to a lower sulfur content fuel oil or diesel fuel;

(ii) Switching from coal, oil, or any solid fuel to natural gas, propane, or gasified coal;

(iii) Switching from coal to wood, excluding construction or demolition waste, chemical or pesticide treated wood, and other forms of "unclean" wood;

(iv) Switching from coal to No. 2 fuel oil (0.5 percent maximum sulfur content); and

(v) Switching from high sulfur coal to low sulfur coal (maximum 1.2 percent sulfur content).

6. Activities or projects undertaken to accommodate switching from the use of one ozone depleting substance (ODS) to the use of a substance with a lower or zero ozone depletion potential (ODP,) including changes to equipment needed to accommodate the activity or project, that meet the requirements of paragraphs (qqqq)6.(i) through (iii) of this subparagraph.

(i) The productive capacity of the equipment is not increased as a result of the activity or project.

(ii) The projected usage of the new substance is lower, on an ODP-weighted basis, than the baseline usage of the replaced ODS. To make this determination, follow the procedure in subparagraphs (qqqq)6.(ii)(I) through (IV) of this subparagraph.

(I) Determine the ODP of the substances by consulting 40 CFR Part 82, Subpart A, appendices A and B.

(II) Calculate the replaced ODP-weighted amount by multiplying the baseline actual usage (using the annualized average of any 24 consecutive months of usage within the past 10 years) by the ODP of the replaced ODS.

(III) Calculate the projected ODP-weighted amount by multiplying the projected actual usage of the new substance by its ODP.

(IV) If the value calculated in paragraph (qqqq)6.(ii)(II) of this section is more than the value calculated in paragraph (qqqq)6.(ii)(III) of this

section, then the projected use of the new substance is lower, on an ODP-weighted basis, than the baseline usage of the replaced ODS.

(iii) The activity or project undertaken does not involve switching from a non-VOC ODS to a VOC substance.

7. The combustion of total reduced sulfur compounds or hazardous air pollutants in a lime kiln or recovery furnace.

8. The combustion of volatile organic compounds or hazardous air pollutants in a boiler or process heater provided that such project does not result in a significant increase in sulfur dioxide or sulfuric acid mist emissions.

### **391-3-1-.02 Provisions. Amended.**

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(7) Prevention of Significant Deterioration of Air Quality.

(a) General Requirements.

1. The provisions of this section (7) shall apply to any source and the owner or operator of any source subject to any requirement under 40 Code of Federal Regulations (hereinafter, CFR), Part 52.21 as amended.

2. Definitions: For the purpose of this section, 40 CFR, Part 52.21 (b) as amended, is hereby incorporated by reference: with the following exceptions:

(i) In lieu of the definition of "Baseline Actual emissions" as specified in paragraph (b)(48) of 40 CFR, Part 52.21, the following shall apply:

"Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with 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.

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

- A. If emissions from startups, shutdowns, and/or malfunctions during the 24-month period selected by the owner or operator are not quantifiable and are therefore not included in the calculation of baseline actual emissions, emissions from startups, shutdowns, and/or malfunctions, respectively, shall not be included in the calculation of projected actual emissions (as defined in subparagraph (7)(a)2.(ii) of this rule).
- B. The owner or operator may elect to omit startups, shutdowns, and malfunctions from the calculation of baseline actual emissions. If the owner or operator elects to do so, then startups, shutdowns, and malfunctions shall also be omitted from the calculation of projected actual emissions (as defined in subparagraph (7)(a)2.(ii) of this rule).
- C. 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 subparagraph (7)(a)2.(ii) of this rule).
- II. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.
- III. 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.
- IV. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subparagraph (7)(a)2.(i)(1)II. of this rule.
- V. If any physical change(s) or change(s) in the method of operation have occurred at the existing electric utility steam generating unit subsequent to the 24-month period selected by the owner or operator that resulted in a reduction in potential to emit of the regulated NSR pollutant from the electric utility steam generating unit, the baseline actual emissions shall be adjusted downward proportional to the amount by which the potential to emit was reduced by such physical change(s) or change(s) in the method of operation.
- VI. The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such

limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the 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 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 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 section or by the reviewing authority for a permit required by a plan, whichever is earlier.

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

A. If emissions from startups, shutdowns, and/or malfunctions during the 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 emissions from startups, shutdowns, and/or malfunctions, respectively, shall not be included in the calculation of projected actual emissions (as defined in subparagraph (7)(a)2.(ii) of this rule).

B. The owner or operator may elect to omit startups, shutdowns, and malfunctions from the calculation of baseline actual emissions. If the owner or operator elects to do so, then startups, shutdowns, and malfunctions shall also be omitted from the calculation of projected actual emissions (as defined in subparagraph (7)(a)2.(ii) of this rule).

C. 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 subparagraph (7)(a)2.(ii) of this rule).

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

III. The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the 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 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 emissions must be adjusted for all MACT standards with a compliance date during or prior to 2002.**

IV. 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.

V. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subparagraph (7)(a)2.(i)(II)II or III. of this rule.

VI. If any physical change(s) or change(s) in the method of operation have occurred at the emissions unit subsequent to the 24-month period selected by the owner or operator that resulted in a reduction in potential to emit of the regulated NSR pollutant from the emissions unit, the baseline actual emissions shall be adjusted downward proportional to the amount by which the potential to emit was reduced by such physical change(s) or change(s) in the method of operation.

(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)).

(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 subparagraph (7)(a)2.(i)(I) of this rule, for other existing emissions units in accordance with the procedures contained in subparagraph (7)(a)2.(i)(II) of this rule, and for a new emissions unit in accordance with the procedures contained in subparagraph (7)(a)2.(i)(III) of this rule. For existing emission units, the baseline actual emissions shall be based on any 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 or 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.

(ii) In lieu of the definition of “Projected Actual emissions” as specified in paragraph (b)(41) of 40 CFR, Part 52.21, the following shall apply:

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

(II) In determining the projected actual emissions under this subparagraph (7)(a)2.(ii)(I) of this section (before beginning actual construction), the owner or operator of the major stationary source:

I. Shall consider all relevant information, including but not limited to, historical operational data, the company’s own representations, the company’s expected business activity and the company’s highest projections of business activity, the company’s filings with the State or Federal regulatory authorities, and compliance plans under the approved State Implementation Plan; and

II. Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions:

A. If projected emissions from startups, shutdowns, and/or malfunctions are not quantifiable and are therefore not included in the calculation of projected actual emissions, then

emissions from startups, shutdowns, and/or malfunctions, respectively, shall not be included in the calculation of baseline actual emissions (as defined in subparagraph (7)(a)2.(i) of this rule).

B. The owner or operator may elect to omit startups, shutdowns, and malfunctions from the calculation of projected actual emissions. If the owner or operator elects to do so, then startups, shutdowns, and malfunctions shall also be omitted from the calculation of baseline actual emissions (as defined in subparagraph (7)(a)2.(i) of this rule).

C. 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 subparagraph (7)(a)2.(i) of this rule).

D. 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 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

III. 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 subparagraph (7)(a)2.(i) of this rule and that are 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"):

A. If the project involves increasing the emissions unit's design capacity or 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 subparagraph (7)(b)15.(i)(I), documentation that demand growth emissions are emissions that could have and would have occurred if the change had not

taken place and are not related to the particular project, must have documentation supporting the portion of the emissions increase that are due to demand growth, and, following the change, must be able to track the emissions increase due to demand growth; or

IV. In lieu of using the method set out in subparagraphs (7)(a)2.(ii)(II) 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 40 CFR, Part 52.21.

(iii) The definition of "major stationary source" contained in 40 CFR, Part 52.21(b)(1), shall be modified as follows:

(I) paragraph (i)(b) shall read as follows: 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

*[editorial note: the "a" in the phrase "(b)(1)(i)(a)" shall remain underlined when the strikeout/underline is removed from this text.]*

(II) paragraph (ii) shall read as follows: A major stationary source that is major for volatile organic compounds or oxides of nitrogen shall be considered major for ozone.

(iv) The definition of "major modification" contained in 40 CFR, Part 52.21(b)(2), shall be modified as follows:

(I) paragraph (ii) shall read as follows: Any significant emissions increase (as defined in 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 oxides of nitrogen shall be considered significant for ozone.

(v) The definition of "significant" contained in 40 CFR, Part 52.21(b)(23), shall be modified as follows:

(I) In the table of "Pollutant and Emissions Rate", the row for Ozone shall read as follows: Ozone: 40 tpy of volatile organic compounds, or 40 tpy of oxides of nitrogen

(vi) The definition of "potential to emit" contained in 40 CFR, Part 52.21(b)(4), shall be modified as follows:

(I) The phrase "is federally enforceable" shall read "is federally enforceable or enforceable as a practical matter."

(vii) The definition of “allowable emissions” contained in 40 CFR, Part 52.21(b)(16), shall be modified as follows:

(I) The phrase “unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both” shall read, “unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both.”

(II) paragraph (iii) shall read as follows: The emissions rate specified as an enforceable permit condition, including those with a future compliance date.

(viii) The following shall be added to the definition of “major source baseline date” contained in 40 CFR, Part 52.21(b)(14):

(I) Baseline dates established prior to [insert effective date of EPD rule change] will remain in effect.

(ix) In lieu of paragraph (b)(33)(iii) of the definition of “Replacement unit” as specified in paragraph (b)(33) of 40 CFR, Part 52.21, the following shall apply:

The replacement does not alter the basic design parameters of the process unit. Basic design parameters are defined as follows:

(I) Except as provided in subparagraph (7)(a)2.(ix)(III) of this rule, 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 subparagraph (7)(a)2.(ix)(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.

(III) If the owner or operator believes the basic design parameter(s) in subparagraphs (7)(a)2.(ix)(I) and (II) of this rule is 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).

(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 subparagraphs (7)(a)2.(ix)(I) and (II) of this rule.

(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.

(x) In lieu of the definition specified in paragraph (b)(32) of 40 CFR, Part 52.21, "Pollution Control Project" shall be defined as specified in subparagraph 391-3-1-.01(qqqq) of these rules.

3. Applicability procedures: 40 CFR, Part 52.21(a), as amended, is hereby incorporated and adopted by reference.

4. The word "Administrator" as used in regulations adopted by reference in this paragraph shall mean the "Director" as defined in 391-3-1-.01(q).

(b) Prevention of Significant Deterioration Standards.

1. Ambient air increments: 40 CFR, Part 52.21(c), as amended, is hereby incorporated and adopted by reference.

2. Ambient air ceilings: 40 CFR, Part 52.21(d), as amended, is hereby incorporated and adopted by reference.

3. Restrictions on area classifications: 40 CFR, Part 52.21(e), as amended, is hereby incorporated and adopted by reference.

4. Redesignation: 40 CFR, Part 52.21(g), as amended, is hereby incorporated and adopted by reference.

45. Stack heights: 40 CFR, Part 52.21(h), as amended, is hereby incorporated and adopted by reference.

56. Review of major stationary sources and major modifications - source applicability and general exemptions: 40 CFR, Part 52.21(i), as amended, is hereby incorporated and adopted by reference.

- 67. Control technology review: 40 CFR, Part 52.21(j), as amended, is hereby incorporated and adopted by reference.
- 78. Source impact analysis: 40 CFR, Part 52.21(k), as amended, is hereby incorporated and adopted by reference.
- 89. Air quality models: 40 CFR, Part 52.21(l), as amended, is hereby incorporated and adopted by reference.
- 910. Air quality analysis: 40 CFR, Part 52.21(m), as amended, is hereby incorporated and adopted by reference.
- 4011. Source information: 40 CFR, Part 52.21(n), as amended, is hereby incorporated and adopted by reference.
- 4412. Additional impact analyses: 40 CFR, Part 52.21(o), as amended, is hereby incorporated and adopted by reference.
- 4213. Sources impacting federal class I areas - additional requirements: 40 CFR, Part 52.21(p), as amended, is hereby incorporated and adopted by reference.
- 4314. Public participation: 40 CFR, Part 52.21(q), as amended, is hereby incorporated and adopted by reference.
- 4415. Source obligation: 40 CFR, Part 52.21(r), as amended, is hereby incorporated and adopted by reference- with the following exceptions:

(i) In lieu of the provisions of paragraph (r)(6), the following shall apply:

The provisions of this subparagraph 15(i) apply to projects at an existing emissions unit at a major stationary source (other than projects at a Clean Unit or at a source with a PAL) that are subject to the Construction (SIP) Permit requirements of 391-3-1-.03(1) and the owner or operator elects to use the method specified in paragraphs (b)(41)(ii)(a) through (c) of 40 CFR 52.21 for calculating projected actual emissions.

*[editorial note: the "a" and "c" in the phrase "(b)(41)(ii)(a) through (c)" shall remain underlined when the strikeout/underline is removed from this text]*

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

I. A description of the project;

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

III. A description of the applicability test used to determine that the project is not a major modification for any regulated NSR

pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph (b)(41)(ii)(c) of 40 CFR 52.21 and an explanation for why such amount was excluded, and any netting calculations, if applicable.

*[editorial note: the "c" in the phrase "(b)(41)(ii)(c)" shall remain underlined when the strikeout/underline is removed from this text.]*

- IV. The records required in subparagraph (7)(b)15.(i)(I) of this rule 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 that regulated NSR pollutant at such emissions unit.
- (II) The owner or operator shall provide a copy of the information set out in subparagraph (7)(b)15.(i)(I) of this rule with the application for construction required under 391-3-1-.03(1).
- (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 subparagraph (7)(b)15.(i)(I)II of this rule; and calculate a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at such emissions unit. These records shall be retained for a period of 5 years past the end of each calendar year.
- (IV) If the owner or operator excluded demand growth emissions from the projected actual emission for a project, 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 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at such emissions unit. These records shall be retained for a period of 5 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 subparagraph (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.

~~45~~16. Innovative control technology: 40 CFR, Part 52.21(v), as amended, is hereby incorporated and adopted by reference.

~~46~~17. Permit rescission: 40 CFR, Part 52.21(w), as amended, is hereby incorporated and adopted by reference— with the following exceptions:

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(i) Paragraph (1) of 40 CFR, Part 52.21(w) shall read as follows: 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.

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(ii) Paragraph (3) of 40 CFR, Part 52.21(w) shall read as follows: The Director may grant an application for rescission if the application shows that this section, as it existed at the time the permit was issued, would not apply to the source or modification.

18. Clean Unit Test for emissions units that are subject to BACT or LAER: 40 CFR, Part 52.21(x), as amended, is hereby incorporated by reference.

19. Clean Unit provisions for emissions that achieve an emission limitation comparable to BACT: 40 CFR, Part 52.21(y), as amended, is hereby incorporated by reference with the following exceptions:

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(i) If the RACT/BACT/LAER Clearinghouse does not contain sufficient information for the owner or operator to make a determination in accordance with 40 CFR, Part 52.21(y)(i) that the control technology is comparable to BACT, the owner or operator must determine BACT in accordance with 40 CFR, Part 52.21(j)(3).

(ii) The “substantially-as-effective test” provision of 40 CFR, Part 52.21(y)(4)(ii) is not adopted.

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(iii) In lieu of the Procedures for designating emissions units as Clean Units specified in 40 CFR, Part 52.21(y)(7), the Director shall designate an emissions unit a Clean Unit by issuing a Title V Operating Permit or Permit modification in accordance with the requirements of paragraph 391-3-1-.03(10) of these rules. Such permit or permit modification shall also meet the requirements of 40 CFR, Part 52.21(y)(8).

20. PCP exclusion procedural requirements: 40 CFR, Part 52.21(z), as amended, is hereby incorporated by reference with the following exceptions:

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(i) All references to the definition of Pollution Control Project or PCP in 40 CFR, Part 52.21(b)(32) shall be replaced by the definition of “Pollution Control Project” contained in paragraph 391-3-1-.01(qqqq) of these rules.

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(ii) In lieu of the requirements specified in 40 CFR, Part 52.21(z)(1), the following shall apply:

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(I) For stationary sources that have been issued a Title V operating permit: Before an owner or operator begins actual construction of a PCP, the owner or operator must either submit an application for a minor permit modification in accordance with subparagraph 391-3-1-.03(10)(e)5.(i) of these rules if the project is listed in subparagraph 391-3-1-.01(qqqq)1. through 8. of these rules, or if the project is not listed in subparagraphs 391-3-1-.01(qqqq)1. through 8, then the owner or operator must submit an application for a significant permit modification in accordance with subparagraph 391-3-1-.03(10)(e)5.(iii) of these rules.

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(II) For stationary sources that have not been issued a Title V operating permit: Before an owner or operator begins actual construction of a PCP, the owner or operator must either submit an application for an operating (SIP) permit in accordance with paragraph 391-3-1-.03(2) of these rules if the project is listed in subparagraph 391-3-1-.01(qqqq)1. through 8. of these rules, or if the project is not listed in paragraphs 391-3-1-.01(qqqq)1. through 8, then the owner or operator must submit an application for a construction (SIP) permit and an operating (SIP) permit in accordance with paragraphs 391-3-1-.03(1), (2), and (7) of these rules.

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(III) Regardless of whether the owner or operator submits an application under subparagraph (7)(b)20.(ii)(I) or (II) of this rule, the project must meet the requirements in paragraph (z)(2) of 40 CFR, Part 52.21, and the permit application must contain the information required in paragraph (z)(3) of 40 CFR, Part 52.21.

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(iii) In lieu of the requirements of the environmentally beneficial analysis specified in 40 CFR, Part 52.21(z)(2)(i), the following shall apply:

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The environmental benefit from the emissions reductions of pollutants regulated under the Act must outweigh the environmental detriment of emissions increases in pollutants regulated under the Act. Factors to be considered in the environmentally beneficial analysis may include, but are not limited to: relative emission levels of pollutants in question, their relative increases and decreases, their predicted ambient levels, ambient air quality standards and guidelines, and toxicity of the pollutants. A statement that a technology from subparagraphs 391-3-1-.01(qqqq)1. through 8. of these rules is being used shall be presumed to satisfy this requirement. The Director has the authority to rebut such presumption in accordance with the provisions specified in 391-3-1-.01(qqqq).

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(iv) To meet the requirements of paragraph (z)(3) of 40 CFR, Part 52.21, the owner or operator shall submit a copy of the environmentally beneficial analysis required by subparagraph (7)(b)20.(iii) of this rule in lieu of the environmentally beneficial analysis required by paragraph (z)(2)(i) of 40 CFR, Part 52.21.

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(v) In lieu of the requirements of the requirements of 40 CFR, Part 52.21(z)(3)(v), the following shall apply:

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The owner or operator must demonstrate to the Director's satisfaction that the PCP will not have an adverse air quality impact (i.e., will not cause or contribute to a violation of the national ambient air quality standard or PSD increment, or adversely impact an air quality related value (such as visibility) that has been identified for a Federal Class I area by a Federal Land Manager.) The Division may approve the use of screening air quality modeling or the use of air quality modeling already on record with the Division. The Director may require that the demonstration meet any or all of the requirements of subparagraphs (7)(b)8. through (7)(b)13. of this rule. An air quality impact analysis is not required for any pollutant that will not experience a significant emissions increase as a result of the project.

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(vi) In addition to the requirements of paragraphs (z)(3)(i) through (iii) of 40 CFR, Part 52.21 and subparagraph 20.(v), the owner or operator shall also submit the following with the PCP permit application:

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(I) A demonstration that the project is environmentally beneficial in accordance with subparagraph (7)(b)20.(iii) of this rule. For projects not listed in subparagraphs 391-3-1-.01(qqqq)1. through 8. of these rules, this environmentally beneficial analysis shall address the specific factors listed in subparagraph (7)(b)20.(iii) plus any additional factors considered relevant by the applicant. The Division may request additional information from the owner or operator regarding such factors.

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(II) Any additional information as required by the Division.

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(viii) In lieu of the Notice process for listed projects of 40 CFR, Part 52.21(z)(4), the following shall apply:

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(I) For stationary sources that have been issued a Title V operating permit: For projects listed in subparagraph 391-3-1-.01(qqqq)1. through 8. of these rules, the owner or operator may begin actual construction of the project immediately after receipt of a letter from the Division acknowledging receipt of a minor modification application as specified in subparagraph 391-3-1-.03(10)(e)5.(i)(V)II of these rules. The owner or operator may not begin operation of the PCP until the Director issues a Title V operating permit or operating permit revision in accordance with 391-3-1-.03(10) of this rule.

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(II) For stationary sources that have not been issued a Title V operating permit: For projects listed in subparagraph 391-3-1-.01(qqqq)1. through 8. of these rules, the owner or operator may begin actual construction of the project immediately upon submission of an application for an operating (SIP) permit in accordance with paragraph 391-3-1-.03(2) of these rules. The owner or operator may not begin operation of the PCP until the Director issues an operating (SIP) permit.

(III) The owner or operator shall respond to any requests by the Division for additional information that the Division determines is necessary to evaluate the suitability of the project for the PCP exclusion.

(ix) In lieu of the Permit process for unlisted projects of 40 CFR, Part 52.21(z)(5), the following shall apply:

(I) For stationary sources that have been issued a Title V operating permit: Before an owner or operator may begin actual construction of a PCP project that is not listed in subparagraph 391-3-1-.01(qqqq)1. through 8. of these rules, the project must be approved through the issuance of a significant permit modification as specified in subparagraph 391-3-1-.03(10)(e)5.(iii) of these rules.

(II) For stationary sources that have not been issued a Title V operating permit: Before an owner or operator may begin actual construction of a PCP project that is not listed in subparagraph 391-3-1-.01(qqqq)1. through 8. of these rules, the project must be approved through the issuance of a Construction and Operating (SIP) permit as specified in paragraph 391-3-1-.03(1), (2), and (7) of these rules. Prior to issuance of an Construction and Operating (SIP) permit, the Division shall provide the public with notice of the proposed approval, with access to the environmentally beneficial analysis and the air quality analysis, and provide at least a 30-day period for the public and U.S. EPA to submit comments. The Division must address all material comments received by the end of the comment period before taking final action on the permit.

21. Actuals PALs: 40 CFR, Part 52.21(aa), as amended, is hereby incorporated by reference with the following exceptions:

(i) In addition to the general requirements for establishing PALs specified in 40 CFR 52.21(aa)(4), the owner or operator of a major stationary source with a PAL shall install BACT with respect to the PAL pollutant on any new or replacement major or reconstructed major emissions unit for which the construction is commenced during the PAL effective period. Such new major or reconstructed major unit is subject to the construction (SIP) Permit requirements of paragraph 391-3-1-.03(1) of these rules.

(ii) In lieu of the Public participation requirements for PALs of 40 CFR, Part 52.21(aa)(5), 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 these rules.

(iii) In addition to the provisions for setting the 10-year actual PAL level specified in 40 CFR, Part 52.21(aa)(6)(i), 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.

(iv) In lieu of the provisions of 40 CFR, Part 52.21(aa)(6)(ii), the following shall apply:

For newly constructed units (which do not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline emissions as specified in paragraph (aa)(6)(i) of 40 CFR, Part 52.21, the emissions must be added to the PAL level as follows:

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

(II) 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 the 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.

(III) For an emissions unit on which actual operation commenced greater than or equal to 48 months prior to submission of the 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.

(v) In addition to the contents of the PAL permit specified in 40 CFR, Part 52.21(aa)(7), the PAL permit must contain a requirement that emission calculation 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.

(vi) In lieu of the provisions of 40 CFR, Part 52.21(aa)(8)(ii)(c), the following shall apply:

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 these rules.

*[editorial note: the "c" in the phrase "Part 52.21(aa)(8)(ii)(c)" shall remain underlined when the strikeout/underline is removed from this text.]*

(vii) In lieu of the provisions for PAL adjustment in 40 CFR, Part 52.21(aa)(10)(iv), the following shall apply:

PAL adjustment. The Director shall set the PAL level for a renewed PAL permit in accordance with subparagraphs (7)(b)(21)(vii)(I) and (II) of this rule. However, in no case may any PAL level fail to comply with subparagraph (7)(b)(21)(vii)(III) of this rule.

(I) If the emissions level calculated in accordance with paragraph (aa)(6) of 40 CFR, Part 52.21 and subparagraphs (7)(b)21.(iii) and (iv) of this rule is equal to or greater than 80 percent of the PAL level, the Director may renew the PAL at the same level. If the emissions level calculated in accordance with (aa)(6) of 40 CFR, Part 52.21 and subparagraphs (7)(b)21.(iii) and (iv) of this rule 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) and subparagraphs (7)(b)21.(iii) and (iv) of this rule.

(II) 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.

(III) Notwithstanding sub paragraphs (7)(b)(21)(vii)(I) and (II) of this rule:

I. 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

II. 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 40 CFR 52.21 (increasing a PAL).

(viii) The following is added to the list of acceptable general monitoring approaches listed in 40 CFR, Part 52.21(aa)(12)(ii)

(I) Mass balance calculations for sulfur dioxide emissions from fuel combustion.

(ix) The mass balance calculation requirements of 40 CFR, Part 52.21(aa)(12)(iii) shall apply for mass balance calculations for sulfur dioxide emissions from fuel combustion.

(x) The 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 semi annual report as 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.

**391-3-1-.03 Permits. Amended.**

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(6) Exemptions.

Unless otherwise required by the Director, SIP permits shall not be required for the following source activities. These exemptions may not be used to avoid any emission limitations or standards of the Rules for Air Quality Control Chapter 391-3-1-.02, lower the potential to emit below “major source” thresholds or to avoid any “applicable requirement” (i.e., NSPS, NESHAP, etc.) as defined in 40 CFR Part 70.2.

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**(i) Construction Permit Exemption for Pollution Control Projects.**

Projects listed in subparagraph 391-3-1-.01(qqqq)1. through 8. of these rules are exempt from the requirement to obtain a construction (SIP) permit as specified in paragraph 391-3-1-.03(1) of this rule. The Director has the authority to rebut the presumption that projects listed in subparagraphs (qqqq)1. through 8. are environmentally beneficial in accordance with the criteria specified in subparagraph (qqqq) and thus exempt from the requirement to obtain a construction (SIP) permit. Owners and operators of projects exempt from the requirement to obtain a construction (SIP) permit under this subparagraph (6)(i) shall obtain an operating permit under either paragraph 391-3-1-.03(2) or 391-3-1-.03(10) of this rule, whichever is applicable, prior to commencement of operation of the project.