

**REVISIONS  
TO GEORGIA EPD'S PSD AND NONATTAINMENT NSR RULES  
391-3-1-.02(7) & 391-3-1-.03(8)(c)**

**EFFECTIVE: APRIL 19, 2006**

The Rules of the Department of Natural Resources, Paragraph 391-3-1-.02(7), Prevention of Significant Deterioration of Air Quality, and Paragraph 391-3-1-.03(8), Permit Requirements, Subparagraph (c) thereof, are hereby amended, added to, and revised, as hereinafter explicitly set forth. The following amendments were adopted by the Board of Natural Resources on March 29, 2006, were filed with the Secretary of State's Office on March 30, 2006, and became effective on April 19, 2006.

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**Rule 391-3-1-.02**, paragraph (7) thereof, relating to "**Prevention of Significant Deterioration of Air Quality**," is hereby amended by striking paragraph (7) in its entirety and inserting in lieu thereof a new paragraph (7) to read as follows:

- (7) Prevention of Significant Deterioration of Air Quality.
- (a) General Requirements.
  - 1. The provisions of paragraph (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 paragraph, 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. associated with startups, shutdowns, and malfunctions shall or may be excluded in accordance with the following subparagraphs A and B.

- A. 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 subparagraph (7)(a)2.(ii) of this rule).
  - B. 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, or for which there is inadequate information for adjusting this amount downward to exclude any non-compliant emissions as required by subparagraph (7)(a)2.(i)(I)II. of this rule.
  - V. 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 subparagraph (7)(a)2.(ix) 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.
  - 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 (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 NOx 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 NOx 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.
  - I. 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 A and B.
    - A. 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 subparagraph (7)(a)2.(ii) of this rule).
    - B. 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 (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 NOx 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 NOx 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, or for which there is inadequate information for adjusting this amount downward to exclude any non-compliant emissions as 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 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 subparagraph (7)(a)2.(ix) 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.
- (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 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 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 subparagraph (7)(a)2.(ii)(I) (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. However, fugitive emissions and/or emissions associated with startups, shutdowns, and malfunctions shall or may be excluded in accordance with the following subparagraphs A, B, and C.
    - A. 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 subparagraph (7)(a)2.(i) of this rule).

- B. 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).
  - C. 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) 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 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:
  - (l) 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
- (iv) The definition of “major modification” contained in 40 CFR, Part 52.21(b)(2), shall be modified as follows:
  - (l) paragraph (iii)(h), relating to the addition, replacement, or use of a PCP, is not adopted.
- (v) The definition of “potential to emit” contained in 40 CFR, Part 52.21(b)(4), shall be modified as follows:
  - (l) The phrase “is federally enforceable” shall read “is federally enforceable or enforceable as a practical matter.”
- (vi) The definition of “allowable emissions” contained in 40 CFR, Part 52.21(b)(16), shall be modified as follows:
  - (l) 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.”
  - (ll) paragraph (iii) shall read as follows: The emissions rate specified as an enforceable permit condition, including those with a future compliance date.
- (vii) The following shall be added to the definition of “major source baseline date” contained in 40 CFR, Part 52.21(b)(14):
  - (l) Baseline dates established prior to April 19, 2006, will remain in effect.
- (viii) 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:

- (l) Except as provided in subparagraph (7)(a)2.(viii)(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.(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.

(III) If the owner or operator believes the basic design parameter(s) in 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).

(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.(viii)(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.

(ix) The definition of "pollution control project," as specified in paragraph (b)(32) of 40 CFR, Part 52.21, is not adopted.

(x) The definition of "clean unit," as specified in paragraph (b)(42) of 40 CFR Part 52.21, is not adopted.

(xi) In the definition of "net emissions increase" as specified in paragraph (b)(3) of 40 CFR Part 52.21, paragraphs (iii)(b) and (vi)(d), related to increases and decreases at a clean unit, are not adopted.

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

- (i) The emission test for projects that involve clean units, as specified in 40 CFR, Part 52.21(a)(2)(iv)(e), is not adopted.
- (ii) In lieu of the “hybrid test for projects that involve multiple types of emissions units” as specified in paragraph (a)(2)(iv)(f) of 40 CFR, Part 52.21, the following shall apply:
  - (I) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs (a)(2)(iv)(c) and (d) of 40 CFR, Part 52.21(a)(iv) 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 40 CFR, Part 52.21).
- (iii) The PCP provision, as specified in 40 CFR, Part 52.21(a)(vi), is not adopted.

4. Except as noted below, 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). For the following provisions adopted by reference in this paragraph, the word “Administrator” shall mean the Administrator of the U.S. Environmental Protection Agency or, where allowable, his or her designee.

- (i) 40 CFR, Part 52.21(b)(17), definition of “Federally enforceable”
- (ii) 40 CFR, Part 52.21(b)(37)(i), first paragraph within the definition of “Repowering”
- (iii) 40 CFR, Part 52.21(b)(43), definition of “Prevention of Significant Deterioration (PSD)”
- (iv) 40 CFR, Part 52.21(b)(50), definition of “Regulated NSR pollutant”
- (v) 40 CFR, Part 52.21(b)(51), definition of “Reviewing Authority”
- (vi) 40 CFR, Part 52.21(b), Redesignation
- (vii) 40 CFR, Part 52.21(l), Air quality models
- (viii) 40 CFR, Part 52.21(p)(2), Federal Land Manager

(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.
5. Stack heights: 40 CFR, Part 52.21(h), as amended, is hereby incorporated and adopted by reference.
6. 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 with the following exception:
  - (i) Paragraph (i)(5)(ii) shall read as follows, "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 the pollutant is not listed in paragraph (i)(5)(i) of this section."
7. Control technology review: 40 CFR, Part 52.21(j), as amended, is hereby incorporated and adopted by reference.
8. Source impact analysis: 40 CFR, Part 52.21(k), as amended, is hereby incorporated and adopted by reference.
9. Air quality models: 40 CFR, Part 52.21(l), as amended, is hereby incorporated and adopted by reference.
10. Air quality analysis: 40 CFR, Part 52.21(m), as amended, is hereby incorporated and adopted by reference.
11. Source information: 40 CFR, Part 52.21(n), as amended, is hereby incorporated and adopted by reference with the following exception:
  - (i) The first sentence of paragraph (n)(1) shall read as follows, "With respect to a source or modification to which paragraphs (j), (l), (o) and (p) of this section apply, such information shall include:"
12. Additional impact analyses: 40 CFR, Part 52.21(o), as amended, is hereby incorporated and adopted by reference.
13. Sources impacting federal class I areas - additional requirements: 40 CFR, Part 52.21(p), as amended, is hereby incorporated and adopted by reference with the following exception:
  - (i) The beginning of paragraph (p)(8) should read "In the case of a permit issued pursuant to paragraph (p) (6) or (7) of this section..."
14. Public participation: 40 CFR, Part 52.21(q), as amended, is hereby incorporated and adopted by reference.
15. 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 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 these rules 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.

- (I) 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.
  - 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 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 (7)(b)15.(i)(I) of this rule with the application for construction required under paragraph 391-3-1-.03(1) of these rules.
- (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 five 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 of 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.
- (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 (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 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 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.

- 16. Innovative control technology: 40 CFR, Part 52.21(v), as amended, is hereby incorporated and adopted by reference.
- 17. Permit rescission: 40 CFR, Part 52.21(w), as amended, is hereby incorporated and adopted by reference with the following exceptions:
  - (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.
  - (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. [reserved]
- 19. [reserved]
- 20. [reserved]
- 21. Actuals PALs: 40 CFR, Part 52.21(aa), as amended, is hereby incorporated by reference with the following exceptions:
  - (i) [reserved]
  - (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 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 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 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.
- (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 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.
- (III) 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.
- (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 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.

- (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.

- (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 subparagraphs (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 40 CFR, Part 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 semiannual 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.

**Rule 391-3-1-.03**, paragraph (8) thereof relating to, “**Permit Requirements,**” subparagraph (c) thereof, is hereby amended by striking subparagraph (c) in its entirety and inserting in lieu thereof a new subparagraph (c) to read as follows:

(c) In addition to any other requirement under the Act or this Chapter (391-3-1), including the requirements of paragraph 391-3-1-.02(7), no permit to construct a new or modified major stationary source [to be located in any area of the State determined and designate 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. Where the provisions of this subparagraph 391-3-1-.03(8)(c) conflict with those specified in paragraph 391-3-1-.02(7), the provisions of subparagraph 391-3-1-.03(8)(c) apply.

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 region, from new or modified sources which are not major emitting facilities, and from the proposed source, 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 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 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. 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.

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;
- (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; and
  - (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. 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 paragraph (1) of this subsection.

- (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:
    - 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.

If offsets are obtained from one or more enforceable mechanism, items I through VI shall be submitted for each enforceable mechanism.

- (v) When offsets are obtained through the permanent shutdown of sources and/or source activities that are exempt from permitting in accordance with 391-3-1-.03(6), considered insignificant activities as specified in 391-1-.03(10), or listed as trivial activities in the State of Georgia Title V Major Source Operating Permit Application Instructions, the owner or operator shall provide documentation of the operation and shutdown of such source and/or source activities and calculations of actual emissions from such sources and/or source activities prior to the shutdown along with and in addition to the documentation required under subparagraph (iv).
- (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) and (v) shall be submitted to the Division at least 30 days prior to commencement of each new or modified emissions unit.

13. Additional Provisions for Ozone Non-Attainment Areas.

- (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.
- (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 Areas Contributing to the Ambient Air Level of Ozone in the Metropolitan Atlanta Ozone Non-Attainment Area.
- (i) In Bartow, Carroll, Hall, Newton, 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.
  - (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 40 CFR Part 51 Appendix S, Section II.A.

- (iii) In the case of any new or modified major stationary source located in these counties, the 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 volatile organic compounds or nitrogen oxides to total increased emissions of such pollutants 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 emission point is located.
  - (v) The installation of air pollution control devices or other emission reduction technologies at existing sources in these counties which are installed to effect compliance with any requirement of this Chapter 391-3-1 and which are determined by the Division to be environmentally beneficial, shall not be considered a physical change or change in the method of operation for the purpose of this subsection provided that offsets for any increases in volatile organic compounds or nitrogen oxides shall be obtained at a ratio of 1 to 1, the modification does not result in an increase in the capacity of the affected emission unit(s), and for sources which are not electrical generating units as defined under 391-3-1-.03(8)(c)(15)(vii), an increase in the utilization of the affected emission unit(s).
  - (vi) Any new major stationary source or modification to any existing major stationary source located in these counties for which a complete air quality permit application has been received by the Division on or before June 6, 1999, shall not be subject to the requirements of subsection (8)(c).
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, Chattooga, Clarke, Dawson, Floyd, Gordon, Haralson, Heard, Jackson, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Oconee, Pickens, Pike, Polk, Putnam, Troup and Upson 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.
  - (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 40 CFR Part 51 Appendix S, Section II.A.

- (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) The installation of air pollution control devices or other emission reduction technologies at existing electrical generating units in these counties which are installed to effect compliance with any requirement of this Chapter 391-3-1 and which are determined by the Division to be environmentally beneficial, shall not be considered a physical change or change in the method of operation provided that offsets for any increases in nitrogen oxides shall be obtained at a ratio of 1 to 1 and the modification does not result in an increase in the capacity of the affected emission unit(s).
- (vi) Any new electrical generating unit or modification to any existing electrical generating unit in these counties for which a complete air quality permit application has been received by the Division on or before June 6, 1999, shall not be subject to the requirements of subsection (8)(c).
- (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.