Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at https://rules.wyo.gov

Revised August 2023

1. General Information

a. Agency/Board Name* Environmental Quality		
b. Agency/Board Address 200 W. 17th Street, 3rd Floor	c. City Cheyenne	d. Zip Code 82002
e. Name of Agency Liaison Jon Chenchar	f. Agency Liaison Telephone Number 307-777-2068	
g. Agency Liaison Email Address jonathan.chenchar1@wyo.gov		
h. Date of Public Notice 10/02/2026	i. Comment Period End Date 11/16/2026	
j. Public Comment URL or Email Address: https://aq.wyomingdeq.commentinput.com		
k. Program Air Quality		
Amended Program Name (*if applicable*):		

* ☐ *By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.*

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular non-emergency rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these non-emergency regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

■ **No.** ☐ **Yes.** If the rules are new, please provide the Legislative Chapter Number and Year Enacted:	Chapter:	Year:

3. Rule Type and Information

For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.

a. Provide the Chapter Number, Title and Proposed Action for Each Chapter. *Please use the "Additional Rule Information" form to identify additional rule chapters.*

Chapter Number: 2	Chapter Name: Ambient Standards	☐ New ■ Amended ☐ Repealed	
	Amended Chapter Name (*if applicable*):		
Chapter Number: 3	Chapter Name: General Emission Standards	☐ New ■ Amended ☐ Repealed	
	Amended Chapter Name (*if applicable*):		
Chapter Number: 4	Chapter Name: State Performance Standards for Specific Existing Sources	☐ New ■ Amended ☐ Repealed	
	Amended Chapter Name (*if applicable*):		
Chapter Number: 5	Chapter Name: National Emission Standards	☐ New ■ Amended ☐ Repealed	
	Amended Chapter Name (*if applicable*):		
Chapter Number: 6	Chapter Name: Permitting Requirements	☐ New ■ Amended ☐ Repealed	
	Amended Chapter Name (*if applicable*):		
Chapter Number: 8	Chapter Name: Nonattainment Area Requirements	☐ New ■ Amended ☐ Repealed	
	Amended Chapter Name (*if applicable*):		

4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. ☐ **No.** ■ **Yes. Please complete the boxes below.**

Date:	Time:	City:	Location:
11/17/2026	9:00 a.m.	Cheyenne	Room 127, Hathaway Building; 2300 Capitol Ave., Cheyenne, WY 82002

b. What is the manner in which interested persons may present their views on the rulemaking action?

■ By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

■ At the following URL: https://aq.wyomingdeq.commentinput.com

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

■ To the Agency at the physical and/or email address listed in Section 1 above.

■ At the following URL: https://aq.wyomingdeq.commentinput.com

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

5. Federal Law Requirements

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements. ☐ **No.** ■ **Yes. Please complete the boxes below.**

Applicable Federal Law or Regulation Citation:

Indicate one (1):

■ The proposed rules meet, but do not exceed, minimum federal requirements.

☐ The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

■ To the Agency at the physical and/or email address listed in Section 1 above.

■ At the following URL: https://aq.wyomingdeq.commentinput.com

6. State Statutory Requirements

a. Indicate one (1):

■ The proposed rule change *MEETS* minimum substantive statutory requirements.

☐ The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. ■ The Agency has completed a takings assessment as required by W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

■ By contacting the Agency at the physical and/or email address listed in Section 1 above.

■ At the following URL: https://eqc.wyo.gov/Public/Dockets

7. Additional APA Provisions

a. Complete all that apply in regards to uniform rules:

■ These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

☐ The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

_____

(Provide chapter numbers)

☐ These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

_____

(Provide chapter numbers)

b. Checklist

■ The Statement of Principal Reasons is attached to this Notice and, in compliance with Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

☐ If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

8. Authorization

a. I certify that the foregoing information is correct.

Printed Name of Authorized Individual	Sarah Brown
Title of Authorized Individual	Air Quality Resource Management Program Manager
Date of Authorization	10/01/2026

Additional Rule Information

Revised June 2020

Include this page only if needed.

1. General Information

a. Agency/Board Name*	Environmental Quality		
b. Agency/Board Address	200 W. 17th Street, 3rd Floor	c. City: Cheyenne	d. Zip Code: 82002
e. Name of Agency Liaison	Jon Chenchar	f. Agency Liaison Telephone Number	307-777-2068
g. Agency Liaison Email Address	jonathan.chenchar@wyo.gov		
h. Program	Air Quality		
Amended Program Name (*if applicable*):			

2. Rule Type and Information, Cont.

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.

Chapter Number:	Chapter Name:	New	Amended	Repealed
11	National Acid Rain Program	☐	■	☐
	Amended Chapter Name (*if applicable*):			
14	Emission Trading Program Regulations	☐	■	☐
	Amended Chapter Name (*if applicable*):			
		☐	☐	☐
	Amended Chapter Name (*if applicable*):			
		☐	☐	☐
	Amended Chapter Name (*if applicable*):			
		☐	☐	☐
	Amended Chapter Name (*if applicable*):			
		☐	☐	☐
	Amended Chapter Name (*if applicable*):			
		☐	☐	☐
	Amended Chapter Name (*if applicable*):			
		☐	☐	☐
	Amended Chapter Name (*if applicable*):			
		☐	☐	☐
	Amended Chapter Name (*if applicable*):			

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF REVISIONS TO SECTION TWELVE OF CHAPTER TWO, SECTION NINE OF CHAPTER THREE, SECTION SIX OF CHAPTER FOUR, SECTION FOUR OF CHAPTER FIVE, SECTION FOURTEEN OF CHAPTER SIX, SECTIONS FOUR AND TEN OF CHAPTER EIGHT, SECTION TWO OF CHAPTER ELEVEN, AND SECTION FIVE OF CHAPTER FOURTEEN OF THE WYOMING AIR QUALITY STANDARDS AND REGULATIONS	)	STATEMENT OF PRINCIPAL REASONS FOR ADOPTION

1. The Environmental Quality Council, pursuant to the authority vested in it by the Wyoming Statutes 35-11-112 (a)(i), has revised, removed, or added the following chapters and sections to the Wyoming Air Quality Standards and Regulations:

   (A) Chapter 2, Ambient Standards, Section 12, Incorporation by Reference

   (B) Chapter 3, General Emission Standards, Section 9, Incorporation by Reference

   (C) Chapter 4, State Performance Standards for Specific Existing Sources, Section 6, Incorporation by Reference

   (D) Chapter 5, National Emission Standards, Section 2, New Source Performance Standards, and Section 4, Incorporation by Reference

   (E) Chapter 6, Permitting Requirements, Section 14, Incorporation by reference

   (F) Chapter 8, Nonattainment Area Regulations, Section 4, Transportation Conformity, and Section 10, Incorporation by Reference

   (G) Chapter 11, National Acid Rain Program, Section 2, Incorporation by Reference

   (H) Chapter 14, Emission Trading Program Regulations, Section 5, Incorporation by Reference

2. Section 35-11-202 (a) of the Environmental Quality Act states that the Administrator, after consultation with the Advisory Board, shall recommend to the Director such ambient air standards and regulations that may be necessary to prevent, abate, or control pollution.

   Section 35-11-202 (b) of the Act states that in recommending such standards the Administrator shall consider all facts and circumstances bearing upon the reasonableness of the emissions involved including:

   (A) The character and degree of injury to, or interference with the health and physical well being of the people, animals, wildlife and plant life;

   (B) The social and economic value of the source of pollution;

   (C) The priority of location in the area involved;

   (D) The technical practicability and economic reasonableness of reducing or eliminating the pollution; and

   (E) The social welfare and aesthetic value.

3. Chapter 2, Ambient Standards, Section 12, Incorporation by Reference, has been updated to incorporate by reference from the Code of Federal Regulations (CFR) as of July 1, 2026. The revisions to Section 12 involve changes to the State Implementation Plan (SIP).

4. Chapter 3, General Emission Standards, Section 9, Incorporation by Reference, has been updated to incorporate by reference from the CFR as of July 1, 2026.

5. Chapter 4, State Performance Standards for Specific Existing Sources, Section 6, Incorporation by Reference, has been updated to incorporate by reference from the CFR as of July 1, 2026.

6. Chapter 5, National Emission Standards, Section 2, New Source Performance Standards, has been updated to incorporate 40 CFR Part 60, subpart KKKKa, which pertains to standards of performance for stationary combustion turbines. Section 4, Incorporation by Reference, has been updated to incorporate by reference from the CFR as of July 1, 2026.

7. Chapter 6, Permitting Requirements, Section 14, Incorporation by reference, has been updated to incorporate by reference from the CFR as of July 1, 2026. The revisions to Section 14 involves changes to the SIP.

8. Chapter 8, Nonattainment Area Regulations, Section 4, Transportation Conformity, has been updated to align the WAQSR with the Code of Federal Regulations. Section 10, Incorporation by Reference, has been updated to incorporate by reference from the CFR as of July 1, 2026. The revisions to Sections 4 and 10 involve changes to the SIP.

9. Chapter 11, National Acid Rain Program, Section 2, Acid Rain Program, has been updated to incorporate by reference from the CFR as of July 1, 2026.

10. Chapter 14, Emission Trading Program Regulations, Section 5, Incorporation by Reference, has been updated to incorporate by reference from the CFR as of July 1, 2026.

The Council finds that these regulations are reasonable and necessary to accomplish the policy and purpose of the Act, as stated in W.S. 35-11-102, and that they have been promulgated in accordance with rulemaking provisions of the Wyoming Administrative Procedures Act.

Dated this_____day of_____, 2026.

_____
Hearing Examiner - ***Printed Name***
Wyoming Environmental Quality Council

_____
Hearing Examiner - ***Signed Name***
Wyoming Environmental Quality Council

Chapter 2
Ambient Standards

Section 1. Introduction to Ambient Standards.

(a) This Chapter establishes standards of ambient air quality necessary to protect public health and welfare. Such standards are subject to revision. The term "ambient air" refers to that portion of the atmosphere, external to buildings, to which the general public has access. Section 12 incorporates by reference all Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices.

Section 2. Ambient Standards for Particulate Matter.

(a) PM_{10}: The ambient air standards for PM_{10} particulate matter are:

(i) 150 micrograms per cubic meter — 24-hour average concentration with not more than one expected exceedance per year.

(A) Attainment of the 24-hour standard is determined in accordance with Appendix K of 40 CFR Part 50.

(ii) 50 micrograms per cubic meter — annual arithmetic mean.

(A) Attainment of the annual standard is determined in accordance with Appendix 1 of this chapter.

(iii) For the purpose of determining attainment of the standards, particulate matter shall be measured in the ambient air as PM_{10} (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers), by a reference method based on 40 CFR Part 50, Appendix J and designated in accordance with 40 CFR Part 53 or an equivalent or alternate method designated in accordance with 40 CFR Part 53.

(b) $PM_{2.5}$: The primary ambient air quality standards for $PM_{2.5}$ particulate matter are:

(i) 9.0 micrograms per cubic meter ($\mu g/m^3$) annual arithmetic mean concentration and 35 $\mu g/m^3$ 24-hour average concentration measured in the ambient air as $PM_{2.5}$ (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) by either:

(A) A reference method based on 40 CFR Part 50, Appendix L, and designated in accordance with 40 CFR Part 53; or

(B) An equivalent method designated in accordance with 40 CFR Part 53.

(ii) The primary annual $PM_{2.5}$ standard is met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR Part 50, Appendix N, is less than or equal to 9.0 $\mu g/m^3$.

(iii) The primary 24-hour $PM_{2.5}$ standard is met when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR Part 50, Appendix N, is less than or equal to 35 $\mu g/m^3$.

(c) $PM_{2.5}$: The secondary ambient air quality standards for $PM_{2.5}$ particulate matter are:

(i) 15 micrograms per cubic meter ($\mu g/m^3$) annual arithmetic mean concentration and;

(ii) 35 micrograms per cubic meter ($\mu g/m^3$) — 98th percentile 24-hour average concentration.

(iii) Attainment of the annual and 24-hour standards is determined in accordance with Appendix N of 40 CFR Part 50.

(iv) For the purpose of determining attainment of the standards, particulate matter shall be measured in the ambient air as $PM_{2.5}$ (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers), by a reference method based on 40 CFR Part 50, Appendix L and designated in accordance with 40 CFR Part 53, or an equivalent or alternate method designated in accordance with 40 CFR Part 53.

(d) Ambient air, for the area bounded by Townships 40 through 52 North, and Ranges 69 through 73 West, inclusive, of the Sixth Principal Meridian, Campbell and Converse Counties, in the Powder River Coal Basin, is defined as that portion of the atmosphere, external to buildings, to which the general public has access. For surface mining operations, the application of this definition will be limited to only those lands that are necessary to conduct mining operations as determined by the Administrator of the Wyoming Air Quality Division.

Section 3. Ambient Standards for Nitrogen Oxides.

(a) The level of the primary annual ambient air quality standard for oxides of nitrogen is 53 parts per billion (ppb, which is 1 part in 1,000,000,000), annual average concentration, measured in the ambient air as nitrogen dioxide.

(b) The level of the primary 1-hour ambient air quality standard for oxides of nitrogen is 100 ppb, 1-hour average concentration, measured in the ambient air as nitrogen dioxide.

(c) The level of the secondary ambient air quality standard for nitrogen dioxide is 0.053 parts per million (ppm, which is 1 part in 1,000,000), annual arithmetic mean concentration.

(d) The levels of the standards shall be measured by:

(i) A reference method based on 40 CFR Part 50, Appendix F; or

(ii) A Federal equivalent method (FEM) designated in accordance with 40 CFR Part 53.

(e) The annual primary standard is met when the annual average concentration in a calendar year is less than or equal to 53 ppb, as determined in accordance with Appendix S of 40 CFR Part 50 for the annual standard.

(f) The 1-hour primary standard is met when the three-year average of the annual 98th percentile of the daily maximum 1-hour average concentration is less than or equal to 100 ppb, as determined in accordance with Appendix S of 40 CFR Part 50 for the 1-hour standard.

(g) The secondary standard is attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm must be rounded up). To demonstrate attainment, an annual mean must be based upon hourly data that are at least 75 percent complete or upon data derived from manual methods that are at least 75 percent complete for the scheduled sampling days in each calendar quarter.

Section 4. Ambient Standards for Sulfur Oxides.

(a) The level of the primary 1-hour annual ambient air quality standard for oxides of sulfur is 75 parts per billion (ppb, which is 1 part in 1,000,000,000), measured in the ambient air as sulfur dioxide (SO_2).

(i) The 1-hour primary standard is met at an ambient air quality monitoring site when the three-year average of the annual (99th percentile) of the daily maximum 1-hour average concentrations is less than or equal to 75 ppb, as determined in accordance with Appendix T of 40 CFR Part 50.

(ii) The level of the standard shall be measured by a reference method based on 40 CFR Part 50, Appendix A or A-1, or by a Federal Equivalent Method (FEM) designated in accordance with 40 CFR Part 53.

(b) The level of the secondary 3-hour ambient air quality standard for oxides of sulfur is 0.5 parts per million (ppm, which is 1 part in 1,000,000), not to be exceeded more than once per calendar year. The 3-hour averages shall be determined from successive nonoverlapping 3-hour blocks starting at midnight each calendar day and shall be rounded to 1 decimal place (fractional parts equal to or greater than 0.05 ppm shall be rounded up).

(i) Sulfur oxides shall be measured in the ambient air as sulfur dioxide by the reference method described in Appendix A of 40 CFR Part 50 or by an equivalent method

designated in accordance with 40 CFR Part 53.

(ii) To demonstrate attainment, the second-highest 3-hour average must be based upon hourly data that are at least 75 percent complete in each calendar quarter. A 3-hour block average shall be considered valid only if all three hourly averages for the 3-hour period are available. If only one or two hourly averages are available, but the 3-hour average would exceed the level of the standard when zeros are substituted for the missing values, subject to the rounding rule of paragraph (b) of this section, then this shall be considered a valid 3-hour average. In all cases, the 3-hour block average shall be computed as the sum of the hourly averages divided by 3.

Section 5. Ambient Standards for Carbon Monoxide.

(a) The ambient air standard for carbon monoxide, measured by nondispersive infrared spectrometry, as described in 40 CFR Part 50, Appendix C, or by an equivalent method designated in accordance with 40 CFR Part 53, is:

(i) 10 milligrams per cubic meter (9 ppm) — maximum 8-hour concentration not to be exceeded more than once per year;

(ii) 40 milligrams per cubic meter (35 ppm) — maximum 1-hour concentration not to be exceeded more than once per year.

Section 6. Ambient Standards for Ozone.

(a) The level of the 8-hour primary and secondary ambient air quality standards for ozone (O_3) is 0.070 parts per million (ppm, which is 1 part in 1,000,000), daily maximum 8-hour average, measured by a reference method based on Appendix D to 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or an equivalent method designated in accordance with 40 CFR Part 53.

(b) The 8-hour primary and secondary standard ozone ambient air quality standards are met at an ambient air quality monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.070 ppm, as determined in accordance with 40 CFR Part 50, Appendix P.

Section 7. Ambient Standards for Hydrogen Sulfide.

(a) The ambient air standards for hydrogen sulfide, measured by the mercuric chloride method, methylene blue method, or by an equivalent method are:

(i) 70 micrograms H_2S per cubic meter, ½-hour average not to be exceeded more than 2 times per year;

(ii) 40 micrograms H_2S per cubic meter, ½-hour average not to be exceeded more than 2 times in any five consecutive days.

Section 8. Ambient Standards for Suspended Sulfates.

(a) The ambient air standards for suspended sulfate measured as a sulfation rate by the lead peroxide method are:

(i) 0.25 milligrams SO_3 per 100 square centimeters per day, maximum annual average;

(ii) 0.50 milligrams SO_3 per 100 square centimeters per day, maximum 30-day value.

Section 9. Ambient Standards for Fluorides.

(a) The ambient air standards for fluorides, measured as hydrogen fluoride through methods approved by the Administrator are:

(i) Statewide Standard:

Averaging Time	Maximum Allowable Concentration for Averaging Time
12 hours	3.0 $\mu g/m^3$
24 hours	1.8 $\mu g/m^3$
7 days	0.5 $\mu g/m^3$
30 days	0.4 $\mu g/m^3$

(ii) Regional Standard:

Averaging Time	Maximum Allowable Concentration for Averaging Time
12 hours	10.0 $\mu g/m^3$
24 hours	4.0 $\mu g/m^3$
7 days	1.8 $\mu g/m^3$
30 days	1.2 $\mu g/m^3$

The Regional Standard applies to the area encompassing the following lands in Sweetwater County, Wyoming:

T19N R104W, E1/2 Section 31 & Sections 32, 33, 34, 35, 36;
T19N R103W, Section 31;
T18N R105W, S1/2 Section 1 & Sections 12, 13, 24, 25, 35, 36;
T18N R104W, All Sections 1 through 36;
T18N R103W, Sections 6, 7, 18, 19, 30, 31, 32, 33;

T17N R105W, Sections 1, 2, 11, 12, 13, 14, 23, 24, 25, 26;
T17N R104W, Sections 1 through 30;
T17N R103W, Sections 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 28, 29, 30

(b) The standards for fluoride in forage for animal consumption measured as fluorine, dry weight basis, are:

Averaging Time	Maximum Allowable Concentration for Averaging Time
One year	30 ppm
60 days	60 ppm
30 days	80 ppm

The concentration of fluoride in forage shall be determined through sampling and analysis methods approved by the Administrator.

Section 10. Ambient Standards for Lead.

(a) The primary and secondary ambient air quality standards for lead (Pb) and its compounds are 0.15 micrograms per cubic meter, arithmetic mean concentration over a 3-month period, measured in the ambient air as Pb either by:

(i) A reference method based on 40 CFR Part 50, Appendix G (Reference Method for the Determination of Lead in Suspended Particulate Matter Collected From Ambient Air), and designated in accordance with 40 CFR Part 53 or;

(ii) An equivalent method designated in accordance with 40 CFR Part 53.

(b) The primary and secondary ambient air quality standards for Pb are met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with Appendix R (Interpretation of the National Ambient Air Quality Standards for Lead) of 40 CFR Part 50, is less than or equal to 0.15 micrograms per cubic meter.

Section 11. Ambient Standards for Odors.

(a) The ambient air standard for odors from any source shall be limited to:

(i) An odor emission at the property line which is undetectable at seven dilutions with odor free air as determined by a scentometer as manufactured by the Barnebey-Cheney Company or any other instrument, device, or technique designated by the Division as producing equivalent results. The occurrence of odors shall be measured so that at least two measurements can be made within a period of one hour, these determinations being separated by at least 15 minutes.

(b) No person shall operate or use any device, machine, equipment, or other

contrivance for the reduction of animal matter unless all gases, vapors and gas entrained effluents from such facility are incinerated at a temperature of not less than 1200 degrees Fahrenheit for a period not less than 0.3 second, or processed by condensation or such manner as determined by the Division to be equally or more effective for the purpose of controlling such emissions.

(i) A person incinerating or processing gases, vapors, or gas entrained effluents pursuant to this rule shall provide, properly install, and maintain in good working order and in operation, devices as specified by the Division for indicating temperature, pressure, or other operating conditions.

(ii) Effective odor control devices, systems, or measures shall be installed and operated such that no vent, exhaust pipe, blowoff pipe, or opening of any kind shall discharge into the outdoor air any odorous matter, vapors, gases, or dusts, or any combination thereof, which create odors in areas adjacent to the plant in excess of the limits described in Chapter 2, Section 11(a)(i) of this regulation.

(c) Odor producing materials shall be stored, transported, and handled in a manner that:

(i) Odors produced from such materials are confined and that accumulation of such materials resulting from spillage or other escape is prevented.

(d) Whenever dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof escape from a building used for processing animal matter in such manner and amount as to cause a violation of Subsection (a)(i) of this regulation, the Division may require that the building or buildings in which processing, handling, and storage are done be tightly closed and ventilated in such a manner that all airborne effluent materials leaving the building be treated by an effective means for removal or destruction of odorous matter before release to the open air.

Section 12. Incorporation by Reference.

(a) Code of Federal Regulations (CFR). All Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices, revised and published as of July 1, 2026, not including any later amendments, are incorporated by reference. Copies of the CFR are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: https://deq.wyoming.gov. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at: https://ecfr.gov.

APPENDIX 1
INTERPRETATION OF THE ANNUAL STATE AMBIENT AIR QUALITY STANDARD FOR PM_{10}

Section 1.0. General.

(a) This appendix explains the computations necessary for analyzing particulate matter data to determine attainment of the annual standard. For the primary standard, particulate matter is measured in the ambient air as PM_{10} (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers) by a reference method based on 40 CFR Part 50, Appendix J, and designated in accordance with 40 CFR Part 53, or by an equivalent method designated in accordance with 40 CFR Part 53. The required frequency of measurements is specified in 40 CFR Part 58.

(b) The terms used in this appendix are defined as follows:

"Average" refers to an arithmetic mean. The particulate matter standard is expressed in terms of the annual arithmetic mean.

"Daily value" for PM_{10} refers to the 24-hour average concentration of PM_{10} calculated or measured from midnight to midnight (local time).

"Expected annual value" is the number approached when the annual values from an increasing number of years are averaged, in the absence of long-term trends in emissions or meteorological conditions.

"Year" refers to a calendar year.

(c) Although the discussion in this appendix focuses on monitored data, the same principles apply to modeling data, subject to EPA modeling guidelines.

Section 2.0. Attainment Determinations.

Section 2.1. Annual Primary Standard.

(a) The annual primary standard is attained when the expected annual arithmetic mean PM_{10} concentration is less than or equal to the level of the standard. In the simplest case, the expected annual arithmetic mean is determined by averaging the annual arithmetic mean PM_{10} concentrations for the past 3 calendar years. Because of the potential for incomplete data and the possible seasonality in PM_{10} concentrations, the annual mean shall be calculated by averaging the four quarterly means of PM_{10} concentrations within the calendar year. The equations for calculating the annual arithmetic mean are given in Section 3.0 of this appendix. Situations in which 3 years of data are not available and possible adjustments for unusual events or trends are discussed in Sections 2.2 and 2.3 of this appendix. The expected annual arithmetic mean is rounded to the nearest 1 $\mu g/m^3$ before comparison with the annual standard (fractional values equal to or greater than 0.5 are to be rounded up).

Section 2.2. Data Requirements.

(a) A minimum of 75 percent of the scheduled PM_{10} samples per quarter are required.

(b) To demonstrate attainment of the annual standard at a monitoring site, the monitor must provide sufficient data to perform the required calculations of Section 3.0 of this appendix. The amount of data required varies with the sampling frequency, data capture rate and the number of years of record. In all cases, 3 years of representative monitoring data that meet the 75 percent criterion of the previous paragraph should be utilized, if available, and would suffice. More than 3 years may be considered, if all additional representative years of data meeting the 75 percent criterion are utilized. Data not meeting these criteria may also suffice to show attainment; however, such exceptions will have to be approved by the Air Quality Division Administrator.

(c) There are less stringent data requirements for showing that a monitor has failed an attainment test and thus has recorded a violation of the particulate matter standard. Although it is generally necessary to meet the minimum 75 percent data capture requirement per quarter to use the computational equations described in Section 3.0 of this appendix, this criterion does not apply when less data is sufficient to unambiguously establish nonattainment. The following examples illustrate how nonattainment can be demonstrated when a site fails to meet the completeness criteria. Nonattainment of the annual standard can be demonstrated on the basis of quarterly mean concentrations developed from observed data combined with one-half the minimum detectable concentration substituted for missing values. Expected annual values must exceed the levels allowed by the standard.

Section 2.3. Adjustment for Exceptional Events and Trends.

(a) An exceptional event is an uncontrollable event caused by natural sources of particulate matter or an event that is not expected to recur at a given location. Inclusion of such a value in the computation of exceedances or averages could result in inappropriate estimates of their respective expected annual values. To reduce the effect of unusual events, more than 3 years of representative data may be used. Alternatively, other techniques, such as the use of statistical models or the use of historical data could be considered so that the event may be discounted or weighted according to the likelihood that it will recur. The use of such techniques is subject to the approval of the Air Quality Division Administrator.

(b) In cases where long-term trends in emissions and air quality are evident, mathematical techniques should be applied to account for the trends to ensure that the expected annual values are not inappropriately biased by unrepresentative data. In the simplest case, if 3 years of data are available under stable emission conditions, this data should be used. In the event of a trend or shift in emission patterns, either the most recent representative year(s) could be used or statistical techniques or models could be used in conjunction with previous years of data to adjust for trends. The use of less than 3 years of data, and any adjustments are subject to the approval of the Air Quality Division Administrator.

Section 3.0. Computational Equations for Annual Standard.

Section 3.1. Calculation of the Annual Arithmetic Mean.

(a) An annual arithmetic mean value for PM_{10} is determined by averaging the quarterly means for the 4 calendar quarters of the year. The following equation is to be used for calculation of the mean for a calendar quarter:

Equation 1

$$\bar{x}_q = \left(1/n_q\right) \times \sum_{i=1}^{n_q} x_i$$

where:
$\bar{x}_q$ = the quarterly mean concentration for quarter q, q=1, 2, 3, or 4,
n_q = the number of samples in the quarter, and
x_i = the ith concentration value recorded in the quarter.

(b) The quarterly mean, expressed in $\mu g/m^3$, must be rounded to the nearest tenth (fractional values of 0.05 should be rounded up).

(c) The annual mean is calculated by using the following equation:

Equation 2

$$\bar{x} = \left(1/4\right) \times \sum_{q=1}^{4} \bar{x}_q$$

where:
$\bar{x}$ = the annual mean; and
$\bar{x}_q$ = the mean for calendar quarter q.

(d) The average of quarterly means must be rounded to the nearest tenth (fractional values of 0.05 should be rounded up).

(e) The use of quarterly averages to compute the annual average will not be necessary for monitoring or modeling data which results in a complete record, i.e., 365 days per year.

(f) The expected annual mean is estimated as the average of three or more annual means. This multi-year estimate, expressed in $\mu g/m^3$, shall be rounded to the nearest integer for

comparison with the annual standard (fractional values of 0.5 should be rounded up).

Example 1

Using Equation 1, the quarterly means are calculated for each calendar quarter. If the quarterly means are 52.4, 75.3, 82.1, and 63.2 μg/m^3, then the annual mean is:

$$\overline{X} = (1/4)x(52.4+75.3+82.1+63.2) = 68.25 \text{ or } 68.3.$$

Section 3.2. Adjustments for Non-scheduled Sampling Days.

(a) An adjustment in the calculation of the annual mean is needed if sampling is performed on days in addition to the days specified by the systematic sampling schedule. The quarterly averages would be calculated by using the following equation:

Equation 3

$$\bar{x}_q = \left(1/m_q\right) \times \sum_{j=1}^{m_q} \sum_{i=1}^{k_j} \left(x_{ij}/k_j\right)$$

where:

$\bar{x}_q$ = the quarterly mean concentration for quarter q, q=1, 2, 3, or 4;
x_{ij} = the ith concentration value recorded in stratum j;
k_j = the number of actual samples in stratum j; and
m_q = the number of strata with data in the quarter.

(b) If one sample value is recorded in each stratum, Equation 3 reduces to a simple arithmetic average of the observed values as described by Equation 1.

Example 2

(c) During one calendar quarter, 9 observations were recorded. These samples were distributed among 7 sampling strata, with 3 observations in one stratum. The concentrations of the 3 observations in the single stratum were 202, 242, and 180 μg/m^3. The remaining 6 observed concentrations were 55, 68, 73, 92, 120, and 155 μg/m^3. Applying the weighting factors specified in Equation 3, the quarterly mean is:

$$\overline{X}_q = (1/7)x[(1/3)x(202+242+180)+155+68+73+92+120+155] = 110.1$$

(d) Note that these values are rounded to the nearest 1 μg/m^3 for the calculation of means.

Chapter 3
General Emission Standards

Section 1. Introduction to General Emission Standards.

(a) This Chapter establishes limits on the quantity, rate, or concentration of emissions of air pollutants, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures. These general emission standards may be superseded by specific emission standards required in other chapters of the Wyoming Air Quality Standards and Regulations (WAQSR). Section 9 incorporates by reference all Code of Federal Regulations (CFRs), including their Appendices, cited in this Chapter and all American Society for Testing and Materials (ASTM) standards cited in this chapter.

Section 2. Emission Standards for Particulate Matter.

(a) Visible emissions of any contaminant discharged into the atmosphere from any single new source of emission whatsoever as determined by a qualified observer shall be limited to 20 percent opacity;

Provided, that:

(i) An owner or operator of an affected facility of the type described in Chapter 3, Section 2(h)(i) that has a heat input of not less than 2500 x 10^6 Btu per hour, may request the Wyoming Department of Environmental Quality, Air Quality Division Administrator (Administrator) to determine opacity of emissions from such affected facility during initial performance tests required by Chapter 3, Section 2(i) or during other performance tests thereafter.

(ii) Upon receipt from such owner or operator of the written report of the results of the performance tests required by WAQSR Chapter 6, Section 2(i) or later performance tests, the Administrator will make a finding concerning compliance with opacity and other applicable standards. If the Administrator finds that the affected facility is in compliance with all applicable standards for which performance tests are conducted but fails to meet an applicable opacity standard, he shall notify the owner or operator and advise him that he may petition the Administrator within ten days of receipt of notification to make appropriate adjustment to the opacity standard for such affected facility.

(iii) The Administrator will grant a petition upon a satisfactory demonstration by the owner or operator that the affected facility and associated air pollution control equipment was operated and maintained in a manner to minimize the opacity of emissions during the performance tests; that the performance tests were performed under the conditions prescribed by the Administrator; and that the affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard at or near the facility's designed capacity.

(iv) The Administrator will establish an opacity standard for such affected facility meeting the above requirements at a level at which the source will be able, as indicated by the performance and opacity tests, to meet the opacity standard at all times during which the source is meeting the mass or concentration emission standard and during which the facility and air pollution equipment is being operated properly and maintained to minimize the opacity of emissions and mass emission rate.

(b) Visible emissions of any contaminant discharged into the atmosphere from any single existing source of emission whatsoever as determined by a qualified observer shall be limited to 40 percent opacity. This limitation shall not apply to existing incinerators or wood waste burners.

(c) The emissions of visible air pollutants from gasoline engines shall be eliminated except for periods not exceeding five consecutive seconds.

(d) The emissions of visible air pollutants from stationary or portable diesel engines as determined by a qualified observer shall be limited to 30 percent opacity below 7500 feet elevation except for periods not exceeding ten consecutive seconds.

(e) Unless restricted by more stringent emission limits established elsewhere in the WAQSR or permit conditions, any single source may discharge for a period or periods aggregating not more than 6 minutes in any hour contaminants;

(i) Having an equivalent opacity of not more than 40 percent as determined by a qualified observer.

(f) Fugitive Dust. Sources operating within the State of Wyoming are required to control fugitive dust emissions. The following control measures or any equivalent method approved by the Administrator shall be considered appropriate for minimizing fugitive dust:

(i) Construction/Demolition Activities.

(A) Any person engaged in clearing or leveling of land, earthmoving, excavation, or movement of trucks or construction equipment over access haul roads or cleared land shall take steps to minimize fugitive dust from those activities. Such control measures may include frequent watering and/or chemical stabilization.

(B) Any person engaged in demolition activities including razing of homes, buildings, or other structures; or removing paving material from roads and/or parking areas shall take steps to minimize fugitive dust from such activities. Such control measures may include frequent watering and/or chemical stabilization.

(C) Any person who is engaged in construction or demolition activities which tracks earth or other materials onto paved streets shall promptly remove such material by water or other means.

(D) Any person engaged in sandblasting or similar operations shall take steps to minimize fugitive dust from such activities. Such control measures may include the installation and use of hoods, fans and fabric filters to enclose and vent the handling of dusty materials.

(ii) Handling and Transporting of Materials.

(A) Any person owning, operating or maintaining a new or existing material storage, handling and/or hauling operation shall minimize fugitive dust from such an operation. Control measures may include the application of asphalt, oil, water or suitable chemicals on unpaved roads, material stockpiles and other surfaces which can give rise to airborne dusts. Control measures for material handling may also include installation and use of hoods, fans and fabric filters to enclose and vent dusty materials.

(B) When transporting materials likely to give rise to airborne dust, open bodied trucks shall be covered when in motion.

(iii) Agricultural Practices.

(A) Any person engaged in agricultural practices, such as tilling of land and application of fertilizers shall operate in a manner to minimize fugitive dust emissions.

(g) The emission of particulate matter from any new source shall be limited as indicated in Table I. The emission of particulate matter from any existing source shall be limited as indicated in Table II.

(i) Process weight per hour means the total weight of all materials introduced into any specific process that may cause any emissions of particulate matter, including solid fuels, but excluding liquids or gases and used solely as fuels, and excluding air introduced for purposes of combustion, and excluding the weight of any water, water vapor or steam that may be introduced as part of the total materials. However, water contained as part of the normal input to a beet pulp dryer process shall be included as part of the process weight per hour. The process weight rate per hour referred to in this section shall be based upon the maximum design production rate of the equipment unless otherwise restricted by enforceable limits on potential to emit.

(ii) For a cyclical or batch operation, the process weight per hour is derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.

(iii) For a continuous operation, the process weight per hour is derived by dividing the process weight for a typical period of time.

(iv) Emission tests related to this regulation shall be measured in accordance

with the requirements of Chapter 3, Section 2(h)(iv).

TABLE I	
PROCESS WEIGHT RATE (lbs/hr)	**EMISSION RATE (lbs/hr)**
50	0.36
100	0.55
500	1.53
1,000	2.25
5,000	6.34
10,000	9.73
20,000	14.99
60,000	29.60
80,000	31.19
120,000	33.28
160,000	34.85
200,000	36.11
400,000	40.35
1,000,000	46.72

Interpolation of the data in Table I for the process weight rates up to 60,000 lbs/hr shall be accomplished by the use of the equation:

$$E = 3.59\ P^{0.62} \qquad P \leq 30 \text{ tons/hr}$$

and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lbs/hr shall be accomplished by use of the equation:

$$E = 17.31\ P^{0.16} \qquad P > 30 \text{ tons/hr}$$

Where: E = Emissions in pounds per hour.
P = Process weight rate in tons per hour.

TABLE II					
PROCESS WEIGHT RATE		**RATE OF EMISSION**	**PROCESS WEIGHT RATE**		**RATE OF EMISSION**
lb/hr	**tons/hr**	**lb/hr**	**lb/hr**	**tons/hr**	**lb/hr**
100	0.05	0.551	16,000	8	16.5
200	0.10	0.877	18,000	9	17.9
400	0.20	1.40	20,000	10	19.2
600	0.30	1.83	30,000	15	25.2
800	0.40	2.22	40,000	20	30.5
1,000	0.50	2.58	50,000	25	35.4

1,500	0.75	3.38	60,000	30	40.0
2,000	1.00	4.10	70,000	35	41.3
2,500	1.25	4.76	80,000	40	42.5
3,000	1.50	5.38	90,000	45	43.6
3,500	1.75	5.96	100,000	50	44.6
4,000	2.00	6.52	120,000	60	46.3
5,000	2.50	7.58	140,000	70	47.8
6,000	3.00	8.56	160,000	80	49.0
7,000	3.50	9.49	200,000	100	51.2
8,000	4.00	10.4	1,000,000	500	69.0
9,000	4.50	11.2	2,000,000	1,000	77.6
10,000	5.00	12.0	6,000,000	3,000	92.7
12,000	6.00	13.6			

Interpolation of the data in Table II for process weight rates up to 60,000 lb/hr shall be accomplished by use of the equation $E = 4.10\ P^{0.67}$, and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr shall be accomplished by use of the equation:

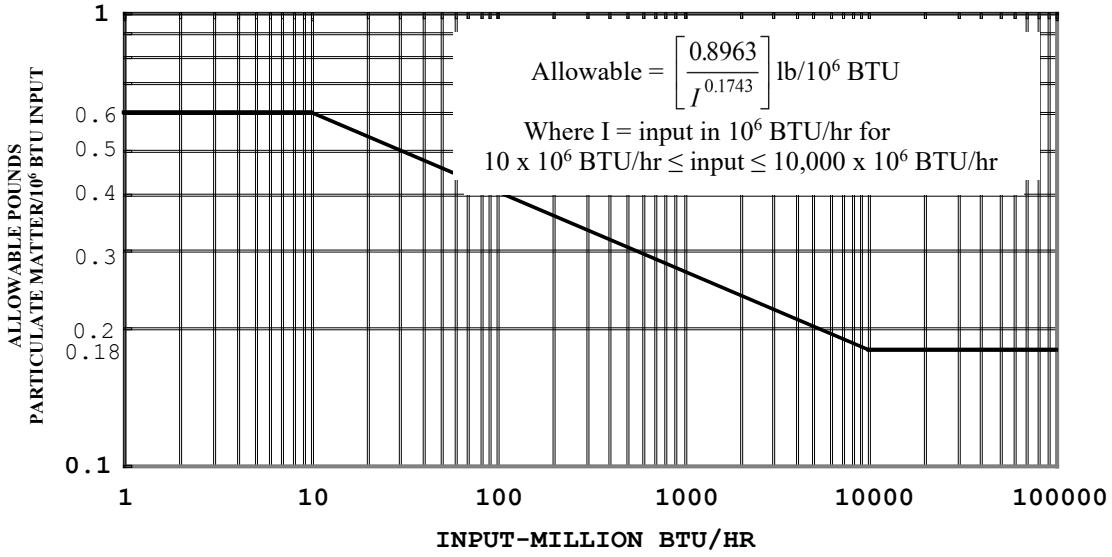
$E = 55.0\ P^{0.11} - 40$, where E = rate of emission in lb/hr

and P = process weight rate in tons/hr

Notwithstanding any other provision of Table II, any existing air contaminant source utilizing an air pollution control device having a collection efficiency of 99.5 percent or better, shall be deemed to be in compliance with all provisions of this regulation. Such efficiency shall be determined by a professional engineer licensed to practice in Wyoming and all expenses incurred in such determination shall be defrayed by the person responsible for the emission.

(h) The emissions of particulate matter from existing sources where fuel burning equipment is used for indirect heating shall be limited as shown in Figure 1 and shall be applicable to equipment burning solid fuel.

FIGURE 1 PARTICULATE EMISSION LIMITS



The emissions of particulate matter from new sources where fuel burning equipment is used for indirect heating shall be limited to 0.10 pound per million Btu input (0.18 grams per million calories) maximum 2-hour average. Except to the extent that an opacity standard has been established for an affected facility pursuant to Chapter 3, Section 2(a)(i) through (iv) hereof, the visible emissions of particulate matter from new sources where fuel burning equipment is used for indirect heating shall be no greater than 20 percent opacity, except that 40 percent opacity shall be permitted for not more than 2 minutes in any hour. This regulation is not applicable to residential or commercial fuel burning equipment with a heat input of less than 10 x 10^6 Btu/hr and used exclusively to produce building heat.

(i) This regulation applies to installations in which fuel is burned for the primary purpose of producing steam, hot water, or hot air or other indirect heating of liquids, gases, or solids, and, in the course of doing so, the products of combustion do not come into direct contact with process materials. Fuels include those such as coal, coke, lignite, fuel oil, and wood, but do not include refuse. When any products or byproducts of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

(ii) For purposes of this regulation, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or stacks, or the heat input value used shall be the equipment manufacturer or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel burning units at a plant or on a premise shall be used for determining the maximum allowable amount of particulate matter which may be emitted.

(iii) The amount of particulate matter emitted shall be measured by test Methods 1 through 5, Appendix A, 40 CFR part 60. The Administrator may require that variations to said methods be included or that entirely different methods be utilized if he

determines that such variations or different methods are necessary in order for the test data to reflect the actual emission rate of particulate matter.

(i) The emission of particulate matter from any incinerator shall be limited to:

(i) 0.20 pound per 100 pounds (2 grams per kilogram) of refuse charged as determined by a source test method approved by the Administrator for stationary sources as described in Section 2(h)(ii) of this chapter; and

(ii) A shade or density equal to but not greater than 20 percent opacity as determined by a qualified observer.

Section 3. Emission Standards for Nitrogen Oxides.

(a) The emission standards for nitrogen oxides, measured in accordance with Method 7 of 40 CFR Part 60, Appendix A-4, or by an equivalent method are:

(i) The emission of nitrogen oxides from new gas fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.20 pound per million Btu (0.36 grams per million gram calories) of heat input.

(ii) The emission of nitrogen oxides from existing gas fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.23 pound per million Btu (0.41 grams per million gram calories) of heat input.

(iii) The emission of nitrogen oxides from new oil fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.30 pounds per million Btu (0.54 grams per million gram calories) of heat input for units having a heat input of 1.0 million Btu per hour (250 million gram calories/hour) or greater and 0.60 pounds per million Btu (1.08 grams per million gram calories) of heat input for units having a heat input less than 1.0 million Btu per hour (250 million gram calories/hour).

(iv) The emission of nitrogen oxides from existing oil fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.46 pound per million Btu (0.83 grams per million gram calories) of heat input for units having a heat input of 250 million Btu per hour (62.5 billion gram calories/hour) or greater and 0.60 pound per million Btu (1.08 grams per million gram calories) of heat input for units having a heat input less than 250 million Btu per hour (62.5 billion gram calories/hour).

(v) The emission of nitrogen oxides from new nitric acid manufacturing plants, calculated as nitrogen dioxide shall be limited to 3 pounds per ton (1.5 kilograms per metric ton) of acid produced, maximum 2-hour average.

(vi) The emission of nitrogen oxides from new solid fossil fuel (except lignite) fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.70 pounds per million Btu (1.26 grams per million gram calories) heat input.

(vii) The emission of nitrogen oxides from existing solid fossil fuel (except lignite) fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.75 pounds per million Btu (1.35 grams per million gram calories) heat input.

Section 4. [Reserved].

Section 5. Emission Standards for Carbon Monoxide.

(a) The emission of carbon monoxide in stack gases from any stationary source shall be limited as may be necessary to prevent ambient standards described in WAQSR Chapter 2, Section 5 from being exceeded. Measures considered appropriate for such control are:

(i) Treatment of the waste gas stream by installation and use of a direct flame afterburner or other means which will achieve the required reduction as approved by the Administrator.

Section 6. Emission Standards for Volatile Organic Compounds.

(a) The term ***"volatile organic compounds" (VOCs)*** is defined in 40 CFR Part 51.100(s), 51.100(s)(1), and 51.100(s)(5), incorporated by reference under Section 9(a) of this chapter.

(b) VOC emissions shall be limited through the application of Best Available Control Technology (BACT) in accordance with Chapter 6, Section 2 of these regulations. Notwithstanding the above, whenever acceptable control of VOC emissions from vapor blowdown, emergency relief systems, or VOC emissions generated from oil and gas production, storage, exploration, development, or processing operations is specified pursuant to these regulations as a flare, the flare shall not exceed a 20 percent opacity emission standard. If acceptable control of VOC emissions is specified as a smokeless flare, the definition given in subsection (i) of this section applies.

(i) For the purposes of this section, ***"smokeless flare"*** means a flare designed for and operated with no visible emissions except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.

(ii) Each flare subject to Chapter 3, Section 6(b) must be equipped and operated with an automatic igniter or a continuous burning pilot which must be maintained in good working order.

Section 7. Emission Standards for Hydrogen Sulfide.

(a) Any exit process gas stream containing hydrogen sulfide which is discharged to the atmosphere from any source shall be vented, incinerated, flared or otherwise disposed of in such a manner that ambient sulfur dioxide and hydrogen sulfide standards described in Chapter 2, Sections 4 and 7 are not exceeded.

Section 8. Emission Standards of Asbestos for Demolition, Renovation, Manufacturing, Spraying and Fabricating.

(a) Applicability. The provisions of this section are applicable to those sources specified in paragraphs (g) through (n), (q), and (r).

(b) Definitions. All terms that are used in this section and are not defined below are given the same meaning as in Chapter 1, Section 3 of these regulations.

"Active waste disposal site" means any disposal site other than an inactive site.

"Adequately wet" means sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.

"Asbestos" means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite.

"Asbestos-containing waste materials" means mill tailings or any waste that contains commercial asbestos and is generated by a source subject to the provisions of this section. This term includes filters from control devices, friable asbestos waste material, and bags or other similar packaging contaminated with commercial asbestos. As applied to demolition and renovation operations, this term also includes regulated asbestos-containing material waste and materials contaminated with asbestos including disposable equipment and clothing.

"Asbestos tailings" means any solid waste that contains asbestos and is a product of asbestos mining or milling operations.

"Asbestos waste from control devices" means any waste material that contains asbestos and is collected by a pollution control device.

"Category I nonfriable asbestos-containing material (ACM)" means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in 40 CFR Part 763 Appendix E, Section 1, Polarized Light Microscopy.

"Category II nonfriable ACM" means any material, excluding Category I nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in 40 CFR Part 763 Appendix E, Section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

"Commercial asbestos" means any material containing asbestos that is extracted from ore and has value because of its asbestos content.

"Cutting" means to penetrate with a sharp-edged instrument and includes sawing, but does not include shearing, slicing, or punching.

"Demolition" means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.

"Emergency renovation operation" means a renovation operation that was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by nonroutine failures of equipment.

"Fabricating" means any processing (e.g., cutting, sawing, drilling) of a manufactured product that contains commercial asbestos, with the exception of processing at temporary sites (field fabricating) for the construction or restoration of facilities. In the case of friction products, fabricating includes bonding, debonding, grinding, sawing, drilling, or other similar operations performed as part of fabricating.

"Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For the purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this section is not excluded, regardless of its current use or function.

"Facility component" means any part of a facility including equipment.

"Friable asbestos material" means any material containing more than 1 percent asbestos as determined using the method specified in 40 CFR Part 763 Appendix E, Section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than 10 percent as determined by a method other than point counting by polarized light microscopy (PLM), verify the asbestos content by point counting using PLM.

"Fugitive source" means any source of emissions not controlled by an air pollution control device.

"Glove bag" means a sealed compartment with attached inner gloves used for the handling of asbestos-containing materials. Properly installed and used, glove bags provide a small work area enclosure typically used for small-scale asbestos stripping operations. Information on glove-bag installation, equipment and supplies, and work practices is contained in the Occupational Safety and Health Administration's (OSHA's) final rule on occupational exposure to asbestos (29 CFR § 1926.1101(g)(5)(ii)).

"Grinding" means to reduce to powder or small fragments and includes mechanical chipping or drilling.

"In poor condition" means the binding of the material is losing its integrity as indicated by peeling, cracking, or crumbling of the material.

"Inactive waste disposal site" means any disposal site or portion of it where additional asbestos-containing waste material has not been deposited within the past year.

"Installation" means any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator (or owner or operator under common control).

"Leak-tight" means that solids or liquids cannot escape or spill out. It also means dust-tight.

"Malfunction" means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner so that emissions of asbestos are increased. Failures of equipment shall not be considered malfunctions if they are caused in any way by poor maintenance, careless operation, or any other preventable upset conditions, equipment breakdown, or process failure.

"Manufacturing" means the combining of commercial asbestos--or, in the case of woven friction products, the combining of textiles containing commercial asbestos--with any other material(s), including commercial asbestos, and the processing of this combination into a product. Chlorine production is considered a part of manufacturing.

"Natural barrier" means a natural object that effectively precludes or deters access. Natural barriers include physical obstacles such as cliffs, lakes or other large bodies of water, deep and wide ravines, and mountains. Remoteness by itself is not a natural barrier.

"Nonfriable asbestos-containing material" means any material containing more than 1 percent asbestos as determined using the method specified in 40 CFR Part 763 Appendix E, Section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

"Nonscheduled renovation operation" means a renovation operation necessitated by the routine failure of equipment, which is expected to occur within a given period based on past operating experience, but for which an exact date cannot be predicted.

"Outside air" means the air outside buildings and structures, including, but not limited to, the air under a bridge or in an open air ferry dock.

"Owner or operator of a demolition or renovation activity" means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or

any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

"Particulate asbestos material" means finely divided particles of asbestos or material containing asbestos.

"Planned renovation operations" means a renovation operation, or a number of such operations, in which some regulated asbestos-containing material (RACM) will be removed or stripped within a given period of time and that can be predicted. Individual nonscheduled operations are included if a number of such operations can be predicted to occur during a given period of time based on operating experience.

"Regulated asbestos-containing material (RACM)" means: (a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this chapter.

"Remove" means to take out RACM or facility components that contain or are covered with RACM from any facility.

"Renovation" means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions.

"Resilient floor covering" means asbestos-containing floor tile, including asphalt and vinyl floor tile, and sheet vinyl floor covering containing more than 1 percent asbestos as determined using polarized light microscopy according to the method specified in 40 CFR Part 763 Appendix E, Section 1, Polarized Light Microscopy.

"Strip" means to take off RACM from any part of a facility or facility components.

"Structural member" means any load supporting member of a facility, such as beams and load supporting walls; or any nonload-supporting member, such as ceilings and nonload-supporting walls.

"Visible emissions" means any emissions, which are visually detectable without the aid of instruments, coming from RACM or asbestos-containing waste material, or from any asbestos milling, manufacturing, or fabricating operation. This does not include condensed, uncombined water vapor.

"Waste generator" means any owner or operator of a source covered by this section whose act or process produces asbestos-containing waste material.

"Waste shipment record" means the shipping document, required to be originated and signed by the waste generator, used to track and substantiate the disposal of asbestos-containing waste material.

"Working day" means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

(c) Units and Abbreviations: Used in this section are abbreviations and symbols of units of measure. These are defined as follows:

(i) System International (SI) Units of Measure:

g = gram
kg = kilogram
m = meter
m^2 = square meter
m^3 = cubic meter

(ii) Other Units of Measure:

C = Celsius (centigrade)
F = Fahrenheit
ft^2 = square feet
ft^3 = cubic feet
yd^2 = square yards
min = minute
oz = ounces

(d) Address: All requests, reports, applications, submittals, and other communications to the Administrator pursuant to this section shall be submitted to the following address:

(i) Wyoming Department of Environmental Quality, Air Quality Division, 200 West 17th St., Cheyenne, Wyoming 82002.

(e) [Reserved]

(f) Circumvention: No owner or operator shall build, erect, install, or use any article, machine, equipment, process, or method, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous dilutants to achieve compliance with a visible emissions standard, and the piecemeal carrying out of an operation to avoid coverage by a standard that applies only to operations larger than a specified size.

(g) Standard for Waste Disposal for Non-Facility Owners and Operators.

(i) All owners and operators conducting an asbestos abatement project, including an abatement project on a residential building, shall be responsible for complying with

Federal requirements and State standards for packaging, transportation, and delivery to an approved waste disposal facility as provided in paragraph (m) of this section. A non-facility is any other facility not defined under the definition of "facility" including residential buildings having four or fewer dwelling units.

(h) Standard for Manufacturing.

(i) Applicability. This paragraph applies to the following manufacturing operations using commercial asbestos.

(A) The manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials.

(B) The manufacture of cement products.

(C) The manufacture of fireproofing and insulating materials.

(D) The manufacture of friction products.

(E) The manufacture of paper, millboard, and felt.

(F) The manufacture of floor tile.

(G) The manufacture of paints, coatings, caulks, adhesives, and sealants.

(H) The manufacture of plastics and rubber materials.

(I) The manufacture of chlorine utilizing asbestos diaphragm technology.

(J) The manufacture of shotgun shell wads.

(K) The manufacture of asphalt concrete.

(ii) Standard. Each owner or operator of any of the manufacturing operations to which this paragraph applies shall either:

(A) Discharge no visible emissions to the outside air from these operations or from any building or structure in which they are conducted or from any fugitive sources; or

(B) Use the methods specified by paragraph (o) of this section to clean emissions containing asbestos material from these operations before they escape to, or are vented to, the outside air.

(C) Monitor each potential source of asbestos emissions from any part of the manufacturing facility, including air cleaning devices, process equipment, and buildings housing material processing and handling equipment, at least once each day during daylight hours for visible emissions to the outside air during periods of operation. The monitoring shall be by the visual observation of at least 15 seconds duration per source of emissions.

(D) Inspect each air cleaning device at least once each week for proper operation and for changes that signal potential for malfunctions, including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this paragraph, submit to the Administrator, and revise as necessary, a written maintenance plan to include, at a minimum, the following:

(I) Maintenance schedule.

(II) Recordkeeping plan.

(E) Maintain records of the results of visible emission monitoring and air cleaning device inspections using a format similar to that shown in Figures 1 and 2 and include the following:

(I) Date and time of each inspection.

(II) Presence or absence of visible emissions.

(III) Condition of fabric filters, including presence of any tears, holes and abrasions.

Figure 1. Record of Visible Emission Monitoring

Date of Inspection (MM/DD/YY)	Time of Inspection (a.m./p.m.)	Control Device or fugitive emission source designation or number	Visible Emissions Observed (yes/no) Corrective Action taken	Daily Operating Hours	Inspector's Initials

Figure 2. Air Pollution Control Device Inspection Checklist

1. Control Device Designation or Number:_____

2. Date of Inspection:	_____	_____	_____	_____
3. Time of Inspection:	_____	_____	_____	_____
4. Is Control Device Operating Properly (yes or no)	_____	_____	_____	_____
5. Abrasions in bags (yes or no)	_____	_____	_____	_____
6. Dust on Clean Side of bags (yes or no)	_____	_____	_____	_____
7. Other Signs of Malfunctions or Potential Mal-functions (yes or no)	_____	_____	_____	_____

8. Describe Other Malfunctions or Signs of Potential Malfunctions:

_____

9. Describe Corrective Action(s) Taken:

_____

10. Date and Time Corrective Action Taken:	_____	_____	_____	_____

11. Inspected By:

_____	_____	_____	_____
(Print/Type Name)	(Title)	(Signature)	(Date)
_____	_____	_____	_____
(Print/Type Name)	(Title)	(Signature)	(Date)

(IV) Presence of dust deposits on clean side of fabric filters.

(V) Brief description of corrective actions taken, including date and time.

(VI) Daily hours of operation for each air cleaning device.

(F) Furnish upon request, and make available at the affected facility during normal business hours for inspection by the Administrator, all records required under this paragraph.

(G) Retain a copy of all monitoring and inspection records for at least 2 years.

(H) Submit quarterly a copy of the visible emission monitoring records to the Administrator if visible emissions occurred during the report period. Quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter.

(i) Standard for Demolition and Renovation.

(i) Applicability. To determine which requirements of paragraphs (i)(i), (i)(ii), and (i)(iii) apply to the owner or operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos, including Category I and Category II nonfriable ACM. The requirements of paragraphs (i)(ii) and (i)(iii) apply to each owner or operator of a demolition or renovation activity, including the removal of RACM as follows:

(A) In a facility being demolished, all the requirements of paragraphs (i)(ii) and (i)(iii) apply, except as provided in paragraph (i)(i)(C), if the combined amount of RACM is:

(I) At least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components, or

(II) At least 1 cubic meter (35 cubic feet) off facility components where the length or area could not be measured previously.

(B) In a facility being demolished, only the notification requirements of paragraphs (i)(ii)(A), (B), (C)(I) and (IV), and (D)(I) through (D)(IX) and (XVI) apply, if the combined amount of RACM is:

(I) Less than 80 linear meters (260 linear feet) on pipes and less than 15 square meters (160 square feet) on other facility components, and

(II) Less than one cubic meter (35 cubic feet) off facility

components where the length or area could not be measured previously or there is no asbestos.

(C) If the facility is being demolished under an order of a State or local government agency, issued because the facility is structurally unsound and in danger of imminent collapse, only the requirements of paragraphs (i)(ii)(A), (i)(ii)(B), (i)(ii)(C)(III), (i)(ii)(D) (except (i)(ii)(D)(VIII)), (i)(ii)(E), and (i)(iii)(D) through (i)(iii)(I) apply.

(D) In a facility being renovated, including any individual nonscheduled renovation operation, all the requirements of paragraphs (i)(ii) and (i)(iii) apply if the combined amount of RACM to be stripped, removed, dislodged, cut, drilled, or similarly disturbed is:

(I) At least 80 linear meters (260 linear feet) on pipe or at least 15 square meters (160 square feet) on other facility components, or

(II) At least 1 cubic meter (35 cubic feet) off facility components where the length or area could not be measured previously.

(III) To determine whether paragraph (i)(i)(D) applies to planned renovation operations involving individual nonscheduled operations, predict the combined additive amount of RACM to be removed or stripped during a calendar year or January 1 through December 31.

(IV) To determine whether paragraph (i)(i)(D) applies to emergency renovation operations, estimate the combined amount of RACM to be removed or stripped as a result of the sudden, unexpected event that necessitated the renovation.

(E) In a facility being renovated, only the notification requirements of paragraphs (i)(ii)(A), (B), (C)(I) and (IV), and (D)(I) through (IX) and (XVI) apply, if the combined amount of RACM is:

(I) Less than 80 linear meters (260 linear feet) on pipes or less than 15 square meters (160 square feet) on other facility components, and

(II) Less than 1 cubic meter (35 cubic feet) off facility components where the length or area could not be measured previously or there is no asbestos.

(ii) Notification Requirements. Each owner or operator of a demolition or renovation activity to which this section applies shall:

(A) Provide the Administrator with written notice of intention to demolish or renovate. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

(B) Update notice, as necessary, including when the amount of asbestos affected changes by at least 20 percent.

(C) Postmark or deliver the notice as follows:

(I) At least 10 working days before asbestos stripping or removal work or any other activity begins (such as site preparation that would break up, dislodge or similarly disturb asbestos material), if the operation is described in paragraphs (i)(i)(A) and (D) (except (i)(i)(D)(III) and (i)(i)(D)(IV)). If the operation is as described in paragraph (i)(i)(B), notification is required 10 working days before demolition begins.

(II) At least 10 working days before the end of the calendar year preceding the year for which notice is being given for renovations described in paragraph (i)(i)(D)(III).

(III) As early as possible before, but not later than, the following working day if the operation is a demolition ordered according to paragraph (i)(i)(C) or, if the operation is a renovation described in paragraph (i)(i)(D)(IV).

(IV) For asbestos stripping or removal work in a demolition or renovation operation, described in paragraphs (i)(i)(A) and (D) (except (i)(i)(D)(III) and (i)(i)(D)(IV)), and for a demolition described in paragraph (i)(i)(B), that will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the Administrator as follows:

(1.) When the asbestos stripping or removal operation or demolition operation covered by this paragraph will begin after the date contained in the notice,

a. Notify the Administrator of the new start date by telephone as soon as possible before the original start date, and

b. Provide the Administrator with a written notice of the new start date as soon as possible before, and no later than, the original start date. Delivery of the updated notice by the U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

(2.) When the asbestos stripping or removal operation or demolition operation covered by this paragraph will begin on a date earlier than the original start date,

a. Provide the Administrator with a written notice of the new start date at least 10 working days before asbestos stripping or removal work begins.

b. For demolitions covered by paragraph (i)(i)(B), provide the Administrator written notice of a new start date at least 10 working days before commencement of demolition. Delivery of updated notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

(3.) In no event shall an operation covered by this paragraph begin on a date other than the date contained in the written notice of the new start date.

(D) Include the following in the notice:

(I) An indication of whether the notice is the original or a revised notification.

(II) Name, address, and telephone number of both the facility owner and operator and the asbestos removal contractor owner or operator.

(III) Type of operation: demolition or renovation.

(IV) Description of the facility or affected part of the facility including the size (square meters [square feet] and number of floors), age, and present and prior use of the facility.

(V) Procedure, including analytical methods, employed to detect the presence of RACM and Category I and Category II nonfriable ACM.

(VI) Estimate of the approximate amount of RACM to be removed from the facility in terms of length of pipe in linear meters (linear feet), surface area in square meters (square feet) on other facility components, or volume in cubic meters (cubic feet) if off the facility components. Also estimate the approximate amount of Category I and Category II nonfriable ACM in the affected part of the facility that will not be removed before demolition.

(VII) Location and street address (including building number or name and floor or room number, if appropriate), city, county, and state, or the facility being demolished or renovated.

(VIII) Scheduled starting and completion dates of asbestos removal work (or any other activity, such as site preparation that would break up, dislodge, or similarly disturb asbestos material) in a demolition or renovation; planned renovation operations involving individual nonscheduled operations shall only include the beginning and ending dates of the report period as described in paragraph (i)(i)(D)(III).

(IX) Scheduled starting and completion dates of demolition or renovation.

(X) Description of planned demolition or renovation work to be performed and method(s) to be employed, including demolition or renovation techniques to be used and description of affected facility components.

(XI) Description of work practices and engineering controls to be used to comply with the requirements of this section, including asbestos removal and waste-handling emission control procedures.

(XII) Name and location of the waste disposal site where the asbestos-containing waste material will be deposited.

(XIII) A certification that the individuals supervising and performing the stripping and removal described by this notification have received the training required by paragraph (i)(iii)(H).

(XIV) For facilities described in paragraph (i)(i)(C), the name, title, and authority of the State or local government representative who has ordered the demolition, the date that the order was issued, and the date on which the demolition was ordered to begin. A copy of the order shall be attached to the notification.

(XV) For emergency renovations described in paragraph (b)(xii) of this section, the date and hour that the emergency occurred, a description of the sudden, unexpected event, and an explanation of how the event caused an unsafe condition, or would cause equipment damage or an unreasonable financial burden.

(XVI) Description of procedures to be followed in the event that unexpected RACM is found or Category II nonfriable ACM becomes crumbled, pulverized, or reduced to powder.

(XVII) Name, address, and telephone number of the waste transporter.

(E) The information required in paragraph (i)(ii)(D) must be reported using a form similar to that shown in Figure 3.

(iii) Procedures for Asbestos Emission Control. Each owner or operator of a demolition or renovation activity to whom this paragraph applies, according to paragraph (i)(i), shall comply with the following procedures:

(A) Remove all RACM from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal. RACM need not be removed before demolition if:

(I) It is Category I nonfriable ACM that is not in poor condition and is not friable.

(II) It is on a facility component that is encased in concrete or other similarly hard material and is adequately wet whenever exposed during demolition; or

(III) It was not accessible for testing and was, therefore, not discovered until after demolition began and, as a result of the demolition, the material cannot be safely removed. If not removed for safety reasons, the exposed RACM and any asbestos-contaminated debris must be treated as asbestos-containing waste material and adequately wet at all times until disposed of.

(IV) They are Category II nonfriable ACM and the probability is low that the materials will become crumbled, pulverized, or reduced to powder during demolition.

(B) When a facility component that contains, is covered with, or is coated with RACM is being taken out of the facility as a unit or in sections:

(I) Adequately wet all RACM exposed during cutting or disjointing operations; and

(II) Carefully lower each unit or section to the floor and to ground level, not dropping, throwing, sliding, or otherwise damaging or disturbing the RACM.

(C) When RACM is stripped from a facility component while it remains in place in the facility, adequately wet the RACM during the stripping operation.

(I) In renovation operations, wetting is not required if:

(1.) The owner or operator has obtained prior written approval from the Administrator based on a written application that wetting to comply with this paragraph would unavoidably damage equipment or present a safety hazard; and

Figure 3
STATE OF WYOMING
NOTIFICATION OF DEMOLITION AND RENOVATION

I. FACILITY DESCRIPTION (INCLUDE BUILDING NAME, NUMBER, AND FLOOR OR ROOM NUMBER)			
BLDG NAME:			
ADDRESS:			
CITY:	STATE”	CONTACT:	
SITE DESCRIPTION (type of material being removed)			
II. FACILITY INFORMATION (IDENTIFY OWNER, REMOVAL CONTRACTOR, AND OTHER OPERATOR)			
OWNER NAME:			
ADDRESS:			
CITY:	STATE:	ZIP:	
CONTACT:			TEL:
REMOVAL CONTRACTOR:			
ADDRESS:			
CITY:	STATE:	ZIP:	
CONTACT:			TEL:
OTHER OPERATOR:			
ADDRESS:			
CITY:	STATE:	ZIP:	
CONTACT:			TEL:
BUILDING SIZE:	NUM OF FLOORS:	AGE IN YEARS:	
PRESENT USE:	PRIOR USE:		
III. TYPE OF OPERATION (D=DEMO O=ORDERED DEMO R=RENOVATION E=EMER. RENOVATION):			
IV. IS ASBESTOS PRESENT? (YES/NO)			
V. PROCEDURE, INCLUDING ANALYTICAL METHOD, IF APPROPRIATE, USED TO DETECT THE PRESENCE OF ASBESTOS MATERIAL:			
VI. SCHEDULED DATES ASBESTOS REMOVAL (MM/DD/YY) START:		COMPLETE:	
VII. SCHEDULED DATES DEMO/RENOVATION (MM/DD/YY) START:		COMPLETE:	
VIII. SCHEDULED WORK HOURS: START:		COMPLETE:	

IX. APPROXIMATE AMOUNT OF ASBESTOS, INCLUDING: 1. REGULATED ACM TO BE REMOVED 2. CATEGORY I ACM NOT REMOVED 3. CATEGORY II ACM NOT REMOVED	RACM TO BE REMOVED	NONFRIABLE ASBESTOS MATERIAL TO BE REMOVED		NONFRIABLE ASBESTOS MATERIAL NOT TO BE REMOVED	
		CAT I	CAT II	CAT I	CAT II
PIPES					
SURFACE AREA					
VOL. RACM OFF FACILITY COMPONENT					

X. DESCRIPTION OF PLANNED DEMOLITION OR RENOVATION WORK, AND METHOD(S) TO BE USED:
XI. DESCRIPTION OF WORK PRACTICES AND ENGINEERING CONTROLS TO BE USED TO PREVENT EMISSIONS OF ASBESTOS AT THE DEMOLITION AND RENOVATION SITE:

Figure 3. NOTIFICATION OF DEMOLITION AND RENOVATION (continued)

XII. TYPE OF NOTIFICATION (O=ORIGINAL R=REVISED C=CANCELED):		WPR Notice?
XIII. WASTE TRANSPORTER #1		
NAME:		
ADDRESS:		
CITY:	STATE:	ZIP:
CONTACT PERSON:		TELEPHONE:
WASTE TRANSPORTER #2		
NAME:		
ADDRESS:		
CITY:	STATE:	ZIP:
CONTACT PERSON:		TELEPHONE:
XIV. WASTE DISPOSAL SITE		
NAME:		
LOCATION:		
CITY:	STATE:	ZIP:
TELEPHONE:	CONTACT PERSON:	
XV. IF DEMOLITION ORDERED BY A GOVERNMENT AGENCY, PLEASE IDENTIFY THE AGENCY BELOW:		
NAME:	TITLE:	
AUTHORITY:		
DATE OF ORDER (MM/DD/YY):	DATE ORDERED TO BEGIN (MM/DD/YY):	
XVI. FOR EMERGENCY RENOVATIONS		
DATE AND HOUR OF EMERGENCY (MM/DD/YY):		
DESCRIPTION OF THE SUDDEN, UNEXPECTED EVENT:		
EXPLANATION OF HOW THE EVENT CAUSED UNSAFE CONDITIONS OR WOULD CAUSE EQUIPMENT DAMAGE OR AN UNREASONABLE FINANCIAL BURDEN:		
XVII. DESCRIPTION OF PROCEDURES TO BE FOLLOWED IN THE EVENT THAT UNEXPECTED ASBESTOS IS FOUND OR PREVIOUSLY NONFRIABLE ASBESTOS MATERIAL BECOMES CRUMBLED, PULVERIZED, OR REDUCED TO POWDER.		
XVIII. I CERTIFY THAT AN INDIVIDUAL TRAINED IN THE PROVISIONS OF THIS REGULATION (40 CFR PART 61, SUBPART M) WILL BE ON-SITE DURING THE DEMOLITION OR RENOVATION AND EVIDENCE THAT THE REQUIRED TRAINING HAS BEEN ACCOMPLISHED BY THIS PERSON WILL BE AVAILABLE FOR INSPECTION DURING NORMAL BUSINESS HOURS (REQUIRED 1 YEAR AFTER PROMULGATION). _____ _____ (SIGNATURE OF OWNER/OPERATOR) (DATE)		
XIX. I CERTIFY THAT THE ABOVE INFORMATION IS CORRECT. _____ _____ (SIGNATURE OF OWNER/OPERATOR) (DATE)		

(2.) The owner or operator uses one of the following emission control methods:

a. A local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the stripping and removal of the asbestos materials. The system must exhibit no visible emissions to the outside air or be designed and operated in accordance with the requirements in paragraph (o).

b. A glove-bag system designed and operated to contain the particulate asbestos material produced by the stripping of the asbestos materials.

c. Leak-tight wrapping to contain all RACM prior to dismantlement.

(II) In renovation operations where wetting would result in equipment damage or a safety hazard, and the methods allowed in paragraph (i)(iii)(C)(I) cannot be used, another method may be used after obtaining written approval from the Administrator based upon a determination that it is equivalent to wetting in controlling emissions or to the methods allowed in paragraph (i)(iii)(C)(I).

(III) A copy of the Administrator's written approval shall be kept at the worksite and made available for inspection.

(D) After a facility component covered with, coated with, or containing RACM has been taken out of the facility as a unit or in sections pursuant to paragraph (i)(iii)(B), it shall be stripped or contained in leak-tight wrapping, except as described in paragraph (i)(iii)(E). If stripped, either:

(I) Adequately wet the RACM during stripping; or

(II) Use a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the stripping. The system must exhibit no visible emissions to the outside air or be designed and operated in accordance with the requirements in paragraph (o).

(E) For large facility components such as reactor vessels, large tanks, and steam generators, but not beams (which must be handled in accordance with paragraphs (i)(iii)(B), (C), and (D)), the RACM is not required to be stripped if the following requirements are met:

(I) The component is removed, transported, stored, disposed of, or reused without disturbing or damaging the RACM.

(II) The component is encased in a leak-tight wrapping.

(III) The leak-tight wrapping is labeled according to paragraphs

(m)(iv) during all loading and unloading operations and during storage.

(F) For all RACM, including material that has been removed or stripped:

(I) Adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal in accordance with paragraph (m).

(II) Carefully lower the material to the ground and floor, not dropping, throwing, sliding, or otherwise damaging or disturbing the material.

(III) Transport the material to the ground via leak-tight chutes or containers if it has been removed or stripped more than 50 feet above ground level and was not removed as units or in sections.

(IV) RACM contained in leak-tight wrapping that has been removed in accordance with paragraphs (i)(iii)(D) and (i)(iii)(C)(I)(2.)c. need not be wetted.

(G) When the temperature at the point of wetting is below 0°C (32°F):

(I) The owner or operator need not comply with paragraph (i)(iii)(B)(I) and the wetting provisions of paragraph (i)(iii)(C).

(II) The owner or operator shall remove facility components containing, coated with, or covered with RACM as units or in sections to the maximum extent possible.

(III) During periods when wetting operations are suspended due to freezing temperatures, the owner or operator must record the temperature in the area containing the facility components at the beginning, middle, and end of each workday and keep daily temperature records available for inspection by the Administrator during normal business hours at the demolition or renovation site. The owner or operator shall retain the temperature records for at least 2 years.

(H) No RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this section unless the individuals supervising and performing the operation have been trained in the provisions of this regulation and the means of complying with them. Asbestos School Hazard Abatement Reauthorization Act (ASHARA) training will be acceptable to meet this requirement. Every year, the individuals supervising and performing asbestos operations shall receive refresher training in the provisions of this regulation. The required training shall include as a minimum: applicability; notifications; material identification; control procedures for removals including, at least, wetting, local exhaust ventilation, negative pressure enclosures, glove-bag procedures, and High Efficiency Particulate Air (HEPA) filters; waste disposal work practices; reporting and recordkeeping; and asbestos hazards and worker protection. Evidence that the required training has been completed shall be posted and made

available for inspection by the Administrator at the demolition or renovation site.

(I) For facilities described in paragraph (i)(i)(C), adequately wet the portion of the facility that contains RACM during the wrecking operation.

(J) If a facility is demolished by intentional burning, all RACM including Category I and Category II nonfriable ACM must be removed in accordance with the NESHAP before burning.

(j) Standard for Spraying.

The owner or operator of an operation in which asbestos-containing materials are spray applied shall comply with the following requirements:

(i) For spray-on application on buildings, structures, pipes, and conduits do not use material containing more than 1 percent asbestos as determined using the method specified in 40 CFR Part 763 Appendix E, Section 1, Polarized Light Microscopy, except as provided in paragraph (j)(iii).

(ii) For spray-on application of materials that contain more than 1 percent asbestos as determined using the method specified in 40 CFR Part 763 Appendix E, Section 1, Polarized Light Microscopy, on equipment and machinery, except as provided in paragraph (j)(iii):

(A) Notify the Administrator at least 20 days before beginning the spraying operation. Include the following information in the notice:

(I) Name and address of owner or operator.

(II) Location of spraying operation.

(III) Procedures to be followed to meet the requirements of paragraph (j).

(B) Discharge no visible emissions to the outside air from spray-on application of the asbestos-containing material or use the methods specified by paragraph (o) to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

(iii) The requirements of paragraphs (j)(i) and (j)(ii) do not apply to the spray-on application of materials where the asbestos fibers in the materials are encapsulated with a bituminous or resinous binder during spraying and the materials are not friable after drying.

(k) Standard for Fabricating.

(i) Applicability. This section applies to the following fabrication operations

using commercial asbestos:

(A) The fabrication of cement building products.

(B) The fabrication of friction products, except those operations that primarily install asbestos friction materials on motor vehicles.

(C) The fabrication of cement on silicate board for ventilation hoods; ovens; electrical panels; laboratory furniture, bulkheads, partitions, and ceilings for marine construction; and flow control devices for the molten metal industry.

(ii) Standard. Each owner or operator of any of the fabricating operations to which this section applies shall either:

(A) Discharge no visible emissions to the outside air from any of the operations or from any building or structure in which they are conducted or from any other fugitive sources; or

(B) Use the methods specified by paragraph (o) to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

(C) Monitor each potential source of asbestos emissions from any part of the fabricating facility, including air cleaning devices, process equipment, and buildings that house equipment for material processing and handling, at least once a day, during daylight hours, for visible emissions to the outside air during periods of operation. The monitoring shall be by visual observation of at least 15 seconds duration per source of emission.

(D) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in the filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this paragraph, submit to the Administrator, and revise as necessary, a written maintenance plan to include, at a minimum, the following:

(I) Maintenance schedule.

(II) Recordkeeping plan.

(E) Maintain records of the results of visible emission monitoring and air cleaning device inspections using a format similar to that shown in Figures 1 and 2 and include the following:

(I) Date and time of each inspection.

(II) Presence or absence of visible emissions.

(III) Condition of fabric filters, including presence of any tears, holes, and abrasions.

(IV) Presence of dust deposits on clean side of fabric filters.

(V) Brief description of corrective actions taken, including date and time.

(VI) Daily hours of operation for each air cleaning device.

(F) Furnish upon request and make available at the affected facility during normal business hours for inspection by the Administrator, all records required under this paragraph.

(G) Retain a copy of all monitoring and inspection records for at least 2 years.

(H) Submit quarterly a copy of the visible emission monitoring records to the Administrator if visible emissions occurred during the report period. Quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter.

(l) Standard for Insulating Materials. No owner or operator of a facility may install or reinstall on a facility component any insulating materials that contain commercial asbestos if the materials are either molded and friable or wet-applied and friable after drying. The provisions of this paragraph do not apply to spray-applied insulating materials regulated under paragraph (j).

(m) Standard for Waste Disposal for Non-facilities, Manufacturing, Demolition, Renovation, Spraying, and Fabricating. Each owner or operator of any source covered under the provisions of paragraphs (g), (h), (i), (j), or (k) shall meet the requirements of the Wyoming Department of Environmental Quality, Solid & Hazardous Waste Division, or, at a minimum, the requirements of the following:

(i) Discharge no visible emissions to the outside air during the collection, processing (including incineration), packaging, or transporting of any asbestos-containing waste material generated by the source, or use one of the emission control and waste treatment methods specified in paragraphs (m)(i)(A) through (D).

(A) Adequately wet asbestos-containing waste material as follows:

(I) Mix control device asbestos waste to form a slurry; adequately wet other asbestos-containing waste material; and

(II) Discharge no visible emissions to the outside air from collection, mixing, wetting, and handling operations, or use the methods specified by paragraph

(o) to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air; and

(III) After wetting, seal all asbestos-containing waste material in leak-tight containers while wet; or, for materials that will not fit into containers without additional breaking, put materials into leak-tight wrapping; and

(IV) Label the containers or wrapped materials specified in paragraph (m)(i)(A)(III) using warning labels specified by Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 CFR § 1910.1001(j)(4) or § 1926.1101(k)(8). The labels shall be printed in letters of sufficient size and contrast so as to be readily visible and legible.

(V) For asbestos-containing waste material to be transported off the facility site, label containers or wrapped materials with the name of the waste generator and the location at which the waste was generated.

(B) Process asbestos-containing waste material into nonfriable forms as follows:

(I) Form all asbestos-containing waste material into nonfriable pellets or other shapes;

(II) Discharge no visible emissions to the outside air from collection and processing operations, including incineration, or use the method specified by paragraph (o) to clean emissions containing particulate asbestos materials before they escape to, or are vented to, the outside air.

(C) For facilities demolished where the RACM is not removed prior to demolition, adequately wet asbestos-containing waste material at all times after demolition and keep wet during handling and loading for transport to a disposal site. Asbestos-containing waste materials covered by this paragraph do not have to be sealed in leak-tight containers or wrapping but may be transported and disposed of in bulk.

(D) Use an alternative emission control and waste treatment method that has received prior written approval by the Administrator.

(E) As applied to demolition and renovation, the requirements of paragraph (m)(i) do not apply to Category I and Category II nonfriable ACM waste that did not become crumbled, pulverized, or reduced to powder.

(ii) All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at:

(A) A waste disposal site operated in accordance with the provisions of paragraph (q), or

(B) An EPA-approved site that converts RACM and asbestos-containing waste material into nonasbestos (asbestos-free) material according to the provisions of paragraph (r).

(C) The requirements of paragraph (m)(ii) do not apply to Category I nonfriable ACM that is not RACM.

(iii) Mark vehicles used to transport asbestos-containing waste material during the loading and unloading of waste so that the signs are visible. The markings must:

(A) Be displayed in such a manner and location that a person can easily read the legend.

(B) Conform to the requirements for 51 cm X 36 cm (20 in X 14 in) upright format signs specified in 29 CFR § 1910.145(d)(2) and this paragraph; and

(C) Display the following legend in the lower panel with letter sizes and styles of a visibility at least equal to those specified below.

Legend
DANGER
ASBESTOS DUST HAZARD
CANCER AND LUNG DISEASE HAZARD
Authorized Personnel Only

Notation
2.5 cm (1 inch) Sans Serif, Gothic or Block
2.5 cm (1 inch) Sans Serif, Gothic or Block
1.9 cm (3/4 inch) Sans Serif, Gothic or Block
14 Point Gothic

Spacing between any two lines must be at least equal to the height of the upper of the two lines.

(iv) For All Asbestos-Containing Waste Material Transported Off the Facility Site:

(A) Maintain waste shipment records, using a form similar to that shown in Figure 4, and include the following information:

(I) The name and telephone number of the disposal site operator.

(II) The name and physical site location of the disposal site.

(III) The date transported.

(IV) The name, address, and telephone number of the transporter(s).

Figure 4. Waste Shipment Record

GENERATOR		
1. Work site name and mailing address	Owner's name	Owner's telephone no.
2. Operator's name and address		Operator's telephone no.
3. Waste disposal site (WDS) name, mailing address, and physical site location		WDS telephone no.
4. Name and address of responsible agency		
5. Description of materials	6. Containers No. Type	7. Total quantity m^3 (yd^3)
8. Special handling instructions and additional information		
9. OPERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and government regulations.		
Printed/typed name & title	Signature	Month Day Year
Transporter		
10. Transporter 1 (Acknowledgment of receipt of materials)		
Printed/typed name & title Address and telephone no.	Signature	Month Day Year
11. Transporter 2 (Acknowledgment of receipt of materials)		
Printed/typed name & title Address and telephone no.	Signature	Month Day Year
Disposal Site		
12. Discrepancy indication space		
13. Waste disposal site owner or operator: Certification of receipt of asbestos materials covered by this manifest except as noted in item 12.		
Printed/typed name & title	Signature	Month Day Year

(V) A certification that the contents of this consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and governmental regulations.

(B) Provide a copy of the waste shipment record, described in paragraph (m)(iv)(A), to the disposal site owners or operators at the same time as the asbestos-containing waste material is delivered to the disposal site.

(C) For waste shipments where a copy of the waste shipment record, signed by the owner or operator of the designated disposal site, is not received by the waste generator within 35 days of the date the waste was accepted by the initial transporter, contact the transporter and/or the owner or operator of the designated disposal site to determine the status of the waste shipment.

(D) Report in writing to the Wyoming Department of Environmental Quality, Air Quality Division, if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter. Include in the report the following information:

(I) A copy of the waste shipment record for which a confirmation of delivery was not received, and

(II) A cover letter signed by the waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts.

(E) Retain a copy of all waste shipment records, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site, for at least 2 years.

(v) Furnish upon request, and make available for inspection by the Administrator, all records required under this section.

(n) Standard for Inactive Waste Disposal Sites for Manufacturing and Fabricating Operations. Each owner or operator of any inactive waste disposal site that was operated by sources covered under paragraphs (h) or (k) and received deposits of asbestos-containing waste material generated by the sources, shall meet the requirements of the Wyoming Department of Environmental Quality, Solid & Hazardous Waste Division, or at a minimum:

(i) Comply With One of the Following:

(A) Either discharge no visible emissions to the outside air from an inactive waste disposal site subject to the paragraph; or

(B) Cover the asbestos-containing waste material with at least 15

centimeters (6 inches) of compacted nonasbestos-containing material, and grow and maintain a cover of vegetation on the area adequate to prevent exposure of the asbestos-containing waste material. In desert areas where vegetation would be difficult to maintain, at least 8 additional centimeters (3 inches) of well-graded, nonasbestos crushed rock may be placed on top of the final cover instead of vegetation and maintained to prevent emissions; or

(C) Cover the asbestos-containing waste material with at least 60 centimeters (2 feet) of compacted nonasbestos-containing material, and maintain it to prevent exposure of the asbestos-containing waste; or

(D) For inactive waste disposal sites for asbestos tailings, a resinous or petroleum-based dust suppression agent that effectively binds dust to control surface air emissions may be used instead of the methods in paragraphs (n)(i)(A), (B), and (C). Use the agent in the manner and frequency recommended for the particular asbestos tailings by the manufacturer of the dust suppression agent to achieve and maintain dust control. Obtain prior written approval of the Administrator to use other equally effective dust suppression agents. For purposes of this paragraph, any used, spent, or other waste oil is not considered a dust suppression agent.

(ii) Unless a natural barrier adequately deters access by the general public, install and maintain warning signs and fencing as follows, or comply with paragraph (n)(i)(B) or (n)(i)(C).

(A) Display warning signs at all entrances and at intervals of 100 m (328 feet) or less along the property line of the site or along the perimeter of the sections of the site where asbestos-containing waste material was deposited. The warning signs must:

(I) Be posted in such a manner and location that a person can easily read the legend;

(II) Conform to the requirements of 51 cm x 36 cm (20” x 14”) upright format signs specified in 29 CFR § 1910.145(d)(4) and this paragraph; and

(III) Display the following legend in the lower panel with letter sizes and styles of a visibility at least equal to those specified in this paragraph.

Legend
ASBESTOS WASTE DISPOSAL SITE
DO NOT CREATE DUST
Breathing Asbestos is Hazardous to Your Health

Notation
2.5 cm (1 inch) Sans Serif, Gothic or Block
1.9 cm (3/4 inch) Sans Serif, Gothic or Block

Spacing between any two lines must be at least equal to the height of the upper of the two lines.

(B) Fence the perimeter of the site in a manner adequate to deter access by the general public.

(C) When requesting a determination on whether a natural barrier adequately deters public access, supply information enabling the Administrator to determine whether a fence or a natural barrier adequately deters access by the general public.

(iii) The owner or operator may use an alternative control method that has received prior approval of the Administrator rather than comply with the requirements of paragraph (n)(i) or (n)(ii).

(iv) Notify the Administrator in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site under this section, and follow the procedures specified in the notification. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the Administrator at least 10 working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice:

(A) Scheduled starting and completion dates.

(B) Reason for disturbing the waste.

(C) Procedures to be used to control emissions during the excavation, storage, transport, and ultimate disposal of the excavated asbestos-containing waste material. If deemed necessary, the Administrator may require changes in the emission control procedures to be used.

(D) Location of any temporary storage site and the final disposal site.

(v) Within 60 days of a site becoming inactive and after the effective date of this subpart, record, in accordance with State law, a notation on the deed to the facility property and on any other instrument that would normally be examined during a title search; this notation will in perpetuity notify any potential purchaser of the property that:

(A) The land has been used for the disposal of asbestos-containing waste material;

(B) The survey plot and record of the location and quantity of asbestos-containing waste disposed of within the disposal site required in paragraph (q)(vi) have been filed with the Administrator; and

(C) The site is subject to WAQSR Chapter 3, Section 8 and to 40 CFR Part 61, Subpart M.

(o) Air Cleaning.

(i) The owner or operator who uses air cleaning, as specified in paragraphs (h)(ii)(B), (i)(iii)(C)(I)(2.)a., (i)(iii)(D)(II), (j)(ii)(B), (k)(ii)(B), (m)(i)(A)(II), (m)(i)(B)(II) and (r)(v) shall:

(A) Use fabric filter collection devices, except as noted in paragraph (o)(ii), doing all of the following:

(I) Ensuring that the airflow permeability, as determined by ASTM Method D737-04 Test Method for Air Permeability of Textile Fabrics, does not exceed 9 $m^3/min/m^2$ (30 $ft^3/min/ft^2$) for woven fabrics or 11 $m^3/min/m^2$ (35 $ft^3/min/ft^2$) for felted fabrics, except that 12 $m^3/min/m^2$ (40 $ft^3/min/ft^2$) for woven and 14 $m^3/min/m^2$ (45 $ft^3/min/ft^2$) for felted fabrics is allowed for filtering air from asbestos ore dryers;

(II) Ensuring that felted fabric weighs at least 475 grams per square meter (14 ounces per square yard) and is at least 1.6 millimeters (one-sixteenth inch) thick throughout; and

(III) Avoiding the use of synthetic fabrics that contain fill yarn other than that which is spun.

(B) Properly install, use, operate, and maintain all air-cleaning equipment authorized by this paragraph. Bypass devices may be used only during upset or emergency conditions and then only for so long as it takes to shut down the operation generating the particulate asbestos material.

(C) For fabric filter collection devices installed after January 10, 1989, provide for easy inspection for faulty bags.

(ii) There are the following exceptions to paragraph (o)(i)(A):

(A) After January 10, 1989, if the use of fabric creates a fire or explosion hazard, or the Administrator determines that a fabric filter is not feasible, the Administrator may authorize as a substitute the use of wet collectors designed to operate with a unit contacting energy of at least 9.95 kilopascals (40 inches water gage pressure).

(B) Use a HEPA filter that is certified to be at least 99.97 percent efficient for 0.3 micron particles.

(C) The Administrator may authorize the use of filtering equipment other than described in paragraphs (o)(i)(A) and (o)(ii)(A) and (B) if the owner or operator demonstrates to the Administrator's satisfaction that it is equivalent to the described equipment

in filtering particulate asbestos material.

(p) Reporting.

(i) Any new source to which this section applies (with the exception of sources subject to paragraphs (i), (j), and (l)), which has an initial startup date preceding the effective date of this revision, shall provide the following information to the Administrator postmarked or delivered within 90 days of the effective date. In the case of a new source that does not have an initial startup date preceding the effective date, the information shall be provided, postmarked or delivered, within 90 days of the initial startup date. Any owner or operator of an existing source shall provide the following information to the Administrator within 90 days of the effective date of this subpart unless the owner or operator of the existing source has previously provided this information to the Administrator. Any changes in the information provided by any existing source shall be provided to the Administrator, postmarked or delivered, within 30 days after the change.

(A) A description of the emission control equipment used for each process; and

(I) If the fabric device uses a woven fabric, the airflow permeability in $m^3/min/m^2$ and; if the fabric is synthetic, whether the fill yarn is spun or not spun; and

(II) If the fabric filter device uses a felted fabric, the density in g/m^2, the minimum thickness in inches and the airflow permeability in $m^3/min/m^2$.

(B) If a fabric filter device is used to control emissions,

(I) The airflow permeability in $m^3/min/m^2$ ($ft^3/min/ft^2$) if the fabric filter device uses a woven fabric, and, if the fabric is synthetic, whether the fill yarn is spun or not spun; and

(II) If the fabric filter device uses a felted fabric, the density in g/m^2 (oz/yd^2), the minimum thickness in millimeters (inches), and the airflow permeability in $m^3/min/m^2$ ($ft^3/min/ft^2$).

(C) If a HEPA filter is used to control emissions, the certified efficiency.

(D) For sources subject to paragraph (m):

(I) A brief description of each process that generates asbestos-containing waste material;

(II) The average volume of asbestos-containing waste material disposed of measured in m^3/day (yd^3/day);

(III) The emission control methods used in all stages of waste disposal; and

(IV) The type of disposal site or incineration site used for ultimate disposal, the name of the site operator, and the name and location of the disposal site.

(E) For sources subject to paragraphs (n) and (q):

(I) A brief description of the site; and

(II) The method or methods used to comply with the standard, or alternate procedures to be used.

(ii) The information required by paragraph (p)(i) must accompany the information required by 40 CFR Part 61, subpart A, 61.10. Active waste disposal sites subject to paragraph (q) shall also comply with this provision. Demolition and renovation, spraying, and insulating materials are exempted from the requirements of 40 CFR Part 61.10(a). The information described in this paragraph must be reported using the format of Appendix A of CFR 40 Part 61 as a guide.

(q) Standard for Active Waste Disposal Sites. Each owner or operator of an active waste disposal site that receives asbestos-containing waste material from a source covered under paragraphs (m) or (r) shall meet the requirements of the Wyoming Department of Environmental Quality, Solid & Hazardous Waste Division, or at a minimum the following:

(i) Either there must be no visible emissions to the outside air from any active waste disposal site where asbestos-containing waste material has been deposited, or the requirements of paragraph (q)(iii) or (q)(iv) must be met.

(ii) Unless a natural barrier adequately deters access by the general public, either warning signs and fencing must be installed and maintained as follows, or the requirements of paragraph (q)(iii)(A) must be met.

(A) Warning signs must be displayed at all entrances and at intervals of 100 m (330 ft) or less along the property line of the site or along the perimeter of the sections of the site where asbestos-containing waste material is deposited. The warning signs must:

(I) Be posted in such a manner and location that a person can easily read the legend;

(II) Conform to the requirements of 51 cm x 36 cm (20” x 14”) upright format signs specified in 29 CFR § 1910.145(d)(4) and this paragraph; and

(III) Display the following legend in the lower panel with letter sizes and styles of a visibility at least equal to those specified below.

Legend
ASBESTOS WASTE DISPOSAL SITE
DO NOT CREATE DUST
Breathing Asbestos is Hazardous to Your Health

Notation
2.5 cm (1 inch) Sans Serif, Gothic or Block
1.9 cm (3/4 inch) Sans Serif, Gothic or Block
14 point Gothic

Spacing between any two lines must be at least equal to the height of the upper of the two lines.

(B) The perimeter of the disposal site must be fenced in a manner adequate to deter access by the general public.

(C) Upon request and supply of appropriate information, the Administrator will determine whether a fence or a natural barrier adequately deters access by the general public.

(iii) Rather than meet the no visible emission requirement of paragraph (q)(i), at the end of each operating day, or at least once every 24-hour period while the site is in continuous operation, the asbestos-containing waste material that has been deposited at the site during the operating day or previous 24-hour period shall:

(A) Be covered with at least 15 centimeters (6 inches) of compacted nonasbestos-containing material, or

(B) Be covered with a resinous or petroleum-based dust suppression agent that effectively binds dust and controls wind erosion. Such an agent shall be used in the manner and frequency recommended for the particular dust by the dust suppression agent manufacturer to achieve and maintain dust control. Other equally effective dust suppression agents may be used upon prior approval by the Administrator. For purposes of this paragraph, any used, spent, or other waste oil is not considered a dust suppression agent.

(iv) Rather than meet the no visible emission requirement of paragraph (q)(i), use an alternative emissions control method that has received prior written approval by the Administrator.

(v) For all asbestos-containing waste material received, the owner or operator of the active waste disposal site shall:

(A) Maintain waste shipment records, using a form similar to that shown in Figure 4, and include the following information:

(I) The name, address, and telephone number of the waste generator.

(II) The name, address, and telephone number of the transporter(s).

(III) The quantity of the asbestos-containing waste material in cubic meters (cubic yards).

(IV) The presence of improperly enclosed or uncovered waste, or any asbestos-containing waste material not sealed in leak-tight containers.

(V) The date of the receipt.

(B) Upon discovering the presence of a significant amount of improperly enclosed or uncovered waste, report in writing by the following working day to the local, State, or EPA Regional office responsible for administering the asbestos NESHAP program for the waste generator (identified in the waste shipment record), and, if that office is outside the State of Wyoming, also report in writing by the following working day to the Wyoming Department of Environmental Quality, Air Quality Division. Submit a copy of the waste shipment record along with the report.

(C) As soon as possible and no longer than 30 days after receipt of the waste, send a copy of the signed waste shipment record to the waste generator.

(D) Upon discovering a discrepancy between the quantity of waste designated on the waste shipment records and the quantity actually received, attempt to reconcile the discrepancy with the waste generator. If the discrepancy is not resolved within 15 days after receiving the waste, immediately report in writing to the local, State, or EPA Regional office responsible for administering the asbestos NESHAP program for the waste generator (identified in the waste shipment record), and, if that office is outside the State of Wyoming, also report in writing to the Wyoming Department of Environmental Quality, Air Quality Division. Describe the discrepancy and attempts to reconcile it, and submit a copy of the waste shipment record along with the report.

(E) Retain a copy of all records and reports required by this paragraph for at least 2 years.

(vi) Maintain, until closure, records of the location, depth and area, and quantity in cubic meters (cubic yards) of asbestos-containing waste material within the disposal site on a map or diagram of the disposal area.

(vii) Upon closure, comply with all the provisions of paragraph (n).

(viii) Submit to the Administrator, upon closure of the facility, a copy of records of asbestos waste disposal locations and quantities.

(ix) Furnish upon request, and make available during normal business hours for inspection by the Administrator, all records required under this paragraph.

(x) Notify the Administrator in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site and is covered. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date must be provided at least 10 working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice.

(A) Scheduled starting and completion dates.

(B) Reason for disturbing the waste.

(C) Procedures to be used to control emissions during the excavation, storage, transport, and ultimate disposal of the excavated asbestos-containing waste material. If deemed necessary, the Administrator may require changes in the emission control procedures to be used.

(D) Location of any temporary storage site and the final disposal site.

(r) Standard for Operations That Convert Asbestos-Containing Waste Material Into Nonasbestos (Asbestos-Free) Material. Each owner or operator of an operation that converts RACM and asbestos-containing waste material into nonasbestos (asbestos-free) material shall:

(i) Obtain the prior written approval of the Administrator to construct the facility. To obtain approval, the owner or operator shall provide the Administrator with the following information:

(A) Application to construct pursuant to 40 CFR § 61.07.

(B) In addition to the information requirements of 40 CFR § 61.07(b)(3), a

(I) Description of waste feed handling and temporary storage.

(II) Description of process operating conditions.

(III) Description of the handling and temporary storage of the end product.

(IV) Description of the protocol to be followed when analyzing output materials by transmission electron microscopy.

(C) Performance test protocol, including provisions for obtaining

information required under paragraph (r)(ii).

(D) The Administrator may require that a demonstration of the process be performed prior to approval of the application to construct.

(ii) Conduct a Start-up Performance Test. Test Results Shall Include:

(A) A detailed description of the types and quantities of nonasbestos material, RACM, and asbestos-containing waste material processed, e.g., asbestos cement products, friable asbestos insulation, plaster, wood, plastic, wire, etc. Test feed is to include the full range of materials that will be encountered in actual operation of the process.

(B) Results of analyses, using polarized light microscopy, that document the asbestos content of the wastes processed.

(C) Results of analyses, using transmission electron microscopy, that document that the output materials are free of asbestos. Samples for analysis are to be collected as 8-hour composite samples (one 200-gram (7-ounce) sample per hour), beginning with the initial introduction of RACM or asbestos-containing waste material and continuing until the end of the performance test.

(D) A description of operation parameters, such as temperature and residence time, defining the full range over which the process is expected to operate to produce nonasbestos (asbestos-free) materials. Specify the limits for each operating parameter within which the process will produce nonasbestos (asbestos-free) materials.

(E) The length of the test.

(iii) During the initial 90 days of operation,

(A) Continuously monitor and log the operating parameters identified during start-up performance tests that are intended to ensure the production of nonasbestos (asbestos-free) output material.

(B) Monitor input materials to ensure that they are consistent with the test feed materials described during start-up performance tests in paragraph (r)(ii)(A).

(C) Collect and analyze samples, taken as 10-day composite samples (one 200-gram (7-ounce) sample collected every 8 hours of operation) of all output material for the presence of asbestos. Composite samples may be for fewer than 10 days. Transmission electron microscopy (TEM) shall be used to analyze the output material for the presence of asbestos. During the initial 90-day period, all output materials must be stored on-site until analysis shows the material to be asbestos-free or disposed of as asbestos-containing waste material according to paragraph (m).

(iv) After the initial 90 days of operation,

(A) Continuously monitor and record the operating parameters identified during start-up performance testing and any subsequent performance testing. Any output produced during a period of deviation from the range of operating conditions established to ensure the production of nonasbestos (asbestos-free) output materials shall be:

(I) Disposed of as asbestos-containing waste material according to paragraph (m), or

(II) Recycled as waste feed during process operation within the established range of operation conditions, or

(III) Stored temporarily on-site in a leak-tight container until analyzed for asbestos content. Any product material that is not asbestos-free shall be either disposed of as asbestos-containing waste material or recycled as waste feed to the process.

(B) Collect and analyze monthly composite samples (one 200-gram (7-ounce) sample collected every 8 hours of operation) of the output material. Transmission electron microscopy shall be used to analyze the output material for the presence of asbestos.

(v) Discharge no visible emissions to the outside air from any part of the operation, or use the methods specified in paragraph (o) to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

(vi) Maintain Records On-site and Include the Following Information:

(A) Results of start-up performance testing and all subsequent performance testing, including operating parameters, feed characteristic, and analyses of output materials.

(B) Results of the composite analyses required during the initial 90 days of operation under paragraph (r)(iii).

(C) Results of the monthly composite analyses required under paragraph (r)(iv).

(D) Results of continuous monitoring and logs of process operating parameters required under paragraph (r)(iii) and (iv).

(E) The information on waste shipments received as required in paragraph (q).

(F) For output materials where no analyses were performed to determine the presence of asbestos, record the name and location of the purchaser or disposal site to which the output materials were sold or deposited, and the date of sale or disposal.

(G) Retain records required by paragraph (r)(vi) for at least 2 years.

(vii) Submit the Following Reports to the Administrator:

(A) A report for each analysis of product composite samples performed during the initial 90 days of operation.

(B) A quarterly report, including the following information concerning activities during each consecutive 3-month period:

(I) Results of analyses of monthly product composite samples.

(II) A description of any deviation from the operating parameters established during performance testing, the duration of the deviation, and steps taken to correct the deviation.

(III) Disposition of any product produced during a period of deviation, including whether it was recycled, disposed of as asbestos-containing waste material, or stored temporarily on-site until analyzed for asbestos content.

(IV) The information on waste disposal activities as required in paragraph (q).

(viii) Nonasbestos (asbestos-free) output material is not subject to any of the provisions of this section. Output materials in which asbestos is detected, or output materials produced when the operating parameters deviated from those established during the start-up performance testing, unless shown by TEM analysis to be asbestos-free, shall be considered to be asbestos-containing waste and shall be handled and disposed of according to paragraphs (m) and (q) or reprocessed while all of the established operating parameters are being met.

Section 9. Incorporation by Reference.

(a) Code of Federal Regulations (CFR). All Code of Federal Regulations (CFR), including their Appendices, cited in this Chapter, revised and published as of July 1, 2026, not including any later amendments, are incorporated by reference. Copies of the CFR are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: http://deq.wyoming.gov/. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at https://ecfr.gov.

(b) American Society for Testing and Materials (ASTM). All ASTM standards cited in this Chapter, revised and published as of July 1, 2026, not including any later amendments, are incorporated by reference. Copies of the ASTM standards are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at:

http://deq.wyoming.gov/. Copies can also be obtained at cost from the American Society for Testing and Materials, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428-2959, or online at http://www.astm.org/DIGITAL_LIBRARY/index.html

Chapter 4
State Performance Standards for Specific Existing Sources

Section 1. Introduction to State Performance Standards for Specific Existing Sources.

(a) This chapter establishes state performance standards for specific existing sources. Most of the sections under this chapter were required by the Environmental Protection Agency under section 111(d) of the Clean Air Act. Each of the standards listed has an accompanying New Source Performance Standard (NSPS) under Chapter 5, Section 2 which applies to new sources. Section 6 incorporates by reference all Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices.

Section 2. Existing Sulfuric Acid Production Units.

(a) Sulfuric Acid Mist. Any existing facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides, mercaptans, or acid sludge shall limit the atmospheric discharge of acid mist in the effluent to not more than 0.50 pounds per ton of acid produced (0.25 kgm per metric ton)--maximum 2-hour average, expressed as H_2SO_4. Reference method: Method 8, Appendix A, 40 CFR Part 60 or an equivalent method.

(b) Sulfur Dioxide. Any existing facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides, mercaptans, or acid sludge shall limit the atmospheric discharge of sulfur dioxide in the effluent to not more than 2,000 ppm--maximum 2-hour average.

Section 3. Existing Nitric Acid Manufacturing Plants.

(a) The emission of nitrogen oxides from existing nitric acid manufacturing plants, calculated as nitrogen dioxide shall be limited to 5.5 pounds per ton (2.8 kilograms per metric ton) of acid produced, maximum 2-hour average.

Section 4. [Reserved].

Section 5. Existing Hospital/Medical/Infectious Waste Incinerators.

Scope:

This section contains emission limits, compliance times and general requirements for the control of certain designated pollutants from hospital/medical/infectious waste incinerator(s) (HMIWI) in accordance with sections 111 and 129 of the Clean Air Act and 40 CFR Part 60, subpart B. These rules supersede the provisions of 40 CFR Part 60.24(f) of subpart B.

(a) Definitions.

Terms used but not defined in this section have the meaning given them in the Clean Air Act and in 40 CFR Part 60, subparts A, B, and Ec.

"Standard Metropolitan Statistical Area or SMSA" means any areas listed in OMB Bulletin No. 93-17 entitled "Revised Statistical Definitions for Metropolitan Areas" dated June 30, 1993 (incorporated by reference, see 40 CFR Part 60.17).

(b) Applicability.

(i) Except as provided in paragraphs (ii) through (viii) of this subsection, the designated facility to which this regulation applies is each individual HMIWI:

(A) For which construction was commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998.

(B) For which construction was commenced after June 20, 1996, but no later than December 1, 2008, or for which modification is commenced after March 16, 1998 but no later than April 6, 2010.

(ii) A combustor is not subject to this subsection during periods when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste (all defined in 40 CFR Part 60.51c) is burned, provided the owner or operator of the combustor:

(A) Notifies the Department of Environmental Quality - Air Quality Division (AQD) Administrator and EPA Administrator of an exemption claim; and

(B) Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned.

(iii) Any co-fired combustor (defined in 40 CFR Part 60.51c) is not subject to this subsection if the owner or operator of the co-fired combustor:

(A) Notifies the AQD Administrator and EPA Administrator of an exemption claim;

(B) Provides an estimate of the relative weight of hospital waste, medical/infectious waste, and other fuels and/or wastes to be combusted; and

(C) Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor.

(iv) Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act is not subject to this subsection.

(v) Any combustor which meets the applicability requirements under 40 CFR Part 60 subpart Cb, Ea, or Eb (standards or guidelines for certain municipal waste combustors) is not subject to this subsection.

(vi) Any pyrolysis unit (defined in 40 CFR Part 60.51c) is not subject to this subsection.

(vii) Cement kilns firing hospital waste and/or medical/infectious waste are not subject to this subsection.

(viii) Physical or operational changes made to an existing HMIWI unit solely for the purpose of complying with emission limits under this subsection are not considered a modification and do not result in an existing HMIWI unit becoming subject to the provisions of 40 CFR Part 60, subpart Ec (see 40 CFR Part 60.50c).

(ix) Beginning September 15, 2000, designated facilities subject to this subsection shall operate pursuant to a permit issued under Wyoming Air Quality Standards and Regulations (WAQSR) Chapter 6, Section 3.

(x) The requirements of 40 CFR Part 60 subpart Ce as promulgated on September 15, 1997, shall apply to the designated facilities defined in paragraph (b)(i)(A) of this subsection until the applicable compliance date of the requirements of 40 CFR Part 60 subpart Ce, as amended on October 6, 2009. Upon the compliance date of the requirements of 40 CFR Part 60 subpart Ce, designated facilities as defined in paragraph (b)(i)(A) of this subsection are no longer subject to the requirements of 40 CFR Part 60 subpart Ce, as promulgated on September 15, 1997, but are subject to the requirements of 40 CFR Part 60 subpart Ce, as amended on October 6, 2009.

(xi) The authorities listed under 40 CFR Part 60.50c(i) shall be retained by the EPA Administrator and not be transferred to a state.

(c) Emissions Limits.

(i) Emissions limits for each HMIWI facility defined below shall be:

(A) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits as promulgated on September 15, 1997, the requirements listed in Table 1A of this subsection, except as provided in paragraph (ii) of this subsection.

Table 1A. Emissions Limits for Small, Medium, and Large HMIWI at Designated Facilities as Defined in Subsection (b)(i)(A)

Pollutant	Units (7 percent oxygen, dry basis)	Emission Limits			Averaging Time[1]	Method for Demonstrating Compliance[2]
		HMIWI Size				
		Small	Medium	Large		
Particulate matter	Milligrams per dry standard cubic meter (mg/dscm) (grains per dry standard cubic foot (gr/dscf)).	115 (0.05)	69 (0.03)	34 (0.015)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 5 of appendix A-3 of Part 60, or EPA Reference Method 26A or 29 of appendix A-8 of Part 60.
Carbon monoxide	Parts per million by volume (ppmv).	40	40	40	3-run average (1-hour minimum sample time per run).	EPA Reference Method 10 or 10B of appendix A-4 of Part 60.
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (ng/dscm) (grains per billion dry standard cubic feet (gr/10^9 dscf)) or ng/dscm TEQ (gr/10^9 dscf).	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)	3-run average (4-hour minimum sample time per run).	EPA Reference Method 23 of appendix A-7 of Part 60.
Hydrogen chloride	ppmv or percent reduction.	100 or 93%	100 or 93%	100 or 93%	3-run average (1-hour minimum sample time per run).	EPA Reference Method 26 or 26A of appendix A-8 of Part 60.
Sulfur dioxide	ppmv	55	55	55	3-run average (1-hour minimum sample time per run).	EPA Reference Method 6 or 6C of appendix A-4 of Part 60.
Nitrogen oxides	ppmv	250	250	250	3-run average (1-hour minimum sample time per run).	EPA Reference Method 7 or 7E of appendix A-4 of Part 60.
Lead	mg/dscm (grains per thousand dry standard cubic feet (gr/10^3 dscf)) or percent reduction.	1.2 (0.52) or 70%	1.2 (0.52) or 70%	1.2 (0.52) or 70%	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Cadmium	mg/dscm (gr/10^3 dscf) or percent reduction.	0.16 (0.07) or 65%	0.16 (0.07) or 65%	0.16 (0.07) or 65%	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Mercury	mg/dscm (gr/10^3 dscf) or percent reduction.	0.55 (0.24) or 85%	0.55 (0.24) or 85%	0.55 (0.24) or 85%	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.

1 Except as allowed under 40 CFR § 60.56c(c) for HMIWI equipped with CEMS.
2 Does not include CEMS and approved alternative non-EPA test methods allowed under 40 CFR § 60.56c(b).

(B) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits as amended on October 6, 2009, the requirements listed in Table 1B of this subsection, except as provided in paragraph (ii) of this subsection.

(C) For a designated facility as defined in subsection (b)(i)(B), the more stringent of the requirements listed in Table 1B of this subsection and Table 1A of 40 CFR

Part 60 subpart Ec.

Table 1B. Emissions Limits for Small, Medium, and Large HMIWI at Designated Facilities as Defined in Subsections (b)(i)(A) and (b)(i)(B)

Pollutant	Units (7 percent oxygen, dry basis)	Emission Limits			Averaging Time[1]	Method for Demonstrating Compliance[2]
		HMIWI Size				
		Small	Medium	Large		
Particulate matter	Milligrams per dry standard cubic meter (mg/dscm) (grains per dry standard cubic foot (gr/dscf)).	66 (0.029)	46 (0.020)	25 (0.011)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 5 of appendix A-3 of Part 60, or EPA Reference Method 26A or 29 of appendix A-8 of Part 60.
Carbon monoxide	Parts per million by volume (ppmv).	20	5.5	11	3-run average (1-hour minimum sample time per run).	EPA Reference Method 10 or 10B of appendix A-4 of Part 60.
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (ng/dscm) (grains per billion dry standard cubic feet ($gr/10^9$ dscf)) or ng/dscm TEQ ($gr/10^9$ dscf).	16 (7.0) or 0.013 (0.0057)	0.85 (0.37) or 0.020 (0.0087)	9.3 (4.1) or 0.054 (0.024)	3-run average (4-hour minimum sample time per run).	EPA Reference Method 23 of appendix A-7 of Part 60.
Hydrogen chloride	ppmv	44	7.7	6.6	3-run average (1-hour minimum sample time per run).	EPA Reference Method 26 or 26A of appendix A-8 of Part 60.
Sulfur dioxide	ppmv	4.2	4.2	9.0	3-run average (1-hour minimum sample time per run).	EPA Reference Method 6 or 6C of appendix A-4 of Part 60.
Nitrogen oxides	ppmv	190	190	140	3-run average (1-hour minimum sample time per run).	EPA Reference Method 7 or 7E of appendix A-4 of Part 60.
Lead	mg/dscm (grains per thousand dry standard cubic feet ($gr/10^3$ dscf)).	0.31 (0.14)	0.018 (0.0079)	0.036 (0.016)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Cadmium	mg/dscm ($gr/10^3$ dscf).	0.017 (0.0074)	0.013 (0.0057)	0.0092 (0.0040)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Mercury	mg/dscm ($gr/10^3$ dscf).	0.014 (0.0061)	0.025 (0.011)	0.018 (0.0079)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.

1 Except as allowed under 40 CFR § 60.56c(c) for HMIWI equipped with CEMS.
2 Does not include CEMS and approved alternative non-EPA test methods allowed under 40 CFR § 60.56c(b).

(ii) Any small HMIWI constructed on or before June 20, 1996, which is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area (defined in subsection (a) of these regulations) and which burns less than 2,000 pounds per week of hospital waste and medical/infectious waste shall meet the emissions limits required in

paragraphs (c)(ii)(A) and (B) of this subsection, as applicable. The 2,000 lb/week limitation does not apply during performance tests.

(A) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits as promulgated on September 15, 1997, the requirements listed in Table 2A of this subsection.

Table 2A. Emissions Limits for Small HMIWI Which Meet the Criteria Under Subsection (c)(ii)(A)

Pollutant	Units (7 percent oxygen, dry basis)	HMIWI Emission Limits	Averaging Time[1]	Method for Demonstrating Compliance[2]
Particulate matter	mg/dscm (gr/dscf)	197 (0.086)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 5 of appendix A-3 of Part 60, or EPA Reference Method 26A or 29 of appendix A-8 of Part 60.
Carbon monoxide	ppmv	40	3-run average (1-hour minimum sample time per run).	EPA Reference Method 10 or 10B of appendix A-4 of Part 60.
Dioxins/furans	ng/dscm total dioxins/furans (gr/10^9 dscf) or ng/dscm TEQ (gr/10^9 dscf)	800 (350) or 15 (6.6)	3-run average (4-hour minimum sample time per run).	EPA Reference Method 23 of appendix A-7 of Part 60.
Hydrogen chloride	ppmv	3,100	3-run average (1-hour minimum sample time per run).	EPA Reference Method 26 or 26A of appendix A-8 of Part 60.
Sulfur dioxide	ppmv	55	3-run average (1-hour minimum sample time per run).	EPA Reference Method 6 or 6C of appendix A-4 of Part 60.
Nitrogen oxides	ppmv	250	3-run average (1-hour minimum sample time per run).	EPA Reference Method 7 or 7E of appendix A-4 of Part 60.
Lead	mg/dscm (gr/10^3 dscf)	10 (4.4)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Cadmium	mg/dscm (gr/10^3 dscf)	4 (1.7)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Mercury	mg/dscm (gr/10^3 dscf)	7.5 (3.3)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.

1 Except as allowed under 40 CFR § 60.56c(c) for HMIWI equipped with CEMS.
2 Does not include CEMS and approved alternative non-EPA test methods allowed under 40 CFR § 60.56c(b).

(B) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits as amended on October 6, 2009, the requirements listed in Table 2B of this subsection.

Table 2B. Emissions Limits for Small HMIWI Which Meet the Criteria Under Subsection (c)(ii)(B)

Pollutant	Units (7 percent oxygen, dry basis)	HMIWI Emission Limits	Averaging Time[1]	Method for Demonstrating Compliance[2]
Particulate matter	mg/dscm (gr/dscf)	87 (0.038)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 5 of appendix A-3 of Part 60, or EPA Reference Method 26A or 29 of appendix A-8 of Part 60.
Carbon monoxide	ppmv	20	3-run average (1-hour minimum sample time per run).	EPA Reference Method 10 or 10B of appendix A-4 of Part 60.
Dioxins/furans	ng/dscm total dioxins/furans (gr/10^9 dscf) or ng/dscm TEQ (gr/10^9 dscf)	240 (100) or 5.1 (2.2)	3-run average (4-hour minimum sample time per run).	EPA Reference Method 23 of appendix A-7 of Part 60.

Pollutant	Units (7 percent oxygen, dry basis)	HMIWI Emission Limits	Averaging Time[1]	Method for Demonstrating Compliance[2]
Hydrogen chloride	ppmv	810	3-run average (1-hour minimum sample time per run).	EPA Reference Method 26 or 26A of appendix A-8 of Part 60.
Sulfur dioxide	ppmv	55	3-run average (1-hour minimum sample time per run).	EPA Reference Method 6 or 6C of appendix A-4 of Part 60.
Nitrogen oxides	ppmv	130	3-run average (1-hour minimum sample time per run).	EPA Reference Method 7 or 7E of appendix A-4 of Part 60.
Lead	mg/dscm (gr/10^3 dscf)	0.50 (0.22)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Cadmium	mg/dscm (gr/10^3 dscf)	0.11 (0.048)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Mercury	mg/dscm (gr/10^3 dscf)	0.0051 (0.0022)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.

1 Except as allowed under 40 CFR § 60.56c(c) for HMIWI equipped with CEMS.
2 Does not include CEMS and approved alternative non-EPA test methods allowed under 40 CFR § 60.56c(b).

(iii) Stack opacity requirements for each HMIWI facility defined below shall be:

(A) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits as promulgated on September 15, 1997, the requirements in 40 CFR Part 60.52c(b)(1) of subpart Ec.

(B) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits as amended on October 6, 2009 and a designated facility as defined in subsection (b)(i)(B), the requirements in 40 CFR Part 60.52c(b)(2) of subpart Ec.

(d) Operator Training and Qualification Requirements. The owner or operator of a designated facility shall comply with the operator training and qualification requirements listed in 40 CFR Part 60.53c of subpart Ec. Compliance with these requirements shall occur according to the schedule specified in subsection (i)(v).

(e) Waste Management Plan. The owner or operator of a designated facility shall prepare a waste management plan in accordance with the requirements listed in 40 CFR Part 60.55c of subpart Ec.

(f) Inspection Requirements.

(i) Each small HMIWI subject to the emissions limits under subsection (c)(ii) and each HMIWI subject to the emissions limits under subsections (c)(i)(B) and (C) shall undergo an initial equipment inspection within one year following EPA approval of the State plan, but not later than October 6, 2014.

(A) At a minimum, an inspection shall include the following:

(I) Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation; clean pilot flame sensor, as necessary;

(II) Ensure proper adjustment of primary and secondary chamber combustion air, and adjust as necessary;

(III) Inspect hinges and door latches, and lubricate as necessary;

(IV) Inspect dampers, fans, and blowers for proper operation;

(V) Inspect HMIWI door and door gaskets for proper sealing;

(VI) Inspect motors for proper operation;

(VII) Inspect primary chamber refractory lining; clean and repair/replace lining as necessary;

(VIII) Inspect incinerator shell for corrosion and/or hot spots;

(IX) Inspect secondary/tertiary chamber and stack, clean as necessary;

(X) Inspect mechanical loader, including limit switches, for proper operation, if applicable;

(XI) Visually inspect waste bed (grates), and repair/seal, as appropriate;

(XII) For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments;

(XIII) Inspect air pollution control device(s) for proper operation, if applicable;

(XIV) Inspect waste heat boiler systems to ensure proper operation, if applicable;

(XV) Inspect bypass stack components;

(XVI) Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and

(XVII) Generally observe that the equipment is maintained in good operating condition.

(B) Within 10 operating days following an equipment inspection all necessary repairs shall be completed unless the owner or operator obtains written approval from the AQD Administrator establishing a date whereby all necessary repairs of the designated facility shall be completed.

(ii) Each small HMIWI subject to the emissions limits under subsection (c)(i)

and each HMIWI subject to the emissions limits under subsections (c)(i)(B) and (C) shall undergo an equipment inspection annually (no more than 12 months following the previous annual equipment inspection), as outlined in paragraph (i) of this subsection.

(iii) Each small HMIWI subject to the emissions limits under subsection (c)(ii)(B) and each HMIWI subject to the emissions limits under subsections (c)(i)(B) and (C) shall undergo an initial air pollution control device inspection, within one year following EPA approval of the State plan, but not later than October 6, 2014.

(A) At a minimum, an inspection shall include the following:

(I) Inspect air pollution control device(s) for proper operation, if applicable;

(II) Ensure proper calibration of thermocouples, sorbent feed systems, and any other monitoring equipment; and

(III) Generally observe that the equipment is maintained in good operating condition.

(B) Within 10 operating days following an air pollution control device inspection, all necessary repairs shall be completed unless the owner or operator obtains written approval from the AQD Administrator establishing a date whereby all necessary repairs of the designated facility shall be completed.

(iv) Each small HMIWI subject to the emissions limits under subsection (c)(ii)(B) and each HMIWI subject to the emissions limits under subsections (c)(i)(B) and (C) shall undergo an air pollution control device inspection, as applicable, annually (no more than 12 months following the previous annual air pollution control device inspection), as outlined in paragraph (iii) of this subsection.

(g) Compliance, Performance Testing, and Monitoring Requirements.

(i) Except as provided in paragraph (ii) of this subsection, requirements for compliance and performance testing of a designated facility are listed in 40 CFR Part 60.56c of subpart Ec, with the following exclusions:

(A) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits in subsection (c)(i)(A), the test methods listed in 40 CFR Part 60.56c(b)(7) and (8), the fugitive emissions testing requirements under 40 CFR Part 60.56c(b)(14) and (c)(3), the CO CEMS requirements under 40 CFR Part 60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR Part 60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), (g)(6) through (10), and (h).

(B) For a designated facility as defined in subsections (b)(i)(A) and (B) subject to the emissions limits in subsections (c)(i)(B) and (C), the annual fugitive emissions

testing requirements under 40 CFR Part 60.56c(c)(3), the CO CEMS requirements under 40 CFR Part 60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR Part 60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), and (g)(6) through (10). Sources subject to the emissions limits under subsections (c)(i)(B) and (C) may, however, elect to use CO CEMS as specified under 40 CFR Part 60.56c(c)(4) or bag leak detection systems as specified under 40 CFR Part 60.57c(h).

(ii) Except as provided in paragraphs (ii)(A) and (B) of this subsection, each small HMIWI subject to the emissions limits under subsection (c)(ii) shall meet the performance testing requirements listed in 40 CFR Part 60.56c of subpart Ec. The 2,000 lb/week limitation under subsection (c)(ii) does not apply during performance tests.

(A) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits under subsection (c)(ii)(A), the test methods listed in 40 CFR Part 60.56c(b)(7), (8), (12), (13) (Pb and Cd), and (14), the annual PM, CO, and HCl emissions testing requirements under 40 CFR Part 60.56c(c)(2), the annual fugitive emissions testing requirements under 40 CFR Part 60.56c(c)(3), the CO CEMS requirements under 40 CFR Part 60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR Part 60.56c(c)(5) through (7), and (d) through (k) do not apply.

(B) For a designated facility as defined in subsection (b)(i)(B) subject to the emissions limits under subsection (c)(ii)(B), the annual fugitive emissions testing requirements under 40 CFR Part 60.56c(c)(3), the CO CEMS requirements under 40 CFR Part 60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR Part 60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), and (g)(6) through (10) do not apply. Sources subject to the emissions limits under subsection (c)(ii)(B) may, however, elect to use CO CEMS as specified under 40 CFR Part 60.56c(c)(4) or bag leak detection systems as specified under 40 CFR Part 60.57c(h).

(iii) Each small HMIWI subject to the emissions limits under subsection (c)(ii) that is not equipped with an air pollution control device shall meet the following compliance and performance testing requirements:

(A) Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits.

(B) Following the date on which the initial performance test is completed or is required to be completed under 40 CFR Part 60.8, whichever date comes first, ensure that the designated facility does not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameters(s).

(C) Except as provided in paragraph (iii)(D) of this subsection, operation of the designated facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the PM, CO, and dioxin/furan emissions limits.

(D) The owner or operator of a designated facility may conduct a repeat performance test within 30 days of violation of applicable operating parameter(s) to demonstrate that the designated facility is not in violation of the applicable emissions limit(s). Repeat performance tests conducted pursuant to this paragraph must be conducted under process and control device operating conditions duplicating as nearly as possible those that indicated a violation under paragraph (iii)(C) of this subsection.

(iv) Any HMIWI subject to the emissions limits under subsections (c)(i) and (ii), except as provided for under paragraph (v) of this subsection, shall meet monitoring requirements listed in 40 CFR Part 60.57c of subpart Ec.

(v) Small HMIWI subject to the emissions limits under subsection (c)(ii) that are not equipped with an air pollution control device shall meet the following monitoring requirements:

(A) Install, calibrate (to manufacturers' specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation.

(B) Install, calibrate (to manufacturers' specifications), maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI.

(C) The owner or operator of a designated facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day for 90 percent of the operating hours per calendar quarter that the designated facility is combusting hospital waste and/or medical/infectious waste.

(vi) The owner or operator of a designated facility as defined in subsection (b)(i)(A) or (B) subject to emissions limits under subsection (c)(i)(B), (i)(C), or (ii)(B) may use the results of previous emissions tests to demonstrate compliance with the emissions limits, provided that the conditions in paragraphs (vi)(A) through (C) of this subsection are met:

(A) The designated facility's previous emissions tests must have been conducted using the applicable procedures and test methods listed in 40 CFR Part 60.56c(b) of subpart Ec. Previous emissions test results obtained using EPA-accepted voluntary consensus standards are also acceptable.

(B) The HMIWI at the designated facility shall currently be operated in a manner (e.g., with charge rate, secondary chamber temperature, etc.) that would be expected to result in the same or lower emissions than observed during the previous emissions test(s), and the HMIWI may not have been modified such that emissions would be expected to exceed (notwithstanding normal test-to-test variability) the results from previous emissions test(s).

(C) The previous emissions test(s) must have been conducted in 1996 or later.

(h) Reporting and Recordkeeping Requirements.

(i) Except as provided in paragraphs (i)(A) and (B) of this subsection, any designated facility shall meet the reporting and recordkeeping requirements listed in 40 CFR Part 60.58c(b) through (g) of subpart Ec.

(A) For a designated facility as defined in subsection (b)(i)(A) subject to emissions limits under subsection (c)(i)(A) or (ii)(A), excluding 40 CFR Part 60.58c(b)(2)(ii) (fugitive emissions), (b)(2)(viii) (NO_x reagent), (b)(2)(xvii) (air pollution control device inspections), (b)(2)(xviii) (bag leak detection system alarms), (b)(2)(xix) (CO CEMS data), and (b)(7) (siting documentation).

(B) For a designated facility as defined in subsection (b)(i)(A) or (B) subject to emissions limits under subsection (c)(i)(B), (C), or (ii)(B), excluding 40 CFR Part 60.58c(b)(2)(xviii) (bag leak detection system alarms), (b)(2)(xix) (CO CEMS data), and (b)(7) (siting documentation).

(ii) The owner or operator of each HMIWI subject to the emissions limits under subsection (c) shall be required to:

(A) As specified in subsection (f), maintain records of the annual equipment inspections that are required for each HMIWI subject to the emissions limits under subsections (c)(i)(B), (C), and (ii), and the annual air pollution control device inspections that are required for each HMIWI subject to the emissions limits under subsections (c)(i)(B), (C), and (ii)(B), any required maintenance, and any repairs not completed within 10 days of an inspection or the timeframe established by the AQD Administrator; and

(B) Submit an annual report containing information recorded under paragraph (ii)(A) of this subsection no later than 60 days following the year in which data were collected. Subsequent reports shall be sent no later than 12 calendar months following the previous report (once the unit is subject to permitting requirements under WAQSR Chapter 6, Section 3, the owner or operator must submit these reports semiannually). The report shall be signed by the facilities manager.

(i) Compliance Times.

(i) Except as provided in paragraphs (ii) and (iii) of this subsection, all

designated facilities shall comply with all requirements of this plan within one year of EPA's approval of this plan, or by October 6, 2014, whichever occurs first.

(ii) Except as provided in paragraphs (iii) and (iv) of this subsection, designated facilities shall comply with all requirements of the State plan on or before the date one year after EPA approval of the State plan, but not later than October 6, 2014, regardless of whether a designated facility is identified in the State plan inventory required by 40 CFR Part 60.25(a) of subpart B.

(iii) Any designated facility demonstrating measurable and enforceable incremental steps of progress towards compliance, planning to install the necessary air pollution control equipment, must be in compliance on or before the date three years after EPA approval of the State plan, but not later than October 6, 2014, for the emissions limits as amended on October 6, 2009. Measurable and enforceable activities necessary for this demonstration shall include:

(A) Date for submitting a petition for site-specific operating parameters under 40 CFR Part 60.56c(j) of subpart Ec.

(B) Date for obtaining services of an architectural and engineering firm regarding the air pollution control device(s):

(C) Date for obtaining design drawings of the air pollution control device(s):

(D) Date for ordering the air pollution control device(s):

(E) Date for obtaining the major components of the air pollution control device(s):

(F) Date for initiation of site preparation for installation of the air pollution control device(s):

(G) Date for initiation of installation of the air pollution control device(s);

(H) Date for initial startup of the air pollution control device(s); and

(I) Date for initial compliance test(s) of the air pollution control devices(s).

(iv) A designated facility petitioning the AQD Administrator for extensions beyond the compliance times required in paragraph (ii) of this subsection shall:

(A) Submit the following information in time to allow the AQD Administrator adequate time to grant or deny the extension within one year after EPA approval

of the State plan, but not later than October 6, 2014:

(I) Documentation of the analyses undertaken to support the need for an extension, including an explanation of why up to three years after EPA approval of the State plan is sufficient time to comply, while within one year after EPA approval of the State plan is not sufficient. The documentation shall also include an evaluation of the option to transport the waste offsite to a commercial medical waste treatment and disposal facility on a temporary or permanent basis; and

(II) Documentation of measurable and enforceable incremental steps of progress to be taken towards compliance with the emissions limits.

(B) The AQD Administrator will grant or deny all extensions; and

(C) If an extension is granted, the designated facility shall comply with the emissions limits on or before the date three years after EPA approval of the State plan, but not later than October 6, 2014, for the emissions limits as amended on October 6, 2009.

(v) A designated facility shall comply with subsection (d) - Operator Training and Qualification Requirements and subsection (f) - Inspection Requirements by the date one year after EPA approval of a State plan, but not later than October 6, 2014.

Section 6. Incorporation by Reference.

(a) Code of Federal Regulations (CFR). All Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices, revised and published as of July 1, 2026, not including any later amendments, are incorporated by reference. Copies of the CFR are available for public inspection and copies can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at https://deq.wyoming.gov/. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at https://ecfr.gov.

Chapter 5
National Emission Standards

Section 1. Introduction to National Emission Standards.

(a) This Chapter incorporates emission control regulations developed by the Environmental Protection Agency for specific source categories. The State of Wyoming, Air Quality Division adopts these federal regulations in order to maintain administrative authority with regards to the standards. In this chapter, Section 2 contains New Source Performance Standards (NSPS) which regulate criteria pollutant emissions from specific categories of new sources; Section 3 contains National Emission Standards for Hazardous Air Pollutants (NESHAP) which regulates hazardous air pollutant emissions from specific categories of new and existing sources; and Section 4 incorporates by reference all Code of Federal Regulations (CFRs), including their Appendices, cited in this Chapter and all American Society for Testing and Materials (ASTM) standards cited in this Chapter.

Section 2. New Source Performance Standards.

(a) General: The U.S. Environmental Protection Agency regulations on Standards of Performance for New Stationary Sources, designated in Chapter 5, Section 2(b) and as amended by the word or phrase "substitutions" given in Chapter 5, Section 2(c), are incorporated into these regulations. The specific documents containing the complete text of the regulations are found in 40 CFR Part 60.

(b) Designated Standards of Performance: The following Standards of Performance are incorporated by reference under Section 4(a) of this Chapter.

40 CFR Part 60, subpart D -	Standards of Performance for Fossil-Fuel-Fired Steam Generators
40 CFR Part 60, subpart Da -	Standards of Performance for Electric Utility Steam Generating Units
40 CFR Part 60, subpart Db -	Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units
40 CFR Part 60, subpart Dc -	Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units
40 CFR Part 60, subpart Ea -	Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and on or Before September 20, 1994

40 CFR Part 60, subpart Eb -	Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996
40 CFR Part 60, subpart Ec -	Standards of Performance for New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators
40 CFR Part 60, subpart F -	Standards of Performance for Portland Cement Plants
40 CFR Part 60, subpart G -	Standards of Performance for Nitric Acid Plants
40 CFR Part 60, subpart Ga -	Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011
40 CFR Part 60, subpart H -	Standards of Performance for Sulfuric Acid Plants
40 CFR Part 60, subpart I -	Standards of Performance for Hot Mix Asphalt Facilities
40 CFR Part 60, subpart J -	Standards of Performance for Petroleum Refineries
40 CFR Part 60, subpart Ja -	Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007
40 CFR Part 60, subpart K -	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978
40 CFR Part 60, subpart Ka -	Standards of Performance for Storage Vessels for Petroleum Liquids for Which

	Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984
40 CFR Part 60, subpart Kb -	Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984
40 CFR Part 60, subpart T -	Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants
40 CFR Part 60, subpart U -	Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants
40 CFR Part 60, subpart V -	Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants
40 CFR Part 60, subpart W -	Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants
40 CFR Part 60, subpart X -	Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities
40 CFR Part 60, subpart Y -	Standards of Performance for Coal Preparation and Processing Plants
40 CFR Part 60, subpart DD -	Standards of Performance for Grain Elevators
40 CFR Part 60, subpart GG -	Standards of Performance for Stationary Gas Turbines
40 CFR Part 60, subpart HH -	Standards of Performance for Lime Manufacturing Plants
40 CFR Part 60, subpart NN -	Standards of Performance for Phosphate Rock Plants

40 CFR Part 60, subpart UU -	Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture
40 CFR Part 60, subpart VV -	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006
40 CFR Part 60, subpart VVa -	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
40 CFR Part 60, subpart WW -	Standards of Performance for the Beverage Can Surface Coating Industry
40 CFR Part 60, subpart XX -	Standards of Performance for Bulk Gasoline Terminals
40 CFR Part 60, subpart AAA -	Standards of Performance for New Residential Wood Heaters
40 CFR Part 60, subpart GGG -	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006
40 CFR Part 60, subpart GGGa -	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
40 CFR Part 60, subpart JJJ -	Standards of Performance for Petroleum Dry Cleaners
40 CFR Part 60, subpart KKK -	Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and

	on or Before August 23, 2011
40 CFR Part 60, subpart LLL -	Standards of Performance for SO_2 Emissions From Onshore Natural Gas Processing for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011
40 CFR Part 60, subpart OOO -	Standards of Performance for Nonmetallic Mineral Processing Plants
40 CFR Part 60, subpart QQQ -	Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems
40 CFR Part 60, subpart UUU -	Standards of Performance for Calciners and Dryers in Mineral Industries
40 CFR Part 60, subpart WWW -	Standards of Performance for Municipal Solid Waste Landfills
40 CFR Part 60, subpart XXX -	Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014
40 CFR Part 60, subpart AAAA -	Standards of Performance for Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001
40 CFR Part 60, subpart CCCC -	Standards of Performance for Commercial and Industrial Solid Waste Incineration Units
40 CFR Part 60, subpart EEEE -	Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006
40 CFR Part 60, subpart IIII -	Standards of Performance for Stationary Compression Ignition Internal Combustion

Engines

40 CFR Part 60, subpart JJJJ - Standards of Performance for Stationary Spark Ignition Internal Combustion Engines

40 CFR Part 60, subpart KKKK - Standards of Performance for Stationary Combustion Turbines

40 CFR Part 60, subpart KKKKa - Standards of Performance for Stationary Combustion Turbines

40 CFR Part 60, subpart OOOO - Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution

40 CFR Part 60, subpart OOOOa - Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced after September 18, 2015

40 CFR Part 60, subpart OOOOb - Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After December 6, 2022

40 CFR Part 60, subpart QQQQ - Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces

40 CFR Part 60, subpart TTTT - Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units

(i) Designated Appendices. The following appendices are incorporated by reference under Section 4(a) of this Chapter.

40 CFR Part 60, Appendix A - Test Methods

40 CFR Part 60, Appendix B - Performance Specifications

40 CFR Part 60, Appendix C - Determination of Emission Rate Change

40 CFR Part 60, Appendix D - Required Emission Inventory Information

40 CFR Part 60, Appendix F - Quality Assurance Procedures

40 CFR Part 60, Appendix I - Removable Label and Owner's Manual

(c) Word or Phrase Substitutions: In the standards designated in Chapter 5, Section 2(b) substitute:

(i) Chapter 1, Section 4 for 60.12
(ii) Chapter 5, Section 2 for Subpart A
(iii) Chapter 5, Section 2(e)(i) for 60.2
(iv) Chapter 5, Section 2(e)(ii) for 60.3
(v) Chapter 5, Section 2(g) for 60.7
(vi) Chapter 5, Section 2(h) for 60.8
(vii) Chapter 5, Section 2(i) for 60.11
(viii) Chapter 5, Section 2(j) for 60.13
(ix) Chapter 5, Section 2(k) for 60.14
(x) Chapter 5, Section 2(l) for 60.15
(xi) Chapter 5, Section 2(m) for 60.18
(xii) Chapter 5, Section 2(n) for 60.19
(xiii) Chapter 6, Section 2(b)(i) for 60.5 and 60.6
(xiv) Chapter 6, Section 2(i) for 60.7(a)(2) and (3)
(xv) Chapter 6, Section 2(j) for 60.8(a) and (d)
(xvi) Section 35-11-1101 Environmental Quality Act for 60.9

(d) Applicability: The provisions of Chapter 5, Section 2 are applicable to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication of any proposed standard as designated in the applicable subparts of the Standards of Performance referenced in Chapter 5, Section 2(b) and contained in 40 CFR Part 60.

(i) In addition to complying with the provisions of this section, the owner or operator of an affected facility may be required to obtain an operating permit issued to stationary sources by the Administrator pursuant to Title V of the Clean Air Act (Act) as amended November 15, 1990 (42 U.S.C. 7661). For more information about obtaining an operating permit see Chapter 6, Section 3.

(e) Definitions and Abbreviations: The following terms are explicitly defined for use in this section. As used in this section, all terms not defined herein shall have the meaning given to them in Chapter 1, Section 3.

(i) Definitions:

"Act" means the Clean Air Act (42 U.S.C. 7401 et seq.).

"Administrator" means the Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality, except for those authorities which cannot be delegated to the state, in which case "administrator" means both the administrator of the

Environmental Protection Agency and the Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality.

"Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.

"Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the Administrator's satisfaction to, in some specific cases, produce results adequate for his determination of compliance.

"Capital expenditure" means an expenditure for a physical or operational change to an existing facility which exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in the latest edition of Internal Revenue Service (IRS) Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to an existing facility must not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.

"Clean coal technology demonstration project" means a project using funds appropriated under the heading 'Department of Energy-Clean Coal Technology', up to a total amount of $2,500,000,000 for commercial demonstrations of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency.

"Commenced" means, with respect to the definition of *new source* in section 111(a)(2) of the Act, that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

"Construction" means fabrication, erection, or installation of an affected facility.

"Continuous monitoring system" means the total equipment, required under the emission monitoring sections, used to sample and condition (if applicable), to analyze, and to provide a permanent record of emissions or process parameters.

"Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the Administrator's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

"Excess emissions and monitoring systems performance report" is a report that must be submitted periodically by a source in order to provide data on its compliance with stated emission limits and operating parameters, and on the performance of its monitoring systems.

"Existing facility" means, with reference to a stationary source, any apparatus of the type for which a standard is promulgated in this section, and the construction or modification of which was commenced before the date of proposal of that standard; or any apparatus which could be altered in such a way as to be of that type.

"Isokinetic sampling" means sampling in which the linear velocity of the gas entering the sampling nozzle is equal to that of the undisturbed gas stream at the sample point.

"Issuance" of an operating permit will occur, in accordance with Chapter 6, Section 3.

"Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

"Monitoring device" means the total equipment, required under the monitoring of operations sections, used to measure and record (if applicable) process parameters.

"Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in this section.

"One-hour period" means any 60-minute period commencing on the hour.

"Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

"Operating permit" or "Part 70 permit" means any permit or group of permits covering a source under Chapter 6, Section 3 that is issued, renewed, amended or revised pursuant to Chapter 6, Section 3.

"Owner or operator" means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source of which an affected facility is a part.

"Particulate matter" means any finely divided solid or liquid material, other than uncombined water, as measured by the reference methods specified under each subpart, or an equivalent or alternative method.

"Permit program" means the comprehensive State operating permit system established pursuant to Title V of the Act (42 U.S.C. 7661) and regulations in Chapter 6, Section 3.

"Proportional sampling" means sampling at a rate that produces a constant ratio of sampling rate to stack gas flow rate.

"Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

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

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

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

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

"Reference method" means any method of sampling and analyzing for an air pollutant as specified in the applicable subpart.

"Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator of EPA, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990. Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

"Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

"Shutdown" means the cessation of operation of an affected facility for any purpose.

"Six-minute period" means any one of the 10 equal parts of a one-hour period.

"Standard" means a standard of performance proposed or promulgated under this section.

"Standard conditions" means a temperature of 293°K (68°F) and a pressure of 101.3 Kilopascals of Hg (29.92 in. of Hg).

"Start-up" means the setting in operation of an affected facility for any purpose.

"State" means the Wyoming Air Quality Division which has been delegated authority to implement:

(A) The provisions of this section; and/or

(B) The permit program established under 40 CFR Part 70.

"Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant.

"Volatile organic compounds" means any organic compound which participates in atmospheric photochemical reactions; or which is measured by a reference method, an equivalent method, an alternative method, or which is determined by procedures specified under any subpart.

(ii) Abbreviations:

A	ampere
A.S.T.M.	American Society for Testing and Materials
Btu	British thermal unit
cal	calorie
CdS	Cadmium sulfide
cfm	cubic feet per minute
CO	carbon monoxide
CO_2	carbon dioxide
°C	degree Celsius (centigrade)
°F	degree Fahrenheit
°K	degree Kelvin
°R	degree Rankine
dscm	dry cubic meter(s) at standard conditions
dscf	dry cubic feet at standard conditions
eq	equivalents
g	gram(s)
gal	gallon(s)
g eq	gram equivalents
gr	grain(s)
HCl	hydrochloric acid
Hg	mercury

hr	hour(s)
H_2O	water
H_2S	hydrogen sulfide
H_2SO_4	sulfuric acid
Hz	hertz
in	inch(es)
J	joule
k	1,000
kg	kilogram(s)
l	liters
lb	pound(s)
lpm	Liter(s) per minute
m	meter(s)
meq	milliequivalent(s)
mg	milligram(s)
Mg	megagram - 10^6 gram
min	minute(s)
ml	milliliter(s)
mm	millimeter(s)
mol. wt.	molecular weight
mv	millivolt
N	newton
N	nitrogen
ng	nanogram - 10^{-9} gram
nm	nanometer(s) - 10^{-9} meter
NO	nitric oxide
NO_2	nitrogen dioxide
NO_x	nitrogen oxides
O_2	oxygen
Pa	pascal
ppb	parts per billion
ppm	parts per million
psia	pounds per square inch absolute
s	second
sec	second
SO_2	sulfur dioxide
SO_3	sulfur trioxide
STD	at standard conditions
µg	microgram(s) - 10^{-6} gram
V	volt
W	watt

(f) Permit Requirements: Compliance with the provisions of this section shall in no way relieve the owner or operator of responsibility for compliance with other applicable sections of these regulations. The permit requirements of Chapter 6, Section 2 are specifically applicable to affected facilities subject to the requirements of this section.

(g) Notification and Recordkeeping:

(i) Any owner or operator subject to the provisions of this section shall furnish the Administrator written notification as follows:

(A) A notification of the date construction (or reconstruction as defined under Chapter 1, Section 3) of an affected facility is commenced postmarked no later than 30 days after such date. This requirement shall not apply in the case of mass-produced facilities which are purchased in completed form.

(B) A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in Chapter 5, Section 2(k). This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Administrator may request additional relevant information subsequent to this notice.

(C) A notification of the date upon which demonstration of the continuous monitoring system performance commences in accordance with Chapter 5, Section 2(j)(iii). Notification shall be postmarked not less than 30 days prior to such date.

(D) A notification of the anticipated date for conducting the opacity observations required by Chapter 5, Section 2(i)(v) of this section. The notification shall be postmarked not less than 30 days prior to such date.

(E) A notification that continuous opacity monitoring system data results will be used to determine compliance with the applicable opacity standard during a performance test required by Chapter 5, Section 2(h) in lieu of Method 9 observation data as allowed by Chapter 5, Section 2(i)(v)(D). This notification shall be postmarked not less than 30 days prior to the date of the performance test.

(ii) Any owner or operator subject to the provisions of this section shall maintain records of the occurrence and duration of any start-up, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

(iii) Each owner or operator required to install a continuous monitoring system (CMS) or monitoring device shall submit an excess emissions and monitoring systems performance report (excess emissions are defined in applicable subparts) and/or a summary report form (see paragraph E of this section) to the Administrator semiannually, except when: more frequent reporting is specifically required by an applicable subpart; or the CMS data are to be used directly for compliance determination, in which case quarterly reports shall be submitted; or the Administrator, on a case-by-case basis, determines that more frequent reporting

is necessary to accurately assess the compliance status of the source. All reports shall be postmarked by the 30th day following the end of each calendar half (or quarter, as appropriate). Written reports of excess emissions shall include the following information:

(A) The magnitude of excess emissions computed in accordance with Chapter 5, Section 2(j)(viii), any conversion factor(s) used, and the date and time of commencement and completion of each time period of excess emissions. The process operating time during the reporting period.

(B) Specific identification of each period of excess emissions that occurs during start-ups, shutdowns, malfunctions of the affected facility. The nature and cause of any malfunction (if known), the corrective action taken or preventative measures adopted.

(C) The date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments.

(D) When no excess emissions have occurred or the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be stated in the report.

(E) The summary report form shall contain the information and be in the format shown in Form B unless otherwise specified by the Administrator. One summary report form shall be submitted for each pollutant monitored at each affected facility.

(I) If the total duration of excess emissions for the reporting period is less than 1 percent of the total operating time for the reporting period and CMS downtime for the reporting period is less than 5 percent of the total operating time for the reporting period, only the summary report form shall be submitted and the excess emission report described in paragraph (iii) of this subsection need not be submitted unless requested by the Administrator.

(II) If the total duration of excess emissions for the reporting period is 1 percent or greater of the total operating time for the reporting period or the total CMS downtime for the reporting period is 5 percent or greater of the total operating time for the reporting period, the summary report form and the excess emission report described in paragraph (iii) of this subsection shall both be submitted.

Form B

EXCESS EMISSION SUMMARY REPORT

Emission Data Summary		**CMS Performance Summary**	
I. Duration of Excess Emissions in Reporting Period Due to:		I. CMS Downtime in Reporting Period Due to:	
A. Startup/Shutdown	_____	A. Monitor Equipment Malfunctions	____
B. Control Equipment Problems	_____	B. Non-Monitor Equipment Malfunctions	____
C. Process Problems	_____	C. Quality Assurance Calibration	____
D. Other Known Causes	_____	D. Other Known Causes	____
E. Unknown Causes	_____	E. Unknown Causes	____
II. Total Duration of Excess Emission	_____	II. Total CMS Downtime	____
III. Total Duration of Excess Emissions x 100 divided by Total Source Operating Time minus Total CMS Downtime	_____	III. Total CMS Downtime x 100 divided by Total Source Operating Time	____

Total time of excess emission events due to emergency/abnormal operations_____.

NOTE:

1. Only report excess emissions which occur when the unit/process is operating. Include all excess emissions in the Emission Data Summary including those excess emissions associated with startup/shutdown and those excess emissions associated with Chapter 1, Section 5 (Emergency/Abnormal) operations. **Report times in hours for gaseous monitors and in tenths of an hour for opacity monitors.** Include detailed excess emission information and causes in the Excess Emission Table (Form C).
2. Only report CEM downtime which occurs while the unit/process is operating. **Report time in hours to one decimal point.** Include detailed CEM downtime and causes in the Monitor Outage Table (Form D).
3. Include an explanation of what corrective actions were taken for total excess emissions or monitor downtime for the quarter (Emission Data Summary and CMS Performance Summary, Item III) greater than 5%. (**See Instructions for further details.**)

On a separate page, describe any changes since last quarter in CMS, process or controls. I certify that the information contained in this report is true, accurate, and complete.

Name

_____

Signature

_____

Title

_____

Date

_____

(iv) (A) Notwithstanding the frequency of reporting requirements specified in paragraph (iii) of this subsection, an owner or operator who is required by an applicable subpart to submit excess emissions and monitoring systems performance reports (and summary reports) on a quarterly (or more frequent) basis may reduce the frequency of reporting for that standard to semiannual if the following conditions are met:

(I) For 1 full year (e.g., 4 quarterly or 12 monthly reporting periods) the affected facility's excess emissions and monitoring systems reports submitted to comply with a standard under this section continually demonstrate that the facility is in compliance with the applicable standard;

(II) The owner or operator continues to comply with all recordkeeping and monitoring requirements specified in this section and the applicable standard; and

(III) The Administrator does not object to a reduced frequency of reporting for the affected facility, as provided in paragraph (iv)(B) of this subsection.

(B) The frequency of reporting of excess emissions and monitoring systems performance (and summary) reports may be reduced only after the owner or operator notifies the Administrator in writing of the intent to make such a change and the Administrator does not object to the intended change. In deciding whether to approve a reduced frequency of reporting, the Administrator may review information concerning the source's entire previous performance history during the required recordkeeping period prior to the intended change, including performance test results, monitoring data, and evaluations of an owner or operator's conformance with operation and maintenance requirements. Such information may be used by the Administrator to make a judgment about the source's potential for noncompliance in the future. If the Administrator disapproves the owner or operator's request to reduce the frequency of reporting, the Administrator will notify the owner or operator in writing within 45 days after receiving notice of the owner or operator's intention. The notification from the Administrator to the owner or operator will specify the ground on which the disapproval is based. In the absence of a notice of disapproval within 45 days, approval is automatically granted.

(C) As soon as monitoring data indicate that the affected facility is not in compliance with any emission limitation or operating parameter specified in the applicable standard, the frequency of reporting shall revert to the frequency specified in the applicable standard, and the owner or operator shall submit an excess emissions and monitoring systems performance report (and summary report, if required) at the next appropriate reporting period following the noncomplying event. After demonstrating compliance with the applicable standard for another full year, the owner or operator may again request approval from the Administrator to reduce the frequency of reporting for that standard as provided for in paragraphs (iv)(A) and (iv)(B) of this subsection.

(v) Any owner or operator subject to the provisions of this section shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance

evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by this section recorded in a permanent form suitable for inspection. The file shall be retained for at least two years following the date of such measurements, maintenance, reports, and record.

(vi) Individual subparts of 40 CFR Part 60 may include specific provisions which clarify or made inapplicable the provisions set forth in this section.

(h) Performance Tests:

(i) The owner or operator of an affected facility shall conduct performance test(s) within the times specified in Chapter 6, Section 2(j) and furnish the Administrator a written report of the results of such performance test(s).

(ii) Performance tests shall be conducted and data reduced in accordance with the test methods and procedures contained in each applicable subpart unless the Administrator (1) specifies or approves, in specific cases, the use of a reference method with minor changes in methodology; (2) obtains approval from the EPA Administrator for use of an equivalent method; (3) obtains approval from the EPA Administrator for use of an alternative method the results of which he had determined to be adequate for indicating whether a specific source is in compliance; (4) waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the affected facility is in compliance with the standard; or (5) approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors. Nothing in this paragraph shall be construed to abrogate the Administrator's authority to require other testing.

(iii) Performance tests shall be conducted under such conditions as the Administrator shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of the performance tests. Operations during periods of start-up, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test nor shall emissions in excess of the level of the applicable emission limit during periods of start-up, shutdown, and malfunction be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.

(iv) The owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:

(A) Sampling ports adequate for test methods applicable to such facility. This includes:

(I) Constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by applicable test methods and procedures and;

(II) Providing a stack or duct free of cyclonic flow during performance tests, as demonstrated by applicable test methods and procedures;

(B) Safe sampling platform(s);

(C) Safe access to sampling platform(s);

(D) Utilities for sampling and testing equipment.

(v) Unless otherwise specified in the applicable subpart, each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances, beyond the owner or operator's control, compliance may, upon the Administrator's approval, be determined using the arithmetic mean of the results of the two other runs.

(i) Compliance With Standards and Maintenance Requirements:

(i) Compliance with standards in this section, other than opacity standards, shall be determined by performance tests established by Chapter 5, Section 2(h), unless otherwise specified in the applicable standard.

(ii) Compliance with opacity standards in this section shall be determined by conducting observations in accordance with Reference Method 9 in 40 CFR Part 60, Appendix A or any alternative method that is approved by the EPA Administrator, or as provided in paragraph (v)(D) of this section. For purposes of determining initial compliance, the minimum total time of observations shall be 3 hours (30 6-minute averages) for the performance test or other set of observations (meaning those fugitive-type emission sources subject only to an opacity standard).

(iii) The opacity standards set forth in this section shall apply at all times except during periods of start-up, shutdown, malfunction, and as otherwise provided in the applicable standard.

(iv) At all times, including periods of start-up, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(v) (A) For the purpose of demonstrating initial compliance, opacity observations shall be conducted concurrently with the initial performance test required in Chapter 5, Section 2(h) unless one of the following conditions apply. If no performance test under Chapter 5, Section 2(h) is required, then opacity observations shall be conducted within 60 days after achieving the maximum production rate at which the affected facility will be operated but no later than 180 days after initial start-up of the facility. If visibility or other conditions prevent the opacity observations from being conducted concurrently with the initial performance test required under Chapter 5, Section 2(h), the source owner or operator shall reschedule the opacity observations as soon after the initial performance test as possible, but not later than 30 days thereafter, and shall advise the Administrator of the rescheduled date. In these cases, the 30-day prior notification to the Administrator required in Chapter 5, Section 2(g)(i)(D) shall be waived. The rescheduled opacity observations shall be conducted (to the extent possible) under the same operating conditions that existed during the initial performance test conducted under Chapter 5, Section 2(h). The visible emissions observer shall determine whether visibility or other conditions prevent the opacity observations from being made concurrently with the initial performance test in accordance with procedures contained in Reference Method 9 of 40 CFR Part 60, Appendix A. Opacity reading of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. The owner or operator of an affected facility shall make available, upon request by the Administrator, any records as may be necessary to determine the conditions under which the visual observations were made and shall provide evidence indicating proof of current visible observer emission certification. Except as provided in paragraph (v)(D) of this section, the results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the source shall meet the burden of proving that the instrument used meets (at the time of the alleged violation) Performance Specification 1 in 40 CFR Part 60, Appendix B, has been properly maintained and (at the time of the alleged violation) that the resulting data have not been altered in any way.

(I) The inability of an owner or operator to secure a visible emissions observer shall not be considered a reason for not conducting the opacity observations concurrent with the initial performance test.

(B) The owner or operator of an affected facility to which an opacity standard in this section applies shall conduct opacity observations in accordance with Chapter 5, Section 2(i)(ii), shall record the opacity of emissions, and shall report to the Administrator the opacity results along with the results of the initial performance test required under Chapter 5, Section 2(h).

(C) An owner or operator of an affected facility using a continuous opacity monitor (transmissometer) shall record the monitoring data produce during the initial performance test required by Chapter 5, Section 2(h) and furnish the Administrator a written report of the monitoring results along with Method 9 and Chapter 5, Section 2(h) performance test results.

(D) An owner or operator of an affected facility subject to an opacity

standard may submit, for compliance purposes, continuous opacity monitoring system (COMS) data results produced during any performance test required under Chapter 5, Section 2(h) in lieu of Method 9 observation data. If an owner or operator elects to submit COMS data for compliance with the opacity standard, he shall notify the Administrator of that decision in writing, at least 30 days before any performance test required under Chapter 5, Section 2(h) is conducted. Once the owner or operator of an affected facility has notified the Administrator to that Effect, the COMS data results will be used to determine opacity compliance during subsequent tests required under Chapter 5, Section 2(h) until the owner or operator notifies the Administrator in writing to the contrary. For the purpose of determining compliance with the opacity standard during a performance test required under Chapter 5, Section 2(h) using COMS data the minimum total time of COMS data collection shall be the averages of all 6-minute continuous periods within the duration of the mass emission performance test. Results of the COMS opacity determinations shall be submitted along with the results of the performance test required under Chapter 5, Section 2(h). The owner or operator of an affected facility using a COMS for compliance purposes is responsible for demonstrating that the COMS meets the requirements specified in Chapter 5, Section 2(j)(iii) of this section, that the COMS has been properly maintained and operated, and that the resulting data have not been altered in any way. If COMS data results are submitted for compliance with the opacity standard for a period of time during which Method 9 data indicates noncompliance, the Method 9 data will be used to determine opacity compliance.

(E) Upon receipt from an owner or operator of the written reports of the results of the performance tests required by Chapter 5, Section 2(h), the opacity observation results and observer certification required by Chapter 5, Section 2(i)(v)(A) and the COMS results, if applicable, the Administrator will make a finding concerning compliance with opacity and other applicable standards. If COMS data results are used to comply with an opacity standard, only those results are required to be submitted along with the performance test results required by Chapter 5, Section 2(h). If the Administrator finds that an affected facility is in compliance with all applicable standards for which performance tests are conducted in accordance with Chapter 5, Section 2(h) of this section but during the time such performance tests are being conducted fails to meet any applicable opacity standard, he shall notify the owner or operator and advise him that he may petition the Administrator within 10 days of receipt of notification to make appropriate adjustment to the opacity standard for the affected facility. The notifications received requesting adjustments to the opacity standard of the affected facility will be forwarded to EPA for resolution.

(vi) Special provisions set forth under an applicable subpart in 40 CFR Part 60 shall supersede any conflicting provisions in this section.

(vii) For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in this section, nothing in this section shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with the applicable requirements if the appropriate performance or compliance test or procedure had been performed.

(j) Monitoring Requirements:

(i) For the purposes of this section, all continuous monitoring systems required under applicable subparts shall be subject to the provisions of this section upon promulgation of performance specifications for continuous monitoring systems under 40 CFR Part 60, Appendix B and, if the continuous monitoring system is used to demonstrate compliance with emission limits on a continuous basis, 40 CFR Part 60, Appendix F, unless otherwise specified in an applicable subpart or by the Administrator. Appendix F is applicable December 4, 1987.

(ii) All continuous monitoring systems and monitoring devices shall be installed and operational prior to conducting performance tests under Chapter 5, Section 2(h). Verification of operational status shall, as a minimum, include completion of manufacturer's written requirements or recommendations for installation, operation, and calibration of the device.

(iii) If the owner or operator of an affected facility elects to submit COMS data for compliance with the opacity standard as provided under Chapter 5, Section 2(i)(v)(D), he shall conduct a performance evaluation of the COMS as specified in Performance Specification 1, 40 CFR Part 60, Appendix B, before the performance test required under Chapter 5, Section 2(h) is conducted. Otherwise, the owner or operator of an affected facility shall conduct a performance evaluation of the COMS or continuous emission monitoring system (CEMS) during any performance test required under Chapter 5, Section 2(h) or within 30 days thereafter in accordance with the applicable performance specification in 40 CFR Part 60, Appendix B. The owner or operator of an affected facility shall conduct COMS or CEMS performance evaluations at such other times as may be required by the Administrator.

(A) The owner or operator of an affected facility using a COMS to determine opacity compliance during any performance test required under Chapter 5, Section 2(h) and as described in Chapter 5, Section 2(i)(v)(D) shall furnish the Administrator two or, upon request, more copies of a written report of the results of the COMS performance evaluation described in paragraph (iii) of this section at least 10 days before the performance test required under Chapter 5, Section 2(h) is conducted.

(B) Except as provided in paragraph (iii)(A) of this section, the owner or operator of an affected facility shall furnish the Administrator within 60 days of completion two or, upon request, more copies of a written report of the results of the performance evaluation.

(C) These continuous monitoring system performance evaluations, except as provided in paragraph (x) of this section shall be conducted in accordance with the requirements and procedures contained in the applicable performance specification of 40 CFR Part 60, Appendix B as follows:

(I) Continuous monitoring systems for measuring opacity of emissions installed on or after March 30, 1983 shall comply with all the provisions and

requirements in Performance Specification 1. Continuous monitoring systems for measuring opacity of emissions installed before March 30, 1983 are required to comply with the provisions and requirements of Performance Specification 1 except for the following:

(1.) Section 4 - Installation specifications.

(2.) Paragraphs 5.1.4 - Optical alignment sight, 5.1.6 - Access to external optics, 5.1.7 - Automatic zero compensation indicator, and 5.1.8 - Slotted tube of Section 5 - Design and Performance Specification 1.

(3.) Paragraph 6.4 - Optical alignment sight of Section 6. Design specifications verification procedure.

If an existing opacity monitoring system is replaced on or after March 30, 1983, the new opacity monitoring system shall comply with the requirements of Performance Specification 1, except the new monitoring system may be located at the same measurement location as for the replaced monitoring system. If a new measurement location is to be determined at the time of replacement, the new location must meet the requirements of Performance Specification 1.

(II) Continuous monitoring systems for measuring nitrogen oxides emissions shall comply with Performance Specification 2.

(III) Continuous monitoring systems for measuring sulfur dioxide emissions shall comply with Performance Specification 2.

(IV) Continuous monitoring systems for measuring the oxygen content or carbon dioxide content of effluent gases shall comply with Performance Specification 3.

(iv) (A) Owners and operators of all continuous emission monitoring systems installed in accordance with the provisions of this section shall check the zero (or low-level value between 0 and 20 percent of span value) and span (50 to 100 percent of span value) calibration drifts at least once daily in accordance with a written procedure. The zero and span shall, as a minimum, be adjusted whenever the 24-hour zero drift or 24-hour span drift exceeds two times the limits of the applicable performance specifications in 40 CFR Part 60, Appendix B. The system must allow the amount of excess zero and span drift measured at the 24-hour interval checks to be recorded and quantified, whenever specified. For continuous monitoring systems measuring opacity of emissions, the optical surfaces exposed to the effluent gases shall be cleaned prior to performing the zero and span drift adjustments except that for systems using automatic zero adjustments, the optical surfaces shall be cleaned when the cumulative zero compensation exceeds 4 percent opacity.

(B) Unless otherwise approved by the Administrator, owners and operators shall adhere to the following procedures for continuous monitoring systems measuring opacity of emissions. Minimum procedures shall include a method for producing a simulated zero opacity condition and an upscale (span value) opacity condition using a certified neutral

density filter or other related technique to produce a known obscuration of the light beam. Such procedures shall provide a system check of the analyzer internal optical surfaces and all electronic circuitry including the lamp and photodetector assembly.

(v) Except for system breakdown, repairs, calibration checks, and zero and span adjustments required under paragraph (iv) of this section, all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements as follows:

(A) All continuous monitoring systems referenced by paragraphs (iii)(A) and (B) of this section for measuring opacity of emissions shall complete a minimum of one cycle of sampling and analyzing for each successive ten-second period and one cycle of data recording for each successive six-minute period.

(B) All continuous monitoring systems referenced by paragraphs (iii)(A) and (B) of this section for measuring emissions, except opacity shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

(vi) All continuous monitoring systems or monitoring devices shall be installed such that representative measurements of emissions or process parameters from the affected facility are obtained. Owners and operators shall use additional procedures contained in the applicable Performance Standards for 40 CFR Part 60, Appendix B for location of continuous monitoring systems.

(vii) When the effluents from a single affected facility or two or more affected facilities subject to the same emission standards are combined before being released to the atmosphere, the owner or operator may install applicable continuous monitoring systems on each effluent or on the combined effluent. When the affected facilities are not subject to the same emissions standards, separate continuous monitoring systems shall be installed on each effluent. When the effluent from one affected facility is released to the atmosphere through more than one point, the owner or operator shall install applicable continuous monitoring systems on each separate effluent unless the installation of fewer systems is approved by the Administrator. When more than one continuous monitoring system is used to measure the emissions from one affected facility (e.g., multiple breechings, multiple outlets), the owner or operator shall report the results as required from each continuous monitoring system.

(viii) Owners or operators of all continuous monitoring systems for measurement of opacity shall reduce all data to six-minute averages, and shall reduce all data for systems other than opacity to one-hour averages for the time period as defined under Chapter 5, Section 2(c)(i). Six-minute opacity averages shall be calculated from 36 or more data points equally spaced over each six-minute period. For systems other than opacity, one-hour averages shall be computed from four or more data points equally spaced over each one-hour period. Data recorded during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in the data averages computed under this paragraph. An arithmetic or integrated average of all data may be used. The data output of all continuous

monitoring systems may be recorded in reduced or non-reduced form (e.g., ppm pollutant and percent O_2 or lb/million Btu of pollutant). All excess emissions shall be converted into units of the standard using the applicable conversion procedures specified in subparts. After conversion into units of the standard, the data may be rounded to the same number of significant digits used in subparts to specify the applicable standard (e.g., rounded to the nearest one percent opacity).

(ix) Upon written application by an owner or operator, the Administrator may approve alternatives to any monitoring procedures or requirements of this section including, but not limited to the following:

(A) Alternative monitoring requirements when installation of a continuous monitoring system or monitoring device specified by this section would not provide accurate measurements due to liquid water or other interferences caused by substances with the effluent gases.

(B) Alternative monitoring requirements when the affected facility is infrequently operated.

(C) Alternative monitoring requirement to accommodate continuous monitoring systems that require additional measurements to correct for stack moisture conditions.

(D) Alternative locations for installing continuous monitoring systems or monitoring devices when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements.

(E) Alternative methods of converting pollutant concentration measurements to units of the standards.

(F) Alternative procedures for performing daily checks of zero and span drift that do not involve use of span gases or test cells.

(G) Alternatives to the A.S.T.M. test methods or sampling procedures specified by any subpart.

(H) Alternative continuous monitoring systems that do not meet the design or performance requirements in Performance Specification 1 of 40 CFR Part 60, Appendix B, but adequately demonstrate a definite and consistent relationship between its measurements and the measurements of opacity by a system complying with the requirements in Performance Specification 1. The Administrator may require that such demonstration be performed for each affected facility.

(I) Alternative monitoring requirements when the effluent from a single affected facility or the combined effluent from two or more affected facilities are released to the atmosphere through more than one point.

(x) An alternative to the relative accuracy test specified in Performance Specification 2 of 40 CFR Part 60, Appendix B may be requested as follows:

(A) An alternative to the reference method tests for determining relative accuracy is available for sources with emission rates demonstrated to be less than 50 percent of the applicable standard. A source owner or operator may petition the Administrator to waive the relative accuracy test in Section 7 of Performance Specification 2 and substitute the procedures in Section 10 if the results of the performance test conducted according to the requirements in Chapter 5, Section 2(h) of this section or other tests performed following the criteria in Chapter 5, Section 2(h) demonstrate that the emission rate of the pollutant of interest in the units of the applicable standard is less than 50 percent of the applicable standard. For sources subject to standards expressed as control efficiency levels, a source owner or operator may petition the Administrator to waive the relative accuracy test and substitute the procedures in Section 10 of Performance Specification 2 if the control device exhaust emission rate is less than 50 percent of the level needed to meet the control efficiency requirement. The alternative procedures do not apply if the continuous emission monitoring system is used to determine compliance continuously with the applicable standard. The petition to waive the relative accuracy test shall include a detailed description of the procedures to be applied. Included shall be location and procedure for conducting the alternative, the concentration or response levels of the alternative RA materials, and the other equipment checks included in the alternative procedure. The Administrator will review the petition for completeness and applicability. The determination to grant a waiver will depend on the intended use of the CEMS data (e.g., data collection purposes other than NSPS) and may require specifications more stringent than in Performance Specification 2 (e.g., the applicable emission limit is more stringent than NSPS).

(B) The waiver of CEMS relative accuracy test will be reviewed and may be rescinded at such time following successful completion of the alternative RA procedure that the CEMS data indicate the source emissions approaching the level of the applicable standard. The criterion for reviewing the waiver is the collection of CEMS data showing that emissions have exceeded 70 percent of the applicable standard for seven consecutive averaging periods as specified by the applicable regulation(s). For sources subject to standards expressed as control efficiency levels, the criterion for reviewing the waiver is the collection of CEMS data showing that exhaust emissions have exceeded 70 percent of the level needed to meet the control efficiency requirement for seven consecutive averaging periods as specified by the applicable regulation(s). It is the responsibility of the source operator to maintain records and determine the level of emissions relative to the criterion on the waiver of relative accuracy testing. If this criterion is exceeded, the owner or operator must notify the Administrator within 10 days of such occurrence and include a description of the nature and cause of increasing emissions. The Administrator will review the notification and may rescind the waiver and require the owner or operator to conduct a relative accuracy test of the CEMS as specified in Section 7 of Performance Specification 2.

(k) Modification:

(i) Except as provided under paragraphs (iv) and (v) of this section, any physical or operational change to an existing facility which results in an increase in the emission

rate to the atmosphere of any pollutant to which a standard applies shall be considered a modification. Upon modification, an existing facility shall become an affected facility for each pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere.

(ii) Emission rate shall be expressed as kg/hr of any pollutant discharged into the atmosphere for which a standard is applicable. The Administrator shall use the following to determine emission rate:

(A) Emission factors as specified in the latest issue of "Compilation of Air Pollutant Emission Factors", EPA Publication No. AP-42, or other emission factors determined by the Administrator to be superior to AP-42 emission factors, in cases where utilization of emission factors demonstrate that the emission level resulting from the physical or operational change will either clearly increase or clearly not increase.

(B) Material balances, continuous monitor data, or manual emission tests in cases where utilization of emission factors as referenced in paragraph (ii)(A) of this section does not demonstrate to the Administrator's satisfaction whether the emission level resulting from the physical or operational change will either clearly increase or clearly not increase, or where an owner or operator demonstrates to the Administrator's satisfaction that there are reasonable grounds to dispute the result obtained by the Administrator utilizing emission factors as referenced in paragraph (ii)(A) of this section. When the emission rate is based on results from manual emission tests or continuous monitoring systems, the procedures specified in 40 CFR Part 60, Appendix C shall be used to determine whether an increase in emission rate has occurred. Tests shall be conducted under such conditions as the Administrator shall specify to the owner or operator based on representative performance of the facility. At least three valid test runs must be conducted before and at least three after the physical or operational change. All operating parameters which may affect emissions must be held constant to the maximum feasible degree for all test runs.

(iii) The addition of an affected facility to a stationary source as an expansion to that source or as a replacement for an existing facility shall not by itself bring within the applicability of this section any other facility within that source.

(iv) The following shall not, by themselves, be considered modifications under this section:

(A) Maintenance, repair, and replacement which the Administrator determines to be routine for a source category, subject to the provisions of paragraph (iii) of this section and Chapter 5, Section 2(I).

(B) An increase in production rate of an existing facility, if that increase can be accomplished without a capital expenditure on that facility.

(C) An increase in the hours of operation.

(D) Use of an alternative fuel or raw material if, prior to the date any standard under this section becomes applicable to that source type, as provided by Chapter 5, Section 2(d), the existing facility was designed to accommodate that alternative use. A facility shall be considered to be designed to accommodate an alternative fuel or raw material if that use could be accomplished under the facility's construction specifications, as amended, prior to the change. Conversion to coal required for energy considerations as specified in section 111(a)(8) of the Act, shall not be considered a modification.

(E) The addition or use of any system or device whose primary function is the reduction of air pollutants, except when an emission control system is removed or is replaced by a system which the Administrator determines to be less environmentally beneficial.

(F) The relocation or change in ownership of an existing facility.

(v) Special provisions set forth under an applicable subpart shall supersede any conflicting provisions of Chapter 5, Section 2(k).

(vi) Within 180 days of the completion of any physical or operational change subject to the control measures specified in paragraphs 2(k)(i) of this section, compliance with all applicable standards must be achieved.

(vii) No physical change, or change in the method of operation, at an existing electric utility steam generating unit shall be treated as a modification for the purposes of this subsection provided that such change does not increase the maximum hourly emissions of any pollutant regulated under this subsection above the maximum hourly emissions achievable at that unit during the 5 years prior to the change.

(viii) Repowering projects that are awarded funding from the Department of Energy as permanent clean coal technology demonstration projects (or similar projects funded by EPA) are exempt from the requirements of this section provided that such change does not increase the maximum hourly emissions of any pollutant regulated under this section above the maximum hourly emissions achievable at that unit during the five years prior to the change.

(ix) (A) Repowering projects that qualify for an extension under section 409(b) of the Clean Air Act are exempt from the requirements of this section, provided that such change does not increase the actual hourly emissions of any pollutant regulated under this section above the actual hourly emissions achievable at that unit during the 5 years prior to the change.

(B) This exemption shall not apply to any new unit that:

(I) Is designated as a replacement for an existing unit;

(II) Qualifies under section 409(b) of the Clean Air Act for an extension of an emission limitation compliance date under section 405 of the Clean Air Act; and

(III) Is located at a different site than the existing unit.

(x) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project is exempt from the requirements of this section. A temporary clean coal control technology demonstration project, for the purposes of this section is a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the State implementation plan for the state in which the project is located and other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.

(xi) The reactivation of a very clean coal-fired electric utility steam generating unit is exempt from the requirements of this section.

(l) Reconstruction:

(i) An existing facility, upon reconstruction, becomes an affected facility, irrespective of any change in emission rate.

(ii) ***"Reconstruction"*** means the replacement of components of an existing facility to such an extent that:

(A) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, and

(B) It is technologically and economically feasible to meet the applicable standards set forth in this section.

(iii) ***"Fixed capital cost"*** means the capital needed to provide all the depreciable components.

(iv) If an owner or operator of an existing facility proposes to replace components, and the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, he shall notify the Administrator of the proposed replacements. The notice must be postmarked 60 days (or as soon as practicable) before construction of the replacements is commenced and must include the following information:

(A) Name and address of the owner or operator.

(B) The location of the existing facility.

(C) A brief description of the existing facility and the components which are to be replaced.

(D) A description of the existing air pollution control equipment and

the proposed air pollution control equipment.

(E) An estimate of the fixed capital cost of the replacements and of constructing a comparable entirely new facility.

(F) The estimated life of the existing facility after the replacements.

(G) A discussion of any economic or technical limitations the facility may have in complying with the applicable standards of performance after the proposed replacements.

(v) The Administrator will determine, within 30 days of the receipt of the notice required by paragraph (iv) of this section and any additional information he may reasonably require, whether the proposed replacement constitutes reconstruction.

(vi) The Administrator's determination under paragraph (v) shall be based on:

(A) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility;

(B) The estimated life of the facility after the replacements compared to the life of a comparable entirely new facility;

(C) The extent to which the components being replaced cause or contribute to the emissions from the facility and

(D) Any economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.

(vii) Individual subparts may include specific provisions which refine and delimit the concept of reconstruction set forth in this section.

(m) General Control Device Requirements:

(i) This section contains requirements for control devices used to comply with applicable subparts of Chapter 5, Section 2. The requirements are placed here for administrative convenience and only apply to facilities covered by subparts referring to this section.

(ii) Flares:

(A) General Design:

(I) Flares shall be designed for and operated with no visible emissions as determined by the methods specified in paragraph (D), except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.

(II) Flares shall be operated with flame present at all times, as determined by the methods specified in paragraph (D).

(III) Flares shall be used only with the net heating value of the gas being combusted being 300 Btu/Scf (11.2 MJ/scm) or greater if the flare is steam-assisted or air-assisted or with the net heating value of the gas being combusted being 200 Btu/scf (7.45 MJ/scm) or greater if the flare is nonassisted. The net heating value of the gas being combusted shall be determined by the methods specified in paragraph (D).

(IV) Steam-assisted and nonassisted flare shall be designed for and operated with an exit velocity as determined by the methods specified in paragraph (D)(IV), less than 60 ft/sec (18.3 m/sec) except as follows:

(1.) Steam-assisted and nonassisted flares designed for and operated with an exit velocity, as determined by the methods specified in paragraph (D)(IV) equal to or greater than 60 ft/sec (18.3 m/sec) but less than 400 ft/sec (122 m/sec) are allowed if the net heating value of the gas being combusted is greater than 1000 Btu/scf (37.3 MJ/scm).

(2.) Steam-assisted and nonassisted flares designed for and operated with an exit velocity as determined by the methods specified in paragraph (D)(IV), less than the velocity Vmax, as determined by the method specified in paragraph (D)(V), and less than 400 ft/sec (122 m/sec) are allowed.

(V) Air-assisted flares shall be designed and operated with an exit velocity less than the velocity, Vmax, as determined by the method specified in paragraph (D)(VI).

(VI) Flares used to comply with this section shall be steam-assisted, air-assisted or nonassisted.

(B) Owners or operators of flares used to comply with the provisions of this section shall monitor these control devices to ensure that they are operated and maintained in conformance with their designs. Applicable subparts will provide provisions stating how owners or operators of flares shall monitor these control devices.

(C) Flares used to comply with the provisions of an applicable subpart shall be operated at all times when emissions may be vented to them.

(D) Determinations:

(I) Reference Method 22 shall be used to determine the compliance of flares with the visible emission provisions of this section. The observation period is 2 hours and shall be used according to Method 22.

(II) The presence of a flare pilot flame shall be monitored using

a thermocouple or any other equivalent device to detect the presence of a flame.

(III) The net heating value of the gas being combusted in a flare shall be calculated using the following equation:

$$H_T = K \sum_{i=1}^{n} C_i H_i$$

where:

H_T = Net heating value of the sample, MJ/scm; where the net enthalpy per mole of offgas is based on combustion at 25°C and 760 mm Hg, but the standard temperature for determining the value corresponding to one mole is 20°C.

K = Constant,

$$1.740 \times 10^{-7} \left(\frac{1}{ppm}\right)\left(\frac{gmole}{scm}\right)\left(\frac{MJ}{kcal}\right)$$

Where the standard temperature of $\left(\frac{gmole}{scm}\right)$ is 20°C

C_i = Concentration of sample component i in ppm on a wet basis, as measured for organics by reference method 18 and measured for hydrogen and carbon monoxide by ASTM D1946-90 (2006) Standard Practice for Analysis of Reformed Gas by Gas Chromatography.

H_i = Net heat of combustion of sample component i, kcal/g mole at 25°C and 760 mm Hg. The heats of combustion may be determined using ASTM D4809-00 (2005) Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter (Precision Method) if published values are not available or cannot be calculated.

(IV) The actual exit velocity of a flare shall be determined by dividing the volumetric flowrate (in units of standard temperature and pressure), as determined by reference methods 2, 2A, 2C, or 2D as appropriate; by the unobstructed (free) cross sectional area of the flare tip.

(V) The maximum permitted velocity Vmax, for flares complying with paragraph (A)(IV)(2.) shall be determined by the following equation:

$$Log_{10}(V_{max}) = \frac{H_T + 28.80}{31.7}$$

V_{max} = Maximum permitted velocity, m/sec
28.8 = Constant
31.7 = Constant
H_T = The net heating value as determined in paragraph (D)(III)

(VI) The maximum permitted velocity, Vmax, for air-assisted flares shall be determined by the following equation:

$$V_{max} = 8.706 + 0.7084(H_T)$$

V_{max} = Maximum permitted velocity m/sec
8.706 = Constant
0.7084 = Constant
H_T = The net heating value as determined in paragraph (D)(III)

(n) General Notification and Reporting Requirements:

(i) For the purposes of this section, time periods specified in days shall be measured in calendar days, even if the word "calendar" is absent, unless otherwise specified in an applicable requirement.

(ii) For the purposes of this section, if an explicit postmark deadline is not specified in an applicable requirement for the submittal of a notification, application, report, or other written communication to the Administrator, the owner or operator shall postmark the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be delivered or postmarked on or before 15 days following the end of the event. It is acceptable to use reliable non-government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery agreed to by the permitting authority.

(iii) Notwithstanding time period or postmark deadlines specified in this section for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. Procedures governing the implementation of this provision are specified in paragraph (vi) of this subsection.

(iv) The owner or operator may change the dates by which periodic reports under this section shall be submitted (without changing the frequency of reporting) to be

consistent with the schedule specified in Chapter 5, Section 2, by mutual agreement between the owner or operator and the Administrator. The allowance in the previous sentence applies beginning 1 year after the affected facility is required to be in compliance with the applicable subpart in 40 CFR Part 63. Procedures governing the implementation of this provision are specified in paragraph (vi) of this subsection.

(v) If an owner or operator supervises one or more stationary sources affected by standards set under this section and standards set under 40 CFR Part 61, Chapter 5, Section 3 or both, may be arranged by mutual agreement between the owner or operator and the Administrator a common schedule on which periodic reports required by each applicable standard shall be submitted throughout the year. The allowance in the previous sentence applies in each state beginning 1 year after the stationary source is required to be in compliance with the applicable subpart in this section, or 1 year after the stationary source is required to be in compliance with the applicable 40 CFR Part 61 or Chapter 5, Section 3, whichever is latest. Procedures governing the implementation of this provision are specified in paragraph (vi) of this subsection.

(vi) (A) (I) Until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (vi)(B) and (vi)(C) of this subsection, the owner or operator of an affected facility remains strictly subject to the requirements of this section.

(II) An owner or operator shall request the adjustment provided for in paragraphs (vi)(B) and (vi)(C) of this subsection each time changes to an applicable time period or postmark deadline specified in this section are desired.

(B) Notwithstanding time periods or postmark deadlines specified in this section for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practicable before the subject activity is required to take place. The owner or operator shall include in the request whatever information is considered useful to convince the Administrator that an adjustment is warranted.

(C) If, in the Administrator's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(D) If the Administrator is unable to meet a specified deadline, the owner or operator will be notified of any significant delay and inform the owner or operator of the amended schedule.

Section 3. National Emission Standards for Hazardous Air Pollutants.

(a) General: The U.S. Environmental Protection Agency regulations on national emission standards for hazardous air pollutants (NESHAP), established pursuant to section 112 of the Act as amended November 15, 1990, and amended by the word or phrase "substitutions" given in Chapter 5, Section 3(c) are incorporated into these regulations. The specific documents containing the complete text of the regulations are found in 40 CFR Part 63. The standards designated in Chapter 5, Section 3(b) regulate specific categories of stationary sources that emit (or have the potential to emit) one or more of the hazardous air pollutants listed pursuant to section 112(b) of the Act, and presented in subsection (c)(i)(A) of Chapter 5, Section 3.

(b) Designated National Emission Standards for Hazardous Air Pollutants: The following standards for hazardous air pollutants, as revised and published in 40 CFR Part 63, are incorporated by reference under Section 4(a) of this Chapter.

40 CFR Part 63, subpart A -	General Provisions
40 CFR Part 63, subpart D -	Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants
40 CFR Part 63, subpart F -	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry
40 CFR Part 63, subpart G -	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater
40 CFR Part 63, subpart H -	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks
40 CFR Part 63, subpart M -	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
40 CFR Part 63, subpart N -	National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

40 CFR Part 63, subpart R -	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)
40 CFR Part 63, subpart T -	National Emission Standards for Halogenated Solvent Cleaning
40 CFR Part 63, subpart AA -	National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants
40 CFR Part 63, subpart BB -	National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants
40 CFR Part 63, subpart CC -	National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries
40 CFR Part 63, subpart HH -	National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities
40 CFR Part 63, subpart JJ -	National Emission Standards for Wood Furniture Manufacturing Operations
40 CFR Part 63, subpart OO -	National Emission Standards for Tanks - Level 1
40 CFR Part 63, subpart PP -	National Emission Standards for Containers
40 CFR Part 63, subpart QQ -	National Emission Standards for Surface Impoundments
40 CFR Part 63, subpart RR -	National Emission Standards for Individual Drain Systems
40 CFR Part 63, subpart SS -	National Emission Standards for Closed Vent Systems, Control

	Devices, Recovery Devices and Routing to a Fuel Gas System or a Process
40 CFR Part 63, subpart TT -	National Emission Standards for Equipment Leaks - Control Level 1
40 CFR Part 63, subpart UU -	National Emission Standards for Equipment Leaks - Control Level 2 Standards
40 CFR Part 63, subpart VV -	National Emission Standards for Oil-Water Separators and Organic-Water Separators
40 CFR Part 63, subpart WW -	National Emission Standards for Storage Vessels (Tanks) - Control Level 2
40 CFR Part 63, subpart YY -	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards
40 CFR Part 63, subpart EEE -	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors
40 CFR Part 63, subpart HHH -	National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities
40 CFR Part 63, subpart LLL -	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry
40 CFR Part 63, subpart UUU -	National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units

40 CFR Part 63, subpart VVV -	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works
40 CFR Part 63, subpart AAAA -	National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills
40 CFR Part 63, subpart EEEE -	National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)
40 CFR Part 63, subpart KKKK -	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans
40 CFR Part 63, subpart TTTT -	National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations
40 CFR Part 63, subpart YYYY -	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines
40 CFR Part 63, subpart ZZZZ -	National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines
40 CFR Part 63, subpart AAAAA -	National Emissions Standards for Hazardous Air Pollutants for Lime Manufacturing Plants
40 CFR Part 63, subpart DDDDD -	National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters
40 CFR Part 63, subpart GGGGG -	National Emission Standards for Hazardous Air Pollutants: Site Remediation
40 CFR Part 63, subpart MMMMM -	National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication

	Operations
40 CFR Part 63, subpart NNNNN -	National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production
40 CFR Part 63, subpart UUUUU -	National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units
40 CFR Part 63, subpart BBBBBB -	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities
40 CFR Part 63, subpart CCCCCC -	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities
40 CFR Part 63, subpart JJJJJJ -	National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources
40 CFR Part 63, subpart WWWWWW -	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations
40 CFR Part 63, subpart XXXXXX -	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Nine Metal Fabrication and Finishing Source Categories

(i) Designated Appendices: The following appendices are incorporated by reference under Section 4(a) of this Chapter.

40 CFR Part 63, Appendix A - Test Methods

40 CFR Part 63, Appendix B - Sources Defined For Early Reduction Provisions

40 CFR Part 63, Appendix C - Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit

40 CFR Part 63, Appendix D - Alternative Validation Procedure for EPA Waste and Wastewater Methods

40 CFR Part 63, Appendix E - Monitoring Procedure for Nonthoroughly Mixed Open Biological Treatment Systems at Kraft Pulp Mills Under Unsafe Sampling Conditions

(c) Initial Applicability Determination For This Section.

(i) The provisions of this section apply to the owner or operator of any stationary source that:

(A) Emits or has the potential to emit any hazardous air pollutant listed in or pursuant to section 112(b) of the Act, and identified below:

CAS Number	Chemical Name
75070	Acetaldehyde
60355	Acetamide
75058	Acetonitrile
98862	Acetophenone
53963	2-Acetylaminofluorene
107028	Acrolein
79061	Acrylamide
79107	Acrylic acid
107131	Acrylonitrile
107051	Allyl chloride
92671	4-Aminobiphenyl
62533	Aniline
90040	o-Anisidine
1332214	Asbestos
71432	Benzene (including benzene from gasoline)
92875	Benzidine
98077	Benzotrichloride
100447	Benzyl chloride
92524	Biphenyl
117817	Bis(2-ethylhexyl)phthalate (DEHP)
542881	Bis(chloromethyl)ether
75252	Bromoform
106945	1-bromopropane (1-BP)
106990	1,3-Butadiene
156627	Calcium cyanamide
133062	Captan
63252	Carbaryl
75150	Carbon disulfide
56235	Carbon tetrachloride
463581	Carbonyl sulfide

CAS Number	Chemical Name
120809	Catechol
133904	Chloramben
57749	Chlordane
7782505	Chlorine
79118	Chloroacetic acid
532274	2-Chloroacetophenone
108907	Chlorobenzene
510156	Chlorobenzilate
67663	Chloroform
107302	Chloromethyl methyl ether
126998	Chloroprene
1319773	Cresols/Cresylic acid (isomers and mixture)
95487	o-Cresol
108394	m-Cresol
106445	p-Cresol
98828	Cumene
94757	2,4-D, salts and esters
3547044	DDE
334883	Diazomethane
132649	Dibenzofurans
96128	1,2-Dibromo-3-chloropropane
84742	Dibutylphthalate
106467	1,4-Dichorobenzene(p)
91941	3,3-Dichlorobenzidene
111444	Dichloroethyl ether (Bis(2-chloroethyl)ether)
542756	1,3-Dichloropropene
62737	Dichlorvos
111422	Diethanolamine
121697	N,N-Diethyl aniline (N,N-Dimethylaniline)
64675	Diethyl sulfate
119904	3,3-Dimethoxybenzidine
60117	Dimethyl aminoazobenzene
119937	3,3-Dimethyl benzidine
79447	Dimethyl carbamoyl chloride
68122	Dimethyl formamide
57147	1,1-Dimethyl hydrazine
131113	Dimethyl phthalate
77781	Dimethyl sulfate
534521	4,6-Dinitro-o-cresol, and salts
51285	2,4-Dinitrophenol
121142	2,4-Dinitrotoluene
123911	1,4-Dioxane (1,4-Diethyleneoxide)
122667	1,2-Diphenylhydrazine
106898	Epichlorohydrin (l-Chloro-2,3-epoxypropane)
106887	1,2-Epoxybutane

CAS Number	Chemical Name
140885	Ethyl acrylate
100414	Ethyl benzene
51796	Ethyl carbamate (Urethane)
75003	Ethyl chloride (Chloroethane)
106934	Ethylene dibromide (Dibromoethane)
107062	Ethylene dichloride (1,2-Dichloroethane)
107211	Ethylene glycol
151564	Ethylene imine (Aziridine)
75218	Ethylene oxide
96457	Ethylene thiourea
75343	Ethylidene dichloride (1,1-Dichloroethane)
50000	Formaldehyde
76448	Heptachlor
118741	Hexachlorobenzene
87683	Hexachlorobutadiene
77474	Hexachlorocyclopentadiene
67721	Hexachloroethane
822060	Hexamethylene-1, 6-diisocyanate
680319	Hexamethylphosphoramide
110543	Hexane
302012	Hydrazine
7647010	Hydrochloric acid
7664393	Hydrogen fluoride (Hydrofluoric acid)
123319	Hydroquinone
78591	Isophorone
58899	Lindane (all isomers)
108316	Maleic anhydride
67561	Methanol
72435	Methoxychlor
74839	Methyl bromide (Bromomethane)
74873	Methyl chloride (Chloromethane)
71556	Methyl chloroform (1,1,1-Trichloroethane)
60344	Methyl hydrazine
74884	Methyl iodide (Iodomethane)
108101	Methyl isobutyl ketone (Hexone)
624839	Methyl isocyanate
80626	Methyl methacrylate
1634044	Methyl tert butyl ether
101144	4,4-Methylene bis(2-chloroaniline)
75092	Methylene chloride (Dichloromethane)
101688	Methylene diphenyl diisocyanate (MDI)
101779	4,4-Methylenedianiline
91203	Naphthalene
98953	Nitrobenzene
92933	4-Nitrobiphenyl

CAS Number	Chemical Name
100027	4-Nitrophenol
79469	2-Nitropropane
684935	N-Nitroso-N-methylurea
62759	N-Nitrosodimethylamine
59892	N-Nitrosomorpholine
56382	Parathion
82688	Pentachloronitrobenzene (Quintobenzene)
87865	Pentachlorophenol
108952	Phenol
106503	p-Phenylenediamine
75445	Phosgene
7803512	Phosphine
7723140	Phosphorus
85449	Phthalic anhydride
1336363	Polychlorinated biphenyls (Aroclors)
1120714	1,3-Propane sultone
57578	beta-Propiolactone
123386	Propionaldehyde
114261	Propoxur (Baygon)
78875	Propylene dichloride (1,2-Dichloropropane)
75569	Propylene oxide
75558	1,2-Propylenimine (2-Methyl aziridine)
91225	Quinoline
106514	Quinone
100425	Styrene
96093	Styrene oxide
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin
79345	1,1,2,2-Tetrachloroethane
127184	Tetrachloroethylene (Perchloroethylene)
7550450	Titanium tetrachloride
108883	Toluene
95807	2,4-Toluene diamine
584849	2,4-Toluene diisocyanate
95534	o-Toluidine
8001352	Toxaphene (chlorinated camphene)
120821	1,2,4-Trichlorobenzene
79005	1,1,2-Trichloroethane
79016	Trichloroethylene
95954	2,4,5-Trichlorophenol
88062	2,4,6-Trichlorophenol
121448	Triethylamine
1582098	Trifluralin
540841	2,2,4-Trimethylpentane
108054	Vinyl acetate
593602	Vinyl bromide

CAS Number	Chemical Name
75014	Vinyl chloride
75354	Vinylidene chloride (1,1-Dichloroethylene)
95476	o-Xylenes
108383	m-Xylenes
106423	p-Xylenes
0	Antimony Compounds
0	Arsenic Compounds (inorganic including arsine)
0	Beryllium Compounds
0	Cadmium Compounds
0	Chromium Compounds
0	Cobalt Compounds
0	Coke Oven Emissions
0	Cyanide Compounds *1
0	Glycol ethers *2
0	Lead Compounds
0	Manganese Compounds
0	Mercury Compounds
0	Fine mineral fibers *3
0	Nickel Compounds
0	Polycylic Organic Matter *4
0	Radionuclides (including radon) *5
0	Selenium Compounds

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

*1 X'CN where X=H' or any other group where a formal dissociation may occur. For example KCN or $Ca(CN)_2$

*2 Includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH_2CH_2)n-OR' where

n = 1, 2, or 3
R = alkyl C7 or less; or
R = phenyl or alkyl substituted phenyl;
R' = H or alkyl C7 or less; or
OR' consisting of carboxylic acid ester, sulfate, phosphate, nitrate, or sulfonate.

*3 Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

*4 Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100°C.

*5 A type of atom which spontaneously undergoes radioactive decay.

and,

(B) Is subject to any standard, limitation, prohibition, or other federally enforceable requirement established pursuant to 40 CFR Part 63.

(ii) In addition to complying with the provisions of this section, the owner or operator of any such source may need to obtain a permit for modification or construction in accordance with Chapter 6, Section 2 of the WAQSR. The owner or operator may also need to obtain an operating permit issued in accordance with Chapter 6, Section 3 of the WAQSR.

(d) General provisions for the subparts listed in Chapter 5, Section 3(b) are contained in Subpart A of 40 CFR Part 63 and are incorporated by reference under Section 4(a) of this chapter, unless superseded by requirements in the specific subparts.

Section 4. Incorporation by Reference.

(a) Code of Federal Regulations (CFR). All Code of Federal Regulations (CFRs), including their Appendices, cited in this Chapter, revised and published as of July 1, 2026, not including any later amendments, are incorporated by reference. Copies of the CFR are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: https://deq.wyoming.gov. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at https://ecfr.gov.

(b) American Society for Testing and Materials (ASTM). All ASTM standards cited in this Chapter, revised and published as of July 1, 2026, not including any later amendments, are incorporated by reference. Copies of the ASTM standards are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Division of Air Quality, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: https://deq.wyoming.gov. Copies can also be obtained at cost from the American Society for Testing and Materials, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428-2959, or online at https://www.astm.org/DIGITAL_LIBRARY/index.html

Permitting Requirements

CHAPTER 6

Section 1. **Introduction to permitting requirements.**

(a) Chapter 6 establishes permitting requirements for all sources constructing and/or operating in the State of Wyoming. Section 2 covers general air quality permitting requirements for construction and modification as well as minor source permits to operate. Notwithstanding the requirements of Section 2(a)(i) and (iii), a preconstruction permit under Section 2 is not required for the pollutant Greenhouse Gases (GHGs) unless the facility or source is also required to obtain a permit for GHGs under Chapter 6, Section 4. Section 3 is the state operating permit program required under Title V of the Clean Air Act. Section 4 is the prevention of significant deterioration (PSD) program. The Section 5 language regarding permitting requirements for major sources of hazardous air pollutants for which a MACT (Maximum Achievable Control Technology) standard has been established under section 112 of the Clean Air Act has been removed from Chapter 6, and is now covered under Chapter 5, Section 3. Section 6 covers permitting requirements for major sources of hazardous air pollutants for which a MACT standard has not been established under section 112 of the Clean Air Act. Section 7 establishes the terms under which clean air resource allocations expire. Section 8 is reserved. Section 9 establishes Best Available Retrofit Technology (BART) requirements and provides guidelines for identifying sources subject to BART. Sections 10, 11 and 12 are reserved. Section 13 covers permitting requirements for new and modified major stationary sources located in a nonattainment area. Section 14 incorporates by reference all Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices.

Section 2. **Permit requirements for construction, modification, and operation.**

(a) (i) Any person who plans to construct any new facility or source, modify any existing facility or source, or to engage in the use of which may cause the issuance of or an increase in the issuance of air contaminants into the air of this state shall obtain a construction permit from the State of Wyoming, Department of Environmental Quality before any actual work is begun on the facility.

(ii) Any facility or source required to obtain a permit for construction or modification under this section must, if subject to the provisions of Chapter 6, Section 3 of these regulations, submit an application to the Division for a Chapter 6, Section 3 operating permit within twelve (12) months of commencing operation.

(iii) Facilities or sources not subject to the provisions of Chapter 6, Section 3 of these regulations shall obtain a Chapter 6, Section 2 operating permit from the Department, pursuant to this section, for operation after a 120-day start-up period.

(iv) A permit to operate is also required for the operation of an existing portable source in each new location. However, a permit to construct is required for each new location that is a new source or facility and for each new or modified portable source or facility.

(v) Permit Fees: Persons applying for a permit under this section, or waiver from permit requirements under Chapter 6, Section 2(k)(viii), shall pay a fee to cover the Department's cost of reviewing and acting on permit applications in accordance with paragraph (o) of this section.

(vi) Facilities or sources subject to the provisions of Chapter 6, Section 5 or Chapter 6, Section 6 shall submit the permit application as required by Chapter 6, Section 5(a)(iii) or by Chapter 6, Section 6(h)(iv) as part of the permit application submitted in accordance with Chapter 6, Section 2(b)(i).

(b) (i) The owner of the facility or the operator of the facility authorized to act for the owner is responsible for applying for and obtaining a permit to construct and/or operate. The application shall be made on forms provided by the Division of Air Quality and each application shall be accompanied by site information, plans descriptions, specifications, and drawings showing the design of the source, the nature and amount of the emissions, and the manner in which it will be operated and controlled. A detailed schedule for the construction or modification of the facility shall be included. A separate application is required for each source. Any additional information, plans, specifications, evidence, or documentation that the Administrator of the Division of Air Quality may require shall be furnished upon request. The applicant shall conduct such continuous Ambient Air Quality monitoring analyses as may be determined by the Administrator to be necessary in order to assure that adequate data are available for purposes of establishing existing concentration levels of all affected pollutants. As a guideline, such data should be gathered continuously over a period of one calendar year preceding the date of application. Upon petition of the applicant, the Administrator will review the proposed monitoring programs and advise the applicant if such is approvable or modifications are required.

(ii) For portable sources or facilities, the Division may authorize the owner or operator to utilize a "self issuance" operating permit system for new locations which are not new sources or facilities. For purposes of this paragraph, a new source or facility is a source or facility for which operation or construction commenced after May 29, 1974, and for which a permit has not previously been issued.

The Division shall provide to authorized owners or operators of portable sources, forms upon which the self-issued permits are to be recorded. The owner or operator shall, at a minimum provide, as appropriate the permit number previously issued to the portable source or facility, the new location for which the permit is issued, the duration of operation of the new location, the production rate at the new location and the production at the new location in addition to any other information that the Administrator may require. Such permit shall be executed and a copy provided to the Air Quality Division prior to operation at the new location.

All conditions previously issued for the operation of the portable facility continue as applicable conditions for operation at subsequent locations.

(c) No approval to construct or modify shall be granted unless the applicant shows, to the

satisfaction of the Administrator of the Division of Air Quality that:

(i) The proposed facility will comply with all rules and regulations of the Wyoming Department of Environmental Quality, Division of Air Quality, and with the intent of the Wyoming Environmental Quality Act.

(ii) The proposed facility will not prevent the attainment or maintenance of any ambient air quality standard.

(A) A facility will be considered to cause or contribute to a violation of an ambient air quality standard if the projected impact of emissions from the facility exceed the following significance levels at any locality that does not or would not meet the applicable standard:

POLLUTANT	AVERAGING TIME (HOURS)				
	ANNUAL ($\mu g/m^3$)	24 ($\mu g/m^3$)	8 (mg/m^3)	3 ($\mu g/m^3$)	1 (mg/m^3)
SO_2	1.0	5	---	25	---
PM_{10}	1.0	5	---	---	---
NO_x	1.0	---	---	---	---
CO	---	---	0.5	---	2

(B) Notwithstanding the provisions of Chapter 6, Section 2(c)(ii)(A) above, no facility with the potential to emit 100 tons per year or more of PM_{10} (including sources of fugitive dust) shall be allowed to construct within the City of Sheridan designated PM_{10} nonattainment area until such time as the area is redesignated to an attainment area for PM_{10} ambient standards in accordance with section 107 of the Clean Air Act. In addition, no existing facility with the potential to emit 100 TPY or more of PM_{10} within the Sheridan designated PM_{10} nonattainment area shall be allowed to modify operations to increase potential PM_{10} emissions by 15 tons per year or more (including sources of fugitive dust), until such time as the area is redesignated by EPA as an attainment area for PM_{10} ambient standards. For the purpose of this paragraph, "potential to emit" shall have the same meaning as in Chapter 6, Section 4.

(iii) The proposed facility will not cause significant deterioration of existing ambient air quality in the Region as defined by any Wyoming standard or regulation that might address significant deterioration.

(iv) The proposed facility will be located in accordance with p roper land use planning as determined by the appropriate state or local agency charged with such responsibility.

(v) The proposed facility will utilize the Best Available Control Technology with consideration of the technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from the facility. For large mining operations, specific measures normally required and to be considered include but are not limited to:

(A) The paving of access roads;

(B) The treating of major haul roads with a suitable dust suppressant;

(C) The treatment of temporary haul roads;

(D) The use of silos, trough barns, or similar enclosed containers for the storage of large volumes of material awaiting load out and shipment;

(E) The treatment of active work areas; and

(F) The treatment of temporary ore stockpiles.

(vi) The proposed facility will have provisions for measuring the emissions of significant air contaminants as determined by the Administrator of the Division of Air Quality.

(vii) The proposed facility will achieve the performance specified in the application for the permit to construct or modify.

(viii) The proposed facility will not emit any air pollutant in amounts which will (i) prevent attainment or maintenance by any other state of any such national primary or secondary Ambient Air Quality Standard or (ii) interfere with measures required by the Federal Clean Air Act to be included in the applicable Implementation Plan for any other state to prevent significant deterioration of air quality or to protect visibility.

(d) In meeting the requirements of Chapter 6, Section 2(c) above pertaining to compliance with an applicable Ambient Air Quality Standard or increment, the degree of emission limitation required shall not be affected by (a) so much of the stack height of any source as exceeds good engineering practice stack height or (b) any other dispersion technique.

(i) For purposes of this requirement, "good engineering practice stack height" means the height equal to or less than:

(A) 30 meters as measured from the ground-level elevation at the base of the stack, or

(B) H + 1.5L where H is the height of nearby structure(s) measured from the ground level elevation at the base of the stack and L is the lesser dimension (height or width) of, the source, or nearby structure, provided that the Administrator may require the use of a field study or fluid model to verify good engineering practice stack height for the source, or

(C) Such other height as is demonstrated by a fluid model or a field study approved by the Administrator, which ensures that emissions from a stack do not result in excessive concentrations in the immediate vicinity of the source as a result of atmospheric downwash, eddies, or wakes which may be created by the source, nearby structures or nearby terrain features.

(ii) For purposes of this requirement, "dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

(A) Using that portion of a stack which exceeds good engineering practice stack height, or

(B) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant, or

(C) Increasing the final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack, or other selective manipulation of exhaust gas streams so as to increase the exhaust gas plume rise.

(iii) For purposes of this requirement, "dispersion technique" does not include:

(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream, or

(B) The merging of exhaust gas streams where the source owner or operator demonstrates that the facility was originally designed and constructed with such merged streams.

(iv) For the purposes of this requirement, "emission limitation" means a requirement established by the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(v) "Nearby" as used in Chapter 6, Section 2(d)(i) is defined for a specific structure or terrain feature, and

(A) For purposes of applying the formula provided in Chapter 6, Section 2(d)(i)(B) means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than one half mile (0.8 km), and

(B) For conducting demonstrations under Chapter 6, Section 2(d)(i)(C) means not greater than one half mile (0.8 km), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if such feature achieves a height one half mile from the stack that is at least 40 percent of the GEP stack height determined by the formula provided in Chapter 6, Section 2(d)(i)(B) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure of terrain feature is measured from the ground-level elevation at the base of the stack.

(vi) ***"Excessive concentration"*** is defined for the purpose of determining good engineering practice stack height under Chapter 6, Section 2(d)(i)(C) and means,

(A) For sources seeking credit for stack height exceeding that established under Chapter 6, Section 2(d)(i)(B), a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration (Chapter 6, Section 4), an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this section shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Administrator, an alternative emission rate shall be established in consultation with the source owner or operator.

(vii) After the Administrator has reached a proposed decision to approve or disapprove a permit application in which the source relies on a good engineering practice stack height that exceeds the height allowed by Chapter 6, Section 2(d)(i)(A) or (B) the Administrator will notify the public of the availability of the demonstration study and proved the opportunity for public hearing. Specific notification of the Administrator's decision, availability of the demonstration and opportunity for public hearing will be included as part of the public notice required in Chapter 6, Section 2(m) of these regulations.

(e) No permit to operate may be granted until the applicant demonstrates to the satisfaction of the Administrator of the Division of Air Quality that:

(i) The facility is complying with the Wyoming Air Quality Standards and Regulations applicable at the time the permit to construct or modify was granted and with the intent of the Wyoming Environmental Quality Act, 1973.

(ii) The facility has been constructed or modified in accordance with the requirements and conditions contained in the permit to construct or modify.

(f) The Administrator of the Division of Air Quality may impose any reasonable conditions upon an approval to construct, modify, or operate including, but not limited to, conditions requiring the source to be provided with:

(i) Sampling and testing facilities as the Administrator may require;

(ii) Safe access to the sampling facilities;

(iii) Instrumentation to monitor and record emission data; and

(iv) Ambient Air Quality monitoring which, in the judgment of the Administrator, is necessary to determine the effect which emissions from a source may have, or is having, on air quality in any area which may be affected by emissions from such source.

(g) The Administrator will review each application within 30 days and notify the applicant as to whether or not the application is complete. If the application is complete, the Administrator will propose approval, conditional approval or denial and will publish such proposal within 60 days of the determination that the application is complete. If the application is not complete, the application will be considered inactive and additional information as necessary will be requested. A complete application shall include all materials and analyses which the Administrator determines are necessary for the Division to review the facility as a source of air pollution.

(h) A permit to construct or modify shall remain in effect until the permit to operate the facility for which the application was filed is granted or denied or the application is canceled. However, an approval to construct or modify shall become invalid if construction is not commenced within 24 months after receipt of such approval or if construction is discontinued for a period of 24 months or more. The Administrator may extend such time period(s) upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; however, each phase must commence construction within 24 months of the projected and approved commencement date for such phase. Notwithstanding the above, a permit containing a case-by-case MACT determination pursuant to Chapter 6, Section 6 shall expire if construction or reconstruction has not commenced within 18 months of issuance, unless the Division has granted an extension which shall not exceed an additional 12 months.

(i) Any owner or operator subject to the provisions of this regulation shall furnish the Administrator written notification as follows:

(i) A notification of the anticipated date of initial start-up of each source not more than 60 days or less than 30 days prior to such date.

(ii) A notification of the actual date of initial start-up of each source within 15 days after such date.

(j) Within 30 days after achieving the maximum design production rate for which the permit is approved and at which each source will be operated, but not later than 90 days after initial start-up of such source, the owner or operator of such source shall conduct a performance test(s) in accordance with methods and under operating conditions approved by the Administrator and furnish the Administrator a written report of the results of each performance test.

(i) Such test shall be at the expense of the owner or operator.

(ii) The Administrator may monitor such test and may also conduct performance tests.

(iii) The owner or operator of a source shall provide the Administrator 15 days prior notice of the performance test to afford the Administrator the opportunity to have an observer present.

(iv) The Administrator may waive the requirement for performance tests if the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the source is being operated in compliance with all State and Federal Regulations which are part of the applicable plan.

(v) If the maximum design production rate for which the permit is approved is not achieved within 90 days of initial start-up, testing will be conducted on a schedule to be defined by the Administrator. This schedule may require that the source be tested at the production rate achieved within 90 days of initial start-up and again when maximum design production rate is achieved.

(k) Approval to construct or modify shall not be required for:

(i) The installation or alteration of an air pollutant detector, air pollutants recorder, combustion controller, or combustion shutoff.

(ii) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment.

(iii) Fuel burning equipment other than a smokehouse generator which has a heat input of not more than 25 million BTU per hour (6.25 billion gm-cal/hr) and burns only gaseous fuel containing not more than 20 grains total sulfur per 100 std. ft^3; has a heat input of not more than 10 million BTU/hr (2.5 billion gm-cal/hr) and burns any other fuel.

(iv) Mobile internal combustion engines.

(v) Laboratory equipment used exclusively for chemical or physical analyses.

(vi) The installation of air pollution control equipment which is not a part of a project which requires a construction or modification permit under Chapter 6, Section 2 or 4 of these regulations.

(vii) Gasoline storage tanks at retail establishments.

(viii) Such other minor sources which the Administrator determines to be insignificant in both emission rate and ambient air quality impact.

Notwithstanding the above exemptions, any facility which is a major emitting facility pursuant to the definition in Chapter 6, Section 4 shall comply with the requirements of both Chapter 6, Sections 2 and 4.

(l) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, state and federal rules and regulations.

(m) After the Administrator has reached a proposed decision based upon the information presented in the permit application to construct or modify, the Division of Air Quality will advertise such proposed decision in a newspaper of general circulation in the county in which the source is proposed. This advertisement will indicate the general nature of the proposed facility, the proposed approval/disapproval of the permit, and a location in the region where the public might inspect the information submitted in support of the requested permit and the Air Quality Division's analysis of the effect on air quality. A copy of the public notice required above will be sent as appropriate to (a) the applicant, (b) the U.S. EPA, (c) any affected comprehensive regional land use planning agency, (d) affected county commissioners, (e) any state or federal land manager or Indian governing body whose lands may be significantly affected by emissions from the proposed facility. The public notice will include notification of the opportunity for a public hearing and will indicate the anticipated degree of increment consumption if the source is subject to Chapter 6, Section 4 of these Regulations. The public will be afforded a 30-day period in which to make comments and recommendations to the Division of Air Quality. A public hearing may be called if sufficient interest is generated or if any aggrieved party so requests in writing within the 30-day comment period. After considering all comments, including those presented at any hearings held, the Administrator will reach a decision and notify the appropriate parties.

(n) (i) Within 30 days of receipt of a permit application for a new major emitting facility or major modification which is subject to the provisions of Chapter 6, Section 4, but not later than 60 days prior to public notice issued under Chapter 6, Section 2(m) above, the Administrator shall provide written notification to all Federal Class I Area Federal Land Managers of such proposed new major emitting facility or major modification whose emissions may affect the Federal Class I Area or affect visibility in such Area. This notification must contain a copy of all information relevant to the permit application including an analysis of the anticipated impacts on air quality and visibility in any Federal Class I Area.

(ii) Within 30 days of receipt of advance notification of a permit application for a new source or facility which may be subject to Chapter 6, Section 4, and which may affect visibility in a Federal Class I Area, the Administrator shall notify the affected Federal Land Manager of such advance notification.

(o) A permit fee will be assessed on the owner or operator (applicant), based on the cost to the Department in reviewing and acting on permit applications submitted to the Division under this section.

(i) Fees for Reviewing the Application: The Department shall provide written notice of the fee to the applicant at such time as the Administrator of the Division reaches a proposed decision on the application under paragraph (m) of this section.

(A) The fee shall include all costs incurred by the Department in reviewing the application to this point in the permit process including the costs of advertising such decision and providing public notice.

(B) The fee is due upon receipt of the written notice unless the fee assessment is appealed pursuant to W.S. 35-11-211(d).

(C) Payment of this fee shall be required before the issuance of any permit under this section.

(ii) Fees for Issuing Permit: An additional fee shall be assessed and written notice provided to the applicant for any additional costs incurred by the Department (after the date of public notice) in reaching a final decision, including the costs of holding public hearings, reviewing public comments, and issuing permits.

(iii) Portable sources or facilities shall be assessed a fee of $150.00 for operation in each new location. This fee shall be submitted with each "self issuance" permit submitted to the Division for operation under Chapter 6, Section 2(a)(iv) and Chapter 6, Section 2(b) of these regulations. For portable sources or facilities which are not authorized to use the "self issuance" permits, the fee assessment shall be $300.00 for operation at each new location.

Section 3. **Operating permits.**

(a) Applicability. The following sources are subject to the operating permit requirements of this section:

(i) Any major source;

(ii) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 of the Act and Chapter 5, Section 2 of the WAQSR;

(iii) Any source, including an area source, subject to a standard or other requirement under section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the Act;

(iv) Any "affected source" subject to the acid rain provisions of Title IV of the Act;

(v) Any stationary source subject to preconstruction review requirements pursuant to the Prevention of Significant Deterioration of Chapter 6, Section 4 of the WAQSR;

(vi) Any other stationary source in a source category that the EPA may designate

by regulation pursuant to the authority granted under the Act;

(vii) The following sources are specifically exempt from operating permit requirements of this section:

(A) Sources subject to Chapter 5, Section 2, Subpart AAA - Standards of Performance for New Residential Wood Heaters; and

(B) Sources subject to the asbestos standards for demolition and renovation of Chapter 3, Section 8.

(viii) Permitted sources which are not subject to the requirements of this section must obtain an operating permit under Chapter 6, Section 2 of the WAQSR;

(ix) Research and Development Activities. Emissions from research and development facilities which are support facilities collocated with another source under common ownership or control must be included (along with other emissions from the source) in determining the applicability of Chapter 6, Section 3 if fifty (50) percent or more of the output from the research and development facility is used by the main activity at the source. Otherwise, research and development operations may be considered as separate and discrete stationary sources in determining whether such operations are subject to Chapter 6, Section 3 operating permit requirements.

(x) Emissions Units and Chapter 6, Section 3 Sources.

(A) For major sources, the Division shall include in the permit all applicable requirements for all relevant emissions units in the major source;

(B) For any nonmajor source subject to the Chapter 6, Section 3 program under paragraph Chapter 6, Section 3(a), the Division shall include in the permit all applicable requirements applicable to emissions units that cause the source to be subject to the Chapter 6, Section 3 program.

(xi) Fugitive Emissions. Fugitive emissions from a Chapter 6, Section 3 source shall be included in the permit application and the Chapter 6, Section 3 permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

(b) Definitions. The following definitions apply to Chapter 6, Section 3. Unless defined differently below, the meaning of the terms used in this section is the same as in Chapter 1, Section 3; Chapter 5, Section 2; Chapter 6, Section 4 of the WAQSR.

"Act" means the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.

"Affected source" shall have the meaning given to it in regulations promulgated under Title IV of the Act for the acid rain program.

"Affected states" are all states:

(i) Whose air quality may be affected and that are contiguous to the State of Wyoming where an operating permit, permit modification or permit renewal subject to the provisions of this section is being proposed; or

(ii) That are within fifty miles of the permitted source.

"Affected unit" shall have the meaning given to it in the regulations promulgated under Title IV of the Act.

"Alternative operating scenario (AOS)" means a scenario authorized by the Division in an operating permit that involves a change in a source subject to this section for a particular emissions unit, that either results in the unit being subject to one or more applicable requirements which differ from those applicable to the emissions unit prior to implementation of the change or renders inapplicable one or more requirements previously applicable to the emissions unit prior to implementation of the change.

"Applicable requirement" means all of the following as they apply to emissions units at a source subject to this section (including requirements with future effective compliance dates that have been promulgated or approved by the EPA or the State through rulemaking at the time of issuance of the operating permit):

(i) Any standard or other requirement provided for in the Wyoming implementation plan approved or promulgated by the EPA under Title I of the Act that implements the relevant requirements of the Act, including any revisions to the plan promulgated in 40 CFR part 52;

(ii) Any standards or requirements in the WAQSR which are not a part of the approved Wyoming implementation plan and are not federally enforceable;

(iii) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D of the Act and including Chapter 5, Section 2 and Chapter 6, Sections 2 and 4 of the WAQSR;

(iv) Any standard or other requirement promulgated under section 111 of the Act, including section 111(d) and Chapter 5, Section 2 of the WAQSR;

(v) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act and including any regulations promulgated by the EPA and the State pursuant to Section 112 of the Act;

(vi) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(vii) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act concerning enhanced monitoring and compliance certifications;

(viii) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(ix) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act (having to do with the release of volatile organic compounds under ozone control requirements);

(x) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the EPA has determined that such requirements need not be contained in a Title V permit;

(xi) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act;

(xii) Any state ambient air quality standard or increment or visibility requirement of the WAQSR;

(xiii) Nothing under the definition of "Applicable requirement" in paragraph (b) of this section shall be construed as affecting the allowance program and Phase II compliance schedule under the acid rain provision of Title IV of the Act.

"Approved replicable methodology (ARM)" means an operating permit term that:

(i) Specifies a protocol which is consistent with and implements an applicable requirement, or requirement of this section, such that the protocol is based on sound scientific and/or mathematical principles and provides reproducible results using the same inputs; and

(ii) Require the results of that protocol to be recorded and used for assuring compliance with such applicable requirement, any other applicable requirement implicated by implementation of the ARM, or requirement of this section, including where an ARM is used for determining applicability of a specific requirement to a particular change.

"Commencement of operation" means the setting into operation of a new or modified source (subject to the provisions of this section) for any purpose.

"Department" means the Wyoming Department of Environmental Quality or its Director.

"Designated representative" or ***"alternate designated representative"*** shall have the meaning given to it in the regulations promulgated under Title IV of the Act.

"Division" means the Air Quality Division of the Wyoming Department of Environmental Quality or its Administrator.

"Draft permit" means the version of a permit for which the Division offers public notice and an opportunity for public comment and hearing.

"Emissions allowed under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

"EPA" means the Administrator of the U.S. Environmental Protection Agency or the Administrator's designee.

"Final permit" means the version of an operating permit under this section issued by the Division that has completed all review procedures required by Chapter 6, Section 3(d) and Section 3(e).

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

"General permit" means an operating permit under this section that meets the requirements of Chapter 6, Section 3(i).

"Greenhouse gases (GHGs)" means the air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person or persons under common control) belonging to a single major industrial grouping and this is described in paragraphs (i), (ii), or (iii) of this definition. For the purpose of defining "major source", a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(i) A major source under section 112 of the Act, which is defined as:

(A) For pollutants other than radionuclides, any stationary source or

group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the EPA may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(B) For radionuclides, "major source" shall have the meaning specified by the EPA by rule.

(ii) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant including any major source of fugitive emissions of any such pollutant, as determined by rule by the EPA, except that a source that meets this definition for only GHGs and no other air pollutant, shall not be required to comply with the provisions of this section. Emissions of air pollutants regulated solely due to section 112(r) of the Act shall not be considered in determining whether a source is a "major source" for purposes of Chapter 6, Section 3 applicability. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source unless the source belongs to one of the following categories of stationary sources:

(A) Stationary sources listed under the definition for "Major stationary source", item (a), in Chapter 6, Section 4(a) of the WAQSR; or

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

(iii) A major stationary source as defined in part D of Title I of the Act (in reference to sources located in nonattainment areas).

"Operating permit" means any permit or group of permits covering a source under this section that is issued, renewed, amended, or revised pursuant to this section.

"Permit modification" means a revision to an operating permit that meets the requirements of Chapter 6, Section 3(d)(vi).

"Permit revision" means any permit modification or administrative permit amendment.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation is enforceable by the EPA and the Division. This term does not alter or affect the use of this term for any other purposes under the

Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

"Proposed permit" means the version of a permit that the Division proposes to issue and forwards to the EPA for review.

"Regulated air pollutant" means the following:

(i) Nitrogen oxides (NO_x) or any volatile organic compound;

(ii) Any pollutant for which a national ambient air quality standard has been promulgated;

(iii) Any pollutant that is subject to any standard established in Chapter 5, Section 2 of the WAQSR or section 111 of the Act;

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

(v) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act, including sections 112(g), (j), and (r) of the Act, including the following:

(A) Any pollutant subject to requirements under section 112(j) of the Act. If the EPA fails to promulgate a standard by the date established pursuant to section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and

(B) Any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to section 112(g)(2) requirement.

(vi) Pollutants regulated solely under section 112(r) of the Act are to be regulated only with respect to the requirements of section 112(r) for permits issued under this section.

"Regulated pollutant (for fee calculation)", which is used only for purposes of Chapter 6, Section 3(f), means any "regulated air pollutant" except the following:

(i) Carbon monoxide;

(ii) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or

(iii) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(i) For a Corporation:

(A) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) A duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(I) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

(II) The delegation of authority to such representative is approved in advance by the Division.

(ii) For a Partnership or Sole Proprietorship: a general partner or the proprietor, respectively;

(iii) For a Municipality, State, Federal, or Other Public Agency: Either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency; or

(iv) For Affected Sources:

(A) The designated representative or alternate designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

(B) The designated representative, alternate designated representative, or responsible official under the definition for "Responsible official" in Chapter 6, Section 3(b) for all other purposes under this section.

"Section 502(b)(10) changes" are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting or compliance certification requirements.

"Source" means any stationary source or area source (if subject to a standard, limitation or other requirement under section 111 or 112 of the Act).

"State" means any non-Federal permitting authority, including any local agency, interstate association, or statewide program. "State" shall have its conventional meaning where such meaning is clear from the context.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

"tpy CO_2 equivalent emissions (CO_2e)" shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to Subpart A of 40 CFR part 98--Global Warming Potentials, and summing the resultant value for each to compute a tpy CO_2e. Prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material). Table A-1 to Subpart A of 40 CFR part 98 is adopted by reference.

"WAQSR" means the Wyoming Air Quality Standards and Regulations promulgated under the Wyoming Environmental Quality Act, W.S. § 35-11-101 *et seq*.

(c) Permit Applications. Any stationary source or group of stationary sources subject to this section shall submit a timely and complete permit application in accordance with this paragraph.

(i) Timely Application.

(A) A timely application for a source applying for an operating permit under this section for the first time is one that is submitted to the Division within twelve (12) months after the source becomes subject to this section.

(B) Every stationary source or group of stationary sources which are subject to this section under paragraph (a), and which is required to obtain a construction or modification permit under Chapter 5, Section 2 or Chapter 6, Section 2 or 4 of the WAQSR or section 112(g) of the Act shall file a complete application to obtain an operating permit within twelve (12) months after commencing operation. Where an existing operating permit would prohibit such construction or change in operation, the owner or operator must obtain a permit revision before commencing operation.

(C) For the purpose of an operating permit renewal, a timely application is one that is submitted at least six (6) months, but no earlier than eighteen (18) months, prior to the date of the permit expiration.

(D) Transition Period. Initial operating permit applications for sources subject to this section shall be submitted as follows:

(I) Permit applications for operating natural gas compressor engines, operating natural gas sweetening plants, and operating natural gas processing plants subject to the standards of performance of Subpart KKK of Chapter 5, Section 2 of the WAQSR, shall be submitted within four (4) months of the EPA's approval of this operating permit program, but not later than November 15, 1995. This requirement for the early submittal of permit applications includes only major sources as defined in Chapter 6, Section 3(b).

(II) Permit applications for all other operating sources subject to this section shall be submitted within twelve (12) months of the EPA's approval of this operating permit program, but not later than November 15, 1995.

(III) Applications for affected facilities addressing State and federal requirements, other than Title IV acid rain program requirements, shall be submitted to the Division within twelve (12) months of EPA approval of the operating permit program, but no later than November 15, 1995. Applications for phase II acid rain permits and all other acid rain permits for affected facilities shall be submitted in accordance with the acid rain permit application deadlines of Chapter 11, Section 2(c)(i)(B).

(IV) All sources listed at Chapter 6, Section 3(a) that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, shall submit a permit application pursuant to this section at such time as the EPA requires such sources to obtain an operating permit in final regulations promulgated pursuant to Title V of the Act.

(ii) Complete Application.

(A) Operating permit applications shall be submitted on the Division's standard operating permit application forms and any required EPA Title IV acid rain permit forms. The information which must be included in the permit application is specified below:

(I) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(II) A description of the source's processes and products (by Standard Industrial Classification Code) including those associated with any proposed AOS identified by the source.

(III) The following emissions related information:

(1.) All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit. Sufficient information

shall be provided to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule developed pursuant to Chapter 6, Section 3(f).

The source shall not be required to furnish the above information for insignificant activities and emission levels such as maintenance, cleaning and painting, welding, chemical storage and transfer, and other activities which are incidental to the source's primary business activity and which result in emissions of less than one ton per year of a regulated pollutant not included in the section 112(b) list of hazardous air pollutants or emissions less than 1,000 pounds per year of a pollutant regulated pursuant to listing under section 112(b) of the Act. Provided however, such emission levels of hazardous air pollutants do not exceed exemptions based on insignificant emission levels established by EPA through rulemaking for modification under section 112(g) of the Act. The source shall list such insignificant activities, proposed for exclusion, in its application and certify that emissions from each of these activities are less than the above quantities. Activities and emissions which have applicable requirements shall not be excluded from the operating permit application.

(2.) Identification and description of all emission points and fugitive emission sources in sufficient detail to establish the basis for fees and applicability of requirements of the Act and the WAQSR.

(3.) Emission rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable emission standard and reference test method. For emissions units subject to an annual emissions cap, tpy can be reported as part of the aggregate emissions associated with the cap, except where more specific information is needed, including where necessary to determine and/or assure compliance with the applicable requirement.

(4.) The following information to the extent it is emissions related: fuels, fuel use, raw materials, production rates, and operating schedules.

(5.) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(6.) Limitations on source operations affecting emissions or any work practice standards, where applicable, for all regulated pollutants.

(7.) Other information required by any applicable requirements (including information related to stack height limitations pursuant to Chapter 6, Section 2).

(8.) Calculations on which the information in items (1.) through (7.) is based.

(IV) The following air pollution control requirements:

(1.) Citation and description of all applicable requirements; and

(2.) Description of or reference to any applicable test method for determining compliance with each applicable requirement and permit limitation.

(V) Other specific information that may be necessary to implement, and enforce other requirements of the Act and the WAQSR or to determine the applicability of such requirements.

(VI) An explanation of any proposed exemptions from otherwise applicable requirements.

(VII) Additional information as determined to be necessary by the Division to define proposed AOSs identified by the source pursuant to Chapter 6, Section 3(h)(i)(I) or to define permit terms and conditions implementing Chapter 6, Section 3(h)(i)(J). The permit application shall include documentation demonstrating that the source has obtained authorization(s) required under the applicable requirements relevant to any proposed AOSs, or a certification that the source has submitted all relevant materials to the appropriate permitting authority for obtaining such authorization(s).

(VIII) A compliance plan that contains the following:

(1.) A description of the compliance status of the source with respect to all applicable requirements.

(2.) A description as follows:

a. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

b. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

c. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

d. For applicable requirements associated with a proposed AOS, a statement that the source will meet such requirements upon implementation of the AOS. If the proposed AOS would implicate an applicable requirement that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

(3.) A compliance schedule as follows:

a. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

b. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

c. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

d. For applicable requirements associated with a proposed AOS, a statement that the source will meet such requirements upon implementation of the AOS. If a proposed AOS would implicate an applicable requirement that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term will satisfy this provision unless a more detailed schedule is expressly required by the applicable requirement.

(4.) A schedule for submission of certified progress reports where applicable no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation.

(5.) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(IX) Requirements for compliance certification, including the following:

(1.) A certification of compliance with all applicable requirements by a responsible official consistent with Chapter 6, Section 3(c)(iv) and section 114(a)(3) of the Act;

(2.) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(3.) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or this Division; and

(4.) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(X) The use of nationally standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act.

(B) Confidential Information. As provided in sections 35-11-1101(a) and 35-11-205(d) of the Wyoming Environmental Quality Act, upon a satisfactory showing that records, reports or information or particular parts thereof, other than emission and pollution data, if made public would divulge trade secrets, the records, reports or information or particular portions thereof shall be treated as confidential by the Division. The Division may also request under Chapter 6, Section 3(h)(i)(F)(V) that the applicant provide this information directly to the EPA.

(I) An applicant who submits information which it desires to be held confidential may do so by stamping the information as "Confidential" and submitting it in a separate envelope marked "Confidential".

(iii) Duty to Supplement. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

(iv) Certification. Any application form, report, or compliance certification submitted pursuant to the WAQSR shall require certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this section shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(d) Permit Issuance, Renewal, Reopenings, and Revisions.

(i) Action on Application.

(A) A permit, permit revision, or renewal may be issued only if all of the

following conditions have been met:

(I) The Division has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under Chapter 6, Section 3(i);

(II) Except for modifications qualifying for minor permit modification procedures under Chapter 6, Section 3(d)(vi), the Division has complied with the requirements for public participation specified in this section;

(III) The Division has complied with the requirements for notifying and responding to affected States as required in this section;

(IV) The conditions of the permit provide for compliance with all applicable requirements and requirements of this section; and

(V) The EPA has received a copy of the proposed permit and any notices required under this section, and has not objected to the issuance of the permit within the time period specified in this section.

(B) Except for permits issued during the initial transitional period or under regulations promulgated under Title IV of the Act for permitting affected units under the acid rain program, the Division shall take final action on each permit application, including a request for a permit modification or renewal within 18 months after receiving a complete permit application.

(C) Within 60 days of the receipt of the application, the Division shall provide notice of whether the application is complete. Unless additional information is requested subject to the application or if the applicant is otherwise notified of incompleteness, the application shall be deemed complete after this 60-day period. A completeness determination will not be made for minor permit modifications under Chapter 6, Section 3(d)(vi)(A) and (B).

(D) The Division shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The Division will provide this statement to the EPA and any other person who requests it.

(E) The submittal of a complete permit application shall not affect the requirement that any source have a preconstruction permit under Chapter 6, Section 2 or 4 of the WAQSR.

(ii) Requirement for a Permit. Except as provided in this paragraph or in Chapter 6, Section 3(d)(iii), no source requiring an operating permit under Chapter 6, Section 3 may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under this section. If a source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have an operating

permit is not a violation of this section until the Division takes final action on the permit application, except as noted in this paragraph. This protection shall cease to apply after a completeness determination made pursuant to Chapter 6, Section 3(d)(i)(C), if the applicant fails to submit by the deadline specified in writing by the Division any additional information identified as being needed to process the application.

(iii) Changes for Which No Permit Revision is Required.

(A) A source may change operations without a permit revision, as allowed under section 502(b)(10) of the Act and W.S. § 35-11-206(f)(iii), provided that:

(I) The change is not a modification under any provision of Title I of the Act and does not violate applicable acid rain requirements under Title IV of the Act;

(II) The change has met the requirements of Chapter 6, Section 2 and is not a modification under Chapter 5, Section 2 or Chapter 6, Section 4 of the WAQSR and the changes do not exceed the emissions allowed under the permit (whether expressed therein as a rate of emissions or in terms of total emissions); and

(III) The source provides the EPA and the Division with written notification at least fourteen (14) days in advance of the proposed change. The source, the EPA, and the Division shall attach such notice to their copy of the relevant permit.

(1.) For each such change, the written notification required shall include a brief description of the change within the permitted source, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.

(2.) The permit shield described in Chapter 6, Section 3(k) shall not apply to any change made pursuant to Chapter 6, Section 3(d)(iii).

(iv) Permit Renewal and Expiration.

(A) Permits being renewed are subject to the same procedural requirements, including those for public participation, and affected State and EPA review, that apply to initial permit issuance.

(B) Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with Chapter 6, Section 3(d)(ii) and Chapter 6, Section 3(c)(i)(C).

(v) Administrative Permit Amendments.

(A) An "administrative permit amendment" is a permit revision that can accomplish one or more of the following changes:

(I) Corrects typographical errors;

(II) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

(III) Requires more frequent monitoring or reporting by the permittee;

(IV) Allows for a change in ownership or operational control of a source where the Division determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees has been submitted to the Division;

(V) Incorporates into the operating permit the requirements from preconstruction review permits issued pursuant to Chapter 6, Sections 2 and 4 of the WAQSR, provided that the process for issuing the preconstruction permit meets procedural requirements substantially equivalent to those that would be applicable under Chapter 6, Section 3(d) and (e) if the change were subject to review as an operating permit modification, and that the permit meets compliance requirements substantially equivalent to those of Chapter 6, Section 3(h); or

(VI) Incorporates any other type of change which the EPA has determined as part of the approved operating permit program to be similar to Chapter 6, Section 3(d)(v)(A)(I) through (V) above.

(B) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act.

(C) An administrative permit amendment may be made by the Division consistent with the following:

(I) The Division shall take final action on a request for an administrative permit amendment within 60 days from the receipt of the request, and may incorporate such changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.

(II) The Division shall submit a copy of the revised permit to the EPA.

(III) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(D) The Division may, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in Chapter 6, Section 3(k) for administrative permit amendments made pursuant to Chapter 6, Section 3(d)(v)(A)(V) which meet the relevant requirements of Chapter 6, Section 3(d), 3(h), and 3(e) for significant permit

modifications.

(vi) Permit Modification. A permit modification is any revision to an operating permit which cannot be accomplished as an administrative permit amendment under Chapter 6, Section 3(d)(v). A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act.

(A) Minor Permit Modification Procedures.

(I) Criteria.

(1.) Minor permit modification procedures shall be used only for those permit modifications that:

a. Do not violate any applicable requirement;

b. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

c. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

d. Do not seek to change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed in order to avoid an otherwise applicable requirement. Such terms and conditions include:

1. A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Act;

2. An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Act concerning early reductions of hazardous air pollutants; and

3. A federally enforceable emissions cap assumed to avoid being subject to provisions of this section pursuant to Chapter 6, Section 3(m) regarding synthetic minors.

e. Are not modifications under any provision of Title I of the Act; and

f. Are not required to be processed as a significant modification.

(2.) Notwithstanding Chapter 6, Sections 3(d)(vi)(A) and

3(d)(vi)(B), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the implementation plan.

(3.) Qualifying for a minor permit modification under this section does not relieve a source of its responsibility to obtain a modification permit under the preconstruction permit requirements of Chapter 6, Section 2 of the WAQSR.

(II) Application. An application requesting the use of minor permit modification procedures shall meet the requirements of Chapter 6, Section 3(c)(ii) and shall include the following:

(1.) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(2.) The source's suggested draft permit;

(3.) Certification by a responsible official, consistent with Chapter 6, Section 3(c)(iv), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

(4.) Completed forms for the Division to use to notify the EPA and affected States as required under Chapter 6, Section 3(e).

(III) EPA and Affected State Notification. Within 5 working days of receipt of a complete permit modification application, the Division shall meet its obligation under Chapter 6, Sections 3(e)(i)(A) and 3(e)(ii)(A) to notify the EPA and affected States of the requested permit modification. The Division shall promptly send any notice required under Chapter 6, Section 3(e)(ii)(B) to the EPA.

(IV) Timetable for Issuance. The Division may not issue a final minor permit modification until after the EPA's 45-day review period or until EPA has notified the Division that EPA will not object to issuance of the permit modification, whichever is first, although the Division can approve the permit modification prior to that time. Within 90 days of the Division's receipt of an application under minor permit modification procedures or 15 days after the end of the EPA's 45-day review period under Chapter 6, Section 3(e)(ii)(D), whichever is later, the Division shall:

(1.) Issue the permit modification as proposed;

(2.) Deny the permit modification application;

(3.) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or

(4.) Revise the draft permit modification and transmit to the EPA the new proposed permit modification as required by Chapter 6, Section 3(e)(i).

(V) Source's Ability to Make Change.

(1.) The Division will allow the source to make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the Division takes any of the actions specified in Chapter 6, Sections 3(d)(vi)(A)(IV)(1.) through (3.), the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify; however, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(VI) Permit Shield. The permit shield under Chapter 6, Section 3(k) does not extend to minor permit modifications.

(B) Group Processing of Minor Permit Modifications. The Division may process groups of a source's applications for certain modifications eligible for minor permit modification processing.

(I) Criteria. Group processing of modifications may be used only for those permit modifications:

(1.) That meet the criteria for minor permit modification procedures under Chapter 6, Section 3(d)(vi)(A)(I)(1.); and

(2.) That are collectively below a threshold of 10 percent of the emissions allowed under the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source in Chapter 6, Section 3(b), or 5 tons per year, whichever is least.

(II) Application. An application requesting the use of group processing procedures shall meet the requirements of Chapter 6, Section 3(c)(ii) and shall include the following:

(1.) A description of the change, the emission resulting from the change, and any new applicable requirements that will apply if the change occurs.

(2.) The source's suggested draft permit.

(3.) Certification by a responsible official, consistent with Chapter 6, Section 3(c)(iv) that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.

(4.) A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold levels of this section.

(5.) Certification, consistent with Chapter 6, Section 3(c)(iv), that the source has notified EPA of the proposed modification. Such notification need only contain a brief description of the requested modifications.

(6.) Completed forms for the Division to use to notify the EPA and affected States as required under Chapter 6, Section 3(e).

(III) EPA and Affected State Notification. On a quarterly basis or within 5 business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level of this section, whichever is earlier, the Division shall meet its obligation under Chapter 6, Sections 3(e)(i)(a) and 3(e)(ii)(a) to notify the EPA and affected States of the requested permit modifications. The Division shall send any notice required under Chapter 6, Section 3(e)(ii)(B) to the EPA.

(IV) Timetable for Issuance. The provisions of Chapter 6, Section 3(d)(vi)(A)(IV) shall apply to modifications eligible for group processing, except that the Division shall take one of the actions specified in Chapter 6, Sections 3(d)(vi)(A)(IV)(1.) through (4.) within 180 days of receipt of the application or 15 days after the end of the EPA's 45-day review period, whichever is later.

(V) Source's Ability to Make Change. The provisions of Chapter 6, Section 3(d)(vi)(A)(V) apply to modifications eligible for group processing.

(VI) Permit Shield. The permit shield under Chapter 6, Section 3(k) does not extend to modifications eligible for group processing.

(C) Significant Modification Procedures.

(I) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall require a permit modification under this paragraph. Nothing herein shall be construed to preclude the permittee from making changes consistent with this section that would render existing permit compliance terms and conditions irrelevant.

(II) Significant permit modifications shall meet all requirements of this section including those for applications, public participation, review by affected States, and review by EPA, as they apply to permit issuance and permit renewal. The Division shall complete review on the majority of significant permit modifications within 9 months after receipt of a complete application.

(vii) Reopening for Cause.

(A) Every operating permit issued shall contain provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following conditions:

(I) Additional applicable requirements under the Act or the WAQSR become applicable to a major source subject to Chapter 6, Section 3 with a remaining permit term of 3 or more years. Such reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended.

(II) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval of the EPA, excess emissions offset plans shall be deemed to be incorporated into the permit.

(III) The Division or the EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

(IV) The Division or the EPA determines that the permit must be revised or revoked to assure compliance with applicable requirements.

(B) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

(C) Reopenings under Chapter 6, Section 3(d)(vii)(A) shall not be initiated before a notice of such intent is provided to the source by the Division at least 30 days in advance of the date that the permit is to be reopened, except that the Division may provide a shorter time period in the case of an emergency.

(viii) Reopenings for Cause by the Environmental Protection Agency.

(A) If the EPA finds that cause exists to terminate, modify or revoke and reissue a permit pursuant to Chapter 6, Section 3(d)(vii), the EPA will notify the Division and the permittee of such finding in writing.

(B) The Division shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The EPA may extend this 90-day period for an additional 90 days if a new or revised permit application is necessary or if the Division must require the permittee to submit additional information.

(C) The EPA shall review the proposed determination from the Division within 90 days of receipt.

(D) The Division shall have 90 days from receipt of an EPA objection to resolve the objection and to terminate, modify or revoke and reissue the permit in accordance with the EPA's objection.

(E) If the Division fails to submit a proposed determination or fails to resolve any EPA objection, the EPA will terminate, modify, or revoke and reissue the permit after taking the following actions:

(I) Providing at least 30 day's notice to the permittee in writing of the reasons for any such action; and

(II) Providing the permittee an opportunity for comment on the EPA's proposed action and an opportunity for a hearing.

(ix) Public Participation. Except for modification qualifying for minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall provide procedures for public notice including offering an opportunity for public comment and a hearing on the draft permit. These procedures shall include the following:

(A) Notice shall be given by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice; to persons on a mailing list developed by the Division, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public;

(B) The notice shall identify the affected source; the name and address of the permittee; the name and address of the Division; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, and all other materials available to the Division that are relevant to the permit decision; a brief description of the comment procedures; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled);

(C) The Division shall provide such notice and opportunity for participation by affected States as provided in Chapter 6, Section 3(e);

(D) Timing. The Division shall provide for a 30-day period for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing.

(E) The Division shall keep a record of the commenters and also of the issues raised during the public participation process so that the EPA may fulfill its obligation under section 505(b)(2) of the Act to determine whether a citizen petition may be granted, and such records shall be available to the public.

(e) Permit Review by the Environmental Protection Agency and Affected States.

(i) Information Provided to the Environmental Protection Agency.

(A) The Division shall provide a copy of the permit application (including the compliance plan) directly to the EPA, or the Division may require that the applicant requiring a permit under this section submit a copy of the application directly to the EPA.

(B) The Division shall provide to the Administrator of the EPA a copy of each proposed permit and each final operating permit.

(C) The Division shall keep all records associated with applications and permits under this section for a period of five years.

(ii) Review by Affected States.

(A) The Division shall give notice of each draft permit to any affected State at the time notice is provided to the public under Chapter 6, Section 3(d)(ix), except to the extent Chapter 6, Section 3(d)(vi)(A) allows the time of the notice to be different for minor permit modification procedures.

(B) The Division, as part of the submittal of the proposed permit to the EPA, or for a minor permit modification procedure, as soon thereafter as possible, shall notify the EPA and any affected State in writing of any refusal to accept all recommendations for the proposed permit that the affected State submitted during the public comment period. The notice shall include the Division's reasons for not accepting any such recommendation. The Division is not required to accept recommendations that are not based on applicable requirements or the requirements of this section.

(iii) EPA Objection.

(A) No permit shall be issued if the Administrator of the EPA objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information.

(B) Any EPA objection under Chapter 6, Section 3(e)(ii)(C) shall include a statement of reasons for the objection and a description of the terms and conditions that the permit must include to respond to the objections. The EPA shall provide the permit applicant with a copy of the objection.

(C) Failure of the Division to do any of the following shall also constitute grounds for an objection:

(I) Comply with Chapter 6, Sections 3(e)(i)(A) and (B), and Chapter 6, Sections 3(e)(ii)(A) and (B);

(II) Submit any information necessary to adequately review the proposed permit; or

(III) Process the permit under the procedures approved to meet the public participation requirements of Chapter 6, Section 3(d)(ix) except for minor permit modifications.

(D) If the Division fails, within ninety (90) days after the date of an objection under Chapter 6, Section 3(e)(ii)(C), to revise and submit a proposed permit in response to the objection, the EPA will issue or deny the permit in accordance with the requirements of the federal program promulgated under Title V of the Act.

(iv) Public Petitions to the EPA. If the EPA does not object in writing under paragraph (C) of this subsection, any person may petition the EPA within 60 days after the expiration of the 45-day review period to make such an objection. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in Chapter 6, Section 3(d)(ix), unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the EPA objects to the permit as a result of a petition filed under this paragraph, the Division shall not issue the permit until the EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to the EPA objection. If a permit has been issued, the Division may thereafter issue only a revised permit that satisfies the EPA objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(v) No operating permit (including a permit renewal or revision) will be issued until affected States and EPA have had an opportunity to review the proposed permit as required under this section.

(f) Fees.

(i) Fee Requirement. Any source required to obtain a permit under this section shall, as a condition of continued operation, submit an annual fee to the Department.

(ii) Fee Payment. The Department shall give written notice of the amount of fee to be assessed and the basis for such fee assessment to the owner or operator of the source annually. The assessed fee is due on receipt of the notice unless the fee assessment is appealed pursuant to W.S. § 35-11-211(d). If any part of the fee assessment is not appealed it shall be paid to the Department on receipt of the written notice. Any remaining fee which may be due

after completion of the appeal is immediately due and payable upon issuance of the council's decision.

(iii) Basis of Fee to Support the Program.

(A) Fees shall be assessed annually for each operating source, based on emissions of each regulated pollutant in an amount sufficient to cover all reasonable direct and indirect costs of the Department in developing, implementing and administering the operating permit program of this section, including the Department's Small Business Assistance Program. The permit fee will cover all reasonable direct and indirect program costs including cost of:

(I) Reviewing and acting on permit applications, permit renewals, permit reopenings, and permit revisions;

(II) Implementing and enforcing the terms and conditions of a permit (not including any court costs or other costs associated with any enforcement action) which include but is not limited to the following:

(1.) Source inspections including the witnessing and review of stack emission tests;

(2.) Ambient monitoring data review and reporting;

(3.) Continuous emission monitoring (CEM) reports and data review;

(4.) Complaint investigations;

(5.) Special purpose monitoring;

(6.) Ambient and CEM systems audits;

(7.) EPA reporting and data entry;

(III) Emissions and ambient monitoring;

(IV) Regulation preparation and guidance;

(V) Modeling analyses and demonstrations;

(VI) Preparing emission and source inventories and tracking emissions;

(VII) Fee assessment, billing and fiscal management;

(VIII) All other permit-related functions performed by the

Department;

(IX) Development and administration of Department Small Business Assistance Program; and

(X) Informational management activities.

(B) Exclusions.

(I) No fee will be assessed for emissions of a regulated pollutant in excess of 4,000 tons per year at a source.

(II) For purposes of fee assessment, only under this section, the term "regulated pollutant" shall not include carbon monoxide, asbestos as regulated in Chapter 3, Section 8 of the WAQSR, residential wood smoke as regulated under Chapter 5, Section 2, Subpart AAA, or any substance which would be regulated only because it is listed or regulated under section 112(r) of the Act, prevention of accidental releases for hazardous air pollutants.

(III) Fugitive emissions of total suspended particulate matter (TSP) emissions, provided however, that portion of TSP which is PM_{10} particulate matter will be estimated and assessed fees.

(iv) Fee Determination.

(A) Fees for individual sources shall be computed by multiplying the total annual emissions, in tons up to a maximum of 4,000 tons per year of each regulated pollutant emitted by the source, by the dollar per ton fee calculated as follows:

$$x = F \div T$$

Where: x = dollars per ton of emissions for each regulated pollutant emitted.

F = total annual fee target.

T = total number of tons state-wide of all regulated pollutants listed in the most recent annual emissions inventory for all sources subject to this section.

(B) Annual Fee Target. The annual fee target shall be computed as follows:

Annual fee target (F) = (LA - NSR) ÷ 2

Where: LA = The amount of funds appropriated from the permit fee fund by the legislature for the operation and implementation of the construction and modification permit programs and the operating permit program for a two-year period. This appropriation includes any carry over in the fund from previous budget periods.

NSR = Projected costs of reviewing and issuing construction and modification permits under the Division's new source review program pursuant to Chapter 6, Sections 2 and 4 of the WAQSR for the two-year budget period.

(C) Individual source fees shall be the greater of fees calculated pursuant to Chapter 6, Section 3(f)(iv)(A) or $500.00.

(D) A fee of $250.00 shall be required for the operation of a temporary source at each new location.

(E) Any affected unit which is utilized in an EPA-approved Phase I substitution plan under section 404 of the Act during the years of 1995-1999 (inclusive) shall be subject to an annual fee of $35,000, in lieu of a fee based on actual emissions under Chapter 6, Section 3(d)(v), for each year that it participates in such a substitution plan for the purpose of covering the portion of direct and indirect costs described in Chapter 6, Section 3(d)(iii)(A) attributed to administrating the program for those affected units.

(v) Fees Shall Be Based on Actual Emissions.

(A) Actual emissions for purposes of assessing fees are, in order of decreasing accuracy:

(I) Emissions measured by a continuous emissions monitoring system (CEMS) that converts pollutant concentrations to mass emission rates and that meets the requirements for CEMS installation, operation, and certification of the WAQSR or any regulation promulgated by EPA under the Act. Actual emissions are the total emissions measured by the CEMS for the year plus estimated emissions during times when the CEMS was not operational.

(II) Emissions measured by periodic stack emission tests which have been accepted by the Division as being representative of normal source operation. Actual emissions are the hourly emission rates multiplied by the annual hours of operation.

(III) Emissions estimated by the utilization of data from the manufacturer of an internal combustion engine or turbine. Actual emissions are the hourly emission rates multiplied by the annual hours of operation.

(IV) Emissions estimated by utilization of the EPA document AP-42, "Compilation of Air Pollutant Emission Factors", or Division-approved source-specific emission factors. Actual emissions are the hourly emission rates multiplied by the annual hours of operation.

(B) The methodology selected for the determination of actual emissions for fee assessment by the Division shall be equivalent to methods specified in any Chapter 6, Section 2 permit that the source may hold for initial applications applied for under this section, or emissions as verified by methods prescribed in a permit issued under this section. Actual emissions for sources for which no permit has previously been issued or for which no method has been prescribed in the permit shall be determined by the Division utilizing the most accurate method available as enumerated above under Chapter 6, Section 3(f)(v)(A).

(C) Actual emissions may, at the source's choice, be presumed to be allowable emissions as determined by applicable requirements (standards and regulations) or by permit unless there is evidence that actual emissions are in excess of allowable emissions.

(D) Particulate Emissions: Until such time as continuous measurement of particulate mass emission rates from stacks becomes available or required, particulate mass emission rates for purposes of fee assessment will be based on allowable emission rates.

(E) Fugitive emission rates, for purposes of fee assessment, will be determined by EPA AP-42 emission factors, or by Division-approved emission factors, in the case of emissions from surface coal mines and other similar sources of fugitive dust emissions. The use of alternative emission factors which are source specific must be well documented and approved for use by the Division prior to the date on which emission inventories are due to be submitted to the Division.

(F) Emissions in excess of applicable requirements or permit limits due to equipment malfunction and/or failure, or process start-up and shutdowns, to the extent that such emissions are quantifiable through recognized engineering calculations or emissions and process monitoring, shall be included in source emission inventories and assessed a fee.

(G) Fees shall be assessed against owners or operators of sources applying for any permit under this section and annually thereafter for the duration of the permit. Emission inventories for sources subject to this section shall be submitted to the Division for fee assessment and compliance determinations within sixty (60) days following the end of the calendar year.

(I) During the initial year of the operating permit program, sources required to apply for a permit under this section shall be assessed fees which include operations for the calendar year 1994.

(II) Fees shall be based on calendar year source operations.

(III) New sources applying for initial permits under this section shall pay a fee based on emissions occurring since the commencement of operation for the previous calendar year and annually thereafter.

(vi) Failure to Pay Fees. Failure to pay fees owed the Department is a violation of this section and W.S. § 35-11-203 and may be cause for the revocation of any permit issued to the source.

(g) Small Business Assistance Program.

(i) Any source operated or owned by a business which qualifies as a small business under the Department **Small Business Assistance Program** may apply for assistance in complying with the requirements of this section.

(h) Permit Content.

(i) Standard Permit Requirements. Each permit issued under this section shall include the following elements:

(A) Emission limitations and standards, including those operational requirements and limitations that are applied to assure compliance with all applicable requirements at the time of permit issuance. Such requirements and limitations may include ARMs identified by the source in its operating permit application as approved by the Division, provided that no ARM shall contravene any terms needed to comply with an otherwise applicable requirement or require of this section or circumvent any applicable requirements that would apply as a result of implementing the ARM.

(I) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(II) The permit shall state that, where an applicable requirement of the Act is more stringent than any applicable requirement of regulations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the EPA and the Division.

(III) In addition to the requirements in Chapter 6, Section 3(h)(i)(A)(I) and (II), the permit shall include emission limitations and standards which are a part of the WAQSR and are more stringent than those of any requirements of the Act. However, such requirements shall not be federally enforceable.

(B) Permit Duration. The Division shall issue permits for a fixed term of five years for all sources except in such circumstances as provided in W.S. § 35-11-206(f)(i), where a permit may be issued for a shorter term.

(C) Monitoring and Related Recordkeeping and Reporting Requirements.

(I) Each permit shall contain the following requirements with respect to monitoring:

(1.) All emissions monitoring and analysis procedures or test methods required under the applicable monitoring and testing requirements, including any procedures and methods promulgated pursuant to Title IV and sections 504(b) or 114(a)(3) of the Act. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as the result of such streamlining;

(2.) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to Chapter 6, Section 3(h)(i)(C)(III). Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph; and

(3.) As necessary, requirements concerning the use, maintenance, and, when appropriate, installation of monitoring equipment or methods.

(II) With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(1.) Records of monitoring information that include the following:

a. The date, place as defined in the permit, and time of sampling or measurements;

b. The date(s) the analyses were performed;

c. The company or entity that performed the analyses;

d. The analytical techniques or methods used;

e. The results of such analyses; and

f. The operating conditions as they existed at the time of sampling or measurement.

(2.) Retention of records of all monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

(III) With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(1.) Submittal of Reports of Any Required Monitoring at Least Every Six Months. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with Chapter 6, Section 3(c)(iv).

(2.) Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The Division shall define "prompt" in relation to the degree and type of deviation likely to occur and the applicable requirements.

(IV) To meet the requirements of Title IV of the Act, for affected sources under the acid rain program, the permit shall incorporate all provisions for monitoring, recordkeeping, and reporting promulgated in 40 CFR part 75.

(D) A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder.

(I) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(II) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense for noncompliance with any other applicable requirement.

(III) Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act.

(E) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion(s) of the permit.

(F) Provisions Stating the Following:

(I) Duty to Comply. The permittee must comply with all conditions of the operating permit. Any permit noncompliance constitutes a violation of the Act,

Article 2 of the Wyoming Environmental Quality Act and the WAQSR and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

(II) Need to Halt or Reduce Activity is Not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(III) Permit Actions. The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(IV) Property Rights. The permit does not convey any property rights of any sort, or any exclusive privilege.

(V) Duty to Provide Information. The permittee shall furnish to the Division, within a reasonable time, any information that the Division may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Division copies of records required to be kept by the permit, including information claimed and shown to be confidential under Section 35-11-1101(a) of the Wyoming Environmental Quality Act. Upon request by the Division, the permittee shall also furnish confidential information directly to EPA along with a claim of confidentiality.

(G) A provision to ensure that any source under this section pays fees to the Division consistent with Chapter 6, Section 3(f) and the fee schedule developed by the Division and approved by the joint appropriations committee of the Wyoming State Legislature.

(H) Emissions Trading. A provision stating that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

(I) Terms and conditions for reasonably anticipated AOSs identified by the source in its application as approved by the Division. Such terms and conditions:

(I) Shall require the source, contemporaneously with making a change from one AOS to another, to record in a log at the permitted source a record of the AOS under which it is operating;

(II) May extend the permit shield described in Chapter 6, Section 3(k) to all terms and conditions under each such AOS; and

(III) Must ensure that the terms and conditions of each such AOS meet all applicable requirements and the requirements of this section. The Division shall not approve a proposed AOS into the operating permit until the source has obtained all

authorizations required under any applicable requirement relevant to that AOS.

(J) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted source, to the extent that the applicable requirements, including the State Implementation Plan, provide for trading such increases and decreases without a case-by-case approval of each emissions trade. Such terms and conditions:

(I) Shall include all terms required under Chapter 6, Section 3(h)(i) and (iii) to determine compliance;

(II) May extend the permit shield described in Chapter 6, Section 3(k) to all terms and conditions that allow such increases and decreases in emissions; and

(III) Must meet all applicable requirements and requirements of this section.

(ii) Federally-Enforceable Requirements.

(A) All terms and conditions in an operating permit under this section, including any provisions designed to limit a source's potential to emit, are enforceable by the EPA and citizens under the Act.

(B) Notwithstanding paragraph (A) above, the Division shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or any regulations promulgated thereunder.

(iii) Compliance Requirements. All operating permits under this section shall contain the following elements with respect to compliance:

(A) Consistent with Chapter 6, Section 3(h)(i)(C), compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by an operating permit under this section shall contain a certification by a responsible official that meets the requirements of Chapter 6, Section 3(c)(iv).

(B) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Division or an authorized representative to perform the following:

(I) Enter upon the permittee's premises where a source is located or emissions related activity is conducted, or where records must be kept under the conditions of the permit.

(II) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit.

(III) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit.

(IV) As authorized by the Act, sample or monitor, at reasonable times, any substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(C) A schedule of compliance consistent with Chapter 6, Section 3(c)(ii)(A)(VIII).

(D) Progress reports consistent with an applicable schedule of compliance and Chapter 6, Section 3(c)(ii)(A)(VIII) to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the Division. Such progress reports shall contain the following:

(I) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(II) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(E) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

(I) The frequency (not less than annually or such more frequent period as specified in the applicable requirement or by the Division) of submissions of compliance certifications;

(II) A means for assessing or monitoring the compliance of the source with its emissions limitations, standards, and work practices;

(III) A requirement that the compliance certification include the following (provided that the identification of applicable information may cross-reference the permit or previous reports as applicable):

(1.) The identification of each term or condition of the permit that is the basis of the certification;

(2.) The status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the method or means designated in Chapter 6, Section 3(h)(iii)(E)(III)(4.). The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also

identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined in Chapter 7, Section 3 occurred;

(3.) Whether compliance was continuous or intermittent;

(4.) The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period, and whether such methods or other means provide continuous or intermittent data. Such methods and other means shall include, at a minimum, the methods and means required under Chapter 6, Section 3(h)(i)(C). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)2 of the Clean Air Act, which prohibits knowingly making a false certification or omitting material information;

(5.) Such other facts as the Division may require to determine the status of the source;

(IV) A requirement that all compliance certifications be submitted to the EPA as well as to the Division.

(F) Such other provisions as the Division may require.

(i) General Permits.

(i) Issuance. The Division may, after notice and opportunity for public comment and hearing pursuant to Chapter 6, Section 3(d)(ix), issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to other operating permits under this section and shall identify criteria by which sources may qualify for the general permit. To sources that qualify, the Division shall grant the conditions and terms of the general permit. Notwithstanding the shield provisions of Chapter 6, Section 3(k), the source shall be subject to enforcement action for operation without an operating permit under this section if the source is later determined not to qualify for the conditions and terms of the general permit. General permits shall not be authorized for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the Act.

(ii) Application. Sources under this section that would qualify for a general permit must apply to the Division for coverage under the terms of the general permit or must apply for an operating permit consistent with Chapter 6, Section 3(c). The Division may provide for general permit applications which deviate from the requirements of Chapter 6, Section 3(c) provided that such applications meet the requirements of Title V of the Act and include all information necessary to determine qualification for, and to assure compliance with, the general permit. The Division may grant a source's request for authorization to operate under a general permit without repeating the notice and comment procedures required under Chapter 6, Section 3(d)(ix), but such issuance shall not be a final action for purposes of judicial review.

(j) Temporary Sources (Portable Sources). The Division may issue a single permit

authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operations must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

(i) Conditions that will assure compliance with all applicable requirements at all authorized locations;

(ii) Requirements that the owner or operator notify the Division at least ten days in advance of each change in location; and

(iii) Conditions that assure compliance with all other provisions of this section.

(k) Permit Shield.

(i) Except as provided in this section, the Division may expressly include in an operating permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

(A) Such applicable requirements are included and are specifically identified in the permit; or

(B) The Division, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

(ii) An operating permit under this section that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(iii) Nothing in this paragraph or in any operating permit under this section shall alter or affect the following:

(A) The provisions of section 303 of the Act (emergency orders), including the authority of the EPA under that section.

(B) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance.

(C) The applicable requirements of the acid rain program, consistent with section 408(a) of the Act.

(D) The ability of the EPA to obtain information from a source pursuant to section 114 of the Act, or the Division to obtain information pursuant to Section 35-11-110 of the Wyoming Environmental Quality Act.

(l) [Reserved].

(m) Permits for Synthetic Minors.

(i) Applicability. A source may apply under this section for a permit or for a condition to a permit to limit emissions below any threshold level which would otherwise subject the source to an applicable requirement or to the provisions of this section utilizing the source's potential to emit. With respect to a condition or permit so issued, the source will not have to comply with the other provisions of this section with the exception of the following:

(A) The payment of a fee based on tons of emissions emitted pursuant to the fee schedule developed under Chapter 6, Section 3(f);

(B) The emissions limit specified in the permit shall be federally enforceable and enforceable by the Division; and

(C) Compliance with any applicable requirements specified in the permit or elsewhere in the WAQSR.

(ii) Use of General Permits. General permits issued in accordance with Chapter 6, Section 3(i) may be utilized by the Division to permit numerous similar synthetic minor sources.

(iii) Use of Chapter 6, Section 2 Permit. A source may apply for a permit under Chapter 6, Section 2 of the WAQSR to qualify as a synthetic minor, provided the permit is federally enforceable.

Section 4. **Prevention of significant deterioration.**

(a) Definitions. For purposes of this section:

"Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (i) through (iii) of this definition, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under paragraph (b)(xv) of this section. Instead, the definitions for "Projected actual emissions" and "Baseline actual emissions" of this section shall apply for those purposes.

(i) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Division shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(ii) The Division may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(iii) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Administrator" means Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality.

"Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both) and the most stringent of the following:

(i) Applicable standards set forth in Chapter 5, Section 2 or Section 3 of these regulations and other new source performance standards and national emission standards for hazardous air pollutants promulgated by the EPA but not yet adopted by the State of Wyoming.

(ii) Any other applicable emission limit in these regulations.

(iii) The emission rate agreed to by the owner or operator as an enforceable permit condition.

"Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with paragraphs (i) through (iv) of this definition.

(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 Division shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

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

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

(C) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(D) The average rate shall not be based on any consecutive 24-month

period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraph (i)(B) of this definition.

(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 Chapter 6, Section 4 permit, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

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

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

(C) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the 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 EPA Administrator proposed or promulgated under 40 CFR 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 51.165(a)(3)(ii)(G).

(D) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must 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.

(E) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraphs (ii)(B) and (C) of this definition.

(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.

(iv) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (i) of this definition, for other existing emissions units in accordance with the procedures contained in paragraph (ii) of this definition, and for a new emissions unit in accordance with the procedures contained in paragraph (iii) of this definition.

"Baseline area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under the Federal Clean Air Act in which a major source or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established as follows: Equal to or greater than 1 $\mu g/m^3$ (annual average) for SO_2, NO_2, or PM_{10}; or equal to or greater than 0.3 $\mu g/m^3$ (annual average) for $PM_{2.5}$.

(i) The following baseline areas have been designated as separate particulate matter attainment areas under section 107 of the Clean Air Act:

(A) The Powder River Basin Area, described as that area bounded by Township 40 through 52 North, and Range 69 through 73 West, inclusive of the Sixth Principal Meridian, Campbell and Converse Counties, excluding the areas defined as the Pacific Power and Light attainment area and the Hampshire Energy attainment area.

(B) The Pacific Power and Light Area, described as that area bounded by the NW¼ of Section 27, T50N, R71W, Campbell County, Wyoming.

(C) The Hampshire Energy Area, described as that area bounded by Section 6 excluding the SW¼; E½ Section 7; Section 17 excluding the SW¼; Section 14 excluding the SE¼; Sections 2, 3, 4, 5, 8, 9, 10, 11, 15, 16 of T48N, R70W and Section 26 excluding the NE¼; SW¼ Section 23; Sections 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, 35 of T49N, R70W, Campbell County, Wyoming.

(D) The Kennecott-Puron Area, described as the area bounded by the W½SW¼ Section 18, W½NW¼, NW¼SW¼ Section 19, T47N, R70W, S½ Section 13, N½, N½SW¼, N½SE¼ Section 24 T47N, R71W, Campbell County, Wyoming.

(E) The remainder of the State of Wyoming.

(ii) Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments.

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

(i) The actual emissions, as defined in this section, representative of sources in existence on the applicable minor source baseline date, except as provided in paragraph (iv) of this definition;

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

(iii) Contributions due to emissions from any emitting source or modification which (1) is not listed in Chapter 6, Section 4(a) under the definition for "Major stationary source", item (a) and qualified as "major" prior to August 7, 1980 only because fugitive emissions were included in determining potential to emit, (2) submitted a complete permit application under Chapter 6, Section 4(b) or the Federal Clean Air Act prior to August 7, 1980, and (3) was in existence as of the minor source baseline date;

(iv) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increment:

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

(B) Actual emissions increases and decreases, as determined in accordance with the definition for "Actual emissions" in this section, at any stationary source occurring after the minor source baseline date.

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

"Best available control technology" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction of each pollutant subject to regulation under these Standards and Regulations or regulation under the Federal Clean Air Act, which would be emitted from or which results for any proposed major stationary source or major modification which the Administrator, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application or production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emission standard infeasible, he may instead prescribe a design, equipment, work practice or operational standard or combination thereof to satisfy the requirement of Best Available Control Technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results. Application of BACT shall not result in emissions in excess of those allowed under Chapter 5, Section 2 or Section 3 of these regulations and any other new source performance standard or national emission standards for hazardous air pollutants promulgated by the EPA but not yet adopted by the State of Wyoming.

"Clean coal technology" means any technology, including technologies applied at the

precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reduction in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology", up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

"Commenced", as applied to construction of a major stationary source or major modification, means that the owner or operator has obtained a Construction Permit required by Chapter 6, Section 2 and either has (i) begun, or caused to begin, a continuous program of actual on-site construction of the source or (ii) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

"Complete" means, in reference to an application for a permit, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Division from requesting or accepting any additional information.

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

"Continuous emissions monitoring system (CEMS)" means all of the equipment that may be required to meet the data acquisition and availability requirements of this section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

"Continuous emissions rate monitoring system (CERMS)" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

"Continuous parameter monitoring system (CPMS)" means all of the equipment necessary to meet the data acquisition and availability requirements of this section, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and to record average operational parameter value(s) on a continuous basis.

"Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output

capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric utility steam generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

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

(i) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

(ii) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (i) of this definition.

"Enforceable" means all limitations and conditions which are enforceable under provisions of the Wyoming Environmental Quality Act and/or are federally enforceable by the Administrator of the EPA, including those requirements developed pursuant to 40 CFR parts 60 and 61, requirements within the State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 51.166.

"Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.

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

"Greenhouse gases (GHGs)", the air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraph (iii) of this definition.

(i) For purposes of paragraphs (ii) and (iii) of this definition, the term ***"tpy CO_2 equivalent emissions (CO_2e)"*** shall represent an amount of GHGs emitted, and shall be computed as follows:

(A) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to Subpart A of 40 CFR part 98--Global Warming Potentials. Table A-1 to Subpart A of 40 CFR part 98 is adopted by reference.

(B) Sum the resultant value from paragraph (i)(A) of this definition for each gas to compute a tpy CO_2e.

(C) Prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

(ii) The term ***"emissions increase"*** as used in paragraph (iii) of this definition shall mean that both a significant emissions increase (as calculated using the procedures in (b)(i)(J) of this section) and a significant net emissions increase (as "net emissions increase" and "significant" are defined in this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO_2e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and "significant" is defined as 75,000 tpy CO_2e instead of applying the provisions in paragraphs (ii) or (iii) of the definition of "significant" in this section.

(iii) The pollutant GHGs is subject to regulation if the stationary source is:

(A) A new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO_2e or more; or

(B) An existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO_2e or more; or,

(C) A new stationary source that will emit or have the potential to emit 100,000 tpy CO_2e; or

(D) An existing stationary source that emits or has the potential to emit 100,000 tpy CO_2e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO_2e or more.

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

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

"Indian Reservation" means any federally recognized reservation established by treaty, agreement, executive order, or act of Congress.

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of

achieving at least comparable reductions at lower cost in terms of energy, economics, or non air quality environmental impacts.

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

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

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

"Low terrain" means any area other than high terrain.

"Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in: a significant emissions increase (as defined in the definition for "Significant emissions increase" in this section) of a regulated NSR pollutant (as defined in the definition for "Regulated NSR pollutant" in this section); and a significant net emissions increase of that pollutant from the major stationary source. Any significant emissions increase (as defined in the definition for "Significant emissions increase" in this section) from any emissions units or net emissions increase (as defined in the definition for "Net emissions increase" in this section) at a major stationary source that is significant for volatile organic compounds or NO_x shall be considered significant for ozone.

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

(A) Routine maintenance, repair and replacement.

(B) Use of an alternative fuel by reason of an order under section 125 of the Federal Clean Air Act;

(C) An increase in the hours of operation or in the production rate, if such increase does not exceed the operating design capacity of the major stationary source unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division;

(D) Use of an alternative fuel or raw material by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

(E) Use of an alternative fuel or raw material, if prior to January 6, 1975, the source was capable of accommodating such fuel or material unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division, or if the source is approved to use such fuel or material through an enforceable permit issued under these regulations;

(F) Change in ownership of the stationary source;

(G) The use of municipal solid waste as an alternative fuel at a steam generating plant;

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

(I) The Wyoming State Implementation Plan, and

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

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

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

(ii) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under paragraph (b)(xv) of this section for a PAL for that pollutant. Instead, the definition in paragraph (b)(xv)(B) for "PAL major modification" of this section shall apply.

"Major source baseline date" means:

(i) In the case of PM_{10} and sulfur dioxide, January 6, 1975; and

(ii) In the case of nitrogen dioxide, February 8, 1988.

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

"Major stationary source" means (a) any of the following stationary sources of air pollutants which emit, or have the potential to emit, one hundred tons per year or more of any air pollutant for which standards are established under these Standards and Regulations or under the Federal Clean Air Act, except for sources of GHGs addressed separately under (e) of this definition: fossil fuel-fired steam electric plants of more than two hundred and fifty million

British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, Portland Cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than two hundred and fifty tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil fuel boilers (or combinations thereof) of more than two hundred and fifty million British thermal units per hour heat input, petroleum storage and transfer plants with a capacity exceeding three hundred thousand barrels, taconite ore processing plants, glass fiber processing plants, charcoal production plants. (b) Such term also includes any stationary source which emits, or has the potential to emit, two hundred and fifty tons per year or more of any air pollutant for which standards are established under these Standards and Regulations or under the Federal Clean Air Act, except for sources of GHGs addressed separately under (e) of this definition. (c) Such term also includes any physical change that would occur at a stationary source not otherwise qualifying under this definition if the change would constitute a major stationary source by itself. (d) A major source which is major for volatile organic compounds or NO_x is considered to be major for ozone. (e) Such term also includes any source of greenhouse gases as defined in Chapter 6, Section 4(a), but only if: the greenhouse gases are subject to regulation under subsection (iii) of that definition, and the source's potential to emit greenhouse gases exceeds 100 tpy on a mass basis if listed under (a) of this definition of "Major stationary source" or 250 tpy on a mass basis if listed under (b) of this definition of "Major stationary source."

"Minor source baseline date" means the earliest date after August 7, 1977 for PM_{10} and sulfur dioxide, and after February 8, 1988 for nitrogen oxides, and after October 20, 2011 for $PM_{2.5}$ on which a major stationary source or major modification submits a complete permit application under Chapter 6, Section 4(b) or under the Federal Clean Air Act.

(i) The minor source baseline date for sulfur dioxide for the State of Wyoming is February 2, 1978.

(ii) The minor source baseline date for nitrogen oxides for the State of Wyoming is February 26, 1988.

(iii) The minor source baseline date for PM_{10} is as follows:

(A) For the Powder River Basin Area - March 6, 1997;

(B) For the Pacific Power and Light Area - June 18 1980;

(C) For the Hampshire Energy Area - September 30, 1982;

(D) For the Kennecott-Puron Area - February 27, 1995;

(E) For the rest of the State of Wyoming - February 22, 1979.

(iv) The minor source baseline date for $PM_{2.5}$ is as follows:

(A) For Laramie County - March 1, 2012;

(B) For the City of Cheyenne - March 1, 2012;

(C) For Carbon County - May 1, 2012;

(D) For Sweetwater County - December 12, 2012.

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

(A) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under the Federal Clean Air Act for the pollutant on the date of its complete application; and

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

(vi) The baseline date is not established by the permit application for an emitting source or modification which (1) is not listed in Chapter 6, Section 4(a) under the definition for "Major stationary source", item (a), (2) qualified as "major" prior to August 7, 1980 only because fugitive emissions were included in determining potential to emit, and (3) submitted a complete permit application under Chapter 6, Section 4(b) or the Federal Clean Air Act prior to August 7, 1980.

(vii) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments.

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

(i) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to paragraph (b)(i)(J) of this section;

(ii) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this paragraph (ii) shall be determined as provided in the definition for "Baseline actual emissions", except that paragraphs (i)(C) and (ii)(D) of the definition for "Baseline actual emissions" shall not apply.

(iii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(A) The date five years before construction on the particular change commences; and

(B) The date that the increase from the particular change occurs.

(iv) An increase or decrease in actual emissions is creditable only if:

(A) The Division has not relied on it in issuing a Chapter 6, Section 4 permit for the source, which is in effect when the increase in actual emissions from the particular change occurs.

(v) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

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

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

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

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

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

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

(ix) The definition of "Actual emissions" of this section, shall not apply for determining creditable increases and decreases.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or the type or amount of material combusted, stored, or

processed, shall be treated as part of its design if the limitation or the affect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Predictive emissions monitoring system (PEMS)" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

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

"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.

(i) In determining the projected actual emissions under the above paragraph of this section (before beginning actual construction), the owner or operator of the major stationary source:

(A) Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans approved by the Division;

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

(C) Shall 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 the definition for "Baseline actual emissions" of this section and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,

(D) In lieu of using the method set out in paragraphs (i)(A) through (C) of this definition, may elect to use the emissions unit's potential to emit, in tons per year, as defined under the definition of "Potential to emit" of this section.

"Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with the commencement of

commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

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

(ii) Was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of not less than 98 percent;

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

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

"Regulated NSR pollutant", for purposes of this section, means the following:

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

(A) $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits. Compliance with emissions limitations for $PM_{2.5}$ and PM_{10} issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this subsection unless the applicable implementation plan required condensable particulate matter to be included;

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

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

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

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

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

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

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

(iv) Any pollutant that otherwise is subject to regulation under the Federal Clean Air Act; except that any or all hazardous air pollutants either listed in section 112 of the Federal Clean Air Act or added to the list pursuant to section 112(b)(2) of the Federal Clean Air Act, which have not been delisted pursuant to section 112(b)(3) of the Federal Clean Air Act, are not regulated NSR pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Federal Clean Air Act.

(v) [Reserved.]

"Replacement unit" means an emissions unit for which all the criteria listed in this section are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

(i) The emissions unit is a reconstructed unit within the meaning of 40 CFR part 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

(ii) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(iii) The replacement does not change the basic design parameter(s) (as discussed in 40 CFR part 51.166(y)(2)) of the process unit.

(iv) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

"Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator of EPA, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and

any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

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

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

"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or modification of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle or from a train.

"Significant" means:

(i) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

POLLUTANT AND EMISSIONS RATE

Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
Particulate matter:	25 tpy of particulate matter emissions; 15 tpy of PM_{10} emissions
$PM_{2.5}$:	10 tpy of direct $PM_{2.5}$ emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a $PM_{2.5}$ precursor under the definition of "Regulated NSR pollutant" in Section 4(a) of this chapter
Ozone:	40 tpy of volatile organic compounds or nitrogen oxides
Lead:	0.6 tpy
Fluorides:	3 tpy

Sulfuric acid mist:	7 tpy
Hydrogen sulfide (H_2S):	10 tpy
Total reduced sulfur (including H_2S):	10 tpy
Reduced sulfur compounds (including H_2S):	10 tpy
Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans):	3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year)
Municipal waste combustor metals (measured as particulate matter):	14 megagrams per year (15 tons per year)
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride):	36 megagrams per year (40 tons per year)
Municipal solid waste landfill emissions (measured as nonmethane organic compounds):	45 megagrams per year (50 tons per year)

(ii) "Significant" means, in reference to a net emissions increase or the potential of a source to emit a pollutant subject to these regulations and regulations under the Clean Air Act, that paragraph (i) above does not list, any emissions rate.

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

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in paragraph (i) of the definition of "Significant" in this section) for that pollutant.

"Stationary source" means any structure, building, facility, equipment, installation or operation (or combination thereof) which emits or may emit any air pollutant subject to these regulations or regulations under the Federal Clean Air Act.

"Structure, building, facility, equipment, installation, or operation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same *Major Group* (i.e., which have the same two-digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Wyoming State Implementation Plan and other requirements necessary to

attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Volatile organic compounds (VOCs)" is defined in Chapter 3, Section 6(a) of these regulations.

(b) Any person who plans to construct any major stationary source or undertake a major modification of an existing stationary source shall be subject to the conditions outlined below.

(i) (A) (I) The review of the stationary source for the construction or modification permit(s) required under Chapter 6, Section 2 of these regulations shall apply and shall be expanded so as to include analysis of the predicted impact of the allowable and secondary emissions from the stationary source on the ambient air quality in areas affected by such emissions. An analysis of the predicted impact of emissions from the stationary source is required for all pollutants for which standards have been established under these regulations or under the Federal Clean Air Act and which are emitted in significant amounts. An analysis of the impact of other pollutants may be required by the Administrator. Such analysis shall identify and quantify the impact on the air quality in the area of all emissions not included in the baseline concentrations including, but not limited to, those emissions resulting from the instant application and all other permits issued in the area. The purpose of this analysis is to determine the total deterioration of air quality from the baseline concentrations; however, projections of deterioration due to general non-stationary source growth in the area predicted to occur after the date of application is not required. A permit to construct pursuant to Chapter 6, Section 2 shall be issued only if the conditions of Chapter 6, Section 2 are complied with and if the predicted impact (over and above the baseline concentration) of emissions defined above is less than the maximum allowable increment shown in Table 1 for the classification of the area in which the impact is predicted, and if the ambient standard for the pollutant(s) is not exceeded.

Table 1

Maximum Allowable Increments of Deterioration - $\mu g/m^3$

Pollutant	Class I	Class II
Particulate Matter:		
$PM_{2.5}$, annual arithmetic mean	1	4
$PM_{2.5}$, 24-hr maximum*	2	9
PM_{10}, annual arithmetic mean	4	17
PM_{10}, 24-hour maximum*	8	30
Sulfur Dioxide:		
Annual arithmetic mean	2	20
24-hour maximum*	5	91
3-hour maximum*	25	512
Nitrogen Dioxide		
Annual arithmetic mean	2.5	25

*Maximum allowable increment may be exceeded once per year at any receptor site.

(II) Notwithstanding the provisions of paragraph (b)(i)(A)(I) above, the following concentrations shall be excluded in determining compliance with maximum allowable increases:

(l.) Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order. No such exclusion shall apply for more than five years after the later of such effective dates;

(2.) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan. No such exclusion shall apply for more than 5 years after the later of such effective date;

(3.) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;

(4.) The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentrations; and

(5.) Concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate matter, or nitrogen oxides from stationary sources as

specified below.

a. The temporary emissions do not occur for more than 2 years.

b. The 2-year time period is not renewable.

c. Such temporary emissions are not eligible for exclusion if they would impact a Class I Area or an area where the applicable increment is known to be violated or an area where they would cause or contribute to a violation of the applicable ambient air quality standard.

d. At the end of the temporary emission time frame, emissions from the stationary source causing these temporary emissions shall not exceed those levels occurring at such source prior to such temporary emission.

(B) In addition to the analyses required under Chapter 6, Section 4(b)(i)(A) above,

(I) The owner or operator shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

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

(C) The requirements for demonstration of compliance with applicable increments of Chapter 6, Section 4(b)(i)(A)(I), the additional analysis requirements of Chapter 6, Section 4(b)(i)(B) and the ambient air quality analysis requirements of Chapter 6, Section 4(b)(i)(E) shall not apply to a proposed major stationary source or modification with respect to a particular pollutant if the Administrator determines that:

(I) The increase in allowable emissions of that pollutant from the stationary source or the net emissions increase of that pollutant from a modification would be temporary and would impact no Class I Area and no area where an applicable increment is known to be violated; or

(II) The stationary source was in existence on March 1, 1978, and that the maximum allowable emission increases only impact Class II Areas, and that after application of BACT, the increase in allowable emissions of each pollutant would be less than 50 tons per year.

(D) Fugitive emissions, to the extent quantifiable, will be considered in calculating the potential to emit of the stationary source or modification only for:

(I) Sources listed in Chapter 6, Section 4(a) under the definition of "Major stationary source", item (a).

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

(III) And such other sources as the Environmental Quality Council may later determine.

(E) An application subject to this section shall contain an analysis of ambient air quality in the area that would be affected by the stationary source or modification as required below:

(I) For each pollutant that the source would have the potential to emit in a significant amount.

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

(III) For pollutants for which National Ambient Air Quality Standards have been established, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

(IV) In general, the required continuous air quality monitoring data shall have been gathered over a period of one year immediately preceding receipt of the application. The Administrator may provide that the monitoring period specification may be reduced to a minimum of four months if he is satisfied that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year.

(V) All monitoring conducted pursuant to the requirements of this section shall meet the requirements of Appendix B of 40 CFR part 58.

(VI) The requirements for pre-construction monitoring specified above and under Chapter 6, Section 2(b) with respect to monitoring for a particular pollutant may be waived by the Administrator upon petition from an applicant if:

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

a. Carbon Monoxide - 575 $\mu g/m^3$, 8-hour average;

b. Nitrogen Dioxide - 14 μg/m^3, annual average;

c. $PM_{2.5}$ - 4 μg/m^3, 24-hour average;

d. PM_{10} - 10 μg/m^3 of PM_{10}, 24-hour average;

e. Sulfur Dioxide - 13 μg/m^3, 24-hour average;

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

g. Lead - 0.1 μg/m^3, 3-month average;

h. Fluorides - 0.25 μg/m^3, 24-hour average;

i. Total Reduced Sulfur - 10 μg/m^3, 1-hour average;

j. Hydrogen Sulfide - 0.2 μg/m^3, 1-hour average;

k. Reduced Sulfur Compounds - 10 μg/m^3, 1-hour average; or

(2.) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in paragraph (b)(i)(E)(VI)(1.) of this section; or

(3.) The pollutant is not listed in paragraph (b)(i)(E)(VI)(1.) of this section.

(F) The Administrator may require an applicant subject to the provisions of this section to conduct an approved visibility monitoring program in any Class I Area which may be impacted by emissions from the proposed stationary source.

(G) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, then all of the provisions of Chapter 6, Sections 2 and 4 shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(H) The following specific provisions apply to projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where the owner or operator elects to use the method specified in paragraphs (i)(A) through (C) of the definition for “Projected actual emissions” 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:

(1.) A description of the project;

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

(3.) 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 (i)(C) of the definition for "Projected actual emissions" in Section 4(a) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(II) Before beginning actual construction, the owner or operator shall provide the information set out in paragraph (b)(i)(H)(I) of this section to the Division as a Chapter 6, Section 2 permit application.

(III) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph (b)(i)(H)(I)(2.) of this section; and calculate and maintain 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 or potential to emit of that regulated NSR pollutant at such emissions unit.

(IV) 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 paragraph (b)(i)(H)(III) of this section setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(I) The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph (b)(i)(H) of this section available for review upon request for inspection by the Division or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).

(J) (I) Except as otherwise provided in paragraph (b)(xv) of this section, and consistent with the definition of "Major modification" contained in Section 4(a), a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases - a significant emissions increase (as defined in the definition for "Significant emissions increase" in Section 4(a)), and a significant net emissions increase (as defined in the definitions for "Net emissions increase" and "Significant" in Section 4(a)). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a

significant net emissions increase.

(II) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (b)(i)(J)(III) through (V) of this section. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition for "Net emissions increase" in Section 4(a). Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(III) Actual-to-Projected-Actual Applicability Test For Projects That Only Involve Existing Emissions Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in the definition for "Projected actual emissions" in Section 4(a)) and the baseline actual emissions (as defined in paragraphs (i) and (ii) in the definition of "Baseline actual emissions" in Section 4(a)) for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in the definition of "Significant" in Section 4(a)).

(IV) Actual-to-Potential Test For Projects That Only Involve Construction of a New Emissions Unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in the definition for "Potential to emit" in Section 4(a)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in paragraph (iii) for the definition of "Baseline actual emissions" in Section 4(a)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in the definition of "Significant" in Section 4(a)).

(V) 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 (b)(i)(J)(III) and (IV) of this section as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in the definition of "Significant" in Section 4(a)).

(ii) (A) The required permit shall not be issued unless the proposed major stationary source or major modification would meet an emission limit(s) or equipment standard(s) specified by the Administrator to represent the application of Best Available Control Technology for each pollutant regulated under these Standards and Regulations and under the Federal Clean Air Act and having the potential to emit in significant amounts. For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest, most reasonable time no later than 18 months prior to commencement of each phase of the proposed project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available

control technology for the stationary source.

(B) In the case of a major modification, the requirements for Best Available Control Technology shall apply only to each new or modified emissions unit at which a net emissions increase of the pollutant would occur.

(C) (I) The applicant for a permit for a source subject to this section may petition the Administrator to approve a system of innovative control technology.

(II) The Administrator, with the approval of the governor(s) of other affected state(s) may approve the employment of a system of innovative control technology if:

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

(2.) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under paragraphs (ii)(A) and (B) above by a date specified by the Administrator. Such date shall not be later than 4 years from the time of startup or 7 years from permit issuance.

(3.) The major stationary source or major modification would meet the requirements equivalent to those in paragraphs (b)(i)(A)(I), (b)(ii)(A), and (b)(ii)(B) above based on the emission rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Administrator.

(4.) The source or modification would not before the date specified by the Administrator:

a. Cause or contribute to any violation of an applicable National Ambient Air Quality Standard, or

b. Impact any Class I Area, or

c. Impact any area where an applicable increment is known to be violated.

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

(III) The approval to employ a system of innovative control technology shall be withdrawn by the Administrator if:

(1.) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate, or

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

(3.) The Administrator decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

(IV) If the source or modification fails to meet the required level of continuous emissions reduction within the specified time period or if the approval is withdrawn in accordance with (III) above, the Administrator may allow the source or modification up to an additional three years to meet the requirement for the application of BACT through use of a demonstrated system of control.

(iii) Temporary particulate matter emissions such as those associated with the construction phase of the source shall not be included in the determination on the issuance or denial of a required permit and shall not be taken into account when determining compliance with the maximum allowable increments in Table 1; however, Best Available Control Technology shall be applied to abate such temporary emission.

(iv) All applications of air quality modeling required under paragraph (b)(i) above shall be based on the applicable models, databases, and other requirements specified in Appendix W of 40 CFR part 51 (Guideline on Air Quality Models). Where an air quality model specified in Appendix W of 40 CFR part 51 (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific State of Wyoming program. Written approval of the EPA Administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures set forth in Chapter 6, Section 2(g).

(v) In any case where the federal official charged with direct responsibility for management of any lands within a Class I Area, or the Administrator of EPA or the governor of an adjacent state containing such a Class I Area, files a notice alleging that emissions from a proposed source or major modification may cause or contribute to a change in the air quality in such area and identifying the potential adverse impact of such change, a permit shall not be issued unless the owner or operator of such source demonstrates to the satisfaction of the Administrator that emissions of particulate matter, sulfur dioxide, and nitrogen oxides will not cause or contribute to concentrations which exceed the maximum allowable increases for the Class I Area in question.

(vi) (A) In any case where a Federal Land Manager demonstrates to the satisfaction of the Administrator that the emissions from such source will have an adverse impact on the air quality-related values (including visibility) of such Class I Areas, notwithstanding the fact that the change in air quality resulting from emissions from such source will not cause or

contribute to concentrations which exceed the maximum allowable increases for Class I Areas, a permit shall not be issued.

(B) However, in the case where the Federal Land Manager provides to the Division at least 30 days prior to the Public Notice issued pursuant to Chapter 6, Section 2(m) of these regulations, an analysis of the impact of the emissions on visibility in a Federal Class I Area, the Division must consider such analysis in making its proposed decision. If the Federal Land Manager's analysis concludes that an adverse impact on visibility in the Federal Class I Area will occur but the Administrator determines that the analysis does not demonstrate to his satisfaction that such an adverse impact on visibility will occur, the Administrator shall in the Public Notice issued pursuant to the requirements of Chapter 6, Section 2(m), explain his decision or give notice as to where the explanation can be obtained.

(vii) In any case where the owner or operator of such source demonstrates to the satisfaction of the Federal Land Manager, and the Federal Land Manager so certifies, that the emissions from such source will have no adverse impact on the air quality-related values of such Class I Areas (including visibility) notwithstanding the fact that the change in air quality resulting from emissions from such source will cause or contribute to concentrations which exceed the maximum allowable increases for Class I Areas, the Administrator may issue a permit.

(viii) In the case of a permit issued pursuant to subsection (vii), such source shall comply with such emission limitation under such permit as may be necessary to assure that emissions of sulfur oxides, particulate matter, and nitrogen oxides from such source, will not cause or contribute to concentrations of such pollutant which exceeds the following maximum allowable increases over the baseline concentration for such pollutants:

	Maximum Allowable Increase (micrograms per cubic meter)
Particulate matter:	
$PM_{2.5}$, annual arithmetic mean	4
$PM_{2.5}$, 24-hr maximum	9
PM_{10}, annual arithmetic mean	17
PM_{10}, 24-hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
Twenty-four-hour maximum	91
Three-hour maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

(ix) (A) In any case where the owner or operator of a proposed major

stationary source or major modification who has been denied a certification under subparagraph (vii) demonstrates to the satisfaction of the Governor of Wyoming (hereinafter the Governor), after notice and public hearing, and the Governor finds, that the source cannot be constructed by reason of any maximum allowable increases for sulfur dioxide for periods of twenty-four hours or less applicable to any Class I Area and, in the case of federal Mandatory Class I Areas, that a variance under this clause will not adversely affect the air quality related values of the area (including visibility), the Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may grant a variance from such maximum allowable increase. If a variance is granted, a permit may be issued to such source pursuant to the requirements of this subparagraph provided other requirements of this section are met.

(B) In the case of a permit issued pursuant to subparagraph (ix)(A), such source shall comply with such emission limitations under such permit as may be necessary to assure that emissions of sulfur oxides from such source will not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which exceed the following maximum allowable increases for such areas over the baseline concentration for such pollutant and to assure that such emissions will not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less on more than 18 days during any annual period.

	Maximum Allowable Increase (micrograms per cubic meter)
Period of exposure:	
Low terrain areas:	
24-hr maximum	36
3-hr maximum	130
High terrain areas:	
24-hr maximum	62
3-hr maximum	221

(x) Notwithstanding other requirements of this section, a portable source which is a major stationary source and which has otherwise received a construction permit under Chapter 6, Sections 2 and 4 shall not be required to obtain additional relocation permits under this section if:

(A) Emissions from the source would not exceed allowable emissions;

and

(B) Such relocation would impact no Class I Area and no area where an applicable increment is known to be violated; and

(C) Notice is given to the Division at least 10 days prior to such relocation identifying the proposed new location and the probable duration of operation at such location; and

(D) Emissions at the new location will be temporary.

(xi) After a final decision is made on an application for a source subject to this section, the final decision will be transmitted in writing to the applicant and the final decision and all comments received by the Division during the public comment period will be made available for public inspection in the same location where the application and analysis was posted. A copy of each permit application for each source or modification subject to this section and impacting a Federal Class I Area will be transmitted to EPA. EPA will be provided with notice of each action taken by the Division on such application.

(xii) [Reserved.]

(xiii) [Reserved.]

(xiv) [Reserved.]

(xv) Actuals Plantwide Applicability Limitations (PALs).

(A) Applicability.

(I) The Division may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in paragraphs (b)(xv)(A) through (O) of this section. The term "PAL" shall mean "actuals PAL" throughout paragraph (b)(xv) of this section.

(II) Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in paragraphs (b)(xv)(A) through (O) of this section, and complies with the PAL permit:

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

(2.) Does not have to be approved through a Chapter 6, Section 4 permit; and

(3.) Is not subject to the provisions in paragraph (b)(i)(G) of this section (restrictions on relaxing enforceable emission limitations that the major stationary

source used to avoid applicability of Chapter 6, Section 4).

(III) Except as provided under paragraph (b)(xv)(A)(II)(3.) of this section, a major stationary source shall continue to comply with all applicable Federal or State of Wyoming requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

(B) Definitions. The following definitions shall be used for actuals PALs consistent with paragraphs (b)(xv)(A) through (O) of this section. When a term is not defined in these paragraphs, it shall have the meaning given in Section 4(a) of this section or in the Clean Air Act.

"Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 4(a)) of all emissions units (as defined in the definition for "Source" in Section 4(a)) at the source, that emit or have the potential to emit the PAL pollutant.

"Allowable emissions" has the same meaning as in the definition for "Allowable emissions" in Section 4(a), except as this definition is modified according to paragraphs (i) and (ii) of this definition.

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

(ii) An emissions unit's potential to emit shall be determined using the definition of "Potential to emit" in Section 4(a), except that the words "or enforceable as a practical matter" should be added after "enforceable".

"Major emissions unit" means:

(i) Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or

(ii) Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Clean Air Act for nonattainment areas. (For example, in accordance with the definition of major stationary source in section 182(c) of the Clean Air Act, an emissions unit would be a major emissions unit for VOC if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOC per year.)

"PAL effective date" generally means the date of issuance of the PAL permit; however, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

"PAL effective period" means the period beginning with the PAL effective date and ending 10 years later.

"PAL major modification" means, notwithstanding the definitions for "Major modification" and "Net emissions increase" of Section 4(a), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

"PAL permit" means the Chapter 6, Section 2 or Section 4 permit issued by the Division that establishes a PAL for a major stationary source.

"PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

"Plantwide applicability limitation (PAL)" means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with paragraphs (b)(xv)(A) through (O) of this section.

"Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in the definition for "Significant" in Section 4(a) or in the Clean Air Act, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in paragraph (b)(xv)(B) for the definition of "Major emissions unit" of this section.

"Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in the definition for "Significant" in Section 4(a) or in the Clean Air Act, whichever is lower.

(C) Permit Application Requirements. As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information in paragraphs (b)(xv)(C)(I) through (III) of this section to the Division for approval.

(I) A List of All Emissions Units at the Source Designated as Small, Significant or Major Based on Their Potential to Emit. In addition, the owner or operator of the source shall indicate which, if any, Federal or State of Wyoming applicable requirements, emission limitations, or work practices apply to each unit.

(II) Calculations of the Baseline Actual Emissions (With Supporting Documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction.

(III) The calculation procedures that the major stationary source

owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph (b)(xv)(M)(I) of this section.

(D) General Requirements For Establishing PALs.

(I) The Division may establish a PAL at a major stationary source, provided that at a minimum, the requirements in paragraphs (b)(xv)(D)(I)(1.) through (7.) of this section are met.

(1.) The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

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

(3.) The PAL permit shall contain all the requirements of paragraph (b)(xv)(G) of this section.

(4.) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

(5.) Each PAL shall regulate emissions of only one pollutant.

(6.) Each PAL shall have a PAL effective period of 10 years.

(7.) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in paragraphs (b)(xv)(L) through (N) of this section for each emissions unit under the PAL through the PAL effective period.

(II) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under 40 CFR part 51.165(a)(3)(ii) unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

(E) Public Participation Requirements For PALs. PALs for existing major stationary sources shall be established, renewed, or increased, through a procedure that is consistent with Chapter 6, Section 2. This includes the requirement that the Division provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The Division must address all material comments before taking final action on the permit.

(F) Setting the 10-Year Actuals PAL Level.

(I) Except as provided in paragraph (b)(xv)(F)(II) of this section, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 4(a)) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under the definition of "Significant" in Section 4(a) or under the Clean Air Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units; however, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Division shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable Federal or State of Wyoming regulatory requirement(s) that the Division is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).

(II) 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 actual emissions as specified in paragraph (b)(xv)(F)(I) of this section, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

(G) Contents of the PAL Permit. The PAL permit shall contain, at a minimum, the information in paragraphs (b)(xv)(G)(I) through (X) of this section.

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

(II) The PAL permit effective date and the expiration date of the PAL (PAL effective period).

(III) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with paragraph (b)(xv)(J) of this section before the end of the PAL effective period, then the PAL shall not expire at the end of the

PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Division.

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

(V) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of paragraph (b)(xv)(I) of this section.

(VI) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph (b)(xv)(C)(I) of this section.

(VII) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under paragraph (b)(xv)(M) of this section.

(VIII) A requirement to retain the records required under paragraph (b)(xv)(M) of this section on site. Such records may be retained in an electronic format.

(IX) A requirement to submit the reports required under paragraph (b)(xv)(N) of this section by the required deadlines.

(X) Any other requirements that the Division deems necessary to implement and enforce the PAL.

(H) PAL Effective Period and Reopening of the PAL Permit.

(I) PAL Effective Period. The PAL effective period shall be 10 years.

(II) Reopening of the PAL Permit.

(1.) During the PAL effective period, the Division shall reopen the PAL permit to:

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

b. Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under 40 CFR part 51.165(a)(3)(ii); and

c. Revise the PAL to reflect an increase in the PAL

as provided under paragraph (b)(xv)(K) of this section.

(2.) The Division may reopen the PAL permit for the following:

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

b. Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the Division may impose on the major stationary source; and

c. Reduce the PAL if the Division determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an AQRV that has been identified for a Federal Class I Area by a Federal Land Manager and for which information is available to the general public.

(3.) Except for the permit reopening in paragraph (b)(xv)(H)(II)(1.)a. of this section for the correction of typographical/calculation errors that do not increase the PAL level, all reopenings shall be carried out in accordance with the public participation requirements of paragraph (b)(xv)(E) of this section.

(I) Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in paragraph (b)(xv)(J) of this section shall expire at the end of the PAL effective period, and the requirements in paragraphs (b)(xv)(I)(I) through (V) of this section shall apply.

(I) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the procedures in paragraphs (b)(xv)(I)(I)(1.) and (2.) of this section.

(1.) Within the time frame specified for PAL renewals in paragraph (b)(xv)(J)(II) of this section, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Division) by distributing the PAL-allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph (b)(xv)(J)(V) of this section, such distribution shall be made as if the PAL had been adjusted.

(2.) The Division shall decide whether and how the PAL-allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Division determines is appropriate.

(II) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Division may approve the use of

monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS or CPMS to demonstrate compliance with the allowable emission limitation.

(III) Until the Division issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (b)(xv)(I)(I)(2.) of this section, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(IV) Any physical change or change in the method of operation at the major stationary source will be subject to Chapter 6, Section 4 requirements if such change meets the definition of "Major modification" in Section 4(a).

(V) The major stationary source owner or operator shall continue to comply with any State of Wyoming or Federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to paragraph (b)(i)(G) of this section, but were eliminated by the PAL in accordance with the provisions in paragraph (b)(xv)(A)(II)(3.) of this section.

(J) Renewal of a PAL.

(I) The Division shall follow the procedures specified in paragraph (b)(xv)(E) of this section in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Division.

(II) Application Deadline. A major stationary source owner or operator shall submit a timely application to the Division to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

(III) Application Requirements. The application to renew a PAL permit shall contain the information required in paragraphs (b)(xv)(J)(III)(1.) through (4.) of this section.

(1.) The information required in paragraphs (b)(xv)(C)(I) through (III) of this section.

(2.) A proposed PAL level.

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

(4.) Any other information the owner or operator wishes the Division to consider in determining the appropriate level for renewing the PAL.

(IV) PAL Adjustment. In determining whether and how to adjust the PAL, the Division shall consider the options outlined in paragraphs (b)(xv)(J)(IV)(1.) and (2.) of this section; however, in no case may any such adjustment fail to comply with paragraph (b)(xv)(J)(IV)(3.) of this section.

(1.) If the emissions level calculated in accordance with paragraph (b)(xv)(F) of this section is equal to or greater than 80 percent of the PAL level, the Division may renew the PAL at the same level without considering the factors set forth in paragraph (b)(xv)(J)(IV)(2.) of this section; or

(2.) The Division may set the PAL at a level that it determines to be more representative of the source's baseline actual emissions, or that it determines to be 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 Division in its written rationale.

(3.) Notwithstanding paragraphs (b)(xv)(J)(IV)(1.) and (2.) of this section:

a. If the potential to emit of the major stationary source is less than the PAL, the Division shall adjust the PAL to a level no greater than the potential to emit of the source; and

b. The Division shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of paragraph (b)(xv)(K) of this section (increasing a PAL).

(V) If the compliance date for a State of Wyoming or Federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Division has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or Chapter 6, Section 3 operating permit renewal, whichever occurs first.

(K) Increasing a PAL During the PAL Effective Period.

(I) The Division may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (b)(xv)(K)(I)(1.) through (4.) of this section.

(1.) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in

emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(2.) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(3.) The owner or operator obtains a Chapter 6, Section 4 permit for all emissions unit(s) identified in paragraph (b)(xv)(K)(I)(1.) of this section, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the Chapter 6, Section 4 process (for example, BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.

(4.) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(II) The Division shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with paragraph (b)(xv)(K)(I)(2.) of this section), plus the sum of the baseline actual emissions of the small emissions units.

(III) The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of paragraph (b)(xv)(E) of this section.

(L) Monitoring Requirements for PALs.

(I) General Requirements.

(1.) Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(2.) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in paragraphs (b)(xv)(L)(II)(1.) through (4.) of this section and must be approved by the Division.

(3.) Notwithstanding paragraph (b)(xv)(L)(I)(2.) of this section, you may also employ an alternative monitoring approach that meets paragraph (b)(xv)(L)(I)(1.) of this section if approved by the Division.

(4.) Failure to use a monitoring system that meets the requirements of this section renders the PAL invalid.

(II) Minimum Performance Requirements For Approved Monitoring Approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (b)(xv)(L)(III) through (IX) of this section:

(1.) Mass balance calculations for activities using coatings or solvents;

(2.) CEMS;

(3.) CPMS or PEMS; and

(4.) Emission factors.

(III) Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

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

(2.) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

(3.) Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Division determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(IV) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1.) CEMS must comply with applicable Performance Specifications found in 40 CFR part 60, Appendix B; and

(2.) CEMS must sample, analyze, and record data at least every 15 minutes while the emissions unit is operating.

(V) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1.) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

(2.) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Division, while the emissions unit is operating.

(VI) Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

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

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

(3.) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the Division determines that testing is not required.

(VII) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

(VIII) Notwithstanding the requirements in paragraphs (b)(xv)(L)(III) through (VIII) of this section, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Division shall, at the time of permit issuance:

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

(2.) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

(IX) Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Division. Such testing must occur at least once every 5 years after issuance of the PAL.

(M) Recordkeeping Requirements.

(I) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of paragraph (b)(xv) of this section and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record.

(II) The PAL permit shall require an owner or operator to retain a copy of the following records, for the duration of the PAL effective period plus 5 years:

(1.) A copy of the PAL permit application and any applications for revisions to the PAL; and

(2.) Each annual certification of compliance pursuant to Chapter 6, Section 3 and the data relied on in certifying the compliance.

(N) Reporting and Notification Requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Division in accordance with the applicable Chapter 6, Section 3 operating permit program. The reports shall meet the requirements in paragraphs (b)(xv)(N)(I) through (III) of this section.

(I) Semi-annual Report. The semi-annual report shall be submitted to the Division within 30 days of the end of each reporting period. This report shall contain the information required in paragraphs (b)(xv)(N)(I)(1.) through (7.) of this section.

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

(2.) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to paragraph (b)(xv)(M)(I) of this section.

(3.) All data relied upon, including, but not limited to, any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions.

(4.) A list of any emissions units modified or added to the

major stationary source during the preceding 6-month period.

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

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

(7.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(II) Deviation Report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to Chapter 6, Section 3(h)(i)(C)(III)(2.) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by Chapter 6, Section 3(h)(i)(C)(III)(2.). The reports shall contain the following information:

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

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

(3.) Emissions resulting from the deviation or the exceedance; and

(4.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(III) Re-validation Results. The owner or operator shall submit to the Division the results of any re-validation test or method within three months after completion of such test or method.

(O) Transition Requirements.

(I) The Division shall not issue a PAL that does not comply with the requirements in paragraphs (b)(xv)(A) through (O) of this section after the Administrator has

approved regulations incorporating these requirements into Chapter 6, Section 4.

(II) The Division may supersede any PAL which was established prior to the date of approval of this regulation by the Administrator of EPA with a PAL that complies with the requirements of paragraphs (b)(xv)(A) through (O) of this section.

(xvi) If any provision of this section, or the application of such provision to any person or circumstance, is held invalid, the remainder of this section, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(xvii) Transition:

(A) The requirements for BACT in Chapter 6, Section 4(b)(ii) and the requirements for air quality analysis in Chapter 6, Section 4(b)(i) shall not apply to a major stationary source or major modification that was subject to Chapter 6, Section 4, as effective on January 25, 1979, if the owner or operator of the source submitted an application for a permit under these regulations before August 7, 1980, and the Administrator subsequently determines that the application submitted before that date was complete. Instead, the requirements of Chapter 6, Section 4 as in effect on January 25, 1979, apply to any such source or modification.

(B) The requirements for air quality monitoring in paragraph (b)(i)(E) shall not apply to a particular source or modification that was subject to Chapter 6, Section 4, as effective on January 25, 1979, if the owner or operator of the source or modification submits an application for a permit under these regulations on or before June 8, 1981, and the Administrator subsequently determines that the application submitted before that date was complete with respect to the requirements for ambient air quality data analyses as in effect on January 25, 1979. Instead, the latter requirements shall apply to such source or modification.

(C) The requirements for air quality monitoring in paragraph (b)(i)(E) shall not apply to a particular source or modification that was not subject to Chapter 6, Section 4, as effective on January 25, 1979, if the owner or operator of the source or modification submits an application for a permit under these regulations before June 8, 1981, and the Administrator subsequently determines that the application as submitted before that date was complete except with respect to the requirements in paragraph (b)(i)(F).

(D) The requirements for air quality monitoring for PM_{10} in paragraphs (b)(i)(E)(I) through (IV) of this section, effective February 13, 1989, shall not apply to a particular source or modification, if the owner or operator of the source or modification submits an application for a permit under Chapter 6, Section 4 on or before June 1, 1988 and the Administrator subsequently determines that the application submitted before that date was complete, except with respect to the requirements for monitoring particulate matter.

(E) The requirements for air quality monitoring of PM_{10} in paragraphs (b)(i)(E)(IV) through (b)(i)(E)(V) of this section, effective February 13, 1989, shall apply to a particular source or modification if the owner or operator of the source or modification submits

an application for a permit under this section after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions set forth under paragraph (b)(xvii)(G) of this section, except that the Administrator may provide that the monitoring period specification may be reduced to a minimum of four months if he is satisfied that a complete and adequate analysis can be accomplished with monitoring data gathered over that shorter period of time.

(F) For any application under this section that becomes complete except as to the requirements of paragraphs (b)(i)(E)(III) and (b)(i)(E)(IV) pertaining to PM_{10}, after December 1, 1988 and no later than August 1, 1989, the data that paragraph (b)(i)(E)(III) requires will have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete. The Administrator may provide that the monitoring period specification may be reduced to a minimum of four months if he is satisfied that a complete and adequate analysis can be accomplished with monitoring data gathered over that shorter period of time.

(G) With respect to any requirements for air quality monitoring of PM_{10} specified under paragraphs (b)(xvii)(D) and (b)(xvii)(E) of this section, effective February 13, 1989, the owner or operator of the source or modification shall use a monitoring method approved by the Administrator and shall estimate the ambient concentrations of PM_{10} using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Administrator.

(H) The requirement to demonstrate compliance with the maximum allowable increment for nitrogen dioxide shall not apply to a major stationary source or major modification that was subject to Chapter 6, Section 4, as effective on February 8, 1988, if the owner or operator of the source or modification submits an application for a permit under these regulations on or before October 30, 1990 and the Administrator subsequently determines that the application submitted before that date was complete.

(I) The requirement to demonstrate compliance with the maximum allowable increment for PM_{10} shall not apply to a major stationary source or major modification that was subject to Chapter 6, Section 4, as effective on June 3, 1993, if the owner or operator of the source or modification submits an application for a permit under these regulations on or before the effective date of this regulation revision and the Administrator subsequently determines that the application submitted before that date was complete. Instead, the requirement to demonstrate compliance with the maximum allowable increment for TSP, as in effect at the time the application was submitted, shall apply:

Maximum Allowable Increments of Deterioration - $\mu g/m^3$

Pollutant	Class I	Class II
Particulate Matter:		
TSP, Annual geometric mean	5	19

TSP, 24-hour maximum*	10	37

*Maximum allowable increment may be exceeded once per year at any receptor site.

(c) All national parks, national wilderness areas, and national memorial parks in Wyoming as of January 25, 1979, shall be designated Class I and may not be redesignated. All other areas of the State of Wyoming shall be designated Class II as of the effective date of this regulation.

(d) Redesignation. All redesignation of areas within the State of Wyoming shall be accomplished through the process of establishment of Standards and Regulations set forth in the Wyoming Environmental Quality Act.

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

(A) An area which exceeds 10,000 acres in size and is a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore; and

(B) A national park or national wilderness area which exceeds 10,000 acres in size and is established after the effective date of this regulation.

(ii) Except as provided in paragraph (c) above, any area may be redesignated as Class I or II, with the approval of the Administrator of the Environmental Protection Agency, in accordance with the provisions of paragraph (iii) below; provided, however, that lands within the exterior boundaries of reservations of federally recognized Indian tribes may be redesignated to any class, but only by the appropriate Indian governing body.

(iii) (A) At least one public hearing must be held in accordance with the provisions for adoption of regulations as set forth in the Administrative Procedures Act and the Wyoming Environmental Quality Act.

(B) At least 30 days prior to the public hearing, a description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation shall be prepared and made available for public inspection. Any person petitioning the Department or Council to redesignate an area shall be responsible for preparing or submitting such description and analysis. Such persons shall also be responsible for revising this required documentation to the extent necessary to satisfy the Administrator of the U.S. EPA. The notice of the public hearing shall contain appropriate notification of the availability of the description and analysis of the proposed redesignation.

(C) Agencies from neighboring states, Indian governing bodies, Federal Land Managers, and local governments whose land may be affected by the proposed redesignation shall be notified at least 30 days prior to the hearing.

(D) Prior to proposing a redesignation, the Division and the Air Quality

Advisory Board shall consult with the elected leadership of local and other substate general purpose governments in the area covered by the redesignation.

(E) Prior to public notice of the proposed redesignation the Division shall provide written notice to any Federal Land Manager who may be responsible for any federal lands within the area proposed for such redesignation and shall afford adequate opportunity (but not in excess of 60 days) to confer with the State respecting the intended notice of designation. The Federal Land Manager shall be offered the opportunity to submit written comments and recommendations with respect to such intended notice of redesignation. In redesignating any area with respect to which the federal land manager has submitted written comments and recommendations, the Division will publish a list of any inconsistency between such redesignation and such recommendation with an explanation of such inconsistency (together with the reasons for making such redesignation against the recommendation of the Federal Land Manager).

(F) The Council shall review and examine the description and analysis prepared pursuant to subparagraph (iii)(B) above prior to any redesignation.

(iv) (A) If an area has been proposed for redesignation to a more stringent class, no permit to construct may be granted to a source which may cause an impact in the area proposed for redesignation and for which an application to construct is received by the Division after the filing of the petition for redesignation with the Environmental Quality Council until the proposed redesignation has been acted upon; however, approval may be granted if, in the Administrator's judgment, the proposed source would not violate the applicable increments of the proposed redesignation. Such approval shall be withheld only so long as in the Administrator's judgment, the petitioner is expeditiously proceeding toward development of the "description and analysis" required under (iii)(B) above, and provided that such "description and analysis" is complete and submitted to the Council for action on the petition within 18 months of the filing of the initial petition. Upon good cause shown, the Council may extend the foregoing deadline.

(B) Where an application for a permit to construct a source has been received by the Division prior to the receipt by the Council of a petition for redesignation of an area to a more stringent class and where such source may cause an impact in the area proposed for redesignation, the permit application shall be processed considering the classification of an area which existed at the time of permit application. For purposes of establishing a priority date under this Chapter 6, Section 4(d)(vi)(B), (1) such permit application is not required to meet the provisions for completeness in Chapter 6, Section 2, and (2) the time frames in Chapter 6, Section 2(g) for action on applications shall not apply.

However, a priority date established under Chapter 6, Section 4(d)(vi)(B), shall remain in effect only so long as in the Administrator's judgment, the applicant is expeditiously proceeding toward the development and submittal of such other information and data as required to make the application complete under the provisions of Chapter 6, Section 2, and provided that such other information and data is submitted to, and judged to be complete by the Administrator within 18 months of the filing of the initial permit application. Upon good cause shown, the Administrator

may extend the foregoing deadline.

Section 5. **Permit requirements for construction and modification of NESHAPs sources.**

Permit requirements for construction and modification of NESHAP sources are no longer covered under Chapter 6, Section 5. Refer to Chapter 5, National Emission Standards, Section 3, National emission standards for hazardous air pollutants.

Section 6. **Permit requirements for case-by-case maximum achievable control technology (MACT) determination.**

(a) Applicability. The requirements of this section carry out section 112(g)(2)(B) of the Clean Air Act, as amended in 1990.

(b) Overall Requirements. The requirements of this section apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after the effective date of this section unless the major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to section 112(d), section 112(h), or section 112(j) and incorporated in 40 CFR part 63 or Chapter 5, Section 3, or the owner or operator of such major source has received all necessary air quality permits for such construction or reconstruction project before the effective date of this section.

(c) Exclusion for Electric Utility Steam Generating Units. The requirements of this section do not apply to electric utility steam generating units unless and until such time as these units are added to the source category list pursuant to section 112(c)(5) of the Act.

(d) Exclusion for Stationary Sources in Deleted Source Categories. The requirements of this section do not apply to stationary sources that are within a source category that has been deleted from the source category list pursuant to section 112(c)(9) of the Act.

(e) Exclusion for Research and Development Activities. The requirements of this section do not apply to research and development activities, as defined in Chapter 6, Section 6(f)(xiii).

(f) Definitions:

Terms used in this section that are not defined in this section have the meaning given to them in the Act and in Chapter 5, Section 3.

(i) ***"Affected source"*** means the stationary source or group of stationary sources which, when fabricated (on site), erected, or installed meets the definition of "construct a major source" or the definition of "reconstruct a major source" contained in this section.

(ii) ***"Affected States"*** are all States:

(A) Whose air quality may be affected and that are contiguous to the State of Wyoming where a MACT determination is made in accordance with this Section; or

(B) Whose air quality may be affected and that are within 50 miles of the major source for which a MACT determination is made in accordance with this section.

(iii) ***"Available information"*** means, for purposes of identifying control technology options for the affected source, information contained in the following information sources as of the date of approval of the MACT determination by the Division:

(A) A relevant proposed regulation, including all supporting information;

(B) Background information documents for a draft or proposed regulation;

(C) Data and information available for the EPA Control Technology Center developed pursuant to section 113 of the Act;

(D) Data and information contained in the EPA Aerometric Informational Retrieval System including information in the MACT data base;

(E) Any additional information that can be expeditiously provided by EPA; and

(F) For the purpose of determinations by the Division, any additional information provided by the applicant or others, and any additional information considered available by the Division.

(iv) ***"Construct a major source"*** means:

(A) To Fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAPs or 25 tons per year of any combination of HAP, or

(B) To fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, unless the process or production unit satisfies criteria in paragraphs (B)(I) through (VI) of this definition.

(I) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of this section will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

(II) (1.) The Division has determined within a period of 5 years

prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented best available control technology (BACT), toxics-best available control technology (T-BACT), under Chapter 6, Section 2, or MACT based on State air toxic rules for the category of pollutants which includes those HAPs to be emitted by the process or production unit; or

(2.) The Division determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, T-BACT, or State air toxic rule MACT determination);

(III) The Division determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

(IV) The Division has provided notice and an opportunity for public comment concerning its determination that criteria in paragraphs (B)(I), (B)(II), and (B)(III) of this definition apply and concerning the continued adequacy of any prior BACT, T-BACT, or State air toxic rule MACT determination;

(V) If any commenter has asserted that a prior BACT, T-BACT, or State air toxic rule MACT determination is no longer adequate, the Division has determined that the level of control required by that prior determination remains adequate; and

(VI) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the Division are applicable requirements under Chapter 6, Section 3 and either have been incorporated into any existing operating permit for the affected facility or will be incorporated into such permit upon issuance.

(v) ***"Control technology"*** means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants through process changes, substitution of materials or other modifications;

(A) Reduce the quantity of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications;

(B) Enclose systems or processes to eliminate emissions;

(C) Collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

(D) Are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 U.S.C. 7412(h); or

(E) Are a combination of paragraphs (A) through (D) of this definition.

(vi) ***"Electric utility steam generating unit"*** means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that co-generates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

(vii) ***"Greenfield site"*** means a contiguous area under common control that is an undeveloped site.

(viii) ***"List of Source Categories"*** means the Source Category List required by section 112(c) of the Act.

(ix) ***"Maximum achievable control technology (MACT) emission limitation for new sources"*** means the emission limitation which is not less stringent than the emission limitation achieved in practice by the best controlled similar source, and which reflects the maximum degree of reduction in emissions that the Division, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.

(x) ***"Notice of MACT Approval"*** means a Chapter 6, Section 2 permit issued by a Division containing all federally enforceable conditions necessary to enforce the application and operation of MACT or other control technologies such that the MACT emission limitation is met.

(xi) ***"Process or production unit"*** means any collection of structures and/or equipment, that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.

(xii) ***"Reconstruct a major source"*** means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever:

(A) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and

(B) It is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this section.

(xiii) ***"Research and development activities"*** means activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development

into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.

(xiv) ***"Similar source"*** means a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology.

(g) Prohibition. After the effective date of this section no person may begin actual construction or reconstruction of a major source of HAP unless:

(i) The major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to section 112(d), section 112(h) or section 112(j) in 40 CFR part 63, and the owner and operator has fully complied with all procedures and requirements for preconstruction review established by that standard, including any applicable requirements set forth in Chapter 5, Section 3; or

(ii) The Division has made a final and effective case-by-case determination pursuant to the provisions of Chapter 6, Section 6(h) such that emissions from the constructed or reconstructed major source will be controlled to a level no less stringent than the maximum achievable control technology emission limitation for new sources.

(h) Maximum Achievable Control Technology (MACT) Determinations for Constructed and Reconstructed Major Sources.

(i) Applicability. The requirements of this section apply to an owner or operator who constructs or reconstructs a major source of HAP subject to a case-by-case determination of maximum achievable control technology pursuant to Chapter 6, Section 6(g).

(ii) Requirements for Constructed and Reconstructed Major Sources. When a case-by-case determination of MACT is required by Chapter 6, Section 6(g), the owner and operator shall obtain from the Division an approved MACT determination in conjunction with the required Chapter 6, Section 2 permit according to the requirements listed in Chapter 6, Section 6(h)(iv).

(iii) Principles of MACT Determinations. The following general principles shall govern preparation by the owner or operator of each permit application or other application requiring a case-by-case MACT determination concerning construction or reconstruction of a major source, and all subsequent review of and actions taken concerning such an application by the Division:

(A) The MACT emission limitation or MACT requirements recommended by the applicant and approved by the Division shall not be less stringent than the emission control which is achieved in practice by the best controlled similar source, as determined by the Division.

(B) Based upon available information, as defined in this section, the MACT emission limitation and control technology (including any requirements under Chapter 6, Section 6(h)(iii)(C)) recommended by the applicant and approved by the Division shall achieve the maximum degree of reduction in emissions of HAP which can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements associated with the emission reduction.

(C) The applicant may recommend a specific design, equipment, work practice, or operational standard, or a combination thereof, and the Division may approve such a standard if the Division specifically determines that it is not feasible to prescribe or enforce an emission limitation under the criteria set forth in section 112(h)(2) of the Act.

(D) If EPA has either proposed a relevant emission standard pursuant to section 112(d) or section 112(h) of the Act or adopted a presumptive MACT determination for the source category which includes the constructed or reconstructed major source, then the MACT requirements applied to the constructed or reconstructed major source shall have considered those MACT emission limitations and requirements of the proposed standard or presumptive MACT determination.

(iv) Application Requirements for a Case-By-Case MACT Determination.

(A) An application for a MACT determination, in conjunction with an application for a permit pursuant to Chapter 6, Section 2, shall specify a control technology selected by the owner or operator that, if properly operated and maintained, will meet the MACT emission limitation or standard as determined according to the principles set forth in Chapter 6, Section 6(h)(iii).

(B) In each instance where a constructed or reconstructed major source would require additional control technology or a change in control technology, the application for a MACT determination shall contain the following information:

(I) The name and address (physical location) of the major source to be constructed or reconstructed;

(II) A brief description of the major source to be constructed or reconstructed and identification of any listed source category or categories in which it is included;

(III) The expected commencement date for the construction or reconstruction of the major source;

(IV) The expected completion date for construction or reconstruction of the major source;

(V) The anticipated date of start-up for the constructed or

reconstructed major source;

(VI) The HAP emitted by the constructed or reconstructed major source, and the estimated emission rate for each such HAP, to the extent this information is needed by the Division to determine MACT;

(VII) Any federally enforceable emission limitations applicable to the constructed or reconstructed major source;

(VIII) The maximum and expected utilization of capacity of the constructed or reconstructed major source, and the associated uncontrolled emission rates for that source, to the extent this information is needed by the Division to determine MACT;

(IX) The controlled emissions for the constructed or reconstructed major source in tons/yr at expected and maximum utilization of capacity, to the extent this information is needed by the Division to determine MACT;

(X) A recommended emission limitation for the constructed or reconstructed major source consistent with the principles set forth in paragraph (iii) of this section;

(XI) The selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the Division);

(XII) Supporting documentation including identification of alternative control technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology; and

(XIII) Any other relevant information required pursuant to Section 33.

(C) In each instance where the owner or operator contends that a constructed or reconstructed major source will be in compliance, upon startup, with case-by-case MACT under this section without a change in control technology, the application for a MACT determination shall contain the following information:

(I) The information described in Chapter 6, Section 6(h)(iv)(B)(I) through (iv)(B)(X); and

(II) Documentation of the control technology in place.

(v) Administrative Procedures for Review of the Notice of MACT Approval.

(A) The administrative procedures for review shall follow the procedures specified in Chapter 6, Section 2(g) for the permit review and approval or denial process.

(vi) Notice of MACT Approval.

(A) The Notice of MACT Approval will contain a MACT emission limitation (or a MACT work practice standard if the Division determines it is not feasible to prescribe or enforce an emission standard) to control the emissions of HAP. The MACT emission limitation or standard will be determined by the Division and will conform to the principles set forth in Chapter 6, Section 6(h)(iii) of this section.

(B) The Notice of MACT Approval will specify any notification, operation and maintenance, performance testing, monitoring, reporting and recordkeeping requirements. The Notice of MACT Approval shall include:

(I) In addition to the MACT emission limitation or MACT work practice standard established under this section, additional emission limits, production limits, operational limits or other terms and conditions necessary to ensure Federal enforceability of the MACT emission limitation;

(II) Compliance certifications, testing, monitoring, reporting and recordkeeping requirements that are consistent with the requirements of Chapter 6, Section 3(h);

(III) In accordance with section 114(a)(3) of the Act, monitoring shall be capable of demonstrating continuous compliance during the applicable reporting period. Such monitoring data shall be of sufficient quality to be used as a basis for enforcing all applicable requirements established under this section, including emission limitations;

(IV) A statement requiring the owner or operator to comply with all applicable requirements contained in Chapter 5, Section 3.

(C) All provisions contained in the Notice of MACT Approval shall be federally enforceable upon the effective date of issuance of such notice, as provided by Chapter 6, Section 6(h)(ix).

(D) The Notice of MACT Approval shall expire if construction or reconstruction has not commenced within 18 months of issuance, unless the Division has granted an extension which shall not exceed an additional 12 months.

(vii) Opportunity for Public Comment on the Notice of MACT Approval.

(A) The opportunity for public comment shall follow the procedures specified in Chapter 6, Section 2(m) for the permit review and approval process.

(viii) EPA Notification. The Division shall send a copy of the final Notice of MACT Approval issued pursuant to Chapter 6, Section 2 and this section to the EPA through the

appropriate Regional Office, and to all other State and local air pollution control agencies having jurisdiction in affected States.

(ix) Effective Date. The effective date of a MACT determination shall be the date of issuance of the Chapter 6, Section 2 permit to construct or reconstruct.

(x) Compliance Date. On and after the date of start-up, a constructed or reconstructed major source which is subject to the requirements of this section shall be in compliance with all applicable requirements specified in the MACT determination.

(xi) Compliance With MACT Determinations.

(A) An owner or operator of a constructed or reconstructed major source that is subject to a MACT determination shall comply with all requirements in the final Notice of MACT Approval, including but not limited to any MACT emission limitation or MACT work practice standard, and any notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements.

(B) An owner or operator of a constructed or reconstructed major source which has obtained a MACT determination shall be deemed to be in compliance with Chapter 6, Section 6(g) only to the extent that the constructed or reconstructed major source is in compliance with all requirements set forth in the final Notice of MACT Approval issued pursuant to Chapter 6, Section 2 and this section. Any violation of such requirements by the owner or operator shall be deemed by the Division and by EPA to be a violation of the prohibition on construction or reconstruction in Chapter 6, Section 6(g) for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action.

(xii) Reporting to EPA. Within 60 days of the issuance of a final Notice of MACT Approval issued pursuant to Chapter 6, Section 2 and this section, the Division shall provide a copy of such notice to the Administrator, and shall provide a summary in a compatible electronic format for inclusion in the MACT data base.

(i) Requirements for Constructed or Reconstructed Major Sources Subject to a Subsequently Promulgated MACT Standard or MACT Requirement.

(i) If EPA promulgates an emission standard under section 112(d) or section 112(h) of the Act or the Division issues a determination under section 112(j) of the Act that is applicable to a stationary source or group of sources which would be deemed to be a constructed or reconstructed major source under this section before the date that the owner or operator has obtained a final and legally effective MACT determination pursuant to Chapter 6, Section 6(h), the owner or operator of the source(s) shall comply with the promulgated standard or determination rather than any MACT determination under this section by the Division, and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

(ii) If EPA promulgates an emission standard under section 112(d) or section 112(h) of the Act or the Division makes a determination under section 112(j) of the Act that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this section and has been subject to a prior case-by-case MACT determination pursuant to Chapter 6, Section 6(h), and the owner and operator obtained a final and legally effective case-by-case MACT determination prior to the promulgation date of such emission standard, then the Division shall (if the initial operating permit has not yet been issued) issue an initial operating permit which incorporates the emission standard or determination, or shall (if the initial operating permit has been issued) revise the operating permit according to the reopening procedures in Chapter 6, Section 3(d)(vii) to incorporate the emission standard or determination.

(A) The EPA may include in the emission standard established under section 112(d) or section 112(h) of the Act a specific compliance date for those sources which have obtained a final and legally effective MACT determination under this section and which have submitted the information required by Chapter 6, Section 6(h) to the EPA before the close of the public comment period for the standard established under section 112(d) of the Act. Such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but not longer than 8 years after such standard is promulgated. In that event, the Division shall incorporate the applicable compliance date in the Chapter 6, Section 3 operating permit.

(B) If no compliance date has been established in the promulgated 112(d) or 112(h) standard or section 112(j) determination, for those sources which have obtained a final and legally effective MACT determination under this section, then the Division shall establish a compliance date in the Chapter 6, Section 3 operating permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than 8 years after such standard is promulgated or a section 112(j) determination is made.

(iii) Notwithstanding the requirements of paragraphs (i) and (ii) of this section, if EPA promulgates an emission standard under section 112(d) or section 112(h) of the Act or the Division issues a determination under section 112(j) of the Act that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this section and which is the subject of a prior case-by-case MACT determination pursuant to subsection (h), and the level of control required by the emission standard issued under section 112(d) or section 112(h) or the determination issued under section 112(j) is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the Division is not required to incorporate any less stringent terms of the promulgated standard in the Chapter 6, Section 3 operating permit applicable to such source(s) and may in its discretion consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such an operating permit.

Section 7. **Clean air resource allocation expiration.**

(a) (i) Any owner or operator of a facility which ceases operation shall not be entitled to the continued use of the clean air resource necessary to accommodate the emissions from such facility if such cessation of operation extends beyond a day 5 years after the date of cessation of such operation.

(ii) Within 60 days after determining that a facility has ceased operation, the Administrator shall notify in writing the affected owner or operator that this section is applicable. The notice shall further advise the owner or operator of the proposed expiration date for the facility's entitlement to use its allocated air resource and provide the operator or owner the opportunity to review the Administrator's decision.

Within 60 days after receiving the notice, the owner or operator of the facility shall notify the Administrator if it intends to operate the facility in the future. Failure to so notify the Administrator will constitute a rebuttable presumption that the owner or operator has permanently and purposefully ceased operation of the facility with no intent to operate in the future. The continuous five-year period shall not begin earlier than 60 days prior to receipt by the owner or operator of the notice from the Administrator.

(iii) Prior to revoking an air allocation, the Administrator shall provide notice to the affected owner or operator and if requested by the owner or operator will hold a public hearing pursuant to the Rules of Practice and Procedure of the Department on the impending expiration of the entitlement to use the allocated clean air resource. Said notice shall be served no later than six months prior to the proposed expiration date. The Administrator's decision issued as a result of the hearing may be appealed to the Environmental Quality Council in the manner set forth in the Environmental Quality Act and the applicable rules and regulations.

(iv) The Administrator may extend the 5-year time period for non-use upon a satisfactory showing that the owner or operator intends and can demonstrate firm plans to operate the facility in the future.

(v) The transfer of ownership of a facility shall not affect the entitlement for use by the facility of the clean air resource. Such a transfer of ownership does not extend the expiration date defined in paragraph (a)(i).

(vi) For purposes of this section "operation" means to function in a manner which directly contributes to the accomplishment of the primary purpose of the facility. The definition of operation of a mining facility shall include: (i) all of the primary activities associated with mining, such as ore and overburden removal, topsoil stripping and haulage, reclamation and associated construction activities, and (ii) activities and commitments accepted by the Department as "interim stabilization" measures which qualify the mine for "temporary cessation and a resultant extension of reclamation obligations" under the regulations of the Land Quality Division of the Department.

(b) (i) In a case where an owner or operator permanently and purposefully ceases operation with no expressed intent to operate the facility in the future, the associated clean air resource allocation is not reserved to the owner or operator and immediately reverts to the state.

(ii) Prior to such revocation the Administrator shall provide notice to the affected owner or operator and if requested by such owner or operator will hold a public hearing pursuant to the Rules of Practice and Procedure of the Department.

(c) Start-up and operation of a facility after a period of non-use which lasts at least 5 years shall be considered to represent the operation of a new facility and shall be subject to the permit requirements of Chapter 6, Section 2. The provisions of Chapter 6, Section 4 may also be applicable.

(d) Brief periods of facility operation which are clearly designed to circumvent the intent of this section shall not be considered as operation under the provisions of subsections (a) and (b) above. For purposes of this section, operation must be for commercial purposes (which does not include temporary operation for period testing or maintenance of the facility in a standby status).

Section 8. **[Reserved.]**

Section 9. **Best available retrofit technology (BART).**

(a) Applicability. The provisions of this regulation apply to existing stationary facilities, as defined in Section 9(b) of this chapter.

(b) Definitions.

"Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with 1) times of visitor use of the Federal Class I area, and 2) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.

"Applicable technology" means a commercially available control option that has been or is soon to be deployed (e.g., is specified in a permit) on the same or a similar source type or a technology that has been used on a pollutant-bearing gas stream that is the same or similar to the gas stream characteristics of the source.

"Available technology" means that a technology is licensed and available through commercial sales.

"Average cost effectiveness" means the total annualized costs of control divided by annual emissions reductions (the difference between baseline annual emissions and the estimate of emissions after controls). For the purposes of calculating average cost effectiveness, baseline annual emissions means a realistic depiction of anticipated annual emissions for the source. The source or the Division may use State or Federally enforceable permit limits or estimate the anticipated annual emissions based upon actual emissions from a representative baseline period.

"BART alternative" means an alternative measure to the installation, operation, and maintenance of BART that will achieve greater reasonable progress toward national visibility goals than would have resulted from the installation, operation, and maintenance of BART at BART-eligible sources within industry source categories subject to BART requirements.

"Best available retrofit technology (BART)" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant that is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source or unit, the remaining useful life of the source or unit, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

"Deciview" means a measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements):

Deciview haze index = $10 \ln_e (b_{ext}/10\ Mm^{-1})$

Where b_{ext} = the atmospheric light extinction coefficient, expressed in inverse megameters (Mm^{-1}).

"Existing stationary facility" means any of the following stationary sources of air pollutants, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit 250 tons per year or more of any visibility impairing air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted.

(i) Fossil fuel-fired steam electric plants of more than 250 million British thermal units (BTU) per hour heat input that generate electricity for sale.

(A) Boiler capacities shall be aggregated to determine the heat input of a plant.

(B) Includes plants that co-generate steam and electricity and combined cycle turbines.

(ii) Coal cleaning plants (thermal dryers).

(iii) Kraft pulp mills.

(iv) Portland cement plants.

(v) Primary zinc smelters.

(vi) Iron and steel mill plants.

(vii) Primary aluminum ore reduction plants.

(viii) Primary copper smelters.

(ix) Municipal incinerators capable of charging more than 250 tons of refuse per day.

(x) Hydrofluoric, sulfuric, and nitric acid plants.

(xi) Petroleum refineries.

(xii) Lime plants.

(xiii) Phosphate rock processing plants. Includes all types of phosphate rock processing facilities, including elemental phosphorous plants as well as fertilizer production plants.

(xiv) Coke oven batteries.

(xv) Sulfur recovery plants.

(xvi) Carbon black plants (furnace process).

(xvii) Primary lead smelters.

(xviii) Fuel conversion plants.

(xix) Sintering plants.

(xx) Secondary metal production facilities. Includes nonferrous metal facilities included within Standard Industrial Classification code 3341, and secondary ferrous metal facilities in the category “iron and steel mill plants”.

(xxi) Chemical process plants. Includes those facilities within the 2-digit Standard Industrial Classification 28, including pharmaceutical manufacturing facilities.

(xxii) Fossil fuel boilers of more than 250 million BTUs per hour heat input.

(A) Individual boilers greater than 250 million BTU/hr, considering federally enforceable operational limits.

(B) Includes multi-fuel boilers that burn at least fifty percent fossil fuels.

(xxiii) Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels.

(A) 300,000 barrels refers to total facility-wide tank capacity for tanks put in place after August 7, 1962 and in existence on August 7, 1977.

(B) Includes gasoline and other petroleum-derived liquids.

(xxiv) Taconite ore processing facilities.

(xxv) Glass fiber processing plants.

(xxvi) Charcoal production facilities. Includes charcoal briquette manufacturing and activated carbon production.

"Incremental cost effectiveness" means the comparison of the costs and emissions performance level of a control option to those of the next most stringent option, as shown in the following formula:

Incremental Cost Effectiveness (dollars per incremental ton removed) = [(Total annualized costs of control option) - (Total annualized costs of next control option)] ÷ [(Next control option annual emissions) - (Control option annual emissions)]

"In existence" means that the owner or operator has obtained all necessary preconstruction approvals or permits required by Federal, State, or local air pollution emissions and air quality laws or regulations and either has 1) begun, or caused to begin, a continuous program of physical on-site construction of the facility or 2) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed in a reasonable time.

"In operation" means engaged in activity related to the primary design function of the source.

"Integral vista" means a view perceived from within the mandatory Class I Federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal area.

"Natural conditions" means naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.

"Plant" means all emissions units at a stationary source.

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

"Visibility-impairing air pollutant" includes the following:

(i) Sulfur dioxide (SO_2);

(ii) Nitrogen oxides (NO_x); and

(iii) Particulate matter. (PM_{10} will be used as the indicator for particulate matter. Emissions of PM_{10} include the components of $PM_{2.5}$ as a subset).

(c) Guidelines for BART Determinations.

(i) The U.S. Environmental Protection Agency regulations contained in 40 CFR part 51, Appendix Y, are incorporated by reference into these regulations. The specific documents containing the complete text of the regulations are found in 40 CFR part 51, Appendix Y, as published on July 6, 2005 in the Federal Register beginning on page 39104, not including later amendments. Copies of the July 6, 2005 materials can be obtained from the Department of Environmental Quality, Division of Air Quality, 122 W. 25th Street, Cheyenne, Wyoming 82002.

(ii) The owner or operator of a fossil fuel-fired steam electric plant with a generating capacity greater than seven hundred fifty megawatts of electricity shall comply with the requirements of 40 CFR part 51, Appendix Y. All other facility owners or operators shall use Appendix Y as guidance for preparing their best available control retrofit technology determinations.

(d) Identification of Sources Subject to BART.

(i) Identification of sources subject to BART shall be performed by the Air Quality Division in accordance with EPA's guidelines for BART determinations under the regional haze rule 40 CFR part 51, Appendix Y, and incorporated by reference under Section 9(c). A BART-eligible source is subject to BART unless valid air quality dispersion modeling demonstrates that the source will not cause or contribute to visibility impairment in any Class I area.

(A) A single source that is responsible for a 1.0 deciview change or more is considered to "cause" visibility impairment in any Class I area.

(B) A single source that is responsible for a 0.5 deciview change or more is considered to "contribute" visibility impairment in any Class I area.

(C) A single source is exempt from BART if the 98th percentile daily change in visibility, as compared against natural background conditions, is less than 0.5 deciviews at all Class I federal areas for each year modeled and for the entire multi-year modeling period.

(ii) The Division will provide written notice to each source determined to be subject to BART.

(e) BART Requirements.

(i) Submission of Best Available Retrofit Technology (BART) Permit Application. The owner or operator of each source subject to BART as determined under Section 9(d), shall submit a BART permit application to the Division. The permit application shall be submitted according to a schedule determined by the Division. Sources with a potential to emit less than 40 tons per year SO_2 or NO_x or less than 15 tons per year PM_{10} may exclude those de minimis level pollutants from the BART analysis. The BART permit application shall include:

(A) The name and address (physical location) of the existing stationary facility subject to BART.

(B) A brief description of the source and identification of any listed source categories in which it is included.

(C) Information on de minimis levels if pollutants are excluded from the analysis.

(D) An analysis of control options performed in accordance with 40 CFR part 51, Appendix Y, IV.

(E) A proposal and justification for BART emission limits and control technology that reflect the BART requirements established in 40 CFR part 51, Appendix Y.

(F) A description of the proposed emission control systems, including the estimated control efficiencies.

(G) A schedule to install and operate BART.

(H) Additional relevant information as the Administrator may request.

(ii) Administrative Procedures for Review of a BART Permit Application. The administrative procedures for review shall follow the procedures specified in Chapter 6, Section 2(g) of these regulations.

(iii) Proposed Permits. The Administrator shall prepare a proposed permit following the Division's review of the BART permit application. The Administrator may approve, or amend the proposed emission limits, BART technology, and compliance schedule. Any proposed permit shall specify any notification, operation and maintenance, performance testing, monitoring, reporting and recordkeeping requirements determined by the Administrator to be reasonable and necessary.

(iv) Opportunity for Public Comment. The opportunity for public comment shall follow the procedures specified in Chapter 6, Section 2(m) for permit review.

(v) Modifications to BART Permits. Any source seeking to modify the BART determination for that facility must obtain the Administrator's approval.

(vi) Operating Permit Requirements. BART requirements established pursuant to any BART permit issued under this section shall be included in a Chapter 6, Section 3 Operating Permit according to the procedures established in Chapter 6, Section 3.

(vii) Fees. Persons applying for a permit under this section shall pay a fee to cover the Department's cost of reviewing and acting on permit applications in accordance with Chapter 6, Section 2(o).

(viii) Installation of Best Available Retrofit Technology. The owner or operator of any source required to operate under a BART permit issued under Section 9(e)(iii), shall install and operate best available retrofit technology unless an alternative to the installation of BART as specified under Section 9(f) has been approved by the Division. Any control equipment required under a permit issued in this section shall be installed and operating as expeditiously as practicable but in no event later than five years after the United States Environmental Protection Agency's approval of Wyoming's State Implementation Plan revision for Regional Haze.

(ix) Operation and Maintenance of Best Available Retrofit Technology. The owner or operator of a facility required to install best available retrofit technology under Section 9(e)(viii) shall establish procedures to ensure such equipment is properly operated and maintained.

(f) BART Alternative.

(i) The Administrator may implement or require participation in an emissions trading program or other alternative measures developed in accordance with 40 CFR 51.308(e) rather than to require sources subject to BART to install, operate and maintain BART.

(g) Monitoring, Recordkeeping and Reporting. The owner or operator of any existing stationary facility that is required to install best available retrofit technology or an approved BART alternative shall conduct monitoring, recordkeeping and reporting sufficient to show compliance or noncompliance on a continuous basis.

Section 10. **[Reserved.]**

Section 11. **[Reserved.]**

Section 12. **[Reserved.]**

Section 13. **Nonattainment new source review permit requirements.**

(a) This section applies to new major stationary sources or major modifications to existing major stationary sources located in areas of the state which are designated as nonattainment pursuant to Section 107 of the Clean Air Act for any regulated NSR pollutant.

(b) Definitions. For purposes of this section:

"Act" means Clean Air Act, as amended, 42 U.S.C 7401, et seq.

"Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (i) through (iii) of this definition, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a plantwide applicability limitation (PAL) under paragraph (g)(i) of this section. Instead, the definitions for "Projected actual emissions" and "Baseline actual emissions" of this section shall apply for those purposes.

(i) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Division shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(ii) The Division may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(iii) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Administrator" means Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality.

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

(i) Applicable standards set forth in Chapter 5, Section 2 or Section 3 of these regulations and other new source performance standards and national emission standards for hazardous air pollutants promulgated by the EPA but not yet adopted by the State of Wyoming;

(ii) Any other applicable, SIP-approved emission limit, including those with a future compliance date; or

(iii) The emission rate specified as a federally enforceable permit condition, including those with a future compliance date.

"Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with paragraphs (i) through (iv) of this definition.

(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 Division shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

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

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

(C) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(D) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraph (i)(B) of this definition.

(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 Chapter 6, Section 13 permit, or under a plan approved by the EPA Administrator, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

(A) The average rate shall include fugitive emissions to the extent

quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

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

(C) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the 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 EPA Administrator proposed or promulgated under 40 CFR 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 (e)(vii) of this section.

(D) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must 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.

(E) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraphs (ii)(B) and (C) of this definition.

(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.

(iv) For a PAL for a major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (i) of this definition, for other existing emissions units in accordance with the procedures contained in paragraph (ii) of this definition, and for a new emissions unit in accordance with the procedures contained in paragraph (iii) of this definition.

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

"Best available control technology" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction of each pollutant-subject to regulation under these Standards and Regulations or regulation under the Act, which would be emitted from or which results from any proposed major stationary source or major modification

which the Administrator, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emission standard infeasible, he may instead prescribe a design, equipment, work practice or operational standard or combination thereof to satisfy the requirement of Best Available Control Technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results. Application of BACT shall not result in emissions in excess of those allowed under Chapter 5, Section 2 or Section 3 of these regulations and any other new source performance standard or national emission standards for hazardous air pollutants promulgated by the EPA but not yet adopted by the State of Wyoming.

"Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reduction in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology", up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

"Commence", as applied to construction of a major stationary source or major modification, means that the owner or operator has obtained a Construction Permit required by Chapter 6, Section 2 and either has (i) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time or (ii) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

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

"Continuous emissions monitoring system (CEMS)" means all of the equipment that may be required to meet the data acquisition and availability requirements of this section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

"Continuous emissions rate monitoring system (CERMS)" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

"Continuous parameter monitoring system (CPMS)" means all of the equipment necessary to meet the data acquisition and availability requirements of this section, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and to record average operational parameter value(s) on a continuous basis.

"Division" means the Air Quality Division of the Wyoming Department of Environmental Quality.

"Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric utility steam generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

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

(i) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

(ii) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (i) of this definition. A replacement unit, as defined in this section, is an existing emissions unit.

"Enforceable" means all limitations and conditions which are enforceable under provisions of the Wyoming Environmental Quality Act and/or are federally enforceable by the Administrator of the EPA, including those requirements developed pursuant to 40 CFR parts 60 and 61, requirements within the State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I, including operating permits issued under Chapter 6, Section 3 of these regulations.

"Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.

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

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

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

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

"Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in: a significant emissions increase (as defined in the definition for "Significant emissions increase" in this section) of a regulated NSR pollutant (as defined in the definition for "Regulated NSR pollutant" in this section); and a significant net emissions increase of that pollutant from the major stationary source. Any significant emissions increase (as defined in the definition for "Significant emissions increase" in this section) from any emissions units or net emissions increase (as defined in the definition for "Net emissions increase" in this section) at a major stationary source that is significant for volatile organic compounds (VOCs) or NO_x shall be considered significant for ozone.

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

(A) Routine maintenance, repair and replacement;

(B) Use of an alternative fuel or raw material by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

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

(D) The use of municipal solid waste as an alternative fuel at a steam generating plant;

(E) Use of an alternative fuel or raw material, if prior to December 21, 1976, the source was capable of accommodating such fuel or material unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division, or if the source is approved to use such fuel or material through an enforceable permit issued under these regulations;

(F) An increase in the hours of operation or in the production rate, if such increase does not exceed the operating design capacity of the major stationary source unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division;

(G) Change in ownership of the stationary source;

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

(I) The Wyoming State Implementation Plan; and

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

(ii) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under paragraph (g)(i) of this section for a PAL for that pollutant. Instead, the definition in paragraph (g)(i)(B) for "PAL major modification" of this section shall apply.

(iii) For the purposes of applying the requirements of paragraph (f)(i) of this section to modifications at major stationary sources of nitrogen oxides located in ozone nonattainment areas or in ozone transport regions, whether or not subject to subpart 2, part D, title I of the Act, any significant net emissions increase of nitrogen oxides is considered significant for ozone.

(iv) Any physical change in, or change in the method of operation of, a major stationary source of VOCs that results in any increase in emissions of VOCs from any discrete operation, emissions unit, or other pollutant emitting activity at the source shall be considered a significant net emissions increase and a major modification for ozone, if the major stationary source is located in an extreme ozone nonattainment area that is subject to subpart 2, part D, title I of the Act.

"Major stationary source"

(i) Means:

(A) Any stationary source of air pollutants that emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant, except that lower emissions thresholds shall apply in areas subject to subpart 2, subpart 3, or subpart 4 of part D, title I of the Act, according to paragraphs (I) through (VI) below:

(I) 50 tons per year of VOCs in any serious ozone nonattainment area.

(II) 50 tons per year of VOCs in an area within an ozone transport

region, except for any severe or extreme ozone nonattainment area.

(III) 25 tons per year of VOCs in any severe ozone nonattainment area.

(IV) 10 tons per year of VOCs in any extreme ozone nonattainment area.

(V) 50 tons per year of carbon monoxide in any serious nonattainment area for carbon monoxide, where stationary sources contribute significantly to carbon monoxide levels in the area (as determined under rules issued by the EPA Administrator).

(VI) 70 tons per year of PM_{10} in any serious nonattainment area for PM_{10};

(B) For the purposes of applying the requirements of paragraph (f)(i) of this section to stationary sources of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, any stationary source which emits, or has the potential to emit, 100 tons per year or more of nitrogen oxides emissions, except that the emission thresholds in paragraphs (I) through (VI) below shall apply in areas subject to subpart 2 of part D, title I of the Act:

(I) 100 tons per year or more of nitrogen oxides in any ozone nonattainment area classified as marginal or moderate.

(II) 100 tons per year or more of nitrogen oxides in any ozone nonattainment area classified as a transitional, submarginal, or incomplete or no data area, when such area is located in an ozone transport region.

(III) 100 tons per year or more of nitrogen oxides in any area designated under section 107(d) of the Act as attainment or unclassifiable for ozone that is located in an ozone transport region.

(IV) 50 tons per year or more of nitrogen oxides in any serious nonattainment area for ozone.

(V) 25 tons per year or more of nitrogen oxides in any severe nonattainment area for ozone.

(VI) 10 tons per year or more of nitrogen oxides in any extreme nonattainment area for ozone; or

(C) Any physical change that would occur at a stationary source not qualifying under paragraphs (i)(A) or (B) of this definition as a major stationary source, if the change would constitute a major stationary source by itself.

(ii) A major stationary source that is major for VOCs shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this paragraph whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources: coal cleaning plants (with thermal dryers); kraft pulp mills; Portland cement plants; primary zinc smelters; iron and steel mills; primary aluminum ore reduction plants; primary copper smelters; municipal incinerators capable of charging more than 250 tons of refuse per day; hydrofluoric, sulfuric, or nitric acid plants; petroleum refineries; lime plants; phosphate rock processing plants; coke oven batteries; sulfur recovery plants; carbon black plants (furnace process); primary lead smelters; fuel conversion plants; sintering plants; secondary metal production plants; chemical process plants--the term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140; fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input; petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels; taconite ore processing plants; glass fiber processing plants; charcoal production plants; fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

"Net emissions increase" means,

(i) With respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

(A) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to paragraph (c)(ii)(B) of this section;

(B) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this paragraph (ii) shall be determined as provided in the definition for "Baseline actual emissions", except that paragraphs (i)(C) and (ii)(D) of the definition for "Baseline actual emissions" shall not apply.

(ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(A) The date five years before construction on the particular change commences; and

(B) The date that the increase from the particular change occurs.

(iii) An increase or decrease in actual emissions is creditable only if:

(A) It occurs within a reasonable period specified by the Division;

(B) The Division has not relied on it in issuing a Chapter 6, Section 13 permit for the source, which is in effect when the increase in actual emissions from the particular change occurs; and

(C) As it pertains to an increase or decrease in fugitive emissions (to the extent quantifiable), it occurs at an emissions unit that is part of one of the source categories listed in paragraph (iii) in the definition of "Major stationary source" of this section or it occurs at an emissions unit that is located at a major stationary source that belongs to one of the listed source categories. Fugitive emission increases or decreases are not creditable for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in paragraph (iii) in the definition of "Major stationary source" of this section and are not, by themselves, part of a listed source category.

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

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

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

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

(C) The Division has not relied on it in issuing any permits approved pursuant to 40 CFR part 51 subpart I or in demonstrating attainment or reasonable further progress;

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

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

(vii) The definition of "Actual emissions" of this section, shall not apply for determining creditable increases and decreases after a change.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or the type or amount of material combusted, stored, or

processed, shall be treated as part of its design if the limitation or the affect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Predictive emissions monitoring system (PEMS)" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

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

"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.

(i) In determining the projected actual emissions under the above paragraph of this section (before beginning actual construction), the owner or operator of the major stationary source:

(A) Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans approved by the Division;

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

(C) Shall 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 the definition for "Baseline actual emissions" of this section and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

(D) In lieu of using the method set out in paragraphs (i)(A) through (C) of this definition, may elect to use the emissions unit's potential to emit, in tons per year, as defined under the definition of "Potential to emit" of this section.

"Regulated NSR pollutant", for purposes of this section, means the following:

(i) Nitrogen oxides or any VOCs.

(ii) Any pollutant for which a national ambient air quality standard has been promulgated.

(iii) Any pollutant identified under this paragraph as a constituent or precursor to a pollutant listed above under paragraphs (i) and (ii) of this definition, provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors identified by the EPA Administrator for purposes of NSR are the following:

(A) VOCs and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(B) Sulfur dioxide is a precursor to $PM_{2.5}$ in all $PM_{2.5}$ nonattainment areas.

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

(D) VOCs and ammonia are presumed not to be precursors to $PM_{2.5}$ in any nonattainment area, unless the State demonstrates to the EPA Administrator's satisfaction or EPA demonstrates that emissions of VOCs from sources in a specific area are a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

(iv) $PM_{2.5}$ emissions and PM_{10} emissions. $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in Chapter 6, Section 13 permits. Compliance with emissions limitations for $PM_{2.5}$ and PM_{10} issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this subsection unless the applicable implementation plan required condensable particulate matter to be included.

"Replacement unit" means an emissions unit for which all the criteria listed below in this definition are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

(i) The emissions unit is a reconstructed unit within the meaning of 40 CFR part 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

(ii) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(iii) The replacement does not change the basic design parameter(s).

(iv) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

"Reviewing Authority" means Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality.

"Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or modification of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle or from a train, or from a vessel.

"Significant" means:

(i) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

POLLUTANT	AND EMISSIONS RATE
Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
PM_{10}:	15 tpy of PM_{10} emissions
$PM_{2.5}$:	10 tpy of direct $PM_{2.5}$ emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a $PM_{2.5}$ precursor under the definition of "Regulated NSR pollutant" in this section
Ozone:	40 tpy of VOCs or nitrogen oxides
Lead:	0.6 tpy

(ii) Notwithstanding the significant emissions rate for ozone in paragraph (i) of this definition, "significant" means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of VOCs that would result from any physical change in, or change in the method of operation of, a major stationary source locating in a serious or severe nonattainment area that is subject to subpart 2, part D, title I of the Act, if such emissions increase of VOCs exceeds 25 tons per year.

(iii) For the purpose of applying the requirements of paragraph f(i) of this section to modifications at major stationary sources of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, the significant emission rates and other requirements for VOCs in paragraphs (i), (ii) and (v) of this definition shall apply to nitrogen oxide emissions.

(iv) Notwithstanding the significant emissions rate for carbon monoxide under paragraph (i) of this definition, "significant" means, in reference to an emissions increase or net emissions increase, any increase in actual emissions of carbon monoxide that would result from any physical change in, or change in the method of operation of, a major stationary source in a serious area for carbon monoxide if such increase equals or exceeds 50 tons per year, provided the EPA Administrator has determined that stationary sources contribute significantly to carbon monoxide levels in the area.

(v) Notwithstanding the significant emission rates for ozone under paragraphs (i) and (ii) of this definition, any increase in actual emissions of VOCs from any emissions unit at a major stationary source of VOCs located in an extreme ozone nonattainment area that is subject to subpart 2, part D, title I of the Act shall be considered a significant net emissions increase.

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant (according to the definition of "Significant" in this section) for that pollutant.

"Stationary source" means any structure, building, facility, equipment, installation or operation (or combination thereof) which emits or may emit any air pollutant subject to these regulations or regulations under the Act.

"Structure, building, facility, equipment, installation, or operation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same *Major Group* (i.e., which have the same two-digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which

complies with the Wyoming State Implementation Plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Volatile organic compounds (VOCs)" is defined in Chapter 3, Section 6(a) of these regulations.

(c) Non-attainment New Source Review (NNSR) Permit Required.

(i) New major stationary sources or major modifications to existing major stationary sources must obtain an NNSR permit before beginning actual construction if they are located in an area designated nonattainment for any national ambient air quality standard if the source is major for the pollutant for which the area is designated nonattainment. Notwithstanding the source category-based exemptions set forth under Chapter 6, Section 2(k), any new major stationary facility or major stationary source undergoing a major modification under this Section will not be granted any of the Section 2(k) exemptions.

(ii) Except as provided by a PAL under paragraph (g) of this section, a proposed project is considered a major modification (as defined in the definition for "Major modification" in Section 13(b)) to an existing major source if the proposed project meets the criteria outlined in paragraphs in Section 13(c)(ii)(A) through (E) below:

(A) A project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases--a significant emissions increase (as defined in the definition for "Significant emissions increase" in Section 13(b)), and a significant net emissions increase (as defined in the definitions for "Significant emissions increase", "Net emissions increase" and "Significant" in Section 13(b)). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(B) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (C) through (E) below. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition for "Net emissions increase" in Section 13(b). Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(C) Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in the definition for "Projected actual emissions" in Section 13(b)) and the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 13(b), as applicable), for each existing emissions unit, equals or exceeds the significant amount for that

pollutant (as defined in the definition for "Significant" in Section 13(b)).

(D) Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in the definition for "Potential to emit" in Section 13(b)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 13(b)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in the definition for "Significant" in Section 13(b)).

(E) 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 (C) through (D) above 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 the definition for "Significant" in Section 13(b)).

(d) NNSR Permit.

(i) Requirements for construction or modification of a source specified under Chapter 6, Section 2 of these regulations shall apply.

(ii) The following specific provisions apply to projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where the owner or operator elects to use the method specified in paragraphs (i)(A) through (C) of the definition for "Projected actual emissions" for calculating projected actual emissions.

(A) 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 (i)(C) of the definition for "Projected actual emissions" in Section 13(b) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(B) Before beginning actual construction, the owner or operator shall provide the information set out in paragraph (d)(ii)(A) of this section to the Division as a Chapter 6, Section 2 permit application.

(C) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph (d)(ii)(A)(II) of this section; and calculate and maintain 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 or potential to emit of that regulated NSR pollutant at such emissions unit.

(D) 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 paragraph (d)(ii)(C) of this section setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(iii) The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph (d)(ii) of this section available for review upon request for inspection by the Division or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).

(iv) All requirements for construction or modification of a major source listed under 40 CFR 51, Appendix S, Section IV (A) shall apply. Notwithstanding the requirements of Chapter 6, Section 2(c)(v), the BACT analysis requirement is hereby superseded by the Appendix S, Section IV(A), Condition 1, LAER analysis requirement.

(v) Approval to construct does not relieve an owner or operator of the responsibility to comply with applicable provisions of this section, the Act or any other requirements under local, state or federal law.

(vi) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, then all the provisions of Chapter 6, Section 2 and 13 shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(e) Determining Credit for Emission Offsets. The baseline for determining credit for emission offsets is the emission limit in effect at the time the application to construct is filed, except that the offset baseline is the actual emission of the unit from which offset credit is obtained if the demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emission of sources located within a designated nonattainment area; or if there is no applicable emission limit. In determining credit for emission offsets, the following criteria shall be met:

(i) If the emissions limit allows greater emissions than the potential to emit of the unit, the emission offset credit is allowed only for the control below the potential to emit of the unit;

(ii) For an existing fuel combustion unit, credit shall be based on the emission limit for the type of fuel being burned at the time the application to construct is filed. If the existing source agrees to switch to a cleaner fuel at some future date, emission offset credits based on the allowable or actual emissions for the fuels involved may be allowed only if permit conditions specify an alternative control measure that would achieve the same degree of emission reduction if the source switched back to the dirtier fuel at some later date. The owner or operator will submit a demonstration to ensure that adequate long-term supplies of the new fuel are available before the Division grants emission offset credit for fuel switches;

(iii) Emission reductions achieved by shutting down an existing unit or curtailing production or operating hours below baseline levels may be credited if the reductions are surplus, permanent, quantifiable, federally enforceable, and the area has a federally-approved attainment plan. In addition, the shutdown or curtailed production must occur after August 7, 1977, or less than one year before the date of submitting the permit application, whichever is earlier. Emission reductions may be credited in the absence of a federally-approved attainment plan if the shutdown or curtailment occurred on or after the date the application is filed for a new unit or if the applicant can establish that the proposed new unit is a replacement for the shutdown or curtailed unit, and the shutdown or curtailment occurred after August 7, 1977, or less than one year before the date of submitting the permit application, whichever is earlier;

(iv) Emission offset credit may not be allowed for replacing one hydrocarbon compound with another of lesser reactivity except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314, July 8, 1977);

(v) All emission reductions claimed as offset credit must be federally enforceable;

(vi) The permissible location of offsetting emissions shall be conducted in accordance with 40 CFR 51, Appendix S, section IV. D;

(vii) Credit for emissions reduction may be claimed to the extent that the Division has not relied on it in issuing a permit or in its demonstration of attainment or reasonable further progress;

(viii) The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emission unit;

(ix) External offsets or those emission limitations from sources not owned, operated, or controlled by an applicant for a permit shall be made through a revision of the permit conditions of the participating source or sources. At no time may the baseline be exceeded;

(x) The offset ratio of total actual emissions reductions to the emissions increase

shall be at least 1 to 1 unless an alternative ratio is provided in accordance with the ozone nonattainment offset requirements listed below in (x)(A) through (D):

(A) The Administrator may impose an alternative ratio that is more stringent than the applicable numerical ratios listed in (B) through (D).

(B) For ozone nonattainment areas subject to subpart 2, part D, title I of the Act, the ratio of total actual emissions reductions of VOCs to the emission increase of VOCs shall be as follows:

(I) In any marginal nonattainment area for ozone--at least 1.1:1;

(II) In any moderate nonattainment area for ozone--at least 1.15:1;

(III) In any serious nonattainment area for ozone--at least 1.2:1;

(IV) In any severe nonattainment area for ozone--at least 1.3:1 (except that the ratio may be at least 1.2:1 if the approved State Implementation Plan also requires all existing major sources in such nonattainment area to use BACT for the control of VOCs); and

(V) In any extreme nonattainment area for ozone--at least 1.5:1 (except that the ratio may be at least 1.2:1 if the approved State Implementation Plan also requires all existing major sources in such nonattainment area to use BACT for the control of VOCs).

(C) Notwithstanding the requirements of paragraph (x)(A) of this section, the ratio of total actual emissions reductions of VOCs to the emissions increase of VOCs shall be at least 1.15:1 for all areas within an ozone transport region that is subject to subpart 2, part D, title I of the Act, except for serious, severe and extreme nonattainment areas that are subject to subpart 2, part D, title I of the Act.

(D) For ozone nonattainment areas subject to subpart 1, part D, title I of the Act (but are not subject to subpart 2, part D, title I of the Act, including 8-hour ozone nonattainment areas subject to 40 CFR 51.902(b)), the ratio of total actual emissions reductions of VOCs to the emission increase of VOCs shall be at least 1:1.

(f) Application in ozone, PM_{10}, and $PM_{2.5}$ nonattainment areas

(i) Requirements of this section which apply to major stationary sources and major modifications of VOCs shall also apply to nitrogen oxides emissions from major stationary sources and major modifications of nitrogen oxides in an ozone transport region or in any ozone nonattainment area, except in ozone nonattainment areas or portions of an ozone transport region where the EPA Administrator has granted a NO_x waiver applying the standards set forth under section 182(f) of the Act and the waiver continues to apply.

(ii) Except as provided under paragraph f(iii) below, requirements of this section which apply to major stationary sources and major modifications of PM_{10} shall also apply to major stationary sources and major modifications of PM_{10} precursors, except where the EPA Administrator determines that such sources do not contribute significantly to PM_{10} levels that exceed the PM_{10} ambient standards in the area.

(iii) Requirements of this section shall not apply in the Sheridan PM_{10} nonattainment area, where a major source construction ban is in place per the requirements of Chapter 6, Section 2(c)(ii)(B) of these regulations.

(iv) In meeting the requirements of Section 13(e), the emission offsets obtained shall be for the same regulated NSR pollutant, with the following exception provided for $PM_{2.5}$. Direct $PM_{2.5}$ emissions or emissions of precursors of $PM_{2.5}$ may be offset by direct $PM_{2.5}$ emissions or any $PM_{2.5}$ precursors identified in the definition for "Regulated NSR pollutant" in Section 13(b) if such offsets comply with the interprecursor trading hierarchy and ratio established in the Wyoming State Implementation Plan.

(g) Actuals Plantwide Applicability Limitations (PALs).

(i) The Division may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements specified in paragraphs (g)(i)(A) through (O) of this section.

(A) Applicability.

(I) The term "PAL" shall mean "actuals PAL" throughout subsection (g)(i). The Division will not allow an actuals PAL for VOC or NO_x for any major stationary source located in an extreme ozone nonattainment area.

(II) Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in paragraphs (g)(i)(A) through (O) of this section, and complies with the PAL permit:

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

(2.) Does not have to be approved through a Chapter 6, Section 13 permit; and

(3.) Is not subject to the provisions in paragraph (d)(vi) of this section (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of Chapter 6, Section 13).

(III) Except as provided under paragraph (g)(i)(A)(II)(3.) of this section, a major stationary source shall continue to comply with all applicable Federal or State of Wyoming requirements, emission limitations, and work practice requirements that were

established prior to the effective date of the PAL.

(B) Definitions. The following definitions shall be used for actuals PALs consistent with paragraphs (g)(i)(A) through (O) of this section. When a term is not defined in the paragraphs below, it shall have the meaning given in paragraph (b) of this section, or in the Act.

"Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 13(b)) of all emissions units (as defined in the definition for "Emission Unit" in Section 13(b)) at the source, that emit or have the potential to emit the PAL pollutant.

"Allowable emissions" has the same meaning as in the definition for "Allowable emissions" in Section 13(b), except as this definition is modified according to paragraphs (I) and (II) of this definition.

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

(II) An emissions unit's potential to emit shall be determined using the definition of "Potential to emit" in Section 13(b), except that the words "or enforceable as a practical matter" should be added after "federally enforceable".

"Major emissions unit" means:

(I) Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or

(II) Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Act for nonattainment areas. (For example, in accordance with the definition of major stationary source in section 182(c) of the Act, an emissions unit would be a major emissions unit for VOCs if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOCs per year.)

"PAL effective date" generally means the date of issuance of the PAL permit; however, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

"PAL effective period" means the period beginning with the PAL effective date and ending 10 years later.

"PAL major modification" means, notwithstanding the definitions for "Major modification" and "Net emissions increase" in Section 13(b), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a

level equal to or greater than the PAL.

"PAL permit" means the Chapter 6, Section 2 and Section 13 permit issued by the Division that establishes a PAL for a major stationary source.

"PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

"Plantwide applicability limitation (PAL)" means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with paragraphs (g)(i)(A) through (O) of this section.

"Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in the definition for "Significant" in Section 13(b) or in the Act, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a "Major emissions unit" as defined in this section.

"Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in the definition for "Significant" in Section 13(b) or in the Act, whichever is lower.

(C) Permit Application Requirements. As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information in paragraphs (g)(i)(C)(I) through (III) of this section to the Division for approval:

(I) A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, Federal or State of Wyoming applicable requirements, emission limitations, or work practices apply to each unit;

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

(III) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph (g)(i)(M)(I) of this section.

(D) General Requirements for Establishing PALs.

(I) The Division may establish a PAL at a major stationary source, provided that at a minimum, the requirements in paragraphs (g)(i)(D)(I)(1.) through (7.) of this

section are met.

(1.) The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(2.) The PAL shall be established in a PAL permit that meets the public participation requirements in paragraph (g)(i)(E) of this section.

(3.) The PAL permit shall contain all the requirements of paragraph (g)(i)(G) of this section.

(4.) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

(5.) Each PAL shall regulate emissions of only one pollutant.

(6.) Each PAL shall have a PAL effective period of 10 years.

(7.) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in paragraphs (g)(i)(L) through (N) of this section for each emissions unit under the PAL through the PAL effective period.

(II) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under paragraph (e) of this section unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

(E) Public Participation Requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or increased, through a procedure that is consistent with Chapter 6, Section 2. This includes the requirement that the Division provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The Division must address all material comments before taking final action on the permit.

(F) Setting the 10-Year Actuals PAL Level.

(I) Except as provided in paragraph (g)(i)(F)(II) of this section, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 13(b)) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under the definition of "Significant" in Section 13(b) or under the Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units; however, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Division shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable Federal or State of Wyoming regulatory requirement(s) that the Division is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).

(II) 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 actual emissions as specified in paragraph (g)(i)(F)(I) of this section, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

(G) Contents of the PAL Permit. The PAL permit shall contain, at a minimum, the information in paragraphs (g)(i)(G)(I) through (X) of this section.

(I) The PAL pollutant and the applicable source-wide emission limitation in tons per year;

(II) The PAL permit effective date and the expiration date of the PAL (PAL effective period);

(III) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with paragraph (g)(i)(J) of this section before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Division;

(IV) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns and malfunctions;

(V) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of paragraph (g)(i)(I) of this section;

(VI) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph (g)(i)(C)(III) of this section;

(VII) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under paragraph (g)(i)(M) of this section;

(VIII) A requirement to retain the records required under paragraph (g)(i)(M) of this section on site. Such records may be retained in an electronic format;

(IX) A requirement to submit the reports required under paragraph (g)(i)(N) of this section by the required deadlines; and

(X) Any other requirements that the Division deems necessary to implement and enforce the PAL.

(H) PAL Effective Period and Reopening of the PAL Permit.

(I) PAL Effective Period. The PAL effective period shall be 10 years.

(II) Reopening of the PAL Permit.

(1.) During the PAL effective period, the Division shall reopen the PAL permit to:

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

b. Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Section 13(e); and

c. Revise the PAL to reflect an increase in the PAL as provided under paragraph (g)(i)(K) of this section.

(2.) The Division may reopen the PAL permit for the following:

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

b. Reduce the PAL consistent with any other

requirement, that is enforceable as a practical matter, and that the Division may impose on the major stationary source; and

c. Reduce the PAL if the Division determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an AQRV that has been identified for a Federal Class I Area by a Federal Land Manager and for which information is available to the general public.

(3.) Except for the permit reopening in paragraph (g)(i)(H)(II)(1.)a. of this section for the correction of typographical/calculation errors that do not increase the PAL level, all reopenings shall be carried out in accordance with the public participation requirements of paragraph (g)(i)(E) of this section.

(I) Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in paragraph (g)(i)(J) of this section shall expire at the end of the PAL effective period, and the requirements in paragraphs (g)(i)(I)(I) through (V) of this section shall apply.

(I) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the procedures in paragraphs (g)(i)(I)(I)(1.) and (2.) of this section.

(1.) Within the time frame specified for PAL renewals in paragraph (g)(i)(J)(II) of this section, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Division) by distributing the PAL-allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph (g)(i)(J)(V) of this section, such distribution shall be made as if the PAL had been adjusted.

(2.) The Division shall decide whether and how the PAL-allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Division determines is appropriate.

(II) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Division may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS or CPMS to demonstrate compliance with the allowable emission limitation.

(III) Until the Division issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (g)(i)(I)(I)(2.) of this section, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(IV) Any physical change or change in the method of operation at

the major stationary source will be subject to Chapter 6, Section 13 requirements if such change meets the definition of "Major modification" in Section 13(b).

(V) The major stationary source owner or operator shall continue to comply with any State of Wyoming or Federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to paragraph (d)(vi) of this section, but were eliminated by the PAL in accordance with the provisions in paragraph (g)(i)(A)(II)(3.) of this section.

(J) Renewal of a PAL.

(I) The Division shall follow the procedures specified in paragraph (g)(i)(E) of this section in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Division.

(II) Application Deadline. A major stationary source owner or operator shall submit a timely application to the Division to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

(III) Application Requirements. The application to renew a PAL permit shall contain the information required in paragraphs (g)(i)(J)(III)(1.) through (4.) of this section.

(1.) The information required in paragraphs (g)(i)(C)(I) through (III) of this section;

(2.) A proposed PAL level;

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

(4.) Any other information the owner or operator wishes the Division to consider in determining the appropriate level for renewing the PAL.

(IV) PAL Adjustment. In determining whether and how to adjust the PAL, the Division shall consider the options outlined in paragraphs (g)(i)(J)(IV)(1.) and (2.) of this section; however, in no case may any such adjustment fail to comply with paragraph (g)(i)(J)(IV)(3.) of this section.

(1.) If the emissions level calculated in accordance with paragraph (g)(i)(F) of this section is equal to or greater than 80 percent of the PAL level, the Division may renew the PAL at the same level without considering the factors set forth in paragraph (g)(i)(J)(IV)(2.) of this section; or

(2.) The Division may set the PAL at a level that it determines to be more representative of the source's baseline actual emissions, or that it determines to be 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 Division in its written rationale.

(3.) Notwithstanding paragraphs (g)(i)(J)(IV)(1.) and (2.) of this section:

a. If the potential to emit of the major stationary source is less than the PAL, the Division shall adjust the PAL to a level no greater than the potential to emit of the source; and

b. The Division shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of paragraph (g)(i)(K) of this section (increasing a PAL).

(V) If the compliance date for a State of Wyoming or Federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Division has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or Chapter 6, Section 3 operating permit renewal, whichever occurs first.

(K) Increasing a PAL During the PAL Effective Period.

(I) The Division may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (g)(i)(K)(I)(1.) through (4.) of this section.

(1.) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(2.) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless

the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(3.) The owner or operator obtains a Chapter 6, Section 4 permit for all emissions unit(s) identified in paragraph (g)(i)(K)(I)(1.) of this section, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the Chapter 6, Section 13 process (for example, LAER), even though they have also become subject to the PAL or continue to be subject to the PAL.

(4.) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(II) The Division shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with paragraph (g)(i)(K)(I)(2.) of this section), plus the sum of the baseline actual emissions of the small emissions units.

(III) The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of paragraph (g)(i)(E) of this section.

(L) Monitoring Requirements for PALs.

(I) General Requirements.

(1.) Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(2.) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in paragraphs (g)(i)(L)(II)(1.) through (4.) of this section and must be approved by the Division.

(3.) Notwithstanding paragraph (g)(i)(L)(I)(2.) of this section, an alternative monitoring approach that meets paragraph (g)(i)(L)(I)(1.) of this section may be employed if approved by the Division.

(4.) Failure to use a monitoring system that meets the

requirements of this section renders the PAL invalid.

(II) Minimum Performance Requirements for Approved Monitoring Approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (g)(i)(L)(III) through (IX) of this section:

(1.) Mass balance calculations for activities using coatings or solvents;

(2.) CEMS;

(3.) CPMS or PEMS; and

(4.) Emission factors.

(III) Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

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

(2.) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

(3.) Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Division determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(IV) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1.) CEMS must comply with applicable Performance Specifications found in 40 CFR part 60, Appendix B; and

(2.) CEMS must sample, analyze, and record data at least every 15 minutes while the emissions unit is operating.

(V) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1.) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

(2.) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Division, while the emissions unit is operating.

(VI) Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

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

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

(3.) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the Division determines that testing is not required.

(VII) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

(VIII) Notwithstanding the requirements in paragraphs (g)(i)(L)(III) through (VII) of this section, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Division shall, at the time of permit issuance:

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

(2.) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

(IX) Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Division. Such testing must occur at least once every 5 years after issuance of the PAL.

(M) Recordkeeping Requirements.

(I) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of subsection (g)(i) of this section and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record.

(II) The PAL permit shall require an owner or operator to retain a copy of the following records, for the duration of the PAL effective period plus 5 years:

(1.) A copy of the PAL permit application and any applications for revisions to the PAL; and

(2.) Each annual certification of compliance pursuant to Chapter 6, Section 3 and the data relied on in certifying the compliance.

(N) Reporting and Notification Requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Division in accordance with the applicable Chapter 6, Section 3 operating permit program. The reports shall meet the requirements in paragraphs (g)(i)(N)(I) through (III) of this section.

(I) Semi-annual Report. The semi-annual report shall be submitted to the Division within 30 days of the end of each reporting period. This report shall contain the information required in paragraphs (g)(i)(N)(I)(1.) through (7.) of this section.

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

(2.) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to paragraph (g)(i)(M)(I) of this section;

(3.) All data relied upon, including, but not limited to, any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions;

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

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

(6.) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another

monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by paragraph (g)(i)(L)(VII) of this section; and

(7.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(II) Deviation Report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to Chapter 6, Section 3(h)(i)(C)(III)(2.) shall satisfy this reporting requirement. The deviation reports shall be submitted as prescribed by Chapter 6, Section 3(h)(i)(C)(III)(2.). The reports shall contain the following information:

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

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

(3.) Emissions resulting from the deviation or the exceedance; and

(4.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(III) Re-validation Results. The owner or operator shall submit to the Division the results of any re-validation test or method within three months after completion of such test or method.

(O) Transition Requirements.

(I) The Division shall not issue a PAL that does not comply with the requirements in paragraphs (g)(i)(A) through (O) of this section after the EPA Administrator has approved this regulation into the Wyoming State Implementation Plan.

(II) The Division may supersede any PAL which was established prior to the date of approval of this regulation by the Administrator of EPA with a PAL that complies with the requirements of paragraphs (g)(i)(A) through (O) of this section.

(ii) If any provision of this section, or the application of such provision to any person or circumstance, is held invalid, the remainder of this section, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be

affected thereby.

Section 14. **Incorporation by reference.**

(a) Code of Federal Regulations (CFR). Except as otherwise noted, all Code of Federal Regulations (CFRs), including their Appendices, cited in this Chapter, revised and published as of July 1, 2026, not including any later amendments, are incorporated by reference. Copies of the CFR are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: http://deq.wyoming.gov/. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at https://ecfr.gov.

Chapter 8
Nonattainment Area Regulations

Section 1. Introduction to Nonattainment Area Regulations.

(a) Chapter 8 establishes regulations specific to areas not attaining the National Ambient Air Quality Standards. Section 2 applies exclusively to Sweetwater County, Wyoming particulate matter regulations. Section 3 applies to general federal actions, excluding those covered under Section 4, within any federally designated nonattainment area of the state. Section 4 applies to specific transportation projects within any federally designated nonattainment area of the state. Section 5 establishes requirements for the submittal of emission inventories from facilities or sources located in an ozone nonattainment area(s) pursuant to the requirements of the Clean Air Act, Section 182. Section 6 establishes requirements for all PAD and single-well oil and gas production facilities or sources, and all compressor stations, located in the Upper Green River Basin (UGRB) ozone nonattainment area that were existing as of January 1, 2014. Sections 7 through 9 are reserved. Section 10 incorporates by reference all Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices.

Section 2. Sweetwater County Particulate Matter Regulations.

(a) Notwithstanding other provisions in these regulations concerning the emission of particulate matter or required fugitive dust control measures, the requirements and emission limitations set forth in Chapter 8, Section 2(b) and (c) for the specific sources and activities enumerated are applicable. Sources and/or activities which cause particulate matter to be emitted into the air and which are not addressed in this section are subject to the requirements of other sections.

(b) Point Source Particulate Matter Emission Rate Allowables:

The following tables specify the maximum allowable particulate matter emission rate for each of the listed sources. The emission of particulate matter is measured as specified in Chapter 3, Section 2(h)(iv) of these regulations.

(i) Stauffer Chemical Company of Wyoming, Green River Soda Ash Plant.

Table (i) Stauffer Chemical Company of Wyoming, Green River Soda Ash Plant.

Source Description	Allowable Emission Rate (lb/hr)
#1 Boiler	3.00
#2 Boiler	3.00
#3 Boiler	N.A.
#4 Boiler	7.50
#5 Boiler	8.62
#6 Boiler	7.50
ES-1	30.6
2ES-1	27.3

Source Description	Allowable Emission Rate (lb/hr)
3ES-1	29.2
3ES-2	34.5
4SC-2	51.6
4SC-3	5.2
4SC-4	52.6
4ES-201	23.1
Phase II Dryer-Cooler	12.0

(ii) Allied Chemical Corporation, Green River Works

Table (ii) Allied Chemical Corporation, Green River Works.

Source Description	Company ID	Allowable Emission Rate (lb/hr)
Crusher Building	GR-I-A	3.0
Prod. Loading	GR-I-B(1)	3.0
Prod. Loading	GR-I-B(2)	3.0
Calciner #1	GR-I-C	20.0
Calciner #2	GR-I-D	25.0
Calciner #3	GR-I-E	20.0
Dryer #1	GR-I-F	4.0
Dryer #2	GR-I-G	4.0
Dryer #3	GR-I-H	4.0
Housekeeping (North)	GR-I-J(1)	2.0
Housekeeping (South)	GR-I-J(2)	2.0
Product Cooler	GR-I-K	2.0
Coal Handling Tunnel	CH-1	1.7
Coal Handling Gallery	CH-2	1.0
Ore Bin Gallery	GR-II-A	3.0
Product Storage	GR-II-B	4.0
Calciner #4	GR-II-C	20.0
Calciner #5	GR-II-D	20.0
Dissolver #1	GR-II-E-1	3.0
Dissolver #2	GR-II-E-2	3.0
Dryer #4	GR-II-F	4.0
Dryer #5	GR-II-G	4.0
Dryer #6	GR-II-H	4.0
Housekeeping	GR-II-J	10.0
Product Cooler	GR-II-K	3.0
Lime Storage	GR-II-O	0.1
Reclaim Ore System	RO-1	1.4
Crusher	GR-III-A	3.0
Ore Conveyor	GR-III-B	1.0
Ore Gallery	GR-III-C	1.0
Calciner #1	GR-III-D	37.9
Calciner #2	GR-III-E	37.9

Source Description	Company ID	Allowable Emission Rate (lb/hr)
Dissolver #1 (East)	GR-III-F	2.0
Dissolver #2 (West)	GR-III-G	2.0
Filter Aid	GR-III-H	NIL
Dryer #1	GR-III-K	1.5
Dryer #2	GR-III-L	1.5
Dryer #3	GR-III-M	1.5
Dryer #4	GR-III-N	1.5
Dryer #5	GR-III-P	1.5
Dryer Vent	GR-III-R	2.0
Prod. Cooler #1	GR-III-S	1.0
Prod. Cooler #2	GR-III-T	1.0
Housekeeping #1	GR-III-U	3.0
Housekeeping #2	GR-III-V	3.0
Crusher	A-305	2.0
Crusher	A-309	2.0
"C" Boiler	GR-II-L	50.0
"D" Boiler	GR-III-W	80.0

(iii) FMC Corporation, Green River

Table (iii) FMC Corporation, Green River.

Source Description	Company ID	Allowable Emission Rate (lb/hr)
Crusher	PA-4; PA-5	2.5
Dissolver	PA-6	1.0
Dissolver	PA-7	1.0
Dissolver	PA-8	1.0
Dissolver	PA-9	1.0
Sesqui Dryer	RA-1	10.0
Dust Collector	RA-2	2.0
Calciner	RA-13	8.0
Calciner	RA-14	4.0
Calciner	RA-15	4.0
Calciner	RA-16	4.0
Calciner Scrubber	RA-22	35.0
Calciner Scrubber	RA-23	35.0
Calciner Scrubber	RA-24	45.0
Fluid Bed Calciner	RA-25	26.5
Dust Collector	RA-27	3.0
Dust Collector	RA-33	3.0
Phosphorus Furnace	PP-12	15.0
Spray Dryer	PP-21	28.0
Dust Collector	PP-24	4.0
Calciner	PP-25	15.0

Source Description	Company ID	Allowable Emission Rate (lb/hr)
Dust Collector	PP-26	2.0
Dust Collector	PP-27	2.0
Trona Calciner	NA-2	3.0
Dust Collection	NA-3	10.0
Cooler	NA-5	6.0
Dust Collection	Mono 2	2.6
Dust Collection	Mono 3	1.3
Dust Collection	Mono 4	2.0
Calciner	Mono 5	53.0
Dryer	Mono 6	20.0
Dust Collection	Mono 7	2.0
Dust Collection	Mono 8	1.9
Dust Collection	NS-2	0.5
Calciner	NS-3	41.0
Crusher	NS-4	1.0
Dissolver	NS-5	2.7
Dryer	NS-6	20.0
Coal Dust Collection	NS-7	0.5
Coal Dust Collection	NS-8	0.5
Coal Dust Collection	NS-9	0.5
Gas/Oil Boiler	PH-1	8.4
Gas/Oil Boiler	PH-2	4.2
Gas/Oil Boiler	PH-3	8.4
Gas/Oil Boiler	Mono I	7.5
Coal Boiler	NS-1A	45.0
Coal Boiler	NS-1B	45.0

(iv) Church and Dwight Company

Table (iv) Church and Dwight Company

Source Description	Company ID	Allowable Emission Rate (lb/hr)
Soda Ash Unloading	SA	3.0
Throwing Box Scrubber	TB	2.0
Jeffrey Dryer Scrubber	JD	3.0
#1 Process Dryer	1PD	2.0
#2 Process Dryer	2PD	5.0
#3 Process Dryer	3PD	2.0
#1 House Dust System	1HDS	2.0
#2 House Dust System	2HDS	2.0
#3 House Dust System	3HDS	2.0

(c) Fugitive Dust Controls. The following subparagraphs specify fugitive dust

control measures required for the delineated activities and sources and the schedules for completion of such measures. If, at any time, the Administrator is satisfied that the applicable suspended particulate matter standards have been attained and will be maintained, uncompleted programs may be completed at the option of the owner of the facility if failure to complete the same will not in the opinion of the Administrator adversely affect such attainment status.

(i) Allied Chemical, Green River

Unpaved Roads – Pave all roads in facility areas that encounter frequent traffic and maintain such roads in a clean condition through the use of a vacuum sweeper as required. Complete: November 30, 1980.

Distressed Area – Reclaim the distressed area outside the east fence or apply suitable soil binders. Complete: December 1, 1981.

Coal Stockpile – The active coal stockpile is to be enclosed or a dust suppression system installed and used during periods of activity. Complete: December 31, 1982.

Equipment Movement – Equipment movement around the periphery of the trona stockpile should be further reduced. Complete: June 1, 1979.

(ii) FMC Corporation

Stockpile – Installation and effective operation of the following abatement program elements is required to control excessive fugitive emissions from the coal handling facilities.

(A) Dust collectors with pick-ups at the transfer points.

(B) A dust suppression spray system to apply wetting agents to coal being unloaded, transferred, reclaimed, crushed and handled.

(C) Rapid unloading railroad cars.

(D) Use of counter weighted hood-type doors on the coal stacker.

Ore Stockpile – Install variable height booms so that the free fall distance of the ore is held to a minimum and install shroud (wind shield) to contain the ore as much as possible after it drops from the end of the boom. Complete: Sesqui Areas – January 1, 1981; Mono Areas – April 1, 1981.

Loadout Facilities – The mono loadout facilities are to be equipped with hoods around product chutes of adequate size to cap hatches of slot top or hatch top rail cars. The resultant dust generated due to displacement shall be aspirated to adequate dust collectors. The above requirements also apply to any truck bulk product loadout facilities. Complete: July 1, 1982.

Unpaved Roads – All unpaved roads that encounter frequent traffic in the facility area

shall be paved and maintained in a clean condition through the use of a vacuum sweeper as required. Infrequently traveled roads are to be treated with oil or other suitable dust suppressants. Complete: October 1, 1980.

Overflow Chutes – Overflow or spillover chutes which discharge in the open, are to be eliminated or emptied into closed containers. Chutes for housekeeping purposes are to be eliminated and replaced with a vacuum dust system that utilizes a dust collector. Complete: October 1, 1980.

(iii) Stauffer Chemical, Green River

Ore Stockpile – Install and utilize a variable height boom so that the free fall distance of the ore is held to a minimum. A shroud (wind shield) to contain the ore as much as possible after it drops from the end of the boom is to be installed and utilized. Complete: July 1981.

Product Loadout – Rail loadout facilities are to be equipped with hoods around product chutes of adequate size to cap hatches of slot and portal top rail cars. The resultant dust generated due to displacement should be aspirated to adequate dust collectors. The above requirements will also apply to any truck bulk product loadout facilities. Maintenance or redesigning of existing baghouse collectors will also be necessary at these facilities. Complete: September 1982.

Product Handling and Storage – Product silo vents are to be equipped with dust collectors. Proper maintenance and/or redesign of existing dust collectors is also required in this area. Complete: September 1982.

Crusher Area – The removing of accumulated dust from crusher building by sweeping or dumping the material outside the building is to be eliminated. Housekeeping chores in this area as well as other areas are to be accomplished by the use of a vacuum system and dust collector. Existing baghouse collectors are to be properly maintained and if necessary other control measures installed and utilized at all transfer points in and around the crusher area. Complete: September 1982.

Overflow Chutes – Overflow or spillover chutes which discharge in the open are to be eliminated or emptied into closed containers. Complete: March 1979.

Unpaved Roads – All roads within the facility area that encounter frequent traffic are to be paved and maintained in a clean condition through the use of a vacuum sweeper as required. All other less frequently used roads are to be treated with oil or other suitable dust suppressants. Complete: September 1982.

Distressed Areas – Distressed areas to the south of the facility which contain distressed product piles and tailing pond dredgings are to be reclaimed and treated with dust suppressants. Complete: September 1979.

Section 3. Conformity of General Federal Actions to State Implementation

Plans.

(a) Prohibition.

(i) No department, agency or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan.

(ii) A Federal agency must make a determination that a Federal action conforms to the applicable implementation plan in accordance with the requirements of this section before the action is taken.

(iii) [Reserved]

(iv) Notwithstanding any provision of this section, a determination that an action is in conformance with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, the National Environmental Policy Act (NEPA), or the CAA.

(v) If an action would result in emissions originating in more than one nonattainment or maintenance area, the conformity must be evaluated for each area separately.

(b) Definitions. Terms used but not defined in this section shall have the meaning given them by the CAA and EPA's regulations (40 CFR Chapter 1), in that order of priority.

"Affected Federal land manager" means the Federal agency or the Federal official charged with direct responsibility for management of an area designated Class I under the CAA (42 U.S.C. 7472) that is located within 100 km of the proposed Federal action.

"Applicability analysis" is the process of determining if your Federal action must be supported by a conformity determination.

"Applicable implementation plan or applicable SIP" means the portion (or portions) of the SIP or most recent revision thereof, which has been approved under section 110(k) of the CAA, or promulgated under section 110(c) of the CAA (Federal implementation plan), or a plan promulgated or approved pursuant to section 301(d) of the CAA (Tribal implementation plan or TIP) and which implements the relevant requirements of the CAA.

"Areawide air quality modeling analysis" means an assessment on a scale that includes the entire nonattainment or maintenance area which uses an air quality dispersion model or photochemical grid model to determine the effects of emissions on air quality, for example, an assessment using EPA's community multi-scale air quality (CMAQ) modeling system.

"CAA" means the Clean Air Act, as amended.

"Cause or contribute to a new violation" means a Federal action that:

(i) Causes a new violation of a national ambient air quality standard (NAAQS) at a location in a nonattainment or maintenance area which would otherwise not be in violation of the standard during the future period in question if the Federal action were not taken; or

(ii) Contributes, in conjunction with other reasonably foreseeable actions, to a new violation of a NAAQS at a location in a nonattainment or maintenance area in a manner that would increase the frequency or severity of the new violation.

"Caused by", as used in the terms "direct emissions" and "indirect emissions," means emissions that would not otherwise occur in the absence of the Federal action.

"Confidential business information (CBI)" means information that has been determined by a Federal agency, in accordance with its applicable regulations, to be a trade secret, or commercial or financial information obtained from a person and privileged or confidential and is exempt from required disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(4)).

"Conformity determination" is the evaluation (made after an applicability analysis is completed) that a Federal action conforms to the applicable implementation plan and meets the requirements of this section.

"Conformity evaluation" is the entire process from the applicability analysis through the conformity determination that is used to demonstrate that the Federal action conforms to the requirements of this section.

"Continuing program responsibility" means a Federal agency has responsibility for emissions caused by:

(i) Actions it takes itself; or

(ii) Actions of non-Federal entities that the Federal agency, in exercising its normal programs and authorities, approves, funds, licenses or permits, provided the agency can impose conditions on any portion of the action that could affect the emissions.

"Continuous program to implement" means that the Federal agency has started the action identified in the plan and does not stop the actions for more than an 18-month period, unless it can demonstrate that such a stoppage was included in the original plan.

"Criteria pollutant or standard" means any pollutant for which there is established a NAAQS at 40 CFR Part 50.

"Direct emissions" means those emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and originate in a nonattainment or maintenance area and occur at the same time and place as the action and are reasonably foreseeable.

"Emergency" means a situation where extremely quick action on the part of the Federal

agencies involved is needed and where the timing of such Federal activities makes it impractical to meet the requirements of this section, such as natural disasters like hurricanes or earthquakes, civil disturbances such as terrorist acts and military mobilizations.

"Emissions budgets" are those portions of the applicable SIP's projected emission inventories that describe the levels of emissions (mobile, stationary, area, etc.) that provide for meeting reasonable further progress milestones, attainment, and/or maintenance for any criteria pollutant or its precursors.

"Emission inventory" means a listing of information on the location, type of source, type and quantity of pollutant emitted as well as other parameters of the emissions.

"Emissions offsets", for purposes of Subsection (h), are emissions reductions which are quantifiable, consistent with the applicable SIP attainment and reasonable further progress demonstrations, surplus to reductions required by, and credited to, other applicable SIP provisions, enforceable at both the State and Federal levels, and permanent within the timeframe specified by the program.

"EPA" means the U.S. Environmental Protection Agency.

"Federal action" means any activity engaged in by a department, agency, or instrumentality of the Federal government, or any activity that a department, agency or instrumentality of the Federal government supports in any way, provides financial assistance for, licenses, permits, or approves, other than activities related to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.). Where the Federal action is a permit, license, or other approval for some aspect of a non-Federal undertaking, the relevant activity is the part, portion, or phase or the non-Federal undertaking that requires the Federal permit, license, or approval.

"Federal agency" means, for purposes of this section, a Federal department, agency, or instrumentality of the Federal government.

"Increase the frequency or severity of any existing violation of any standard in any area" means to cause a nonattainment area to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented.

"Indirect emissions" means those emissions of a criteria pollutant or its precursors:

(i) That are caused or initiated by the Federal action and originate in the same nonattainment or maintenance area but occur at a different time or place as the action;

(ii) That are reasonably foreseeable;

(iii) That the Federal agency can practically control; and

(iv) For which the Federal agency has continuing program responsibility.

For the purposes of this definition, even if a Federal licensing, rulemaking or other approving action is a required initial step for a subsequent activity that causes emissions, such initial steps do not mean that a Federal agency can practically control any resulting emissions.

"Local air quality modeling analysis" means an assessment of localized impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadways on a Federal facility, which uses an air quality dispersion model (e.g., Industrial Source Complex Model or Emission and Dispersion Model System) to determine the effects of emissions on air quality.

"Maintenance area" means an area that was designated as nonattainment and has been re-designated in 40 CFR Part 81 to attainment, meeting the provisions of section 107(d)(3)(E) of the CAA and has a maintenance plan approved under section 175A of the CAA.

"Maintenance plan" means a revision to the applicable SIP, meeting the requirements of section 175A of the CAA.

"Metropolitan Planning Organization (MPO)" means the policy board of an organization created as a result of the designation process in 23 U.S.C. 134(d).

"Milestone" has the meaning given in sections 182(g)(1) and 189(c)(1) of the CAA.

"Mitigation measure" means any method of reducing emissions of the pollutant or its precursor taken at the location of the Federal action and used to reduce the impact of the emissions of that pollutant caused by the action.

"National ambient air quality standards (NAAQS)" are those standards established pursuant to section 109 of the CAA and include standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO_2), ozone, particulate matter (PM_{10} and $PM_{2.5}$), and sulfur dioxide (SO_2).

"NEPA" is the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

"Nonattainment area (NAA)" means an area designated as nonattainment under section 107 of the CAA and described in 40 CFR Part 81.

"Precursors of a criteria pollutant" are:

(i) For ozone, nitrogen oxides (NO_x), unless an area is exempted from NO_x requirements under section 182(f) of the CAA, and volatile organic compounds (VOC).

(ii) For PM_{10}, those pollutants described in the PM_{10} nonattainment area applicable SIP as significant contributors to the PM_{10} levels.

(iii) For $PM_{2.5}$:

(A) Sulfur dioxide (SO_2) in all $PM_{2.5}$ nonattainment and maintenance areas,

(B) Nitrogen oxides in all $PM_{2.5}$ nonattainment and maintenance areas unless both the State and EPA determine that it is not a significant precursor, and

(C) Volatile organic compounds (VOC) and ammonia (NH_3) only in $PM_{2.5}$ nonattainment or maintenance areas where either the State or EPA determines that they are significant precursors.

"Reasonably foreseeable emissions" are projected future direct and indirect emissions that are identified at the time the conformity determination is made; the location of such emissions is known and the emissions are quantifiable as described and documented by the Federal agency based on its own information and after reviewing any information presented to the Federal agency.

"Regional water and/or wastewater projects" include construction, operation, and maintenance of water or wastewater conveyances, water or wastewater treatment facilities, and water storage reservoirs which affect a large portion of a nonattainment or maintenance area.

"Restricted information" is information that is privileged or that is otherwise protected from disclosure pursuant to applicable statutes, Executive Orders, or regulations. Such information includes but is not limited to: Classified national security information, protected critical infrastructure information, sensitive security information, and proprietary business information.

"Take or start the Federal action" means the date that the Federal agency signs or approves the permit, license, grant or contract or otherwise physically begins the Federal action that requires a conformity evaluation under this section.

"Total of direct and indirect emissions" means the sum of direct and indirect emissions increases and decreases caused by the Federal action; i.e., the "net" emissions considering all direct and indirect emissions. The portion of emissions which are exempt or presumed to conform under Subsections (c)(iii), (iv), (v), or (vi) are not included in the "total of direct and indirect emissions." The "total of direct and indirect emissions" includes emissions of criteria pollutants and emissions of precursors of criteria pollutants.

(c) Applicability.

(i) Conformity determinations for Federal actions related to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.) must meet the procedures and criteria of Chapter 8, Section 4, in lieu of the procedures set forth in this section.

(ii) For Federal actions not covered by paragraph (i) of this subsection, a conformity determination is required for each criteria pollutant or precursor where the total of direct and indirect emissions of the criteria pollutant or precursor in a nonattainment or maintenance area caused by a Federal action would equal or exceed any of the rates in paragraphs (ii)(A) or (B) of this subsection.

(A) For purposes of paragraph (ii) of this subsection, the following rates apply in nonattainment areas (NAAs):

Criteria Pollutant	**Tons/Year**
Ozone (VOCs or NO_x):	
Serious NAAs	50
Severe NAAs	25
Extreme NAAs	10
Other ozone NAAs outside an ozone transport region:	100
Other ozone NAAs inside an ozone transport region:	
VOC	50
NO_x	100
Carbon monoxide:	
All NAAs	100
SO_2 or NO_2:	
All NAAs	100
PM_{10}:	
Moderate NAAs	100
Serious NAAs	70
$PM_{2.5}$:	
Direct emissions	100
SO_2	100
NO_x (unless determined not to be significant precursors)	100
VOC or ammonia (if determined to be significant precursors)	100
Pb:	
All NAAs	25

(B) For purposes of paragraph (ii) of this subsection, the following rates apply in maintenance areas:

Criteria Pollutant	Tons/Year
Ozone (NO_x, SO_2 or NO_2):	
All Maintenance Areas	100
Ozone (VOCs):	
Maintenance areas inside an ozone transport region	50
Maintenance areas outside an ozone transport region	100
Carbon monoxide:	
All maintenance areas	100
PM_{10}:	
All maintenance areas	100
$PM_{2.5}$:	
Direct emissions	100
SO_2	100
NO_x (unless determined not to be significant precursors):	100
VOC or ammonia (if determined to be significant precursors):	100
Pb:	
All maintenance areas	25

(iii) The requirements of this section shall not apply to the following Federal actions:

(A) Actions where the total of direct and indirect emissions are below the emissions levels specified in paragraph (ii) of this subsection.

(B) Actions which would result in no emissions increase or an increase in emissions that is clearly de minimus:

(I) Judicial and legislative proceedings.

(II) Continuing and recurring activities such as permit renewals where activities conducted will be similar in scope and operation to activities currently being conducted.

(III) Rulemaking and policy development and issuance.

(IV) Routine maintenance and repair activities, including repair and maintenance of administrative sites, roads, trails, and facilities.

(V) Civil and criminal enforcement activities, such as investigations, audits, inspections, examinations, prosecutions, and the training of law

enforcement personnel.

(VI) Administrative actions such as personnel actions, organization changes, debt management or collection, cash management, internal agency audits, program budget proposals, and matters relating to the administration and collection of taxes, duties and fees.

(VII) The routine, recurring transportation of material and personnel.

(VIII) Routine movement of mobile assets, such as ships and aircraft, in home port reassignments and stations (when no new support facilities or personnel are required) to perform as operational groups and/or for repair or overhaul.

(IX) Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site.

(X) Actions, such as the following, with respect to existing structures, properties, facilities and lands where future activities conducted will be similar in scope and operation to activities currently being conducted at the existing structures, properties, facilities, and lands; for example, relocation of personnel, disposition of federally-owned existing structures, properties, facilities, and lands, rent subsidies, operation and maintenance cost subsidies, the exercise of receivership or conservatorship authority, assistance in purchasing structures, and the production of coins and currency.

(XI) The granting of leases, licenses such as for exports and trade, permits, and easements where activities conducted will be similar in scope and operation to activities currently being conducted.

(XII) Planning, studies, and provision of technical assistance.

(XIII) Routine operation of facilities, mobile assets and equipment.

(XIV) Transfers of ownership, interests, and titles in land, facilities, and real and personal properties, regardless of the form or method of the transfer.

(XV) The designation of empowerment zones, enterprise communities, or viticultural areas.

(XVI) Actions by any of the Federal banking agencies or the Federal Reserve Banks, including actions regarding charters, applications, notices, licenses, the supervision or examination of depository institutions or depository institution holding companies, access to the discount window, or the provision of financial services to banking organizations or to any department, agency or instrumentality of the United States.

(XVII) Actions by the Board of Governors of the Federal Reserve System or any Federal Reserve Bank necessary to affect monetary or exchange rate policy.

(XVIII)Actions that implement a foreign affairs function of the United States.

(XIX) Actions (or portions thereof) associated with transfers of land, facilities, title, and real properties through an enforceable contract or lease agreement where the delivery of the deed is required to occur promptly after a specific, reasonable condition is met, such as promptly after the land is certified as meeting the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and where the Federal agency does not retain continuing authority to control emissions associated with the lands, facilities, title, or real properties.

(XX) Transfers of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity and assignments of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity for subsequent deeding to eligible applicants.

(XXI) Actions by the Department of the Treasury to effect fiscal policy and to exercise the borrowing authority of the United States.

(XXII) Air traffic control activities and adopting approach, departure, and enroute procedures for aircraft operations above the mixing height specified in the applicable SIP. Where the applicable SIP does not specify a mixing height, the Federal agency can use the 3,000 feet above ground level as a default mixing height, unless the agency demonstrates that use of a different mixing height is appropriate because the change in emissions at and above that height caused by the Federal action is *de minimis*.

(C) Actions where the emissions are not reasonably foreseeable, such as the following:

(I) Initial Outer Continental Shelf lease sales which are made on a broad scale and are followed by exploration and development plans on a project level.

(II) Electric power marketing activities that involve the acquisition, sale and transmission of electric energy.

(D) Actions which implement a decision to conduct or carry out a conforming program such as prescribed burning actions which are consistent with a conforming land management plan.

(iv) Notwithstanding the other requirements of this section, a conformity determination is not required for the following Federal actions (or portion thereof):

(A) The portion of an action that includes major or minor new or modified stationary sources that require a permit under the new source review (NSR) program (Section 110(a)(2)(C) and Section 173 of the CAA) or the prevention of significant deterioration (PSD) program (Title I, part C of the CAA);

(B) Actions in response to emergencies which are typically commenced on the order of hours or days after the emergency and, if applicable, which meet the requirements of paragraph (v) of this subsection;

(C) Research, investigations, studies, demonstrations, or training (other than those exempted under paragraph (iii)(B) of this subsection), where no environmental detriment is incurred and/or, the particular action furthers air quality research, as determined by the State agency primarily responsible for the applicable SIP;

(D) Alteration and additions of existing structures as specifically required by new or existing applicable environmental legislation or environmental regulations (e.g., hush houses for aircraft engines and scrubbers for air emissions);

(E) Direct emissions from remedial and removal actions carried out under CERCLA and associated regulations to the extent such emissions either comply with the substantive requirements of the PSD/NSR permitting program or are exempted from other environmental regulation under the provisions of CERCLA and applicable regulations issued under CERCLA.

(v) Federal actions which are part of a continuing response to an emergency or disaster under paragraph (iv)(B) of this subsection and which are to be taken more than 6 months after the commencement of the response to the emergency or disaster under paragraph (iv)(B) of this subsection are exempt from the requirements of this section only if:

(A) The Federal agency taking the actions makes a written determination that, for a specified period not to exceed an additional 6 months, it is impractical to prepare the conformity analyses which would otherwise be required, and the actions cannot be delayed due to overriding concerns for public health and welfare, national security interests and foreign policy commitments; or

(B) For actions which are to be taken after those actions covered by paragraph (v)(A) of this subsection, the Federal agency makes a new determination as provided in paragraph (v)(A) of this subsection and:

(I) Provides a draft copy of the written determinations required to affected EPA Regional office(s), the affected State(s) and/or air pollution control agencies, and any Federal recognized Indian tribal government in the nonattainment or maintenance area. Those organizations must be allowed 15 days from the beginning of the extension period to comment on the draft determination; and

(II) Within 30 days after making the determination, publish a

notice of the determination by placing a prominent advertisement in a daily newspaper of general circulation in the area affected by the action.

(C) If additional actions are necessary in response to an emergency or disaster under paragraph (iv)(B) of this subsection beyond the specified time period in paragraph (v)(B) of this subsection, a Federal agency can make a new written determination as described in (v)(B) of this subsection for as many 6-month periods as needed, but in no case shall this exemption extend beyond three 6-month periods except where an agency:

(I) Provides information to EPA and the State stating that the conditions that gave rise to the emergency exemption continue to exist and how such conditions effectively prevent the agency from conducting a conformity evaluation.

(vi) Notwithstanding other requirements of this section, actions specified by individual Federal agencies that have met the criteria set forth in either paragraphs (vii)(A), (vii)(B), or (vii)(C) of this subsection and the procedures set forth in paragraph (viii) of this subsection are "presumed to conform", except as provided in paragraph (x) of this subsection. Actions specified by individual Federal agencies as "presumed to conform" may not be used in combination with one another when the total direct and indirect emissions from the combination of actions would equal or exceed any of the rates specified in paragraphs (ii)(A) or (ii)(B) of this subsection.

(vii) The Federal agency must meet the criteria for establishing activities that are presumed to conform by fulfilling the requirements set forth in either paragraphs (vii)(A), (vii)(B), or (vii)(C) of this subsection:

(A) The Federal agency must clearly demonstrate using methods consistent with this section that the total of direct and indirect emissions from the type of activities which would be presumed to conform would not:

(I) Cause or contribute to any new violation of any standard in any area;

(II) Interfere with provisions in the applicable SIP for maintenance of any standard;

(III) Increase the frequency or severity of any existing violation of any standard in any area; or

(IV) Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of:

(1.) A demonstration of reasonable further progress;

(2.) A demonstration of attainment;

(3.) A maintenance plan; or

(B) The Federal agency must provide documentation that the total of direct and indirect emissions from such future actions would be below the emission rates for a conformity determination that are established in paragraph (ii) of this subsection, based, for example, on similar actions taken over recent years.

(C) The Federal agency must clearly demonstrate that the emissions from the type or category of actions and the amount of emissions from the action are included in the applicable SIP and the State, local, or tribal air quality agencies responsible for the SIP(s) provide written concurrence that the emissions from the actions along with all other expected emissions in the area will not exceed the emission budget in the SIP.

(viii) In addition to meeting the criteria for establishing exemptions set forth in paragraphs (vii)(A), (vii)(B), or (vii)(C) of this subsection, the following procedures must also be complied with to presume that activities will conform:

(A) The Federal agency must identify through publication in the Federal Register its list of proposed activities that are "presumed to conform" and the basis for the presumptions. The notice must clearly identify the type and size of the action that would be "presumed to conform" and provide criteria for determining if the type and size of action qualifies it for the presumption;

(B) The Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies and, where applicable, the agency designated under §174 of the CAA and the MPO and provide at least 30 days for the public to comment on the list of proposed activities "presumed to conform". If the "presumed to conform" action has regional or national application (e.g., the action will cause emission increases in excess of the *de minimis* levels identified in paragraph (ii) of this subsection in more than one of EPA's Regions), the Federal agency, as an alternative to sending it to EPA Regional Offices, can send the draft conformity determination to U.S. EPA, Office of Air Quality Planning and Standards;

(C) The Federal Agency must document its response to all the comments received and make the comments, response, and final list of activities available to the public upon request; and

(D) The Federal agency must publish the final list of such activities in the Federal Register.

(ix) Emissions from the following actions are "presumed to conform":

(A) Actions at installations with facility-wide emission budgets meeting the requirements in Subsection (k) provided that the State has included the emission budget in the EPA-approved SIP and the emissions from the action along with all other emissions from the installation will not exceed the facility-wide emission budget.

(B) Prescribed fires conducted in accordance with a smoke management program (SMP) which meets the requirements of EPA's Interim Air Quality Policy on Wildland and Prescribed Fires or an equivalent replacement EPA policy.

(C) Emissions for actions that the State identifies in the EPA-approved SIP as "presumed to conform".

(x) Even though an action would otherwise be "presumed to conform" under paragraphs (vi) or (ix) of this subsection, an action shall not be "presumed to conform" and the requirements of Subsection (a), 40 CFR Part 93.151, Subsections (d) through (j) and Subsections (l) through (n) shall apply to the action if EPA or a third party shows that the action would:

(A) Cause or contribute to any new violation of any standard in any area;

(B) Interfere with provisions in the applicable SIP for maintenance of any standard;

(C) Increase the frequency or severity of any existing violation of any standard in any area; or

(D) Delay timely attainment of any standard or any required interim emissions reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of:

(I) A demonstration of reasonable further progress;

(II) A demonstration of attainment; or

(III) A maintenance plan.

(xi) The provisions of this section shall apply in all nonattainment and maintenance areas except conformity requirements for newly designated nonattainment areas are not applicable until 1 year after the effective date of the final nonattainment designation for each NAAQS and pollutant in accordance with section 176(c)(6) of the CAA.

(d) Federal Agency Conformity Responsibility. Any department, agency, or instrumentality of the Federal government taking an action subject to this section must make its own conformity determination consistent with the requirements of this section. In making its conformity determination, a Federal agency must follow the requirements in Subsections (e) through (j) and Subsections (l) through (o) and must consider comments from any interested parties. Where multiple Federal agencies have jurisdiction for various aspects of a project, a Federal agency may choose to adopt the analysis of another Federal agency or develop its own analysis in order to make its conformity determination.

(e) Reporting Requirements.

(i) A Federal agency making a conformity determination under Subsections (d) through (j) and Subsections (l) through (n) must provide to the appropriate EPA Regional Office(s), State and local air quality agencies, any federally-recognized Indian tribal government in the nonattainment or maintenance area, and, where applicable, affected Federal Land Managers, the agency designated under section 174 of the CAA and the MPO, a 30-day notice which describes the proposed action and the Federal agency's draft conformity determination on the action. If the action has multi-regional or national impacts (e.g., the action will cause emission increases in excess of the *de minimis* levels identified in Subsection (c)(ii) in three or more of EPA's Regions), the Federal agency, as an alternative to sending it to EPA Regional Offices, can provide the notice to EPA's Office of Air Quality Planning and Standards.

(ii) A Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies, any federally-recognized Indian tribal government in the nonattainment or maintenance area, and, where applicable, affected Federal Land Managers, the agency designated under section 174 of the Clean Air Act and the MPO, within 30 days after making a final conformity determination under this section.

(iii) The draft and final conformity determination shall exclude any restricted information or confidential business information. The disclosure of restricted information and confidential business information shall be controlled by the applicable laws, regulations, security manuals, or executive orders concerning the use, access, and release of such materials. Subject to applicable procedures to protect restricted information from public disclosure, any information or materials excluded from the draft or final conformity determination or supporting materials may be made available in a restricted information annex to the determination for review by Federal and State representatives who have received appropriate clearances to review the information.

(f) Public Participation.

(i) Upon request by any person regarding a specific Federal action, a Federal agency must make available, subject to the limitation in paragraph (v) of this section, for review its draft conformity determination under Subsection (d) with supporting materials which describe the analytical methods and conclusions relied upon in making the applicability analysis and draft conformity determination.

(ii) A Federal agency must make public its draft conformity determination under Subsection (d) by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process. If the action has multi-regional or national impacts (e.g., the action will cause emission increases in excess of the *de minimis* levels identified in Subsection (c)(ii) in three or more of EPA's Regions), the Federal agency, as an alternative to publishing separate notices, can publish a notice in the Federal Register.

(iii) A Federal agency must document its response to all the comments received on its draft conformity determination under Subsection (d) and make the comments and responses available, subject to the limitation in paragraph (v) of this subsection, upon request by any person regarding a specific Federal action, within 30 days of the final conformity determination.

(iv) A Federal agency must make public its final conformity determination under Subsection (d) for a federal action by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action within 30 days of the final conformity determination. If the action would have multi-regional or national impacts, the Federal agency, as an alternative, can publish the notice in the Federal Register.

(v) The draft and final conformity determination shall exclude any restricted information or confidential business information. The disclosure of restricted information and confidential business information shall be controlled by the applicable laws, regulations or executive orders concerning the release of such materials.

(g) Reevaluation of Conformity.

(i) Once a conformity determination is completed by a Federal agency, that determination is not required to be reevaluated if the agency has maintained a continuous program to implement the action; the determination has not lapsed as specified in paragraph (ii) of this subsection; or any modification to the action does not result in an increase in emissions above the levels specified in Subsection (c)(ii). If a conformity determination is not required for the action at the time the NEPA analysis is completed, the date of the finding of no significant impact (FONSI) for an Environmental Assessment, a record of decision (ROD) for an Environmental Impact Statement, or a categorical exclusion determination can be used as a substitute date for the conformity determination date.

(ii) The conformity status of a Federal action automatically lapses 5 years from the date a final conformity determination is reported under Subsection (e), unless the Federal action has been completed or a continuous program to implement the Federal action has commenced.

(iii) Ongoing Federal activities at a given site showing continuous progress are not new actions and do not require periodic redeterminations so long as such activities are within the scope of the final conformity determination reported under Section (e).

(iv) If the Federal agency originally determined through the applicability analysis that a conformity determination was not necessary because the emissions for the action were below the limits in Subsection (c)(ii) and changes to the action would result in the total emissions from the action being above the limits in Subsection (c)(ii), then the Federal agency must make a conformity determination.

(h) Criteria for Determining Conformity of General Federal Actions.

(i) An action required under Subsection (c) to have a conformity determination for a specific pollutant, will be determined to conform to the applicable SIP if, for each pollutant that exceeds the rates in Subsection (c)(ii), or otherwise requires a conformity determination due to the total of direct and indirect emissions from the action, the action meets the requirements of paragraph (iii) of this subsection, and meets any of the following requirements:

(A) For any criteria pollutant or precursor, the total of direct and indirect emissions from the action are specifically identified and accounted for in the applicable SIP's attainment or maintenance demonstration or reasonable further progress milestone or in a facility-wide emission budget included in a SIP in accordance with Subsection (k);

(B) For precursors of ozone, nitrogen dioxide, or PM, the total of direct and indirect emissions from the action are fully offset within the same nonattainment or maintenance area (or nearby area of equal or higher classification provided the emissions from that area contribute to the violations, or have contributed to violations in the past, in the area with the Federal action) through a revision to the applicable SIP or a similarly enforceable measure that effects emissions reductions so that there is no net increase in emissions of that pollutant;

(C) For any directly-emitted criteria pollutant, the total of direct and indirect emissions from the action meets the requirements:

(I) Specified in paragraph (ii) of this subsection, based on areawide air quality modeling analysis and local air quality modeling analysis; or

(II) Meet the requirements of paragraph (i)(E) of this subsection and, for local air quality modeling analysis, the requirement of paragraph (ii) of this subsection;

(D) For CO or directly emitted PM:

(I) Where the State agency primarily responsible for the applicable SIP determines that an areawide air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in paragraph (ii) of this subsection, based on local air quality modeling analysis; or

(II) Where the State agency primarily responsible for the applicable SIP determines that an areawide air quality modeling analysis is appropriate and that a local air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in paragraph (ii) of this subsection, based on areawide modeling, or meet the requirements of paragraph (i)(E) of this subsection; or

(E) For ozone or nitrogen dioxide, and for purposes of paragraphs (i)(C)(II) and (i)(D)(II) of this subsection, each portion of the action or the action as a whole meets any of the following requirements:

(I) Where EPA has approved a revision to the applicable implementation plan after the area was designated as nonattainment and the State makes a determination as provided in paragraph (i)(E)(I)(1.) of this subsection or where the State makes a commitment as provided in paragraph (i)(E)(I)(2.) of this subsection:

(1.) The total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the State agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would not exceed the emissions budgets specified in the applicable SIP.

(2.) The total of direct and indirect emissions from the action (or portion thereof) is determined by the State agency responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would exceed an emissions budget specified in the applicable SIP and the State Governor or the Governor's designee for SIP actions makes a written commitment to EPA which includes the following:

a. A specific schedule for adoption and submittal of a revision to the SIP which would achieve the needed emission reductions prior to the time emissions from the Federal action would occur;

b. Identification of specific measures for incorporation into the SIP which would result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed any emissions budget specified in the applicable SIP;

c. A demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the Federal action, and that local authority to implement additional requirements has been fully pursued;

d. A determination that the responsible Federal agencies have required all reasonable mitigation measures associated with their action; and

e. Written documentation including all air quality analyses supporting the conformity determination.

(3.) Where a Federal agency made a conformity determination based on a State's commitment under paragraph (i)(E)(I)(2.) of this subsection and the State has submitted a SIP to EPA covering the time period during which the emissions will occur or is scheduled to submit such a SIP within 18 months of the conformity determination, the State commitment is automatically deemed a call for a SIP revision by EPA under section 110(k)(5) of the CAA, effective on the date of the Federal conformity determination and requiring response within 18 months or any shorter time within which the State commits to revise the applicable SIP;

(4.) Where a Federal agency made a conformity determination based on a State commitment under paragraph (i)(E)(I)(2.) of this subsection and the State has not submitted a SIP covering the time period when the emissions will occur or is not scheduled to submit such a SIP within 18 months of the conformity determination, the State must, within 18 months, submit to EPA a revision to the existing SIP committing to include the emissions in the future SIP revision.

(II) The action (or portion thereof), as determined by the MPO, is specifically included in a current transportation plan and transportation improvement program which have been found to conform to the applicable SIP under Chapter 8, Section 4, or 40 CFR Part 93, Subpart A;

(III) The action (or portion thereof) fully offsets its emissions within the same nonattainment or maintenance area (or nearby area of equal or higher classification provided the emissions from that area contribute to the violations, or have contributed to violations in the past, in the area with the Federal action) through a revision to the applicable SIP or an equally enforceable measure that effects emissions reductions equal to or greater than the total of direct and indirect emissions from the action so that there is no net increase in emissions of that pollutant;

(IV) Where EPA has not approved a revision to the relevant SIP since the area was redesignated or reclassified, the total of direct and indirect emissions from the action for the future years (described in Subsection (i)(iv)) do not increase emissions with respect to the baseline emissions:

(1.) The baseline emissions reflect the historical activity levels that occurred in the geographic area affected by the proposed Federal action during:

a. The most current calendar year with a complete emission inventory available before an area is designated unless EPA sets another year; or

b. The emission budget in the applicable SIP;

c. The year of the baseline inventory in the PM_{10} applicable SIP;

(2.) The baseline emissions are the total of direct and indirect emissions calculated for the future years (described in Subsection (i)(iv)) using the historic activity levels (described in paragraph (i)(E)(IV)(1.) of this subsection) and appropriate emission factors for the future years; or

(V) Where the action involves regional water and/or wastewater projects, such projects are sized to meet only the needs of population projections that are in the applicable SIP.

(ii) The areawide and/or local air quality modeling analyses must:

(A) Meet the requirements in Subsection (i); and

(B) Show that the action does not:

(I) Cause or contribute to any new violation of any standard in any area; or

(II) Increase the frequency or severity of any existing violation of any standard in any area.

(iii) Notwithstanding any other requirements of this subsection, an action subject to this section may not be determined to conform to the applicable SIP unless the total of direct and indirect emissions from the action is in compliance or consistent with all relevant requirements and milestones contained in the applicable SIP, such as elements identified as part of the reasonable further progress schedules, assumptions specified in the attainment or maintenance demonstration, prohibitions, numerical emission limits, and work practice requirements.

(iv) Any analyses required under this subsection must be completed, and any mitigation requirements necessary for a finding of conformity must be identified before the determination of conformity is made.

(i) Procedures for Conformity Determinations of General Federal Actions.

(i) The analyses required under this section must be based on the latest planning assumptions.

(A) All planning assumptions must be derived from the estimates of population, employment, travel, and congestion most recently approved by the MPO, or other agency authorized to make such estimates, where available.

(B) Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved by the MPO or other agency authorized to make such estimates for the urban area.

(ii) The analyses required under this section must be based on the latest and most accurate emission estimation techniques available as described below, unless such techniques are inappropriate. If such techniques are inappropriate, the Federal agency may obtain written approval from the appropriate EPA Regional Administrator for modification or substitution, of another technique on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program.

(A) For motor vehicle emissions, the most current version of the motor vehicle emissions model specified by EPA and available for use in the preparation or revision of SIPs in that State must be used for the conformity analysis as specified in paragraphs (ii)(A)(I) and (II) of this subsection:

(I) The EPA must publish in the Federal Register a notice of availability of any new motor vehicle emissions model; and

(II) A grace period of three months shall apply during which the motor vehicle emissions model previously specified by EPA as the most current version may be used unless EPA announces a longer grace period in the Federal Register. Conformity analyses for which the analysis was begun during the grace period or no more than 3 months before the Federal Register notice of availability of the latest emission model may continue to use the previous version of the model specified by EPA.

(B) For non-motor vehicle sources, including stationary and area source emissions, the latest emission factors specified by EPA in the "Compilation of Air Pollutant Emission Factors" (AP-42) must be used for the conformity analysis unless more accurate emission data are available, such as actual stack test data from stationary sources which are part of the conformity analysis.

(iii) The air quality modeling analyses required under this section must be based on the applicable air quality models, databases, and other requirements specified in the most recent version of the "Guideline on Air Quality Models" (Appendix W to 40 CFR Part 51), unless:

(A) The guideline techniques are inappropriate, in which case the model may be modified or another model substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program; and

(B) Written approval of the EPA Regional Administrator is obtained for any modification or substitution.

(iv) The analyses required under this section must be based on the total of direct and indirect emissions from the action and must reflect emission scenarios that are expected to occur under each of the following cases:

(A) The attainment year specified in the SIP, or if the SIP does not specify an attainment year, the latest attainment year possible under the CAA; or

(B) The last year for which emissions are projected in the maintenance plan;

(C) The year during which the total of direct and indirect emissions from the action is expected to be the greatest on an annual basis; and

(D) Any year for which the applicable SIP specifies an emissions budget.

(j) Mitigation of Air Quality Impacts.

(i) Any measures that are intended to mitigate air quality impacts must be identified and the process for implementation and enforcement of such measures must be described, including an implementation schedule containing explicit timelines for implementation.

(ii) Prior to determining that a Federal action is in conformity, the Federal agency making the conformity determination must obtain written commitments from the appropriate persons or agencies to implement any mitigation measures which are identified as conditions for making conformity determinations.

(iii) Persons or agencies voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.

(iv) In instances where the Federal agency is licensing, permitting or otherwise approving the action of another governmental or private entity, approval by the Federal agency must be conditioned on the other entity meeting the mitigation measures set forth in the conformity determination.

(v) When necessary because of changed circumstances, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination. Any proposed change in the mitigation measures is subject to the reporting requirements of Subsection (e) and the public participation requirements of Subsection (f).

(vi) Written commitments to mitigation measures must be obtained prior to a positive conformity determination and that such commitments must be fulfilled.

(vii) After a State revises its SIP and EPA approves that SIP revision, any agreements, including mitigation measures, necessary for a conformity determination will be both State and federally enforceable. Enforceability through the applicable SIP will apply to all persons who agree to mitigate direct and indirect emissions associated with a Federal action for a conformity determination.

(k) Conformity Evaluation for Federal Installations with Facility-Wide Emission Budgets.

(i) The State or local agency responsible for implementing and enforcing the SIP can in cooperation with Federal agencies or third parties authorized by the agency that operate installations subject to Federal oversight develop and adopt a facility-wide emission budget to be used for demonstrating conformity under Subsection (h)(i)(A). The facility-wide budget must meet the following criteria:

(A) Be for a set time period;

(B) Cover the pollutants or precursors of the pollutants for which the area is designated nonattainment or maintenance;

(C) Include specific quantities allowed to be emitted on an annual or seasonal basis;

(D) The emissions from the facility along with all other emissions in the area will not exceed the emission budget for the area;

(E) Include specific measures to ensure compliance with the budget, such as periodic reporting requirements or compliance demonstration, when the Federal agency is taking an action that would otherwise require a conformity determination;

(F) Be submitted to EPA as a SIP revision;

(G) The SIP revision must be approved by EPA.

(ii) The facility-wide budget developed and adopted in accordance with paragraph (i) of this subsection can be revised by following the requirements in paragraph (i) of this subsection.

(iii) Total direct and indirect emissions from Federal actions in conjunction with all other emissions subject to General Conformity from the facility that do not exceed the facility budget adopted pursuant to paragraph (i) of this subsection are "presumed to conform" to the SIP and do not require a conformity analysis.

(iv) If the total direct and indirect emissions from the Federal actions in conjunction with the other emissions subject to General Conformity from the facility exceed the budget adopted pursuant to paragraph (i) of this subsection, the action must be evaluated for conformity. A Federal agency can use the compliance with the facility-wide emissions budget as part of the demonstration of conformity, i.e., the agency would have to mitigate or offset the emissions that exceed the emission budget.

(v) If the SIP for the area includes a category for construction emissions, the negotiated budget can exempt construction emissions from further conformity analysis.

(l) Emissions Beyond the Time Period Covered by the SIP. If a Federal action would result in total direct and indirect emissions above the applicable thresholds which would be emitted beyond the time period covered by the SIP, the Federal agency can:

(i) Demonstrate conformity with the last emission budget in the SIP; or

(ii) Request the State to adopt an emissions budget for the action for inclusion

in the SIP. The State must submit a SIP revision to EPA within 18 months either including the emissions in the existing SIP or establishing an enforceable commitment to include the emissions in future SIP revisions based on the latest planning assumptions at the time of the SIP revision. No such commitment by a State shall restrict a State's ability to require RACT, RACM or any other control measures within the State's authority to ensure timely attainment of the NAAQS.

(m) Timing of Offsets and Mitigation Measures.

(i) The emissions reductions from an offset or mitigation measure used to demonstrate conformity must occur during the same calendar year as the emission increases from the action except, as provided in paragraph (ii) of this subsection.

(ii) The State may approve emissions reductions in other years provided:

(A) The reductions are greater than the emission increases by the following ratios:

(I) Extreme nonattainment areas 1.5:1

(II) Severe nonattainment areas 1.3:1

(III) Serious nonattainment areas 1.2:1

(IV) Moderate nonattainment areas 1.15:1

(V) All other areas 1.1:1

(B) The time period for completing the emissions reductions must not exceed twice the period of the emissions.

(C) The offset or mitigation measure with emissions reductions in another year will not:

(I) Cause or contribute to a new violation of any air quality standard;

(II) Increase the frequency or severity of any existing violation of any air quality standard; or

(III) Delay the timely attainment of any standard or any interim emissions reductions or other milestones in any area.

(iii) The approval by the State of an offset or mitigation measure with emissions reductions in another year does not relieve the State of any obligation to meet any SIP or CAA milestone or deadline. The approval of an alternate schedule for mitigation measures is at the discretion of the State, and they are not required to approve an alternate schedule.

(n) Inter-precursor Mitigation Measures and Offsets. Federal agencies must reduce the same type of pollutant as being increased by the Federal action except the State may approve offsets or mitigation measures of different precursors of the same criteria pollutant, if such trades are allowed by a State in a SIP approved NSR regulation, is technically justified, and has a demonstrated environmental benefit.

(o) Early Emission Reduction Credit Programs at Federal Facilities and Installation Subject to Federal Oversight.

(i) Federal facilities and installations subject to Federal oversight can, with the approval of the State agency responsible for the SIP in that area, create an early emissions reductions credit program. The Federal agency can create the emission reduction credits in accordance with the requirements in paragraph (ii) of this subsection and can use them in accordance with paragraph (iii) of this subsection.

(ii) Creation of Emission Reduction Credits.

(A) Emissions reductions must be quantifiable through the use of standard emission factors or measurement techniques. If non-standard factors or techniques to quantify the emissions reductions are used, the Federal agency must receive approval from the State agency responsible for the implementation of the SIP and from EPA's Regional Office. The emission reduction credits do not have to be quantified before the reduction strategy is implemented, but must be quantified before the credits are used in the General Conformity evaluation.

(B) The emission reduction methods must be consistent with the applicable SIP attainment and reasonable further progress demonstrations.

(C) The emissions reductions cannot be required by or credited to other applicable SIP provisions.

(D) Both the State and Federal air quality agencies must be able to take legal action to ensure continued implementation of the emission reduction strategy. In addition, private citizens must also be able to initiate action to ensure compliance with the control requirement.

(E) The emissions reductions must be permanent or the timeframe for the reductions must be specified.

(F) The Federal agency must document the emissions reductions and provide a copy of the document to the State air quality agency and the EPA Regional Office for review. The documentation must include a detailed description of the emission reduction strategy and a discussion of how it meets the requirements of paragraphs (ii)(A) through (E) of this subsection.

(iii) Use of Emission Reduction Credits. The emission reduction credits created in accordance with paragraph (ii) of this subsection can be used, subject to the following limitations, to reduce the emissions increase from a Federal action at the facility for the conformity evaluation.

(A) If the technique used to create the emission reduction is implemented at the same facility as the Federal action and could have occurred in conjunction with the Federal action, then the credits can be used to reduce the total direct and indirect emissions used to determine the applicability of the regulation as required in Subsection (c) and as offsets or mitigation measures required by Subsection (h).

(B) If the technique used to create the emission reduction is not implemented at the same facility as the Federal action or could not have occurred in conjunction with the Federal action, then the credits cannot be used to reduce the total direct and indirect emissions used to determine the applicability of the regulation as required in Subsection (c), but can be used to offset or mitigate the emissions as required by Subsection (h).

(C) Emissions reductions credits must be used in the same year in which they are generated.

(D) Once the emission reduction credits are used, they cannot be used as credits for another conformity evaluation. However, unused credits from a strategy used for one conformity evaluation can be used for another conformity evaluation as long as the reduction credits are not double counted.

(E) Federal agencies must notify the State air quality agency responsible for the implementation of the SIP and EPA Regional Office when the emission reduction credits are being used.

Section 4. Transportation Conformity.

(a) Purpose. Any entity making a transportation conformity determination or adopting or approving a regionally significant project shall comply with the provisions of 40 CFR Part 93, Subpart A, in addition to the Wyoming-specific provisions described below pursuant to 40 CFR Part 93.105, 40 CFR Part 93.122(a)(4)(ii), and 40 CFR Part 93.125(c).

(b) Definitions. Terms used but not defined in this subsection shall have the meaning given them by the Clean Air Act (CAA), titles 23 and 49 U.S.C., other United States Environmental Protection Agency (EPA) regulations, or other United States Department of Transportation (DOT) regulations, in that order of priority.

"Division" means the Air Quality Division of the Wyoming Department of Environmental Quality (WDEQ).

"FHWA" means the Federal Highway Administration of DOT.

"FTA" means the Federal Transit Administration of DOT.

"Hot Spot Analysis" means an estimation of likely future localized CO, PM_{10}, and/or $PM_{2.5}$ pollutant concentrations and a comparison of those concentrations to the national ambient air quality standards. Federally required hot spot analyses assess impacts of pollutants on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections, highway portions, or transit terminals, using air quality dispersion modeling to determine the effects of emissions on air quality. Such an analysis of the area substantially affected by the project demonstrates that CAA conformity requirements are met for the relevant NAAQS in the "project area."

"MPO" means metropolitan planning organization designated as being responsible for conducting the cooperative and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C 1607.

"NEPA" means the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

"*Project-Level Conformity"* see *Hot Spot Analysis*.

"Review Team" means the group of interagency representatives who consult regarding Transportation Conformity assessment and findings. The review team's responsibilities are defined in Chapter 8(4)(c).

"*Regionally Significant Project*" means a transportation project (other than an exempt project) for a facility that serves regional transportation needs (such as access to and from the area outside the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc. or transportation terminals as well as most terminals themselves) and would be included in the modeling of a metropolitan area's transportation network, including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel. For purposes of this rule, regionally significant projects include only those located in nonattainment or maintenance areas. Exempt projects are listed in the Federal Regulation at 40 CFR Part 93.126 and Part 93.127 and include safety improvements.

"SIP" means State Implementation Plan as developed by the Division.

"TCM" means transportation control measure. A TCM is any measure that is specifically identified and committed to in the applicable SIP through a process established in the CAA Section 176(c)(8), that is either one of the types listed in CAA Section 108 or any other measure designed to reduce emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Vehicle technology-based, fuel-based and maintenance-based measures, e.g., inspection and maintenance programs are not TCMs.

"TIP" means Transportation Improvement Program. A TIP is a prioritized program of transportation projects funded with federal transportation funds, developed under 23 U.S.C. 134(j) and 23 CFR Parts 450.324 through 450.330. The TIP must be fiscally constrained, and in air quality nonattainment and maintenance areas, the MPO, FHWA and FTA must determine that the TIP achieves conformity.

"Transportation Plan" means the official intermodal metropolitan transportation plan that is developed through the metropolitan planning process for the metropolitan planning area, developed pursuant to 23 CFR Part 450.

"Written commitment" means a written commitment that includes a description of the action to be taken; a schedule for the completion of the action; a demonstration that funding necessary to implement the action has been authorized by the appropriating or authorizing body; and an acknowledgement that the commitment is an enforceable obligation under the applicable implementation plan.

"WYDOT" means the Wyoming Department of Transportation.

(c) Interagency Consultation.

(i) This section establishes the roles and responsibilities for transportation conformity determinations and related SIP development, as well as establishes minimum requirements for interagency consultation (Federal, State, and local) and resolution of conflicts.

(A) Representatives of WYDOT, the Division, and affected MPOs, when applicable, shall undertake an interagency consultation process before making conformity determinations in accordance with this section. This process shall involve consultation with each other and with local or regional offices of EPA, FHWA, and FTA, on the development of the implementation plan, the list of TCMs in the applicable implementation plan, the transportation plan, the TIP, and all conformity determinations required by this rule. The interagency consultation process shall be used in developing or noticing revisions to TIPs, SIPs and conformity determinations that could affect Transportation Conformity.

(B) In addition to the other duties specified in this section, the specific roles and responsibilities of the various participants in the interagency consultation process shall be as follows:

(I) The Division shall be responsible for: preparing and submitting SIP revisions; emission inventories; air quality modeling and quality assuring air quality modeling; performing attainment demonstrations; providing technical and policy input regarding emission factors and emission budgets; and updating motor vehicle emissions factors.

(II) In areas where transportation projects are located inside a metropolitan planning area, the affected MPO shall be responsible for: establishing a review team, developing transportation plans and TIPs and making conformity determinations on transportation plans and TIPs within the applicable area; developing transportation and

socioeconomic data and planning assumptions and provide such data and planning assumptions to the Division for use in air quality analysis; performing transportation modeling and documentation of timely TCMs needed for conformity assessments and SIP development; monitoring regionally significant projects and ensuring that all disclosed, or otherwise known, regionally significant projects are included in the regional emissions analysis.

(III) WYDOT shall be responsible for providing technical input on proposed revisions to motor vehicle emission factors, and comment on transportation control measures and other aspects of the SIP that affect the operation, construction or maintenance of the transportation system. In non-attainment and maintenance areas where there is no designated MPO, WYDOT is the lead transportation agency and assumes the MPO transportation planning responsibilities described in Chapter 8(4)(c)(i)(B)(II) above.

(IV) The Director of the WDEQ will decide whether a transportation conformity determination shall be appealed to the Governor.

(ii) Establishing a Review Team for Conformity Consultation.

(A) The minimum consultation requirements, to be undertaken by the review team, are the following:

(I) The MPO or WYDOT, when appropriate, shall establish a review team for regular consultation. In addition to meeting in-person, virtual meeting platforms or written correspondence may also be used to hold meetings required by this rule. The review team shall comply with the requirements set out in Chapter 8(4)(c)(ii)(A)(II) and (III) below, except that, in instances where a nonattainment area is outside of the metro planning areas, WYDOT shall perform the roles and responsibilities assigned to the MPO.

(II) The review team shall consist, at a minimum, of the MPO as the lead agency, WYDOT, the Division, EPA, FHWA and FTA. Agencies on the review team may appoint individual staff members, of any organizational level, to participate on the review team.

(III) The review team established pursuant to paragraphs I and II shall comply with the following requirements when coordinating the consultation process:

(1.) The MPO shall begin the consultation process early enough for the review team to adequately review and provide meaningful input on the draft transportation plans, TIPs and conformity determinations, including supporting documents.

(2.) A schedule of meetings or a process for providing adequate notice of subsequent meetings shall be developed as part of the consultation process. The schedule of meetings shall be frequent enough to address all significant issues in a timely fashion.

a. The MPO shall establish an agenda for each meeting and shall include in such an agenda any issue or time upon the request of any member.

b. Any member may, at any time, request a meeting through the consultation process. Upon such a request, the MPO should schedule a meeting as soon as practicable and provide adequate notice to the review team.

(3.) The MPO shall respond in written form to written comments received from any member of the review team, copying all review team members.

(iii) Topics for Consultation.

(A.) The review team shall be responsible for addressing the following topics in the manner provided:

(I) Evaluating and choosing models and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses.

(1.) The Division shall be responsible for selecting the transportation modeling procedures to be used within its modeling domain. The MPO, WYDOT and the Division shall consult on an as-needed basis on the design, schedule, funding and data collection efforts for regional transportation model development.

(2.) The Division shall be responsible for selecting the emissions or air quality modeling procedures used for regional emissions analyses, conformity determinations, and SIP revisions.

(II) Determining which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of regional emissions analysis (in addition to those functionally classified as principal arterial or higher or fixed guideway systems or extensions that offer an alternative to regional highway travel), and which projects may have undergone a significant change in design concept or scope since a previous TIP was approved, regardless of the source of funding (federal or local.)

(1.) The review team shall be responsible for reviewing the transportation network to identify minor arterials that serve a regional transportation need; review transportation plans to determine if the project is regionally significant; and identify significant changes to projects since the previous TIP was approved.

(III) Evaluating whether projects otherwise exempted from meeting the requirements of 40 CFR Part 93.126 and Part 93.127 should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason.

(1.) The review team shall be responsible for determining whether projects that are exempt from meeting the requirements of 40 CFR Part 93.126 and Part 93.127 should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason.

(2.) For nonattainment areas that are outside of a metropolitan planning area, WYDOT shall consult with the review team to identify exempt projects that should be treated as non-exempt for the area.

(IV) Determining, as required by 40 CFR Part 93.113(c)(1), whether past obstacles to TCM implementation that are behind the schedule established in the applicable SIP have been identified and are being overcome, and whether State and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs.

(1.) The Division shall provide the MPO with information necessary to develop a list of TCMs.

(2.) The MPO, after consultation with the review team, shall determine whether past obstacles to implementation of TCMs have been identified and are being overcome, and whether State and local agencies are giving maximum priority to approval or funding for TCMs.

(3.) The MPO shall report any situation in which it determines that obstacles to implementing a TCM are not being overcome, or that the State and local agencies with influence over approvals or funding are not giving maximum priority to approval or funding for TCMs. The report shall be provided to the agency sponsoring the TCM, the Division, and the Governor.

(4.) The Division shall consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures.

(V) Providing notification of transportation plan and TIP amendments which only add or delete exempt projects listed in 93.126 and 93.127.

(1.) The MPO shall provide notice through the normal planning process of any proposed transportation plan or TIP revisions or amendments that merely add or delete exempt projects listed in 40 CFR Part 93.126 or Part 93.127.

(VI) Choosing conformity tests and methodologies for isolated rural nonattainment areas, as required by 40 CFR Part 93.109(g).

(1.) The Division, in consultation with the review team, shall be responsible for choosing conformity tests and methodologies for isolated rural nonattainment areas and maintenance areas, as required by 40 CFR Part 93.109(g)(2)(iii).

(VII) Evaluating events that will trigger new conformity determinations in addition to those required by 40 CFR Part 93.104.

(1.) WYDOT, in consultation with the MPO when appropriate, shall be responsible for evaluating if events will trigger conformity determinations in addition to those identified in 40 CFR Part 93.104 or a pollutant-specific SIP.

(VIII) Determining emissions analysis for transportation activities that cross the borders of MPOs or nonattainment areas or basins.

(1.) WYDOT shall be responsible for consulting and coordinating the review team on procedures for emissions analysis for transportation activities that cross the borders of MPOs or nonattainment areas or air basins, or situations where the metropolitan planning area does not include an entire nonattainment area.

(IX) Determining conformity of projects outside the metropolitan area and within the nonattainment or maintenance area.

(1.) WYDOT, in consultation with the MPO, shall establish a process detailing the planning and analysis for determining conformity of projects outside the metropolitan area and within the nonattainment or maintenance area, in instances where the metropolitan planning area does not include the entire nonattainment or maintenance area.

(X) Specifying a process to ensure disclosure of plans for regionally significant non-FHWA/FTA projects (including projects for which alternatives are still being considered) to the MPO on a regular basis, and immediate disclosure of any changes to those plans.

(1.) WYDOT shall be responsible for disclosing plans for the construction of any regionally significant projects that are not FHWA/FTA projects (including projects for which alternatives are still being considered), including those by recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws, to the MPO and associated county and public transit agencies located within the MPO, on a regular basis, and that any changes to such plans are immediately disclosed.

(XI) Providing a process involving any recipients of federal funds for assuming project location and design concept/scope where these features are not adequately defined for regional emissions analysis.

(1.) WYDOT, the MPO, and any other recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws for assuming the location and design concept and scope of projects, which are disclosed to the MPO as required by (c)(iii)(A)(X)(1.) of this section but whose sponsors have not yet decided these features shall, in consultation with the Division, perform a regional emissions analysis according to the requirements of 40 CFR Part 93.122.

(XII) Specifying a process for consulting on design, schedule, and funding of research and data collection efforts and regional transportation model development.

(1.) WYDOT, in consultation with the MPO when appropriate, shall determine the design, schedule and funding of significant research and data collection efforts and regional transportation model development.

(XIII) Determining a process for providing final documents and supporting information to the review team.

(1.) The MPO shall provide final documents (including applicable TIPs and TIP revisions) and supporting information to each agency within the review team, described in (c)(i)(A), after approval or adoption.

(iv) Dispute Resolution Process.

(A) As specified in 40 CFR Part 93.105(d), conformity related conflicts among WDEQ, WYDOT, and MPOs are escalated to the Governor, or designee, if they cannot be resolved by the heads of the involved agencies. WDEQ has 14 days to appeal to the Governor after WDEQ has received written notice of approval of the conformity analysis by the MPO or WYDOT.

(B) If WDEQ does not appeal to the Governor within 14 days of receiving written notice of approval of the conformity analysis, the MPO or WYDOT may proceed with the final conformity determination. The Governor may delegate his or her role in this process, but not any member or employee of WDEQ, AQAB, WYDOT, the Wyoming Transportation Commission or MPOs.

(v) Public Consultation Procedures.

(A) When making consultation determinations, the MPO or WYDOT will continue to implement a proactive public involvement process which provides for review and public comment prior to taking any formal action on a conformity determination for all transportation plans and TIPs consistent with the requirements of 23 CFR Part 450.316(a) and W.S. 16-4-204(d) of the Wyoming Administrative Procedures Act. Technical and policy information considered by the MPO or WYDOT on a conformity determination will be made available at the beginning of the public comment period.

(B) Any charges imposed for public inspection and copying should be consistent with the fee structure established in Chapter 2, Section 4 and Chapter 2, Section 5, of the Wyoming Department of Administration & Information Director's Office Rules & Regulations, per the rulemaking authority established under W.S. 16-4-204(d) of the Wyoming Administrative Procedures Act.

(C) The MPO or WYDOT, when appropriate, must specifically address in writing all public comments that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. Additionally, the MPO or WYDOT must provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

(d) Written Commitments for Control Measures not included in Transportation Plans and TIPs.

(i) In accordance with all requirements of 40 CFR Part 93.122(a)(4), written commitments from the responsible agency must be obtained prior to conformity determination for any transportation control measures identified in the SIP and included in the emissions analysis, but which are not included in the transportation plan or TIP.

(e) Enforceability of Project-level Mitigation and Control Measures.

(i) Pursuant to 40 CFR Part 93.125(c), written commitments from the project sponsor must be obtained for any transportation project-level mitigation measures identified as conditions for NEPA process completion or a positive conformity determination on a transportation plan or TIP, or necessary for a positive project-level conformity determination (which may include a hot-spot analysis). Mitigation measures directed at reducing project construction emissions (such as dust control) but not specifically identified as necessary for a positive conformity finding, do not require written commitments.

Section 5. Ozone Nonattainment Emission Inventory Rule.

(a) Applicability.

(i) This rule applies to a facility or source operating in an ozone nonattainment area(s), as identified in 40 CFR Part 81, if:

(A) The facility or source has been granted permit approval to construct and/or operate under Chapter 6 of the Wyoming Air Quality Standards and Regulations (WAQSR); or

(B) It is an individual oil or gas facility or source; or

(C) Actual emissions from the stationary facility or source are greater than or equal to 25 tons per year of volatile organic compounds (VOCs) as defined in Chapter 3, Section 6(a) of the WAQSR, or oxides of nitrogen (NO_x).

(I) If NO_x or VOCs are emitted from a facility or source at or above the applicability threshold identified in subsection (a)(i)(C), both air contaminants must be included in the emission inventory even if one of the air contaminants is emitted at a level below the applicability threshold.

(ii) Compliance with emission inventory requirements established under WAQSR Chapter 6, Section 3(f)(v)(G), satisfies the requirements of this rule.

(b) Reporting and Recordkeeping Requirements.

(i) As specified in the forms required in subsection (b)(v), each emission inventory shall include:

(A) Actual emissions of NO_x, VOC, and any other air contaminants as determined by the Wyoming Department of Environmental Quality Air Quality Division Administrator, in tons per year for any calendar year emission inventory, or in tons for any partial year emission inventory;

(B) The physical location at which the actual emissions occurred;

(C) The name and address of the person or entity operating or owning the facility or source; and

(D) The nature of the facility or source.

(ii) The emission inventory submittal dates are as follows:

(A) By April 30th of each year for all emissions that occurred during the previous calendar year; and

(B) No later than 90 days after the end of a partial year inventory for emissions that occurred during the partial year as determined by the Division Administrator.

(iii) After the owner or operator submits an emission inventory for all facility or source emissions that occurred during calendar year 2014, the owner or operator shall submit an emission inventory for such facility or source every year thereafter.

(iv) Each owner or operator of a facility or source shall maintain a copy of the emission inventory submitted to the Division, and records indicating how the information submitted was determined, including any calculations, data, and measurements used.

(A) Records shall be kept for a period of at least five years from the required submittal date listed in subsection (b)(ii) for each emission inventory.

(B) The owner or operator of the facility or source shall make the records required in subsection (b)(iv) available for inspection by any representative of the Division upon request.

(v) The owner or operator shall submit emission inventories using Division-prescribed hard copy or electronic formats.

(vi) All emission inventory submissions shall be certified as being true, accurate, and complete by a responsible official to the best of their knowledge. A responsible official is an individual who is responsible for the data provided in the emission inventory, and who accepts responsibility for the emission accuracy.

(c) Compliance. Compliance with WAQSR Chapter 8, Section 5, does not relieve any owner or operator of a facility or source from the responsibility to comply with any other applicable reporting requirements set forth in any federal or State law, rule or regulation, or in any permit.

Section 6. Upper Green River Basin Permit by Rule for Existing Sources.

(a) Applicability.

(i) These regulations apply to all PAD and single-well oil and gas production facilities or sources, and all compressor stations, located in the Upper Green River Basin (UGRB) ozone nonattainment area that exist as of January 1, 2014. The UGRB ozone nonattainment area is that area which was adopted by reference from 40 CFR Part 81.351, revised and published as of July 1, 2013, not including any later amendments. Copies of the Code of Federal Regulations (CFR) are available for public inspection and can be purchased from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office is available at: http://deq.wyoming.gov/. Copies of the CFR can also be purchased from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at: https://ecfr.gov.

(ii) PAD and single-well oil and gas production facilities or sources, shall comply with all applicable requirements of these regulations unless a WAQSR Chapter 6, Section 2 permit has been issued that meets or exceeds the control requirements of these regulations; and

(iii) A compressor station, as defined in Subsection (b), shall comply with the requirements of Subsection (g) of these regulations unless a WAQSR Chapter 6, Section 2 permit has been issued that meets or exceeds the Subsection (g) requirements; and

(iv) In spite of the requirements of Chapter 6, Section 2(a)(i) and (iii) of the WAQSR, a preconstruction permit under Chapter 6, Section 2 is not required for any control device (flare/enclosed combustion unit) or equipment identified in these regulations unless a facility or source is required to obtain a permit under Chapter 6, Section 4 or Section 13.

(v) A WAQSR Chapter 6, Section 2 permit will be required for the use of any alternative emission control device and/or equipment to be used in lieu of, or in combination with, a combustion device required by these regulations.

(b) Definitions.

"Composite extended hydrocarbon analysis" are averaged extended hydrocarbon compositions based on samples from at least five wells producing from the same formation and under similar conditions (± 25 psig).

"Compressor station" means any permanent combination of one or more compressors that move natural gas at increased pressure from fields, in transmission pipelines, or into storage.

"Dehydration unit" means a system that uses glycol to absorb water from produced gas before it is introduced into gas sales or collection lines.

"Extended hydrocarbon analysis" means a gas chromatograph analysis performed on pressurized hydrocarbon liquid (oil/condensate) and gas samples, and shall include speciated hydrocarbons from methane (C1) through decane (C10), and the following Hazardous Air Pollutants (HAP): benzene, toluene, ethyl-benzene, xylenes (BTEX), n-hexane, and 2-2-4-trimethylpentane.

"Facility components" consist of flanges, connectors (other than flanges), open-ended lines, pumps, valves and "other" components listed in Table 2-4 from EPA-453/R-95-017 at the site grouped by stream (gas, light oil, heavy oil, water/oil). Table 2-4 from EPA-453/R-95-017 is available online at: http://deq.wyoming.gov/aqd/ or http://www3.epa.gov/ttnchie1/efdocs/equiplks.pdf.

"Flashing emissions" means VOC emissions, including HAP components, that occur when gases are released from produced liquids (oil, condensate, produced water, or a mixture thereof) that are exposed to temperature increases or pressure drops as they are transferred from pressurized vessels to lower pressure separation vessels or to atmospheric storage tanks.

"Optical gas imaging instrument" means an instrument that makes visible, emissions that may otherwise be invisible to the naked eye.

"PAD facility" means a location where more than one well and/or associated production equipment are located, where some or all production equipment is shared by more than one well or where well streams from more than one well are routed through individual production trains at the same location.

"Separation vessels" means all gun barrels, production and test separators, production and test treaters, water knockouts, gas boots, flash separators, and drip pots.

"Single-well facility" means a facility where production equipment is associated with only one well.

"Storage tanks" means any tanks that contain oil, condensate, produced water, or some mixture thereof.

(c) Flashing Emissions at Existing PAD and Single-Well Facilities or Sources as of January 1, 2014.

(i) VOC emissions from all existing storage tanks and all existing separation vessels are subject to these regulations.

(A) For total uncontrolled VOC emissions from flashing that are greater than or equal to 4 tons per year (tpy), flashing emissions from all produced oil, condensate, water tanks, and separation vessels shall be controlled to at least 98% manufacturer-designed VOC destruction efficiency by January 1, 2017.

(B) Storage tanks that are on site for use during emergency or upset conditions are not subject to the control requirements in this Subsection.

(C) Emergency, open-top, and/or blowdown tanks shall not be used as active storage tanks but may be used for temporary storage.

(I) Emergency tanks shall only be utilized for unavoidable equipment malfunctions as defined in Chapter 1, Section 5 of the WAQSR.

(II) If emergency, open-top, and/or blowdown tanks are utilized, they must be emptied within seven calendar days after the liquid volume reaches 100 barrels, or in no event less frequently than once every 90 calendar days.

(III) All tanks subject to this Subsection must have a liquid level gauge, or equivalent device, in place by January 1, 2017.

(D) Control Removal. The removal of flashing emissions control devices will be allowed pursuant to the requirements in Subparagraph (h)(iii)(E)**,** after one year from the date of installation if uncontrolled VOC flashing emissions have declined to less than, and will remain below 4 tpy.

(ii) Calculation for Flashing Emissions.

(A) Determine the average daily condensate/oil production for the previous 12 calendar months in barrels per day (bpd).

(B) Use any generally accepted model in accordance with 40 CFR Part 60, Subpart OOOO or direct measurement of tank emissions to determine uncontrolled VOC emissions.

(C) Model input shall consist of:

(I) A site-specific analysis of liquids, or composite extended hydrocarbon analysis of liquids, taken from the pressurized, upstream separation equipment under normal operating conditions;

(II) Average daily condensate/oil production rate as determined in Subparagraph (c)(ii)(A) of these regulations;

(III) Site-specific or composite extended hydrocarbon analyses will be no older than three years from date of flashing emissions calculation including;

(1.) The average, actual equipment operational parameters, including separator temperature and pressure; and

(2.) American Petroleum Institute (API) gravity and Reid vapor pressure (RVP) of sales oil.

(d) Dehydration Units at Existing PAD and Single-Well Facilities or Sources as of January 1, 2014.

(i) VOC emissions released from all existing dehydration units are subject to these regulations.

(A) For total uncontrolled VOC emissions from all dehydration units that are greater than or equal to 4 tpy, VOC emissions from all dehydration units shall be controlled to at least 98% manufacturer-designed VOC destruction efficiency and equipped with reboiler still vent condensers by January 1, 2017.

(B) Control Removal. The removal of combustion units used to achieve the 98% manufacturer-designed VOC destruction efficiency will be allowed pursuant to the requirements in Subparagraph (h)(iii)(E), after one (1) year from the date of installation if total uncontrolled VOC emissions from all dehydration units are less than, and will remain below 4 tpy, and all dehydration units are equipped with reboiler still vent condensers.

(ii) Calculation for Dehydration Units.

(A) Determine the average daily gas production rate for the previous 12 calendar months in million cubic feet per day (MMCFD).

(B) Use the model GRI-GLYCalc, Version 4.0 or higher, and the annualized average daily production rate to determine annualized uncontrolled VOC emissions from the dehydration unit process vents. Process vents include reboiler still vents and glycol flash separators.

(C) Model input shall consist of:

(I) A site-specific wet gas analysis or composite extended hydrocarbon analysis of wet gas taken upstream of the contact tower under normal operating conditions;

(II) Average daily gas production rate as determined in Subparagraph (d)(ii)(A) of these regulations; and

(III) Site-specific or composite extended hydrocarbon analyses shall be no older than three years from date of the dehydration unit calculation including;

(1.) The average, actual equipment operational parameters, including wet gas temperature and pressure, dry gas water content, glycol flash separator temperature and pressure, stripping gas source and rate; and

(2.) The maximum lean glycol circulation rate in gallons per minute (gpm) for the glycol circulation pump in use.

(e) Existing Pneumatic Pumps at PAD and Single-Well Facilities or Sources as of January 1, 2014. VOC emissions associated with the discharge streams of all natural gas-operated pneumatic pumps shall be controlled to at least 98% manufacturer-designed VOC destruction efficiency, or the pump discharge streams shall be routed into a sales line, collection line, fuel supply line, other closed loop system, or replaced with solar, electric, or air driven pumps by January 1, 2017.

(f) Existing Pneumatic Controllers at PAD and Single-Well Facilities or Sources as of January 1, 2014. Natural gas-operated pneumatic controllers shall be low (less than 6 standard cubic feet per hour (scfh)) or zero bleed controllers or the controller discharge streams shall be routed into a sales line, collection line, fuel supply line, or other closed loop system by January 1, 2017.

(g) Fugitive Emissions.

(i) For PAD and single-well facilities or sources, and compressor stations, in existence prior to January 1, 2014, with fugitive emissions greater than or equal to 4 tpy of VOCs, including HAP components, operators shall develop and implement a Leak Detection and Repair (LDAR) Protocol by January 1, 2017.

(A) The LDAR Protocol inspection monitoring schedule shall be no less frequent than quarterly; and

(B) Shall include a leak repair schedule; and

(C) Each quarterly inspection shall consist of some combination of 40 CFR part 60, Appendix A, Method 21, an optical gas imaging instrument, other instrument-based technologies, or audio-visual-olfactory (AVO) inspections.

(D) An LDAR Protocol consisting of only AVO inspections will not satisfy the requirements of this Subsection.

(ii) Calculation for Fugitive Emissions.

(A) Fugitive emissions shall be estimated using Table 2-4 from EPA-453/R-95-017, Protocol for Equipment Leak Emission Estimates, and the owner(s) or operator(s) facility component count.

(I) PAD and single-well facility or source component counts shall be determined by actual field count, or a representative component count from the same geographical area, taken from no less than 100 wells located at a PAD or single-well facility.

(II) Compressor station component counts shall be determined by actual field count.

(III) Emission factors in the Protocol for Equipment Leak Emission Estimates are not intended to be used to represent emissions from components that are improperly designed or equipment not maintained properly.

(B) Site-specific speciated hydrocarbon emission rates can be estimated by multiplying the total hydrocarbon emission rate, estimated in Subparagraph (g)(ii)(A) above, by measured VOC and HAP weight fractions.

(h) Monitoring, Recordkeeping, and Reporting.

(i) Monitoring. The owner(s) or operator(s) of each PAD and single-well facility or source, or compressor station, shall comply with all applicable monitoring requirements as specified by this Paragraph.

(A) Operation of a combustion device used to control emissions shall be continually monitored using any device(s) that sense and record a parameter(s) that indicates whether the combustion device is functioning to achieve the 98% manufacturer-designed VOC destruction efficiency requirements as specified by these regulations.

(I) The combustion device shall be designed, constructed, operated, and maintained to be smokeless, to satisfy the requirements of Chapter 3, Section 6(b)(i) of the WAQSR.

(II) Visible emissions shall not exceed a total of five minutes during any two consecutive hours as determined by 40 CFR Part 60, Appendix A, Method 22.

(B) All emission control devices and equipment used to reduce VOC emissions at any PAD and single-well facility or source shall be operated and maintained pursuant to manufacturer specifications or equivalent, and consistent with good engineering and maintenance practices.

(C) Owner(s) or operator(s) shall conduct a quarterly site evaluation of control equipment, systems, and devices that include, but are not limited to, combustion units, reboiler overheads condensers, storage tanks, drip tanks, vent lines, connectors, fittings, valves, relief valves, hatches, and any other appurtenance employed to, or involved with, eliminating,

reducing, containing or collecting vapors and routing them to an emission control system or device.

(I) At least one of the quarterly evaluations per calendar year shall consist of 40 CFR Part 60, Appendix A, Method 21, an optical gas imaging instrument, or other instrument-based technologies.

(II) Owner(s) or operator(s) required to implement an LDAR Protocol have satisfied the requirements of Subparagraph (C) above.

(ii) Recordkeeping. The owner(s) or operator(s) of each PAD and single-well facility or source, or compressor station, shall comply with all applicable recordkeeping requirements as specified by this Paragraph. Records shall be maintained for a period of five years and made available to the Division upon request.

(A) All emission control devices and equipment are adequately designed and sized to achieve the control efficiency required by these regulations and to accommodate fluctuations in emissions.

(B) Owner(s) or operator(s) shall maintain the following records for each combustion device:

(I) Manufacturer-designed VOC destruction efficiency.

(II) Records of the parameter monitoring during active site operation under Subparagraph (h)(i)(A) including;

(1.) A description of the reason(s) for the absence of the monitored parameter;

(2.) The steps taken to return the combustion device back to the 98% manufacturer-designed VOC destruction efficiency; and

(3.) Date and duration of periods when the combustion device and/or the associated containment and collection equipment is not functioning to achieve the 98% manufacturer-designed VOC destruction efficiency.

(III) Date and duration of visible emissions from the combustion device.

(C) Owner(s) or operator(s) shall record and maintain records for fugitive emissions pursuant to Subsection (g) of these regulations. These records shall include the dates and results of all LDAR inspections performed pursuant to the LDAR Protocol for a PAD and single-well facility or source, or compressor station, including the date(s) and type of corrective action taken as a result of the required inspections.

(D) Records of the date, duration, and reason for emergency and/or blowdown tank usage, shall be maintained pursuant to Subparagraph (c)(i)(C) of these regulations.

(E) Owners or operators that utilize emergency, open-top, and/or blowdown tanks pursuant to Subsection (c) shall record and maintain monthly records for volume stored in tanks, volume removed from tanks, and the date when the removal of liquid occurred.

(iii) Reporting. The owner(s) or operator(s) of each PAD and single-well facility or source, or compressor station, shall comply with all applicable reporting requirements as specified by this Subsection.

(A) The owner(s) or operator(s) shall provide the name and location of the PAD and single-well facility or source, or compressor station, anticipated to require the installation of a combustion device, replacement of equipment, or implementation of an LDAR Protocol, if applicable, by January 1, 2016.

(B) Installation Notification of Control Device(s) and Associated Equipment (including pneumatic pumps). Owner(s) or operator(s) of each PAD and single-well facility or source subject to the requirements of these regulations shall submit a report to the Division 30 days after the end of each calendar quarter, beginning January 1, 2016, containing the following, if applicable:

(I) The number of pollution control devices or equipment installed;

(II) Pollution control installation date, type of control, and equipment controlled;

(III) Name and location of the PAD and/or single-well facility or source where controls are installed.

(C) Installation Notification of Pneumatic Controller(s). Owner(s) or operator(s) of each PAD and single-well facility or source subject to the requirements of these regulations shall submit a report to the Division 30 days after the end of each calendar quarter, beginning January 1, 2016, containing the following, if applicable:

(I) The number and type of pneumatic controllers installed and date of installation; and

(II) Name and location of the PAD and/or single-well facility or source where pneumatic controllers are installed.

(D) The final, quarterly notification of installation required under Subsections (B) and (C) above, shall be submitted no later than January 31, 2017, if applicable.

(E) Removal Notification of Control Device(s). The owner(s) or operator(s) of each PAD and single-well facility or source subject to the requirements of these regulations shall submit a demonstration to the Division for approval prior to removal of any pollution control device. This demonstration shall contain at a minimum:

(I) The average daily condensate/oil or gas production rate for the previous 12 calendar months;

(II) Emissions as determined by utilizing paragraph (I) above, and the calculation for flashing emissions in Paragraph (c)(ii), and/or the calculation for dehydration units in Paragraph (d)(ii) of these regulations;

(III) Any additional supporting data used to calculate emissions, including but not limited to, a site specific or composite extended hydrocarbon analysis no older than three years from the proposed removal date; and

(IV) Name and location of the PAD and/or single-well facility or source where controls are proposed for removal.

(F) Any PAD and single-well facility or source, or compressor station, subject to requirements of Subsection (g) of these regulations shall submit, for Division review and approval, the LDAR Protocol prior to implementation of the Protocol.

(G) All report and notification submissions shall be certified as being true, accurate, and complete by a responsible official to the best of their knowledge. A responsible official is an individual who is responsible for the information provided in the reports and notifications, and who accepts responsibility for the reports and notifications.

(H) The owner(s) or operator(s) shall submit notifications or reports as required in this Subsection to the Division electronically through https://airimpact.wyo.gov or by hard copy to the Cheyenne Office and Lander Field Office. Contact information for the Cheyenne and Lander offices is located at: http://deq.wyoming.gov/.

(i) Compliance. Compliance with Chapter 8, Section 6 of the WAQSR, does not relieve any owner(s) or operator(s) of a PAD and single-well facility or source, or compressor station, from the responsibility to comply with any other applicable requirements set forth in any federal or State law, rule or regulation, or in any permit.

Section 7. [Reserved.]

Section 8. [Reserved.]

Section 9. [Reserved.]

Section 10. Incorporation by Reference.

(a) Code of Federal Regulations (CFR). All Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices, revised and published as of July 1, 2026, not including any later amendments, are incorporated by reference. Copies of the CFR are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: https://deq.wyoming.gov/. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at https://ecfr.gov.

Chapter 11
National Acid Rain Program

Section 1. Introduction to National Acid Rain Program.

(a) Chapter 11 sets forth requirements established in Title IV of the 1990 Clean Air Act Amendments. The national acid rain program is a program to reduce sulfur dioxide and nitrogen oxide emissions through a federally implemented, market-based approach for controlling air pollution.

Section 2. Acid Rain Program.

(a) General: The U.S. Environmental Protection Agency regulations on Acid Rain designated in Chapter 11, Section 2(b) are incorporated by reference into these regulations.

(b) Acid Rain Program Regulations: The following Acid Rain Program Regulations found in 40 CFR Parts 72 - 78, revised and published as of July 1, 2026, not including any later amendments, are adopted and incorporated by reference. Copies of Acid Rain Program Regulations are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: https://deq.wyoming.gov/. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at https://ecfr.gov.

40 CFR Part 72 -	Permits Program
40 CFR Part 73 -	Allowance System
40 CFR Part 74 -	Opting into the Acid Rain Program
40 CFR Part 75 -	Continuous Emission Monitoring
40 CFR Part 76 -	Acid Rain Nitrogen Oxide Emission Reduction Program
40 CFR Part 77 -	Excess Emissions
40 CFR Part 78 -	Appeal Procedures for Acid Rain

Chapter 14
Emission Trading Program Regulations

Section 1. Introduction to Emission Trading Programs.

(a) Chapter 14 establishes requirements for trading programs authorized under Wyoming Statute § 35-11-214. Section 2 implements the Western Backstop (WEB) Sulfur Dioxide Trading Program provisions in accordance with the federal Regional Haze Rule, 40 CFR Part 51.309. Section 3 establishes consistent recordkeeping and reporting requirements for stationary sources in Wyoming to determine whether sulfur dioxide emissions remain below the sulfur dioxide milestones established in the state implementation plan for regional haze. Section 4 is reserved. Section 5 incorporates by reference all Code of Federal Regulations (CFRs), including their Appendices, cited in this Chapter, unless portions of said CFRs are specifically excluded.

Section 2. Western Backstop Sulfur Dioxide Trading Program.

(a) Definitions. The following additional definitions apply to Section 2 of this chapter.

"Account Representative" means the individual who is authorized through a Certificate to represent owners and operators of the WEB source with regard to matters under the WEB Trading Program or, for a general account, who is authorized through a Certificate to represent the persons having an ownership interest in allowances in the general account with regard to matters concerning the general account.

"Act" means the federal Clean Air Act, as amended 42 U.S.C. 7401, *et seq*.

"Actual Emissions" means total annual sulfur dioxide emissions determined in accordance with Section 2(h) of this chapter or determined in accordance with Section 3 of this chapter for sources that are not subject to Section 2(h) of this chapter.

"Allocate" means to assign allowances to a WEB source in accordance with Part C1 of Section C of the Wyoming Regional Haze SIP (WYRHSIP).

"Allowance" means the limited authorization under the WEB Trading Program to emit one ton of sulfur dioxide during a specified control period or any control period thereafter subject to the terms and conditions for use of unused allowances as established by Section 2 of this chapter.

"Allowance limitation" means the tonnage of sulfur dioxide emissions authorized by the allowances available for compliance deduction for a WEB source under Section 2(k) of this chapter on the allowance transfer deadline for each control period.

"Allowance Tracking System" means the system where allowances under the WEB Trading Program are recorded, held, transferred and deducted.

"Allowance Tracking System account" means an account in the Allowance Tracking System established for purposes of recording, holding, transferring, and deducting allowances.

"Allowance transfer deadline" means the deadline established in Section 2(i)(ii) of this chapter when allowances must be submitted for recording in a WEB source's compliance account in order to demonstrate compliance for that control period.

"Best Available Retrofit Technology (BART)" means that emission reduction control device, facility, method, or system, used to achieve the best continuous emission reduction for each pollutant emitted by an existing stationary facility. The emission limitation shall be established on a case-by-case basis taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

"Certificate" means the completed and signed submission required to designate an account representative for a WEB source or an account representative for a general account.

"Compliance account" means an account established in the Allowance Tracking System under Section 2(g)(i) of this chapter for the purpose of recording allowances that a WEB source might hold to demonstrate compliance with its allowance limitation.

"Compliance certification" means a submission to the Wyoming Department of Environmental Quality (Department) by the account representative as required under Section 2(k)(ii) of this chapter to report a WEB source's compliance or noncompliance with Chapter 14, Section 2.

"Control period" means the period beginning January 1 of each year and ending on December 31 of the same year, inclusive.

"Emissions tracking database" means the central database where sulfur dioxide emissions for WEB sources as recorded and reported in accordance with Section 2 of this chapter are tracked to determine compliance with allowance limitations.

"Emission unit" means any part of a stationary source that emits or would have the potential to emit any pollutant subject to regulations under the Act.

"Existing source" means a stationary source that commenced operation before the program trigger date.

"General account" means an account established in the Allowance Tracking System under Section 2(g) of this chapter for the purpose of recording allowances held by a person that are not to be used to show compliance with an allowance limitation.

"Milestone" means the maximum level of stationary source regional sulfur dioxide emissions for each year from 2003 to 2018, established according to the procedures in Part A1 of Section C of the WYRHSIP.

"New WEB Source" means a WEB source that commenced operation on or after the program trigger date.

"New Source Set-aside" means a pool of allowances that are available for allocation to new sources in accordance with the provisions of Part C1.3 of Section C of the WYRHSIP.

"Owner or Operator" means any person who is an owner or who operates, controls or supervises a WEB source, and includes but is not limited to any holding company, utility system or plant manager.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation is enforceable by the EPA Administrator.

"Program trigger date" means the date that the Department determines that the WEB Trading Program has been triggered in accordance with the provisions of Part A3 of Section C of the WYRHSIP.

"Program trigger years" means the years shown in Part A1 of Section C of the WYRHSIP, Table 1, column 3 for the applicable milestone if the WEB Trading Program is triggered as described in Part A3 of Section C of the WYRHSIP.

"Renewable Energy Resource" means a resource that generates electricity by non-nuclear and non-fossil technologies that results in low or no air emissions. The term includes electricity generated by wind energy technologies; solar photovoltaic and solar thermal technologies; geothermal technologies; technologies based on landfill gas and biomass sources, and new low-impact hydropower that meets the Low-Impact Hydropower Institute criteria. Biomass includes agricultural, food and wood wastes. The term does not include pumped storage or biomass from municipal solid waste, black liquor, or treated wood.

"Retired source" means a WEB source that has received a retired source exemption as provided in Section 2(c)(iv) of this chapter. Any retired source resuming operations under Section 2(c)(iv) of this chapter, must submit its exemption as part of its registration materials.

"Serial number" means, when referring to allowances, the unique identification number assigned to each allowance by the TSA, in accordance with Section 2(f)(ii) of this chapter.

"Special Reserve Compliance Account" means an account established in the allowance tracking system under Section 2(g)(i) for the purpose of recording allowances that a WEB source

might hold to demonstrate compliance with its allowance limitation for emission units that are monitored for SO_2 in accordance with Section 2(h)(i)(B).

"Stationary source" means any building, structure, facility or installation that emits or may emit any air pollutant subject to regulation under the Act.

"Submit" means sent to the appropriate authority under the signature of the account representative. For purposes of determining when something is submitted, an official U.S. Postal Service postmark, or equivalent electronic time stamp, shall establish the date of submittal.

"Sulfur dioxide emitting unit" means any equipment that is located at a WEB source and that emits sulfur dioxide.

"Ton" means 2000 pounds and any fraction of a ton equaling 1000 pounds or more shall be treated as one ton and any fraction of a ton equaling less than 1000 pounds shall be treated as zero tons.

"Tracking System Administrator (TSA)" means the person designated by the Department as the administrator of the Allowance Tracking System and the emission tracking database.

"WEB source" means a stationary Western Backstop (WEB) source that meets the applicability requirements of Section 2(c) of this chapter.

"WEB Trading Program" means Section 2 of this chapter, triggered as a backstop in accordance with the provisions in Part A3 of Section C of the WYRHSIP, if necessary, to ensure that regional sulfur dioxide emissions are reduced.

"WYRHSIP" means the Wyoming Regional Haze State Implementation Plan.

(b) WEB Trading Program Trigger.

(i) Except as provided in (ii), the provisions of Section 2 of this chapter shall apply on the program trigger date that is established in accordance with the procedures in Part A3 of Section C of the WYRHSIP.

(ii) Special Penalty Provisions for 2018 Milestone, Section 2(l) of this chapter, shall apply on January 1, 2018 and shall remain effective until the provisions of Section 2(l) of this chapter have been fully implemented.

(c) WEB Trading Program Applicability.

(i) General Applicability. Section 2 of this Chapter applies to any stationary source or group of stationary sources that are located on one or more contiguous or adjacent properties and which are under the control of the same person or persons under common control, belonging to the same industrial grouping, and that are described in paragraphs (A) and (B) of

this subsection. A stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(A) All stationary sources that have actual sulfur dioxide emissions of 100 tons or more per year in the Program Trigger Years or any subsequent year. The fugitive emissions of a stationary source shall not be considered in determining whether it is subject to Section 2 of this chapter unless the source belongs to one of the following categories of stationary source:

(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 of more than 250 million British thermal units per hour heat input; or

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

(B) A new source that begins operation after the program trigger date and has the potential to emit 100 tons or more of sulfur dioxide per year.

(ii) The Department may determine on a case-by-case basis, with concurrence from the EPA Administrator, that a stationary source defined in 2(c)(i)(A) above that has not previously met the applicability requirements of (i) is not subject to Section 2 of this chapter if the stationary source had actual sulfur dioxide emissions of 100 tons or more in a single year and in each of the previous five years had actual sulfur dioxide emissions of less than 100 tons per year, and:

(A) (I) The emissions increase was due to a temporary emission increase that was caused by a sudden, infrequent failure of air pollution control equipment, or process equipment, or a failure to operate in a normal or usual manner, and

(II) The stationary source has corrected the failure of air pollution equipment, process equipment, or process by the time of the Department's determination; or

(B) The stationary source had to switch fuels or feedstocks on a temporary basis and as a result of an emergency situation or unique and unusual circumstances besides the cost of such fuels or feedstocks.

(iii) Duration of Applicability. Except as provided for in Section 2(c)(iv) of

this chapter, once a stationary source is subject to Section 2 of this chapter, it will remain subject to it every year thereafter.

(iv) Retired Source Exemption.

(A) Application. Any WEB source that is permanently retired shall apply for a retired source exemption. The WEB source may only be considered permanently retired if all sulfur dioxide emitting units at the source are permanently retired. The application shall contain the following information:

(I) Identification of the WEB source, including plant name and an appropriate identification code in a format specified by the Department.

(II) Name of Account Representative.

(III) Description of the status of the WEB source, including the date that the WEB source was permanently retired.

(IV) Signed certification that the WEB source is permanently retired and will comply with the requirements of Section 2(c)(iv) of this chapter.

(V) Verification that the WEB source has a general account where any unused allowances or future allocations will be recorded.

(B) Notice. The retired source exemption becomes effective when the Department notifies the WEB source that the retired source exemption has been granted.

(C) Responsibilities of Retired Sources.

(I) A retired source shall be exempt from Section 2(h) and Section 2(k) of this chapter, except as provided below.

(II) A retired source shall not emit any sulfur dioxide after the date the retired source exemption is issued.

(III) A WEB source shall submit sulfur dioxide emissions reports, as required by Section 2(h)(viii) of this chapter for any time period the source was operating prior to the effective date of the retired source exemption. The retired source shall be subject to the compliance provisions of Section 2(k) of this chapter, including the requirement to hold allowances in the source's compliance account to cover all sulfur dioxide emissions prior to the date the source was permanently retired.

(IV) A retired source that is still in existence but no longer emitting sulfur dioxide shall, for a period of five years from the date the records are created, retain records demonstrating the effective date of the retired source exemption for purposes of Section 2 of this chapter.

(D) Resumption of Operations.

(I) Should a retired source desire to resume operation, the retired source must submit registration materials as follows:

(1.) If the source is required to obtain a construction permit under Wyoming Air Quality Regulations and Standards (WAQSR) Chapter 6, Section 2 or an operating permit under WAQSR Chapter 6, Section 3 prior to resuming operation, then registration information as described in Section 2(e)(i) of this chapter and a copy of the retired source exemption must be submitted with the notice of intent under WAQSR Chapter 6, Section 2 or the operating permit application required under WAQSR Chapter 6, Section 3;

(2.) If the source does not meet the criteria of (1.), then registration information as described in Section 2(e)(i) of this chapter and a copy of the retired source exemption must be submitted to the Department at least 90 days prior to resumption of operation.

(II) The retired source exemption shall automatically expire on the day the retired source resumes operation.

(E) Loss of Future Allowances. A WEB source that is permanently retired and that does not apply to the Department for a retired source exemption within 90 days of the date that the source is permanently retired shall forfeit any unused and future allowances. The abandoned allowances shall be retired directly by the TSA.

(d) Account Representative for WEB Sources.

(i) Each WEB source must identify one account representative and may also identify an alternate account representative who may act on behalf of the account representative. Any representation, action, inaction or submission by the alternate account representative will be deemed to be a representation, action, inaction or submission by the account representative.

(ii) Identification and Certification of an Account Representative.

(A) The account representative and any alternate account representative shall be appointed by an agreement that makes the representations, actions, inactions or submissions of the account representative and any alternate binding on the owners and operators of the WEB source.

(B) The account representative shall submit to the Department and the TSA a signed and dated Certificate that contains the following elements:

(I) Identification of the WEB source by plant name, state and an appropriate identification code in a format specified by the Department;

(II) The name, address, e-mail (if available), telephone and facsimile number of the account representative and any alternate;

(III) A list of owners and operators of the WEB source;

(IV) Information to be part of the emission tracking system database in accordance with Part A2.1 of Section C of the WYRHSIP. The specific data elements shall be as specified by the State of Wyoming to be consistent with the data system structure, and may include basic facility information that may appear in other reports and notices submitted by the WEB source, such as county location, industrial classification codes, and similar general facility information.

(V) The following certification statement: "I certify that I was selected as the account representative or alternate account representative, as applicable, by an agreement binding on the owners and operators of the WEB source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB Trading Program on behalf of the owners and operators of the WEB source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Department regarding the WEB Trading Program."

(C) Upon receipt by the Department of the completed certificate, the account representative and any alternate account representative represents and, by his or her representations, actions, inactions, or submissions, legally binds each owner and operator of the WEB source in all matters pertaining to the WEB Trading Program. The owners and operators shall be bound by any decision or order issued by the Department regarding the WEB Trading Program.

(D) No WEB Allowance Tracking System account shall be established for the WEB source until the TSA has received a complete certificate. Once the account is established, the account representative shall make all submissions concerning the account, including the deduction or transfer of allowances.

(iii) Responsibilities.

(A) The responsibilities of the account representative include, but are not limited to, the transferring of allowances and the submission of monitoring plans, registrations, certification applications, sulfur dioxide emissions data and compliance reports as required by Section 2 of this chapter, and representing the source in all matters pertaining to the WEB Trading Program.

(B) Each submission under this program shall be signed and certified by the account representative for the WEB source. Each submission shall include the following truth and accuracy certification statement by the account representative:

(I) "I am authorized to make this submission on behalf of the owners and operators of the WEB source for which the submission is made. I certify under

penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(iv) Changing the Account Representative or Owners and Operators.

(A) Changes to the Account Representative or the alternate Account Representative.

The account representative or alternate account representative may be changed at any time by sending a complete superseding certificate to the Department and the TSA under Section 2(d)(ii) of this chapter, with the change taking effect upon receipt of such certificate by the TSA. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous account representative or alternate prior to the time and date when the TSA receives the superseding certificate shall be binding on the new account representative and the owners and operators of the WEB source.

(B) Changes in Owners and Operators.

(I) Within 30 days of any change in the owners and operators of the WEB source, including the addition of a new owner or operator, the account representative shall submit a revised certificate amending the list of owners and operators to include such change.

(II) In the event a new owner or operator of a WEB source is not included in the list of owners and operators submitted in the certificate, such new owner or operator shall be deemed to be subject to and bound by the certificate, the representations, actions, inactions, and submissions of the account representative of the WEB source, and the decisions, orders, actions, and inactions of the Department as if the new owner or operator were included in such list.

(e) Registration.

(i) Deadlines.

(A) Each source that is a WEB source on or before the program trigger date shall register by submitting the initial certificate required in Section 2(d)(ii) of this chapter to the Department no later than 180 days after the program trigger date.

(B) Any existing source that becomes a WEB source after the program trigger date shall register by submitting the initial certificate required in Section 2(d)(ii) of this chapter to the Department by September 30 of the year following the inventory year in which the source exceeded the emission threshold.

(C) Any new WEB source shall register by submitting the initial Certificate required in Section 2(d)(ii) of this chapter to the Department prior to the commencement of operation.

(ii) Integration Into Permits.

(A) Any allocation, transfer or deduction of allowance to or from the compliance account of a WEB source shall not require revision of the WEB source's operating permit under WAQSR Chapter 6, Section 3.

(B) Any WEB source that is not required to have a permit under WAQSR Chapter 6, Section 2 at any time after Chapter 14 becomes effective must at all times possess a permit that includes the requirements of Chapter 14. If it does not possess a Title V permit under Chapter 6, Section 3, it may do so by obtaining or modifying a permit under WAQSR Chapter 6, Section 2 to incorporate the requirements of Chapter 14. The source must at all times possess a permit that includes these requirements.

(f) Allowance Allocations.

(i) The TSA will record the allowances for each WEB source in the compliance account for the WEB source once the allowances are allocated by the Department under Part C1 of Section C of the WYRHSIP. If applicable, the TSA will record a portion of the sulfur dioxide allowances for a WEB source in a special reserve compliance account to account for any allowances to be held in accordance with Section 2(h)(i)(B) of this chapter.

(ii) The TSA will assign a serial number to each allowance in accordance with Part C2 of Section C of the WYRHSIP.

(iii) All allowances shall be allocated, recorded, transferred, or used as whole allowances. To determine the number of whole allowances, the number of allowances shall be rounded down for decimals less than 0.50 and rounded up for decimals of 0.50 or greater.

(iv) An allowance is not a property right, and is a limited authorization to emit one ton of sulfur dioxide valid only for the purpose of meeting the requirements of Section 2 of this chapter. No provision of the WEB Trading Program or other law should be construed to limit the authority of the Department to terminate or limit such authorization.

(v) Early Reduction Bonus Allocation. Any non-utility WEB source that installs new control technology and that reduces its permitted annual sulfur dioxide emissions to a level that is below the floor level allocation established for that source in Part C1 of Section C of the WYRHSIP or any utility that reduces its permitted annual sulfur dioxide emissions to a level that is below best available control technology may apply to the Department for an early reduction bonus allocation. The bonus allocation shall be available for reductions that occur between 2008 and the program trigger year. The application must be submitted no later than 90 days after the program trigger date. Any WEB source that applies and receives early reduction

bonus allocations must retain the records referenced below for a minimum of five years after the early reduction bonus allowance is certified in accordance with Part C1.1(a)(3) of Section C of the WYRHSIP. The application for an early reduction bonus allocation must contain the following information:

(A) Copies of all construction permits, operating permits or other enforceable documents that include annual sulfur dioxide emissions limits for the WEB source during the period the WEB source qualifies for an early reduction credit. Such permits or enforceable documents must require monitoring for sulfur dioxide emissions that meet the requirements in Section 2(h) of this chapter.

(B) Demonstration that the floor level established for the source in accordance with Part C1.1(a)(2) of Section C of the WYRHSIP for non-utilities or best available control technology for utilities was calculated using data that are consistent with monitoring methods specified in Section 2(h)(i)(A) of this chapter. If needed, the demonstration shall include a new floor level calculation that is consistent with the monitoring methodology in Section 2(h) of this chapter.

(vi) Request for allowances for new WEB sources or modified WEB Sources.

(A) A new WEB source may apply to the Department for an allocation from the new source set-aside, as outlined in Part C1.3 of Section C of the WYRHSIP.

(I) A new WEB source is eligible for an annual floor allocation equal to the lower of the permitted annual sulfur dioxide emission limit for that source, or sulfur dioxide annual emissions calculated based on a level of control equivalent to best available control technology (BACT) and assuming 100 percent utilization of the WEB source, beginning with the first full calendar year of operation.

(B) An existing WEB source that has increased production capacity through a new construction permit issued under WAQSR Chapter 6, Section 2 may apply to the Department for an allocation from the new source set-aside, as outlined in Part C1.3 of Section C of the WYRHSIP. An existing WEB source is eligible for an annual allocation equal to:

(I) The permitted annual sulfur dioxide emission limit for a new unit; or

(II) The permitted annual sulfur dioxide emission increase for the WEB source due to the replacement of an existing unit with a new unit or the modification of an existing unit that increased production capacity of the WEB source.

(C) A source that has received a retired source exemption under Chapter 14, Section 2(c)(iv) is not eligible for an allocation from the new source set-aside.

(D) The application for an allocation from the new source set-aside must contain the following:

(I) For existing WEB sources under Section 2(f)(vi)(B)(II) of this chapter, documentation of the production capacity of the source before and after the new permit;

(II) For new WEB sources or a new unit under Section 2(f)(vi)(B)(I), documentation of the actual date of the commencement of operation and a copy of the permit issued under Chapter 6, Section 2.

(g) Establishment of Accounts.

(i) Allowance Tracking System Accounts. All WEB sources are required to open a compliance account. In addition, if a WEB source conducts monitoring under Section 2(h)(i)(B) of this chapter, the WEB source shall open a special reserve compliance account for allowances associated with units monitored under those provisions. The WEB source and account representative shall have no rights to transfer allowances in or out of such special reserve compliance account. The State of Wyoming shall allocate allowances to the account in accordance with Section 2(h)(i)(B)(V) of this chapter and all such allowances for each control period shall be retired each year for compliance in accordance with Section 2(k) of this chapter. Any person may open a general account for holding and transferring allowances. To open either type of account, an application that contains the following information shall be submitted:

(A) The name, mailing address, e-mail address, telephone number and facsimile number of the account representative. For a compliance account, include a copy of the certificate for the account representative and any alternate as required in Section 2(d)(ii)(B) of this chapter. For a general account, include the Certificate for the account representative and any alternate as required in (iii)(B).

(B) The WEB source or organization name;

(C) The type of account to be opened; and

(D) A signed certification of truth and accuracy by the account representative according to Section 2(d)(iii)(B) of this chapter for compliance accounts and for general accounts, certification of truth and accuracy by the account representative according to (iv).

(ii) Account Representative for General Accounts. For a general account, one account representative must be identified and an alternate account representative may be identified and may act on behalf of the account representative. Any representation, action, inaction or submission by the alternate account representative will be deemed to be a representation, action, inaction or submission by the account representative.

(iii) Identification and Certification of an Account Representative for General Accounts.

(A) The account representative shall be appointed by an agreement that makes the representations, actions, inactions or submissions of the account representative binding on all persons who have an ownership interest with respect to allowances held in the general account.

(B) The account representative shall submit to the Department and the TSA a signed and dated certificate that contains the following elements:

(I) The name, address, email (if available), telephone and facsimile number of the account representative and any alternate;

(II) The organization name;

(III) The following certification statement:

"I certify that I was selected as the account representative or alternate account representative, as applicable, by an agreement binding on all persons who have an ownership interest in allowances in the general account with regard to matters concerning the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB Trading Program on behalf of said persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions."

(C) Upon receipt by the Department of the complete certificate, the account representative represents and, by his or her representations, actions, inactions, or submissions, legally binds each person who has an ownership interest in allowances held in the general account with regard in all matters concerning the general account. Such persons shall be bound by any decision or order issued by the Department.

(D) No WEB Allowance Tracking System general account shall be established until the TSA has received a complete certificate. Once the account is established, the account representative shall make all submissions concerning the account, including the deduction or transfer of allowances.

(iv) Requirements and Responsibilities. Each submission for the general account shall be signed and certified by the account representative for the general account. Each submission shall include the following truth and accuracy certification statement by the account representative:

(A) "I am authorized to make this submission on behalf of all persons who have an ownership interest in allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(v) Changing the Account Representative. The account representative or alternate account representative may be changed at any time by sending a complete superseding certificate to the Department and the TSA under (iii)(B), with the change taking effect upon receipt of such certificate by the Department. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous account representative or alternate prior to the time and date when the Department receives the superseding certificate shall be binding on the new account representative and all persons having ownership interest with respect to allowances held in the general account.

(vi) Changes to the Account. Any change to the information required in the application for an existing account under (i) shall require a revision of the application.

(h) Monitoring, Recordkeeping and Reporting.

(i) General Requirements on Monitoring Methods.

(A) For each sulfur dioxide emitting unit at a WEB source the WEB source shall comply with the following, as applicable, to monitor and record sulfur dioxide mass emissions:

(I) If a unit is subject to 40 CFR Part 75 under a requirement separate from the WEB Trading Program, the unit shall meet the requirements contained in Part 75 with respect to monitoring, recording and reporting sulfur dioxide mass emissions.

(II) If a unit is not subject to 40 CFR Part 75 under a requirement separate from the WEB Trading Program, a unit shall use one of the following monitoring methods, as applicable:

(1.) A continuous emission monitoring system (CEMS) for sulfur dioxide and flow that complies with all applicable monitoring provisions in 40 CFR Part 75;

(2.) If the unit is a gas- or oil-fired combustion device, the excepted monitoring methodology in Appendix D to 40 CFR Part 75, or, if applicable, the low mass emissions (LME) provisions (with respect to sulfur dioxide mass emissions only) in 40 CFR Part 75.19;

(3.) One of the optional WEB protocols, if applicable, in Appendix A to Chapter 14; or

(4.) A petition for site-specific monitoring that the source submits for approval by the State of Wyoming and approval by the U.S. Environmental Protection Agency in accordance with Section 2(h)(ix) of this chapter (relating to petitions).

(III) A permanently retired unit shall not be required to monitor

under this Section if such unit was permanently retired and had no emissions for the entire period and the account representative certifies in accordance with Section 2(k)(ii) of this chapter that these conditions were met. In the event that a permanently retired unit recommences operation, the WEB source shall meet the requirements of this Section 2(h) in the same manner as if the unit was a new unit.

(B) Notwithstanding paragraph (A) of this section, the WEB source with a unit that meets one of the conditions of paragraph (B)(I) may submit a request to the Department to have the provisions of this paragraph (B) apply to that unit.

(I) Any of the following units may implement this paragraph (B):

(1.) Any smelting operation where all of the emissions from the operation are not ducted to a stack;

(2.) Any flare, except to the extent such flares are used as a fuel gas combustion device at a petroleum refinery; or

(3.) Any other type of unit without add-on sulfur dioxide control equipment if the unit belongs to one of the following source categories: cement kilns, pulp and paper recovery furnaces, lime kilns, or glass manufacturing.

(II) For each unit covered by this paragraph (B), the account representative shall submit a notice to request that this paragraph (B) apply to one or more sulfur dioxide emitting units at a WEB source. The notice shall be submitted in accordance with the compliance dates specified in Section 2(h)(vi)(A) of this chapter, and shall include the following information in a format specified by the State of Wyoming with such additional, related information as may be requested:

(1.) A list of all units at the WEB source that identifies which of the units are to be covered by this paragraph (B); and

(2.) An identification of any such units that are permanently retired.

(III) For each new unit at an existing WEB source for which the WEB source seeks to comply with this paragraph (B) and for which the account representative applies for an allocation under the new source set-aside provisions of Section 2(f)(vi) of this chapter, the account representative shall submit a modified notice under paragraph (B)(II) that includes such new sulfur dioxide emitting unit(s). The modified request shall be submitted in accordance with the compliance dates in Section 2(h)(vi)(A) of this chapter, but no later than the date on which a request is submitted under Section 2(f)(vi) of this chapter for allocations from the set-aside.

(IV) The account representative for a WEB source shall submit

an annual emissions statement for each unit under this paragraph (B) in accordance with Section 2(h)(viii) of this chapter. The WEB source shall maintain operating records sufficient to estimate annual emissions in a manner consistent with emission inventory submitted by the source for calendar year 1998. In addition, if the estimated emissions from all such units at the WEB source are greater than the allowances for the current control year held in the special reserve compliance account for the WEB source, the account representative shall report the excess amount as part of the annual report for the WEB source under Section 2(k) of this chapter and be required to use other allowances in the standard compliance account for the WEB source to account for such emissions, in accordance with Section 2(k) of this chapter.

(V) Section 2(h) of this chapter shall not apply to units covered by this paragraph except where otherwise noted.

(VI) A WEB source may opt to modify the monitoring for a sulfur dioxide emitting unit to use monitoring under Section 2(h)(i)(A) of this chapter, but any such monitoring change must take effect on January 1 of the next compliance year. In addition, the account representative must submit an initial monitoring plan at least 180 days prior to the date on which the new monitoring will take effect and a detailed monitoring plan in accordance with Section 2(h)(ii) of this chapter. The account representative shall also submit a revised notice under paragraph (B)(II) at the same time that the initial monitoring plan is submitted.

(C) For any monitoring that the WEB source uses under this section (including paragraph (B)), the WEB source (and, as applicable, the account representative) shall implement, certify, and use such monitoring in accordance with this section, and record and report the data from such monitoring as required in this section. In addition, the WEB source (and, as applicable, the account representative) may not:

(I) Except for an alternative approved by the EPA Administrator for a WEB source that implements monitoring under Section 2(h)(i)(A)(I) of this chapter, use an alternative monitoring system, alternative reference method or another alternative for the required monitoring method without having obtained prior written approval in accordance with Section 2(h)(ix) of this chapter (relating to petitions);

(II) Operate a sulfur dioxide emitting unit so as to discharge, or allow to be discharged, sulfur dioxide emissions to the atmosphere without accounting for these emissions in accordance with the applicable provisions of this section;

(III) Disrupt the approved monitoring method or any portion thereof, and thereby avoid monitoring and recording sulfur dioxide mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing or maintenance is performed in accordance with the applicable provisions of this section; or

(IV) Retire or permanently discontinue use of an approved monitoring method, except under one of the following circumstances:

(1.) During a period when the unit is exempt from the requirements of this Section, including retirement of a unit as addressed in Section 2(h)(i)(A)(III);

(2.) The WEB source is monitoring emissions from the unit with another certified monitoring method approved under this Section for use at the unit that provides data for the same parameter as the retired or discontinued monitoring method; or

(3.) The account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with this section, and the WEB source recertifies thereafter a replacement monitoring system in accordance with the applicable provisions of this section.

(ii) Monitoring Plan.

(A) General Provisions. A WEB source with a sulfur dioxide emitting unit that uses a monitoring method under Section 2(h)(i)(A)(II) of this chapter shall meet the following requirements:

(I) Prepare and submit to the State of Wyoming an initial monitoring plan for each monitoring method that the WEB source uses to comply with this section. In accordance with paragraph 2(h)(ii)(C) of this chapter, the plan shall contain sufficient information on the units involved, the applicable method, and the use of data derived from that method to demonstrate that all unit sulfur dioxide emissions are monitored and reported. The plan shall be submitted in accordance with the compliance deadlines specified in Section 2(h)(vi) of this chapter.

(II) Prepare, maintain and submit to the State of Wyoming a detailed monitoring plan prior to the first day of certification testing in accordance with the compliance deadline specified in Section 2(h)(vi) of this chapter. The plan will contain the applicable information required by Section 2(h)(ii)(D) of this chapter. The State of Wyoming may require that the monitoring plan (or portions thereof) be submitted electronically. The State of Wyoming also may require that the plan be submitted on an ongoing basis in electronic format as part of the quarterly report submitted under Section 2(h)(viii)(A) of this chapter or resubmitted separately after any change is made to the plan in and;

(III) Whenever the WEB source makes a replacement, modification, or change in one of the systems or methodologies provided for in Section 2(h)(i)(A)(II) of this chapter, including a change in the automated data acquisition and handling system or in the flue gas handling system, that affects information reported in the monitoring plan (e.g., a change to serial number for a component of a monitoring system), then the WEB source shall update the monitoring plan in accordance with the compliance deadline specified in Section 2(h)(vi) of this chapter.

(B) A WEB source with a sulfur dioxide emitting unit that uses a method under Section 2(h)(i)(A)(I) of this chapter (a unit subject to 40 CFR Part 75 under a

program other than this WEB Trading Program) shall meet the requirements of Section 2(h)(ii)(A)-(F) by preparing, maintaining and submitting a monitoring plan in accordance with the requirements of 40 CFR Part 75. If requested, the WEB source also shall submit the entire monitoring plan to the State of Wyoming.

(C) Initial Monitoring Plan. The account representative shall submit an initial monitoring plan for each sulfur dioxide emitting unit (or group of units sharing a common methodology) that, except as otherwise specified in an applicable provision in Appendix A of this chapter, contains the following information:

(I) For all sulfur dioxide emitting units:

(1.) Plant name and location;

(2.) Plant and unit identification numbers assigned by the State of Wyoming;

(3.) Type of unit (or units for a group of units using a common monitoring methodology);

(4.) Identification of all stacks or pipes associated with the monitoring plan;

(5.) Types of fuel(s) fired (or sulfur containing process materials used in the sulfur dioxide emitting unit), and the fuel classification of the unit if combusting more than one type of fuel and using a 40 CFR Part 75 methodology;

(6.) Type(s) of emissions controls for sulfur dioxide installed or to be installed, including specifications of whether such controls are pre-combustion, post-combustion, or integral to the combustion process;

(7.) Maximum hourly heat input capacity, or process throughput capacity, if applicable;

(8.) Identification of all units using a common stack; and

(9.) Indicator of whether any stack identified in the plan is a bypass stack.

(II) For each unit and parameter required to be monitored, identification of monitoring methodology information, consisting of monitoring methodology, monitor locations, substitute data approach for the methodology, and general identification of quality assurance procedures. If the proposed methodology is a site-specific methodology submitted pursuant to Section 2(h)(i)(A)(II)(4.) of this chapter, the description under this paragraph shall describe fully all aspects of the monitoring equipment, installation locations,

operating characteristics, certification testing, ongoing quality assurance and maintenance procedures, and substitute data procedures.

(III) If the WEB source intends to petition for a change to any specific monitoring requirement otherwise required under this section, such petition may be submitted as part of the initial monitoring plan.

(IV) The State of Wyoming may issue a notice of approval or disapproval of the initial monitoring plan based on the compliance of the proposed methodology with the requirements for monitoring in this section.

(D) Detailed Monitoring Plan. The account representative shall submit a detailed monitoring plan that, except as otherwise specified in an applicable provision in Appendix A of this chapter, shall contain the following information:

(I) Identification and description of each monitoring component (including each monitor and its identifiable components, such as analyzer or probe) in a CEMS (e.g., sulfur dioxide pollutant concentration monitor, flow monitor, moisture monitor), a 40 CFR Part 75, Appendix D monitoring system (e.g., fuel flowmeter, data acquisition and handling system), or a protocol in Appendix A of this chapter, including:

(1.) Manufacturer, model number and serial number;

(2.) Component or system identification code assigned by the facility to each identifiable monitoring component, such as the analyzer or probe;

(3.) Designation of the component type and method of sample acquisition or operation (e.g., in situ pollutant concentration monitor or thermal flow monitor);

(4.) Designation of the system as a primary or backup system;

(5.) First and last dates the system reported data;

(6.) Status of the monitoring component; and

(7.) Parameter monitored.

(II) Identification and description of all major hardware and software components of the automated data acquisition and handling system, including:

(1.) Hardware components that perform emission calculations or store data for quarterly reporting purposes (provide the manufacturer and model number); and

(2.) Software components (provide the identification of the provider and model or version number).

(III) Explicit formulas for each measured emissions parameter, using component or system identification codes for the monitoring system used to measure the parameter that links the system observations with the reported concentrations and mass emissions. The formulas must contain all constants and factors required to derive mass emissions from component or system code observations and an indication of whether the formula is being added, corrected, deleted, or is unchanged. The WEB source with a low mass emissions unit for which the WEB source is using the optional low mass emissions excepted methodology in Section 75.19(c) of 40 CFR Part 75 is not required to report such formulas.

(IV) Inside cross-sectional area (ft^2) at flow monitoring location (for units with flow monitors only).

(V) If using CEMS for sulfur dioxide and flow, for each parameter monitored: scale, maximum potential concentration (and method of calculation), maximum expected concentration (if applicable) (and method of calculation), maximum potential flow rate (and method of calculations), span value, full-scale range, daily calibration units of measure, span effective date and hour, span inactivation date and hour, indication of whether dual spans are required, default high range value, flow rate span, and flow rate span value and full scale value (in standard cubic feet per hour) for each unit or stack using sulfur dioxide or flow component monitors.

(VI) If the monitoring system or excepted methodology provides for use of a constant, assumed, or default value for a parameter under specific circumstances, then include the following information for each value of such parameter:

(1.) Identification of the parameter;

(2.) Default, maximum, minimum, or constant value, and units of measure for the value;

(3.) Purpose of the value;

(4.) Indicator of use during controlled or uncontrolled hours;

(5.) Types of fuel;

(6.) Source of the value;

(7.) Value effective date and hour;

(8.) Date and hour value is no longer effective (if applicable); and

(9.) For units using the excepted methodology under section 75.19 of 40 CFR Part 75, the applicable sulfur dioxide emission factor.

(VII) Unless otherwise specified in Section 6.5.2.1 of Appendix A to 40 CFR Part 75, for each unit or common stack on which hardware CEMS are installed:

(1.) The upper and lower boundaries of the range of operation (as defined in Section 6.5.2.1 of Appendix A to 40 CFR Part 75), or thousand pounds per hour (lb/hr) of steam, or feet per second (ft/sec) (as applicable);

(2.) The load or operating level(s) designated as normal in Section 6.5.2.1 of Appendix A to 40 CFR Part 75, or thousands of lb/hr of steam, or ft/sec (as applicable);

(3.) The two load or operating levels (i.e., low, mid, or high) identified in Section 6.5.2.1 of Appendix A to 40 CFR Part 75 as the most frequently used;

(4.) The date of the data analysis used to determine the normal load (or operating) level(s) and the two most frequently-used load (or operating) levels; and

(5.) Activation and deactivation dates when the normal load or operating level(s) change and are updated.

(VIII) For each unit that is complying with 40 CFR Part 75 for which the optional fuel flow-to-load test in Section 2.1.7 of Appendix D to 40 CFR Part 75 is used:

(1.) The upper and lower boundaries of the range of operation (as defined in Section 6.5.2.1 of Appendix A to 40 CFR Part 75), expressed in thousands of lb/hr of steam;

(2.) The load level designated as normal, pursuant to Section 6.5.2.1 of Appendix A to 40 CFR Part 75, expressed in thousands of lb/hr of steam; and

(3.) The date of the load analysis used to determine the normal load level.

(IX) Information related to quality assurance testing, including (as applicable): identification of the test strategy; protocol for the relative accuracy test audit; other relevant test information; calibration gas levels (percent of span) for the calibration error test and linearity check; calculations for determining maximum potential concentration, maximum expected concentration (if applicable), maximum potential flow rate, and span;

(X) If applicable, apportionment strategies under sections 75.10

through 75.18 of 40 CFR Part 75.

(XI) Description of site locations for each monitoring component in a monitoring system, including schematic diagrams and engineering drawings and any other documentation that demonstrates each monitor location meets the appropriate siting criteria. For units monitored by a continuous emission monitoring system, diagrams shall include:

(1.) A schematic diagram identifying entire gas handling system from unit to stack for all units, using identification numbers for units, monitor components, and stacks corresponding to the identification numbers provided in the initial monitoring plan and paragraphs (D)(I) and (III). The schematic diagram must depict the height of any monitor locations. Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common stack.

(2.) Stack and duct engineering diagrams showing the dimensions and locations of fans, turning vanes, air preheaters, monitor components, probes, reference method sampling ports, and other equipment that affects the monitoring system location, performance, or quality control checks.

(XII) A data flow diagram denoting the complete information handling path from output signals of CEMS components to final reports.

(E) In addition to supplying the information in paragraphs (C) and (D) above, the WEB source with a sulfur dioxide emitting unit using either of the methodologies in paragraph (h)(i)(A)(II)(2.) of this section shall include the following information in its monitoring plan for the specific situations described:

(I) For each gas-fired or oil-fired sulfur dioxide emitting unit for which the WEB source uses the optional protocol in Appendix D to 40 CFR Part 75 for sulfur dioxide mass emissions, the WEB source shall include the following information in the monitoring plan:

(1.) Parameter monitored;

(2.) Type of fuel measured, maximum fuel flow rate, units of measure, and basis of maximum fuel flow rate (i.e., upper range value or unit maximum) for each fuel flowmeter;

(3.) Test method used to check the accuracy of each fuel flowmeter;

(4.) Submission status of the data;

(5.) Monitoring system identification code;

(6.) The method used to demonstrate that the unit qualifies for monthly gross calorific value (GCV) sampling or for daily or annual fuel sampling for sulfur content, as applicable;

(7.) A schematic diagram identifying the relationship between the unit, all fuel supply lines, the fuel flowmeter(s), and the stack(s). The schematic diagram must depict the installation location of each fuel flowmeter and the fuel sampling location(s). Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common pipe;

(8.) For units using the optional default sulfur dioxide emission rate for "pipeline natural gas" or "natural gas" in Appendix D to 40 CFR Part 75, the information on the sulfur content of the gaseous fuel used to demonstrate compliance with either section 2.3.1.4 or 2.3.2.4 of appendix D to 40 CFR Part 75;

(9.) For units using the 720 hour test under Section 2.3.6 of Appendix D to 40 CFR Part 75 to determine the required sulfur sampling requirements, report the procedures and results of the test; and

(10.) For units using the 720 hour test under Section 2.3.5 of Appendix D to 40 CFR Part 75 to determine the appropriate fuel GCV sampling frequency, report the procedures used and the results of the test.

(II) For each sulfur dioxide emitting unit for which the WEB source uses the low mass emission excepted methodology of Section 75.19 to 40 CFR Part 75, the WEB source shall include the following information in the monitoring plan that accompanies the initial certification application:

(1.) The results of the analysis performed to qualify as a low mass emissions unit under Section 75.19(c) to 40 CFR Part 75. This report will include either the previous three years actual or projected emissions. The following items should be included:

a. Current calendar year of application;

b. Type of qualification;

c. Years one, two, and three;

d. Annual measured, estimated or projected sulfur dioxide mass emissions for years one, two, and three; and

e. Annual operating hours for years one, two, and three.

(2.) A schematic diagram identifying the relationship

between the unit, all fuel supply lines and tanks, any fuel flowmeter(s), and the stack(s). Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common pipe;

(3.) For units which use the long-term fuel flow methodology under Section 75.19(c)(3) to 40 CFR Part 75, a diagram of the fuel flow to each unit or group of units and a detailed description of the procedures used to determine the long-term fuel flow for a unit or group of units for each fuel combusted by the unit or group of units;

(4.) A statement that the unit burns only gaseous fuel(s) or fuel oil and a list of the fuels that are burned or a statement that the unit is projected to burn only gaseous fuel(s) or fuel oil and a list of the fuels that are projected to be burned;

(5.) A statement that the unit meets the applicability requirements in Sections 75.19(a) and (b) to 40 CFR Part 75 with respect to sulfur dioxide emissions; and

(6.) Any unit historical actual, estimated and projected sulfur dioxide emissions data and calculated sulfur dioxide emissions data demonstrating that the unit qualifies as a low mass emissions unit under sections 75.19(a) and (b) to 40 CFR Part 75.

(III) For each gas-fired unit the WEB source shall include the following in the monitoring plan: current calendar year, fuel usage data as specified in the definition of gas-fired in Section 72.2 of 40 CFR Part 72, and an indication of whether the data are actual or projected data.

(F) The specific elements of a monitoring plan under this Section 2(h)(ii) shall not be part of an operating permit for a WEB source issued in accordance with Title V of the Act, and modifications to the elements of the plan shall not require a permit modification.

(iii) Certification and Recertification.

(A) All monitoring systems are subject to initial certification and recertification testing as specified in 40 CFR Part 75 or Appendix A to Chapter 14, as applicable. Certification or recertification of a monitoring system by the U.S. Environmental Protection Agency for a WEB source that is subject to 40 CFR Part 75 under a requirement separate from this Rule shall constitute certification under the WEB Trading Program.

(B) The WEB source with a sulfur dioxide emitting unit not otherwise subject to 40 CFR Part 75 that monitors sulfur dioxide mass emissions in accordance with 40 CFR Part 75 to satisfy the requirements of this Section shall perform all of the tests required by that regulation and shall submit the following:

(I) A test notice, not later than 21 days before the certification testing of the monitoring system, provided that the State of Wyoming may establish additional

requirements for adjusting test dates after this notice as part of the approval of the initial monitoring plan under Section 2(h)(ii)(C) of this chapter; and

(II) An initial certification application within 45 days after testing is complete.

(C) A monitoring system will be considered provisionally certified while the application is pending, and the system shall be deemed certified if the State of Wyoming does not approve or disapprove the system within six months after the date on which the application is submitted.

(D) Whenever an audit of any monitoring certified under this Rule, and a review of the initial certification or recertification application, reveal that any system or component should not have been certified or recertified because it did not meet a particular performance specification or other requirement of Chapter 14, both at the time of the initial certification or recertification application submission and at the time of the audit, the State of Wyoming will issue a notice of disapproval of the certification status of such system or component. For the purposes of this paragraph, an audit shall be either a field audit of the facility or an audit of any information submitted to the State of Wyoming regarding the facility. By issuing the notice of disapproval, the certification status is revoked prospectively, and the data measured and recorded shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the WEB source completes subsequently approved initial certification or recertification tests in accordance with the procedures in this Section 2(h)(iii) of this chapter. The WEB source shall apply the substitute data procedures in Section 2(h)(v)(B) of this chapter to replace, prospectively, all of the invalid, non-quality-assured data for each disapproved system or component.

(iv) Ongoing Quality Assurance and Quality Control.

The WEB source shall satisfy the applicable quality assurance and quality control requirements of 40 CFR Part 75 or, if the WEB source is subject to a WEB protocol in Appendix A of this chapter, the applicable quality assurance and quality control requirements in Appendix A of this chapter on and after the date that certification testing commences.

(v) Substitute Data Procedures.

(A) For any period after certification testing is complete in which quality assured, valid data are not being recorded by a monitoring system certified and operating in accordance with Chapter 14, missing or invalid data shall be replaced with substitute data in accordance with 40 CFR Part 75 or, if the WEB source is subject to a WEB protocol in Appendix A of this chapter, with substitute data in accordance with Appendix A.

(B) For a sulfur dioxide emitting unit that does not have a certified (or provisionally certified) monitoring system in place as of the beginning of the first control period for which the unit is subject to the WEB Trading Program, the WEB source shall:

(I) If the WEB source will use a CEMS to comply with this Section, substitute the maximum potential concentration of sulfur dioxide for the unit and the maximum potential flow rate, as determined in accordance with 40 CFR Part 75. The procedures for conditional data validation under Section 75.20(b)(3) may be used for any monitoring system under Chapter 14 that uses these 40 CFR Part 75 procedures, as applicable;

(II) If the WEB source will use the 40 CFR Part 75 Appendix D methodology, substitute the maximum potential sulfur content, density or gross calorific value for the fuel and the maximum potential fuel flow rate, in accordance with Section 2.4 of Appendix D to 40 CFR Part 75;

(III) If the WEB source will use the 40 CFR Part 75 methodology for low mass emissions units, substitute the sulfur dioxide emission factor required for the unit as specified in 40 CFR Part 75.19 and the maximum rated hourly heat input, as defined in 40 CFR Part 72.2; or

(IV) If using a protocol in Appendix A to Chapter 14, follow the procedures in the applicable protocol.

(vi) Compliance Deadlines.

(A) The initial monitoring plan shall be submitted by the following dates:

(I) For each source that is a WEB source on or before the program trigger date, the monitoring plan shall be submitted 180 days after such program trigger date.

(II) For any existing source that becomes a WEB source after the program trigger date, the monitoring plan shall be submitted by September 30 of the year following the inventory year in which the source exceeded the emissions threshold.

(III) For any new WEB source, the monitoring plan shall be included with the permit application for a WAQSR Chapter 6, Section 2 permit.

(B) A detailed monitoring plan under Section 2(h)(ii)(B) of this chapter shall be submitted no later than 45 days prior to commencing certification testing in accordance with the following paragraph (C). Modifications to monitoring plans shall be submitted within 90 days of implementing revised monitoring plans.

(C) Emission monitoring systems shall be installed, operational and shall have met all of the certification testing requirements of this Section 2(h) (including any referenced in Appendix A) by the following dates:

(I) For each source that is a WEB source on or before the

program trigger date, two years prior to the start of the first control period as described in Section 2(k) of this chapter.

(II) For any existing source that becomes a WEB source after the program trigger date, one year after the due date for the monitoring plan under Section 2(h)(vi)(A)(II) of this chapter.

(III) For any new WEB source (or any new unit at a WEB source under paragraphs (C)(I) or (C)(2)), the earlier of 90 unit operating days or 180 calendar days after the date the new source commences operation.

(D) The WEB source shall submit test notices and certification applications in accordance with the deadlines set forth in Section 2(h)(iv)(B).

(E) For each applicable control period, the WEB source shall submit each quarterly report under Section 2(h)(viii) of this chapter by no later than 30 days after the end of each calendar quarter and shall submit the annual report under Section 2(h)(viii) of this chapter no later than 60 days after the end of each calendar year.

(vii) Recordkeeping.

(A) The WEB source shall keep copies of all reports, registration materials, compliance certifications, sulfur dioxide emissions data, quality assurance data, and other submissions under Chapter 14 for a period of five years. In addition, the WEB source shall keep a copy of all Certificates for the duration of this program. Unless otherwise requested by the WEB source and approved by the State of Wyoming, the copies shall be kept on site.

(B) The WEB source shall keep records of all operating hours, quality assurance activities, fuel sampling measurements, hourly averages for sulfur dioxide, stack flow, fuel flow, or other continuous measurements, as applicable, and any other applicable data elements specified in this section or in Appendix A to Chapter 14. The WEB source shall maintain the applicable records specified in 40 CFR Part 75 for any sulfur dioxide emitting unit that uses a Part 75 monitoring method to meet the requirements of this section.

(viii) Reporting.

(A) Quarterly Reports. For each sulfur dioxide emitting unit, the account representative shall submit a quarterly report within 30 days after the end of each calendar quarter. The report shall be in a format specified by the State of Wyoming to include hourly and quality assurance activity information and shall be submitted in a manner compatible with the emissions tracking database designed for the WEB Trading Program. If the WEB source submits a quarterly report under 40 CFR Part 75 to the EPA Administrator, no additional report under this paragraph (A) shall be required. The State of Wyoming will require that a copy of that report (or a separate statement of quarterly and cumulative annual sulfur dioxide mass emissions) be submitted separately to the State of Wyoming.

(B) Annual Report. Based on the quarterly reports, each WEB source shall submit an annual statement of total annual sulfur dioxide emissions for all sulfur dioxide emitting units at the source. The annual report shall identify total emissions for all units monitored in accordance with Section 2(h)(i)(A) of this chapter and the total emissions for all units with emissions estimated in accordance with Section 2(h)(i)(B) of this chapter. The annual report shall be submitted within 60 days after the end of a control period.

(C) If the State of Wyoming so directs, any monitoring plan, report, certification, recertification, or emissions data required to be submitted under this Section shall be submitted to the TSA.

(D) The State of Wyoming may review and reject any report submitted under this Section 2(h)(viii) of this chapter that contains errors or fails to satisfy the requirements of this section, and the account representative shall resubmit the report to correct any deficiencies.

(ix) Petitions.

(A) A WEB source may petition for an alternative to any requirement specified in Section 2(h)(i)(A)(II) of this chapter. The petition shall require approval of the State of Wyoming and the EPA Administrator. Any petition submitted under this paragraph shall include sufficient information for the evaluation of the petition, including, at a minimum, the following information:

(I) Identification of the WEB source and applicable sulfur dioxide emitting unit(s);

(II) A detailed explanation of why the proposed alternative is being suggested in lieu of the requirement;

(III) A description and diagram of any equipment and procedures used in the proposed alternative, if applicable;

(IV) A demonstration that the proposed alternative is consistent with the purposes of the requirement for which the alternative is proposed, is consistent with the purposes of Chapter 14 and that any adverse effect of approving such alternative will be *de minimis*; and

(V) Any other relevant information that the State of Wyoming may require.

(x) Consistency of Identifying Information.

For any monitoring plans, reports, or other information submitted under Section 2(h) of this chapter, the WEB source shall ensure that, where applicable, identifying information is consistent with the identifying information provided in the most recent certificate for the WEB

source submitted under Section 2(d) of this chapter.

(i) Allowance Transfers.

(i) Procedure. To transfer allowances, the account representative shall submit the following information to the TSA:

(A) The transfer account number(s) identifying the transferor account;

(B) The transfer account number(s) identifying the transferee account;

(C) The serial number of each allowance to be transferred; and

(D) The transferor's account representative's name and signature and date of submission.

(ii) Allowance Transfer Deadline. The allowance transfer deadline is midnight Pacific Standard Time on March 1 of each year (or if this date is not a business day, midnight of the first business day thereafter) following the end of the control period. By this time, the transfer of the allowances into the WEB source's compliance account must be correctly submitted to the TSA in order to demonstrate compliance under Section 2(k) of this chapter for that control period.

(iii) Retirement of Allowances. To permanently retire allowances, the account representative shall submit the following information to the TSA:

(A) The transfer account number(s) identifying the transferor account;

(B) The serial number of each allowance to be retired; and

(C) The transferor's account representative's name and signature and date of submission accompanied by a signed statement acknowledging that each retired allowance is no longer available for future transfers from or to any account.

(j) Use of Allowances from a Previous Year.

(i) Any allowance that is held in a compliance account or general account will remain in such an account unless and until the allowance is deducted in conjunction with the compliance process, or transferred to another account.

(ii) In order to demonstrate compliance under Section 2(k)(i) of this chapter for a control period, WEB sources shall only use allowances allocated for that current control period or any previous year. Because all allowances held in a special reserve compliance account for a WEB source that monitors certain units in accordance with Section 2(h)(i)(B) of this chapter will be deducted for compliance for each control period, no banking of such allowances for use in a subsequent year is permitted by Chapter 14.

(iii) If flow control procedures for the current control period have been triggered as outlined in Part C4.2 of Section C of the WYRHSIP, then the use of allowances that were allocated for any previous year will be limited as follows:

(A) The number of allowances that are held in each compliance account and general account as of the allowance transfer deadline for the immediately previous year and that were allocated for any previous year will be determined.

(B) The number determined in (A) will be multiplied by the flow control ratio established in accordance with Part C4.2(b)(1) of Section C of the WYRHSIP to determine the number of allowances that were allocated for a previous year that can be used without restriction for the current control period.

(C) Allowances that were allocated for a previous year in excess of the number determined in (B) may also be used for the current control period. If such allowances are used to make a deduction, two allowances must be deducted for each deduction of one allowance required under Section 2(k) of this chapter.

(iv) Special provisions for the year 2018. After compliance with the 2017 allowance limitation has been determined in accordance with Section 2(k)(i) of this chapter, allowances allocated for any year prior to 2018 shall not be used for determining compliance with the 2018 allowance limitation or any future allowance limitation.

(k) Compliance.

(i) Compliance with Allowance Limitations.

(A) The WEB source must hold allowances, in accordance with Section 2(k)(i)(B) and (C) below and Section 2(j) of this chapter, as of the allowance transfer deadline in the WEB source's compliance account (together with any current control year allowances held in the WEB source's special reserve compliance account under Section 2(h)(i)(B) of this chapter) in an amount not less than the total sulfur dioxide emissions for the control period from the WEB source, as determined under the monitoring and reporting requirements of Section 2(h) of this chapter.

(I) For each source that is a WEB source on or before the program trigger date, the first control period is the calendar year that is six (6) years following the calendar year for which sulfur dioxide emissions exceeded the milestone in accordance with procedures in Part A3 of Section C of the WYRHSIP.

(II) For any existing source that becomes a WEB source after the program trigger date, the first control period is the calendar year that is four (4) years following the inventory year in which the source exceeded the sulfur dioxide emissions threshold.

(III) For any new WEB source after the program trigger date the first control period is the first full calendar year that the source is in operation.

(IV) If the WEB Trading Program is triggered in accordance with the 2013 review procedures in Part A4 of Section C of the WYRHSIP, the first control period for each source that is a WEB source on or before the program trigger date is the year 2018.

(B) Allowance transfer deadline. An allowance may only be deducted from the WEB source's compliance account if:

(I) The allowance was allocated for the current control period or meets the requirements in Section 2(j) of this chapter for use of allowances from a previous control period, and

(II) The allowance was held in the WEB source's compliance account as of the allowance transfer deadline for the current control period, or was transferred into the compliance account by an allowance transfer correctly submitted for recording by the allowance transfer deadline for the current control period.

(C) Compliance with allowance limitations shall be determined as follows:

(I) The total annual sulfur dioxide emissions for all sulfur dioxide emitting units at the source that are monitored under Section 2(h)(i)(B) of this chapter, as reported by the source in Section 2(h)(viii)(B) or (D) of this chapter, and recorded in the emissions tracking database shall be compared to the allowances held in the source's special reserve compliance account as of the allowance transfer deadline for the current control period, adjusted in accordance with Section 2(j) of this chapter. If the emissions are equal to or less than the allowances in such account, all such allowances shall be retired to satisfy the obligation to hold allowances for such emissions. If the total emissions from such units exceed the allowances in such special reserve account, the WEB source shall account for such excess emissions in the following paragraph (II).

(II) The total annual sulfur dioxide emissions for all sulfur dioxide emitting units at the source that are monitored under Section 2(h)(i)(A) of this chapter, as reported by the source in Section 2(h)(viii)(B) or (D) of this chapter, and recorded in the emissions tracking database, together with any excess emissions as calculated in the preceding paragraph (I), shall be compared to the allowances held in the source's compliance account as of the allowance transfer deadline for the current control period, adjusted in accordance with Section 2(j) of this chapter.

(III) If the comparison in Section 2(k)(i)(C)(II) of this chapter results in emissions that exceed the allowances held in the source's compliance account, the source has exceeded its allowance limitation and the excess emissions are subject to the allowance deduction penalty in Section 2(k)(iii) of this chapter.

(D) Other than allowances in a special reserve compliance account for units monitored under Section 2(h)(i)(B) of this chapter, to the extent consistent with Section 2(j) of this chapter, allowances shall be deducted for a WEB source for compliance with the allowance limitation as directed by the WEB source's account representative. Deduction of any other allowances as necessary for compliance with the allowance limitation shall be on a first-in, first-out accounting basis in the order of the date and time of their recording in the WEB source's compliance account, beginning with the allowances allocated to the WEB source and continuing with the allowances transferred to the WEB source's compliance account from another compliance account or general account. The allowances held in a special reserve compliance account pursuant to Section 2(h)(i)(B) of this chapter shall be deducted as specified in paragraph (C)(I) of this Section 2(k) of this chapter.

(ii) Certification of Compliance.

(A) For each control period in which a WEB source is subject to the allowance limitation, the account representative of the source shall submit to the Department a compliance certification report for the source.

(B) The compliance certification report shall be submitted no later than the allowance transfer deadline of each control period, and shall contain the following:

(I) Identification of each WEB source;

(II) At the account representative's option, the serial numbers of the allowances that are to be deducted from a source's compliance account for compliance with the allowance limitation; and

(III) The compliance certification report according to subpart (C) of this section.

(C) In the compliance certification report, the account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the WEB source in compliance with the WEB Trading Program, whether the WEB source for which the compliance certification is submitted was operated during the control period covered by the report in compliance with the requirements of the WEB Trading Program applicable to the source including:

(I) Whether the WEB source operated in compliance with the sulfur dioxide allowance limitation;

(II) Whether sulfur dioxide emissions data has been submitted to the Department in accordance with Section 2(h)(viii) of this chapter and other applicable guidance, for review, revision as necessary, and finalization for forwarding to the sulfur dioxide Allowance Tracking System for recording;

(III) Whether the monitoring plan that governs the WEB source has been maintained to reflect the actual operation and monitoring of the source, and contains all information necessary to attribute sulfur dioxide emissions to the source, in accordance with Section 2(h)(i) of this chapter;

(IV) Whether all the sulfur dioxide emissions from the WEB source if applicable, were monitored or accounted for either through the applicable monitoring or through application of the appropriate missing data procedures;

(V) If applicable, whether any sulfur dioxide emitting unit for which the WEB source is not required to monitor in accordance with Section 2(h)(i)(A)(III) of this chapter remained permanently retired and had no emissions for the entire applicable period; and

(VI) Whether there were any changes in the method of operating or monitoring the WEB source that required monitor recertification. If there were any such changes, the report must specify the nature, reason, and date of the change, the method to determine compliance status subsequent to the change, and specifically, the method to determine sulfur dioxide emissions.

(iii) Penalties for any WEB source exceeding its allowance limitations.

(A) Allowance deduction penalty.

(I) If emissions from a WEB source exceed the allowance limitation for a control period, as determined in accordance with Section 2(k)(i) of this chapter, the source's allowances held in its compliance account will be reduced by an amount equal to three times the source's tons of excess emissions. If the compliance account does not have sufficient allowances allocated for that control period, the required number of allowances will be deducted from the WEB source's compliance account regardless of the control period for which they were allocated, once allowances are recorded in the account.

(II) Any allowance deduction required under Section 2(k)(i)(C) of this chapter shall not affect the liability of the owners and operators of the WEB source for any fine, penalty or assessment or their obligation to comply with any other remedy, for the same violation, as ordered under the Act, implementing regulations or Wyoming Statute § 35-11-901. Accordingly, a violation can be assessed each day of the control period for each ton of sulfur dioxide emissions in excess of its allowance limitation, or for each other violation of Section 2 of this chapter.

(iv) Liability.

(A) WEB Source liability for non-compliance. Separate and regardless of any allowance deduction penalty, a WEB source that violates any requirement of Chapter 14 is subject to civil and criminal penalties under Wyoming Statute § 35-11-901. Each day of the control period is a separate violation, and each ton of sulfur dioxide emissions in excess of a

source's allowance limitation is a separate violation.

(B) General liability.

(I) Any provision of the WEB Trading Program that applies to a source or an account representative shall apply also to the owners and operators of such source.

(II) Any person who violates any requirement or prohibition of the WEB Trading Program will be subject to enforcement pursuant to Wyoming Statute § 35-11-901.

(III) Any person who knowingly makes a false material statement in any record, submission, or report under this WEB Trading Program shall be subject to criminal enforcement pursuant to Wyoming Statute § 35-11-901.

(l) Special Penalty Provisions for the 2018 Milestone.

(i) If the WEB Trading Program is triggered as outlined in Part A3 of Section C of the WYRHSIP, and the first control period will not occur until after the year 2018, the following provisions shall apply for the 2018 emissions year.

(A) All WEB sources shall register, and open a compliance account within 180 days after the program trigger date, in accordance with Section 2(e)(i) and Section 2(g) of this chapter.

(B) The TSA will record the allowances for the 2018 control period for each WEB source in the source's compliance account once the Department allocates the 2018 allowances under Part A4.4 of Section C of the WYRHSIP.

(C) The allowance transfer deadline is midnight Pacific Standard Time on May 31, 2021 (or if this date is not a business day, midnight of the first business day thereafter). WEB sources may transfer allowances as provided in Section 2(i)(i) of this chapter until the allowance transfer deadline.

(D) A WEB source must hold allowances allocated for 2018, including those transferred into the compliance account by an allowance transfer correctly submitted by the allowance transfer deadline, in an amount not less than the WEB source's total sulfur dioxide emissions for 2018. Emissions are determined using the pre-trigger monitoring provisions in Part A2.1 of Section C of the WYRHSIP, and Chapter 14, Section 3.

(E) In accordance with Section 2(j)(iv) and 2(l)(i)(D) of this chapter, Wyoming shall seek at least the minimum financial penalty of $5,000 per ton of SO_2 emissions in excess of the WEB source's allowance limitation.

(I) Any source may resolve its excess emissions violation by agreeing to a streamline settlement approach where the source pays a penalty of $5,000 per ton

or partial ton of excess emissions, and payment is received within 90 calendar days after the issuance of a notice of violation.

(II) Any source that does not resolve its excess emissions violation in accordance with the streamlined settlement approach in Section 2(l)(i)(E)(I) of this chapter will be subject to civil enforcement action, in which the Department shall seek a financial penalty for the excess emissions based on the State's statutory maximum civil penalties.

(F) Each ton of SO_2 emissions in excess of a source's allowance limitation is a separate violation and each day of a control period is a separate violation.

(ii) The provisions in Section 2(l) of Chapter 14 shall continue to apply for each year after the 2018 emission year until:

(A) The first control period under the WEB trading program under Section 2(k)(i)(A)(I)of this chapter; or

(B) The Department determines, in accordance with Part A3 of Section C of the WYRHSIP, that the 2018 sulfur dioxide milestone has been met.

(iii) Special penalty provisions for the 2018 milestone for 2019 control period and each control period thereafter as provided under Section 2(l)(ii) of this chapter include the following:

(A) For the 2019 control period, the allowance transfer deadline is midnight Pacific Standard Time on May 31, 2021 (or if this date is not a business day, midnight of the first business day thereafter). WEB sources may transfer allowances as provided in Section 2(i)(i) of this chapter until the allowance transfer deadline.

(B) A WEB source must hold allowances allocated for the 2019 control period, including those transferred into the compliance account by an allowance transfer correctly submitted by the allowance transfer deadline, in an amount not less than the WEB source's total SO_2 emissions for the 2019 control period. Emissions are determined using the pre-trigger monitoring provisions in Part A2.1 of Section C of the WYRHSIP, and Chapter 14, Section 3.

(C) In accordance with Section 2(j)(iv) and 2(i)(i)(D), Wyoming shall seek at least the minimum financial penalty of $5,000 per ton of SO_2 emissions in excess of the WEB source's allowance limitation.

(I) Any source may resolve its excess emissions violation by agreeing to a streamline settlement approach where the source pays a penalty of $5,000 per ton or partial ton of excess emissions, and payment is received within 90 calendar days after the issuance of a notice of violation.

(II) Any source that does not resolve its excess emissions

violation in accordance with the streamlined settlement approach in Section 2(l)(i)(E)(I) of this chapter will be subject to civil enforcement action, in which the Department shall seek a financial penalty for the excess emissions based on the State's statutory maximum civil penalties.

(D) Each ton of SO_2 emissions in excess of a source's allowance limitation is a separate violation and each day of a control period is a separate violation.

(E) For each control period after 2019 that the special penalty is assessed, the dates and deadlines in Section 2(l)(iii)(A)-(D) of this chapter above will be adjusted forward by one year.

(m) Integration Into Permits.

Any WEB source that is not subject to WAQSR Chapter 6, Section 3 at any time after Chapter 14 becomes effective must obtain a permit under WAQSR Chapter 6, Section 2 or modify an existing permit issued under WAQSR Chapter 6, Section 2 that incorporates the requirements of Section 2 of this chapter.

Section 3. Sulfur Dioxide Milestone Inventory.

(a) Applicability.

(i) Section 3 of this chapter applies to all stationary sources with actual emissions of 100 tons per year or more of sulfur dioxide in calendar year 2000 or any subsequent year.

(ii) Except as provided in (iii), any source that meets the criteria of (i) that emits less than 100 tons per year in any subsequent year shall remain subject to the requirements of Section 3 of this chapter until 2018 or until the first control period under the Western Backstop Sulfur Dioxide Trading Program as established in Section 2 of this chapter, whichever is earlier.

(iii) A stationary source that meets the requirements of (i) that has permanently ceased operation is exempt from the requirements of Chapter 14.

(b) Annual Sulfur Dioxide Emission Report.

(i) Except as provided in (ii), each source subject to Chapter 14 shall report sulfur dioxide emissions by April 15th of each calendar year, in accordance with the schedule cited in Section 3(b)(iii) of this chapter, below.

(ii) Each source subject to Chapter 14 that is also subject to 40 CFR Part 75 reporting requirements, shall submit a summary report of annual sulfur dioxide emissions that were reported to the Environmental Protection Agency under 40 CFR Part 75.

(iii) Each source subject to Chapter 14 shall report emissions for the year 2003

by April 15, 2004, and annually thereafter. The inventory shall be submitted in the format specified by the Wyoming Department of Environmental Quality – Air Quality Division (Division).

(iv) For the reports cited in paragraphs (i) and (ii) of this section, each source subject to Chapter 14 shall document the emissions monitoring/estimation methodology used to calculate their sulfur dioxide emissions, and demonstrate that the selected methodology is acceptable under the inventory program.

(v) For the reports cited in paragraphs (i) and (ii) above, each source subject to Chapter 14 shall include emissions from startup, shut down, and upset conditions in the annual total inventory.

(vi) For the reports cited in paragraphs (i) and (ii) above, each source subject to Chapter 14 shall use 40 CFR Part 75 methodology for reporting emissions for all sources subject to the federal acid rain program.

(vii) For the reports cited in paragraphs (i) and (ii) above, each source subject to Chapter 14 shall maintain all records used in the calculation of the emissions, including but not limited to the following:

(A) amount of fuel consumed;

(B) percent sulfur content of fuel and how the content was determined;

(C) quantity of product produced;

(D) emissions monitoring data;

(E) operating data; and

(F) how the emissions are calculated

(viii) For the reports cited in (i) and (ii) of this section, each source subject to Chapter 14 shall maintain records of any physical changes to facility operations or equipment, or any other changes (e.g., raw material or feed) that may affect the emissions projections.

(ix) For the reports cited in paragraphs (i) and (ii) above, each source subject to Chapter 14 shall retain records for a minimum of ten years from the date of establishment, or if the record was the basis for an adjustment to the milestone, 5 years after the date of an implementation plan revision, whichever is longer.

(c) Changes in Emission Measurement Techniques.

(i) Each source subject to this Rule that uses a different emission monitoring or calculation method than was used to report their sulfur dioxide emissions in 2006 under

Chapter 14, Section 3 shall adjust their reported emissions to be comparable to the emission monitoring or calculation method that was used in 2006. The calculations that are used to make this adjustment shall be included with the annual emission report under Section 3(b) of this chapter.

(d) Notwithstanding any other provision of Chapter 14, Basin Electric Power Cooperative's Laramie River Station shall report its annual sulfur dioxide emissions as follows: for Laramie River Station Unit 1, Basin Electric Power Cooperative shall report its sulfur dioxide emissions based on an annual average emission rate of 0.159 lb/MMBtu multiplied by the actual annual heat input; for Laramie River Station Unit 2, Basin Electric Power Cooperative shall report its annual sulfur dioxide emissions based on an annual emission rate 0.162 lb/MMBtu multiplied by the actual annual heat input. Heat rate shall be calculated as required in Chapter 14 and 40 CFR Part 75. Annual sulfur dioxide emissions for Laramie River Station Unit 3 shall be reported as otherwise provided in Chapter 14, Section 3(b).

(i) Basin Electric Power Cooperative shall report sulfur dioxide emissions as calculated per Section 3(d) of this chapter as of the year that Basin Electric Power Cooperative commences operation of Selective Catalytic Reduction at Laramie River Station Unit 1 consistent with the notification provision found at WAQSR Chapter 6 Section 2(i)(ii).

(e) The Division shall use the annual sulfur dioxide emissions reported by Basin Electric Power Cooperative in Section 3(d) for all purposes under this chapter.

Section 4. [Reserved].

Section 5. Incorporation by Reference.

(a) Code of Federal Regulations (CFR). All Code of Federal Regulations (CFRs), including their Appendices, cited in this Chapter, revised and published as of July 1, 2026, not including any later amendments, unless portions of said CFRs are specifically excluded in citation, are incorporated by reference. Copies of the CFR are available for public inspection and copies can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: http://deq.wyoming.gov/. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214 or online at https://ecfr.gov.

APPENDIX A: WEB CHAPTER 14, SECTION 2 MONITORING PROTOCOLS

Protocol WEB-1: SO_2 Monitoring of Fuel Gas Combustion Devices

Section 1. Applicability.

(a) The provisions of this protocol are applicable to fuel gas combustion devices at petroleum refineries.

(b) Fuel gas combustion devices include boilers, process heaters, and flares used to burn fuel gas generated at a petroleum refinery.

(c) Fuel gas means any gas which is generated and combusted at a petroleum refinery. Fuel gas does not include: (1) natural gas, unless combined with other gases generated at a petroleum refinery, (2) gases generated by a catalytic cracking unit catalyst regenerator, (3) gases generated by fluid coking burners, (4) gases combusted to produce sulfur or sulfuric acid, or (5) process upset gases generated due to startup, shutdown, or malfunctions.

Section 2. Monitoring Requirements.

(a) Except as provided in paragraphs (ii) and (iii) of this Section 2, fuel gas combustion devices shall use a continuous fuel gas monitoring system (CFGMS) to determine the total sulfur content (reported as H_2S) of the fuel gas mixture prior to combustion, and continuous fuel flow meters to determine the amount of fuel gas burned.

(i) Fuel gas combustion devices having a common source of fuel gas may be monitored for sulfur content at one location, if monitoring at that location is representative of the sulfur content of the fuel gas being burned in any fuel gas combustion device.

(ii) The CFGMS shall meet the performance requirements in Performance Specification 2 in Appendix B to 40 CFR Part 60, and the following:

(A) Continuously monitor and record the concentration by volume of total sulfur compounds in the gaseous fuel reported as ppmv H_2S.

(B) Have the span value set so that the majority of readings fall between 10 and 95 percent of the range.

(C) Record negative values of zero drift.

(D) Calibration drift shall be 5.0 percent of the span.

(E) Methods 15A, 16, or approved alternatives for total sulfur, are the reference methods for the relative accuracy test. The relative accuracy test shall include a bias test in accordance with Section 4, paragraph (c) of this protocol.

(iii) All continuous fuel flow meters shall comply with the applicable provisions of Appendix D to 40 CFR Part 75.

(iv) The hourly mass SO_2 emissions shall be calculated using the following equation:

$$E = (C_S)(Q_f)(K)$$

where: E = SO_2 emissions in lbs/hr
C_S = Sulfur content of the fuel gas as H_2S(ppmv)
Q_f = Fuel gas flow rate (scfh)
K = 1.660 x 10^{-7} (lb/scf)/ppmv

(b) In place of a CFGMS in paragraph (a) of this Section 2, fuel gas combustion devices having a common source of fuel gas may be monitored with an SO_2 CEMS and flow CEMS at only one location, if the CEMS monitoring at that location is representative of the SO_2 emission rate (lb SO_2/scf fuel gas burned) of all applicable fuel gas combustion devices. Continuous fuel flow meters shall be used in accordance with paragraph (b), and the fuel gas combustion device monitored by a CEMS shall have separate fuel metering.

(i) Each CEMS for SO_2 and flow shall comply with the operating requirements, performance specifications, and quality assurance requirements of 40 CFR Part 75.

(ii) All continuous fuel flow meters shall comply with the applicable provisions of Appendix D to 40 CFR Part 75.

(iii) The SO_2 mass emissions for all the fuel gas combustion devices monitored by this approach shall be determined by the ratio of the amount of fuel gas burned by the CEMS-monitored fuel gas combustion device to the total fuel gas burned by all applicable fuel gas combustion devices using the following equation:

$$E_t = (E_m)(Q_t)/(Q_m)$$

where: E_t = Total SO_2 emissions in lbs/hr from applicable fuel gas combustion devices.
E_m = SO_2 emissions in lbs/hr from the CEMS-monitored fuel gas combustion device.
Q_t = Fuel gas flow rate (scfh) from applicable fuel gas combustion devices.
Q_m = Fuel gas flow rate (scfh) from the CEMS-monitored fuel gas combustion device.

(c) In place of a CFGMS in paragraph (a) of this section, fuel gas combustion devices having a common source of fuel gas may be monitored with an SO_2 - diluent CEMS at only one location, if the CEMS monitoring at that location is representative of the SO_2 emission rate (lb SO_2/mmBtu) of all applicable fuel gas combustion devices. If this option is selected, the owner or operator shall conduct fuel gas sampling and analysis for gross calorific value (GCV), and shall use continuous fuel flow metering in accordance with paragraph (a) of Section 2 in this

appendix, with separate fuel metering for the CEMS-monitored fuel gas combustion device.

(i) Each SO_2-diluent CEMS shall comply with the applicable provisions for SO_2 monitors and diluent monitors in 40 CFR Part 75, and shall use the procedures in Section 3 of Appendix F to Part 75 for determining SO_2 emission rate (lb/mmBtu) by substituting the term SO_2 for NO_x in that section.

(ii) All continuous fuel flow meters and fuel gas sampling and analysis for GCV to determine the heat input rate from the fuel gas shall comply with the applicable provisions of Appendix D to 40 CFR Part 75.

(iii) The SO_2 mass emissions for all the fuel gas combustion devices monitored by this approach shall be determined by the ratio of the fuel gas heat input to the CEMS-monitored fuel gas combustion device to the total fuel gas heat input to all applicable fuel gas combustion devices using the following equation:

$$E_t = (E_m)(H_t)/(H_m)$$

where: E_t = Total SO_2 emissions in lbs/hr from applicable fuel gas combustion devices.
E_m = SO_2 emissions in lb/mmBtu from the CEMS - monitored fuel gas combustion device.
H_t = Fuel gas heat input (mmBtu/hr) from applicable fuel gas combustion devices.
H_m = Fuel gas heat input (mmBtu/hr) from the CEMS - monitored fuel gas combustion device.

Section 3. Certification/Recertification Requirements.

(a) All monitoring systems are subject to initial certification and recertification testing as follows:

(i) The owner or operator shall comply with the initial testing and calibration requirements in Performance Specification 2 in Appendix B of 40 CFR Part 60 and paragraph (a)(ii) of Section 2 of this protocol for each CFGMS.

(ii) Each CEMS for SO_2 and flow or each SO_2-diluent CEMS shall comply with the testing and calibration requirements specified in 40 CFR Part 75, Section 75.20 and Appendices A and B of the CFR, except that each SO_2-diluent CEMS shall meet the relative accuracy requirements for a NO_x-diluent CEMS (lb/mmBtu).

(iii) A continuous fuel flow meter shall comply with the testing and calibration requirements in 40 CFR Part 75, Appendix D.

Section 4. Quality Assurance/Quality Control Requirements.

(a) A quality assurance/quality control (QA/QC) plan shall be developed and implemented for each CEMS for SO_2 and flow or the SO_2-diluent CEMS in compliance with

Appendix B of 40 CFR Part 75.

(b) A QA/QC plan shall be developed and implemented for each continuous fuel flow meter and fuel sampling and analysis in compliance with Appendix B of 40 CFR Part 75.

(c) A QA/QC plan shall be developed and implemented for each CFGMS in compliance with sections 1 and 1.1 of Appendix B of 40 CFR Part 75, and the following:

(i) Perform a daily calibration error test of each CFGMS at two gas concentrations, one low level and one high level. Calculate the calibration error as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the error is greater than 5.0 percent of the span value.

(ii) In addition to the daily calibration error test, an additional calibration error test shall be performed whenever a daily calibration error test is failed, whenever a monitoring system is returned to service following repairs or corrective actions that may affect the monitor measurements, or after making manual calibration adjustments.

(iii) Perform a linearity test once every operating quarter. Calculate the linearity as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the linearity error is greater than 5.0 percent of a reference value, and the absolute value of the difference between average monitor response values and a reference value is greater than 5.0 ppm.

(iv) Perform a relative accuracy test audit once every four operating quarters. Calculate the relative accuracy as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the relative accuracy is greater than 20.0percent of the mean value of the reference method measurements.

(v) Using the results of the relative accuracy test audit, conduct a bias test in accordance with Appendix A to 40 CFR Part 75, and calculate and apply a bias adjustment factor if required.

Section 5. Missing Data Procedures.

(a) For any period in which valid data are not being recorded by an SO_2 CEMS or flow CEMS specified in this section, missing or invalid data shall be replaced with substitute data in accordance with the requirements in Subpart D of 40 CFR Part 75.

(b) For any period in which valid data are not being recorded by an SO_2-diluent CEMS specified in this section, missing or invalid data shall be replaced with substitute data on a rate basis (lb/mmBtu) in accordance with the requirements for SO_2 monitors in Subpart D of 40 CFR Part 75.

(c) For any period in which valid data are not being recorded by a continuous fuel flow meter or for fuel gas GCV sampling and analysis specified in this section, missing or

invalid data shall be replaced with substitute data in accordance with missing data requirements in Appendix D to 40 CFR Part 75.

(d) For any period in which valid data are not being recorded by the CFGMS specified in this section, hourly missing or invalid data shall be replaced with substitute data in accordance with the missing data requirements for units performing hourly gaseous fuel sulfur sampling in Section 2.4. of Appendix D to 40 CFR Part 75.

Section 6. Monitoring Plan and Reporting Requirements.

(a) In addition to the general monitoring plan and reporting requirements of Section 2(h) of Chapter 14, the owner or operator shall meet the following additional requirements:

(i) The monitoring plan shall identify each group of units that are monitored by a single monitoring system under this Protocol WEB-1, and the plan shall designate an identifier for the group of units for emissions reporting purposes. For purpose of submitting emissions reports, no apportionment of emissions to the individual units within the group is required.

(ii) If the provisions of paragraphs (b) or (c) of Section 2 of this protocol are used, provide documentation and an explanation to demonstrate that the SO_2 emission rate from the monitored unit is representative of the rate from non-monitored units.

Protocol WEB-2: Predictive Flow Monitoring Systems for Kilns with Positive Pressure Fabric Filter

Section 1. Applicability.

(a) The provisions of this protocol are applicable to cement kilns or lime kilns that are (1) controlled by a positive pressure fabric filter, and (2) have operating conditions upstream of the fabric filter that the WEB source documents would reasonably prevent reliable flow monitor measurements.

Section 2. Monitoring Requirements.

(a) A cement or lime kiln with a positive pressure fabric filter shall use a predictive flow monitoring system (PFMS) to determine the hourly kiln exhaust gas flow.

(b) A PFMS is the total equipment necessary for the determination of exhaust gas flow using process or control device operating parameter measurements and a conversion equation, a graph, or computer program to produce results in cubic feet per hour.

(c) The PFMS shall meet the following performance specifications:

(i) The PFMS must allow for the automatic or manual determination of failed monitors. At a minimum a daily determination must be performed.

(ii) The PFMS shall have provisions to check the calibration error of each parameter that is individually measured. The owner or operator shall propose appropriate performance specifications in the initial monitoring plan for all parameters used in the PFMS comparable to the degree of accuracy required for other monitoring systems used to comply with this Rule. The parameters shall be tested at two levels, low: 0 to 20 percent of full scale, and high: 50 to 100 percent of full scale. The reference value need not be certified.

(iii) The relative accuracy of the PFMS must be $\leq$ 10.0 percent of the reference method average value, and include a bias test in accordance with paragraph (a)(iii) of Section 3 of this protocol.

Section 3. Certification Requirements.

(a) The PFMS is subject to initial certification testing as follows:

(i) Demonstrate the ability of the PFMS to identify automatically or manually a failed monitor.

(ii) Provide evidence of calibration testing of all monitoring equipment. Any tests conducted within the previous 12 months of operation that are consistent with the QA/QC plan for the PFMS are acceptable for initial certification purposes.

(iii) Perform an initial relative accuracy test over the normal range of operating conditions of the kiln. Using the results of the relative accuracy test audit, conduct a bias test in accordance with Appendix A to 40 CFR Part 75, and calculate and apply a bias adjustment factor if required.

Section 4. Quality Assurance/Quality Control Requirements.

(a) A QA/QC plan shall be developed and implemented for each PFMS in compliance with sections 1 and 1.1 of Appendix B of 40 CFR Part 75, and the following:

(i) Perform a daily monitor failure check.

(ii) Perform calibration tests of all monitors for each parameter included in the PFMS. At a minimum, calibrations shall be conducted prior to each relative accuracy test audit.

(iii) Perform a relative accuracy test audit and accompanying bias test once every four operating quarters. Calculate the relative accuracy (and bias adjustment factor) as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the flow relative accuracy is greater than 10.0 percent of the mean value of the reference method.

Section 5. Missing Data.

(a) For any period in which valid data are not being recorded by the PFMS specified

in this section, hourly missing or invalid data shall be replaced with substitute data in accordance with the flow monitor missing data requirements for non-load based units in Subpart D of 40 CFR Part 75.

Section 6. Monitoring Plan Requirements.

(a) In addition to the general monitoring plan requirements of Section 2(h) of Chapter 14, the owner or operator shall meet the following additional requirements:

(i) The monitoring plan shall document the reasons why stack flow measurements upstream of the fabric filter are unlikely to provide reliable flow measurements over time.

(ii) The initial monitoring plan shall explain the relationship of the proposed parameters and stack flow, and discuss other parameters considered and the reasons for not using those parameters in the PFMS. The State of Wyoming may require that the subsequent monitoring plan include additional explanation and documentation for the reasonableness of the proposed PFMS.

Chapter 2
Ambient Standards

Section 1. Introduction to Ambient Standards.

(a) This Chapter establishes standards of ambient air quality necessary to protect public health and welfare. Such standards are subject to revision. The term "ambient air" refers to that portion of the atmosphere, external to buildings, to which the general public has access. Section 12 incorporates by reference all Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices.

Section 2. Ambient Standards for Particulate Matter.

(a) PM_{10}: The ambient air standards for PM_{10} particulate matter are:

(i) 150 micrograms per cubic meter — 24-hour average concentration with not more than one expected exceedance per year.

(A) Attainment of the 24-hour standard is determined in accordance with Appendix K of 40 CFR Part 50.

(ii) 50 micrograms per cubic meter — annual arithmetic mean.

(A) Attainment of the annual standard is determined in accordance with Appendix 1 of this chapter.

(iii) For the purpose of determining attainment of the standards, particulate matter shall be measured in the ambient air as PM_{10} (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers), by a reference method based on 40 CFR Part 50, Appendix J and designated in accordance with 40 CFR Part 53 or an equivalent or alternate method designated in accordance with 40 CFR Part 53.

(b) $PM_{2.5}$: The primary ambient air quality standards for $PM_{2.5}$ particulate matter are:

(i) 9.0 micrograms per cubic meter ($\mu g/m^3$) annual arithmetic mean concentration and 35 $\mu g/m^3$ 24-hour average concentration measured in the ambient air as $PM_{2.5}$ (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) by either:

(A) A reference method based on 40 CFR Part 50, Appendix L, and designated in accordance with 40 CFR Part 53; or

(B) An equivalent method designated in accordance with 40 CFR Part 53.

(ii) The primary annual $PM_{2.5}$ standard is met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR Part 50, Appendix N, is less than or equal to 9.0 $\mu g/m^3$.

(iii) The primary 24-hour $PM_{2.5}$ standard is met when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR Part 50, Appendix N, is less than or equal to 35 $\mu g/m^3$.

(c) $PM_{2.5}$: The secondary ambient air quality standards for $PM_{2.5}$ particulate matter are:

(i) 15 micrograms per cubic meter ($\mu g/m^3$) annual arithmetic mean concentration and;

(ii) 35 micrograms per cubic meter ($\mu g/m^3$) — 98th percentile 24-hour average concentration.

(iii) Attainment of the annual and 24-hour standards is determined in accordance with Appendix N of 40 CFR Part 50.

(iv) For the purpose of determining attainment of the standards, particulate matter shall be measured in the ambient air as $PM_{2.5}$ (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers), by a reference method based on 40 CFR Part 50, Appendix L and designated in accordance with 40 CFR Part 53, or an equivalent or alternate method designated in accordance with 40 CFR Part 53.

(d) Ambient air, for the area bounded by Townships 40 through 52 North, and Ranges 69 through 73 West, inclusive, of the Sixth Principal Meridian, Campbell and Converse Counties, in the Powder River Coal Basin, is defined as that portion of the atmosphere, external to buildings, to which the general public has access. For surface mining operations, the application of this definition will be limited to only those lands that are necessary to conduct mining operations as determined by the Administrator of the Wyoming Air Quality Division.

Section 3. Ambient Standards for Nitrogen Oxides.

(a) The level of the primary annual ambient air quality standard for oxides of nitrogen is 53 parts per billion (ppb, which is 1 part in 1,000,000,000), annual average concentration, measured in the ambient air as nitrogen dioxide.

(b) The level of the primary 1-hour ambient air quality standard for oxides of nitrogen is 100 ppb, 1-hour average concentration, measured in the ambient air as nitrogen dioxide.

(c) The level of the secondary ambient air quality standard for nitrogen dioxide is 0.053 parts per million (ppm, which is 1 part in 1,000,000), annual arithmetic mean concentration.

(d) The levels of the standards shall be measured by:

(i) A reference method based on 40 CFR Part 50, Appendix F; or

(ii) A Federal equivalent method (FEM) designated in accordance with 40 CFR Part 53.

(e) The annual primary standard is met when the annual average concentration in a calendar year is less than or equal to 53 ppb, as determined in accordance with Appendix S of 40 CFR Part 50 for the annual standard.

(f) The 1-hour primary standard is met when the three-year average of the annual 98th percentile of the daily maximum 1-hour average concentration is less than or equal to 100 ppb, as determined in accordance with Appendix S of 40 CFR Part 50 for the 1-hour standard.

(g) The secondary standard is attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm must be rounded up). To demonstrate attainment, an annual mean must be based upon hourly data that are at least 75 percent complete or upon data derived from manual methods that are at least 75 percent complete for the scheduled sampling days in each calendar quarter.

Section 4. Ambient Standards for Sulfur Oxides.

(a) The level of the primary 1-hour annual ambient air quality standard for oxides of sulfur is 75 parts per billion (ppb, which is 1 part in 1,000,000,000), measured in the ambient air as sulfur dioxide (SO_2).

(i) The 1-hour primary standard is met at an ambient air quality monitoring site when the three-year average of the annual (99th percentile) of the daily maximum 1-hour average concentrations is less than or equal to 75 ppb, as determined in accordance with Appendix T of 40 CFR Part 50.

(ii) The level of the standard shall be measured by a reference method based on 40 CFR Part 50, Appendix A or A-1, or by a Federal Equivalent Method (FEM) designated in accordance with 40 CFR Part 53.

(b) The level of the secondary 3-hour ambient air quality standard for oxides of sulfur is 0.5 parts per million (ppm, which is 1 part in 1,000,000), not to be exceeded more than once per calendar year. The 3-hour averages shall be determined from successive nonoverlapping 3-hour blocks starting at midnight each calendar day and shall be rounded to 1 decimal place (fractional parts equal to or greater than 0.05 ppm shall be rounded up).

(i) Sulfur oxides shall be measured in the ambient air as sulfur dioxide by the reference method described in Appendix A of 40 CFR Part 50 or by an equivalent method

designated in accordance with 40 CFR Part 53.

(ii) To demonstrate attainment, the second-highest 3-hour average must be based upon hourly data that are at least 75 percent complete in each calendar quarter. A 3-hour block average shall be considered valid only if all three hourly averages for the 3-hour period are available. If only one or two hourly averages are available, but the 3-hour average would exceed the level of the standard when zeros are substituted for the missing values, subject to the rounding rule of paragraph (b) of this section, then this shall be considered a valid 3-hour average. In all cases, the 3-hour block average shall be computed as the sum of the hourly averages divided by 3.

Section 5. Ambient Standards for Carbon Monoxide.

(a) The ambient air standard for carbon monoxide, measured by nondispersive infrared spectrometry, as described in 40 CFR Part 50, Appendix C, or by an equivalent method designated in accordance with 40 CFR Part 53, is:

(i) 10 milligrams per cubic meter (9 ppm) — maximum 8-hour concentration not to be exceeded more than once per year;

(ii) 40 milligrams per cubic meter (35 ppm) — maximum 1-hour concentration not to be exceeded more than once per year.

Section 6. Ambient Standards for Ozone.

(a) The level of the 8-hour primary and secondary ambient air quality standards for ozone (O_3) is 0.070 parts per million (ppm, which is 1 part in 1,000,000), daily maximum 8-hour average, measured by a reference method based on Appendix D to 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or an equivalent method designated in accordance with 40 CFR Part 53.

(b) The 8-hour primary and secondary standard ozone ambient air quality standards are met at an ambient air quality monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.070 ppm, as determined in accordance with 40 CFR Part 50, Appendix P.

Section 7. Ambient Standards for Hydrogen Sulfide.

(a) The ambient air standards for hydrogen sulfide, measured by the mercuric chloride method, methylene blue method, or by an equivalent method are:

(i) 70 micrograms H_2S per cubic meter, ½-hour average not to be exceeded more than 2 times per year;

(ii) 40 micrograms H_2S per cubic meter, ½-hour average not to be exceeded more than 2 times in any five consecutive days.

Section 8. Ambient Standards for Suspended Sulfates.

(a) The ambient air standards for suspended sulfate measured as a sulfation rate by the lead peroxide method are:

(i) 0.25 milligrams SO_3 per 100 square centimeters per day, maximum annual average;

(ii) 0.50 milligrams SO_3 per 100 square centimeters per day, maximum 30-day value.

Section 9. Ambient Standards for Fluorides.

(a) The ambient air standards for fluorides, measured as hydrogen fluoride through methods approved by the Administrator are:

(i) Statewide Standard:

Averaging Time	Maximum Allowable Concentration for Averaging Time
12 hours	3.0 $\mu g/m^3$
24 hours	1.8 $\mu g/m^3$
7 days	0.5 $\mu g/m^3$
30 days	0.4 $\mu g/m^3$

(ii) Regional Standard:

Averaging Time	Maximum Allowable Concentration for Averaging Time
12 hours	10.0 $\mu g/m^3$
24 hours	4.0 $\mu g/m^3$
7 days	1.8 $\mu g/m^3$
30 days	1.2 $\mu g/m^3$

The Regional Standard applies to the area encompassing the following lands in Sweetwater County, Wyoming:

T19N R104W, E1/2 Section 31 & Sections 32, 33, 34, 35, 36;
T19N R103W, Section 31;
T18N R105W, S1/2 Section 1 & Sections 12, 13, 24, 25, 35, 36;
T18N R104W, All Sections 1 through 36;
T18N R103W, Sections 6, 7, 18, 19, 30, 31, 32, 33;

T17N R105W, Sections 1, 2, 11, 12, 13, 14, 23, 24, 25, 26;
T17N R104W, Sections 1 through 30;
T17N R103W, Sections 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 28, 29, 30

(b) The standards for fluoride in forage for animal consumption measured as fluorine, dry weight basis, are:

Averaging Time	Maximum Allowable Concentration for Averaging Time
One year	30 ppm
60 days	60 ppm
30 days	80 ppm

The concentration of fluoride in forage shall be determined through sampling and analysis methods approved by the Administrator.

Section 10. Ambient Standards for Lead.

(a) The primary and secondary ambient air quality standards for lead (Pb) and its compounds are 0.15 micrograms per cubic meter, arithmetic mean concentration over a 3-month period, measured in the ambient air as Pb either by:

(i) A reference method based on 40 CFR Part 50, Appendix G (Reference Method for the Determination of Lead in Suspended Particulate Matter Collected From Ambient Air), and designated in accordance with 40 CFR Part 53 or;

(ii) An equivalent method designated in accordance with 40 CFR Part 53.

(b) The primary and secondary ambient air quality standards for Pb are met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with Appendix R (Interpretation of the National Ambient Air Quality Standards for Lead) of 40 CFR Part 50, is less than or equal to 0.15 micrograms per cubic meter.

Section 11. Ambient Standards for Odors.

(a) The ambient air standard for odors from any source shall be limited to:

(i) An odor emission at the property line which is undetectable at seven dilutions with odor free air as determined by a scentometer as manufactured by the Barnebey-Cheney Company or any other instrument, device, or technique designated by the Division as producing equivalent results. The occurrence of odors shall be measured so that at least two measurements can be made within a period of one hour, these determinations being separated by at least 15 minutes.

(b) No person shall operate or use any device, machine, equipment, or other

contrivance for the reduction of animal matter unless all gases, vapors and gas entrained effluents from such facility are incinerated at a temperature of not less than 1200 degrees Fahrenheit for a period not less than 0.3 second, or processed by condensation or such manner as determined by the Division to be equally or more effective for the purpose of controlling such emissions.

(i) A person incinerating or processing gases, vapors, or gas entrained effluents pursuant to this rule shall provide, properly install, and maintain in good working order and in operation, devices as specified by the Division for indicating temperature, pressure, or other operating conditions.

(ii) Effective odor control devices, systems, or measures shall be installed and operated such that no vent, exhaust pipe, blowoff pipe, or opening of any kind shall discharge into the outdoor air any odorous matter, vapors, gases, or dusts, or any combination thereof, which create odors in areas adjacent to the plant in excess of the limits described in Chapter 2, Section 11(a)(i) of this regulation.

(c) Odor producing materials shall be stored, transported, and handled in a manner that:

(i) Odors produced from such materials are confined and that accumulation of such materials resulting from spillage or other escape is prevented.

(d) Whenever dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof escape from a building used for processing animal matter in such manner and amount as to cause a violation of Subsection (a)(i) of this regulation, the Division may require that the building or buildings in which processing, handling, and storage are done be tightly closed and ventilated in such a manner that all airborne effluent materials leaving the building be treated by an effective means for removal or destruction of odorous matter before release to the open air.

Section 12. Incorporation by Reference.

(a) Code of Federal Regulations (CFR). All Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices, revised and published as of July 1, ~~2024~~2026, not including any later amendments, are incorporated by reference. Copies of the CFR are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: https://deq.wyoming.gov. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at: https://ecfr.gov.

APPENDIX 1
INTERPRETATION OF THE ANNUAL STATE AMBIENT AIR QUALITY STANDARD FOR PM_{10}

Section 1.0. General.

(a) This appendix explains the computations necessary for analyzing particulate matter data to determine attainment of the annual standard. For the primary standard, particulate matter is measured in the ambient air as PM_{10} (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers) by a reference method based on 40 CFR Part 50, Appendix J, and designated in accordance with 40 CFR Part 53, or by an equivalent method designated in accordance with 40 CFR Part 53. The required frequency of measurements is specified in 40 CFR Part 58.

(b) The terms used in this appendix are defined as follows:

"Average" refers to an arithmetic mean. The particulate matter standard is expressed in terms of the annual arithmetic mean.

"Daily value" for PM_{10} refers to the 24-hour average concentration of PM_{10} calculated or measured from midnight to midnight (local time).

"Expected annual value" is the number approached when the annual values from an increasing number of years are averaged, in the absence of long-term trends in emissions or meteorological conditions.

"Year" refers to a calendar year.

(c) Although the discussion in this appendix focuses on monitored data, the same principles apply to modeling data, subject to EPA modeling guidelines.

Section 2.0. Attainment Determinations.

Section 2.1. Annual Primary Standard.

(a) The annual primary standard is attained when the expected annual arithmetic mean PM_{10} concentration is less than or equal to the level of the standard. In the simplest case, the expected annual arithmetic mean is determined by averaging the annual arithmetic mean PM_{10} concentrations for the past 3 calendar years. Because of the potential for incomplete data and the possible seasonality in PM_{10} concentrations, the annual mean shall be calculated by averaging the four quarterly means of PM_{10} concentrations within the calendar year. The equations for calculating the annual arithmetic mean are given in Section 3.0 of this appendix. Situations in which 3 years of data are not available and possible adjustments for unusual events or trends are discussed in Sections 2.2 and 2.3 of this appendix. The expected annual arithmetic mean is rounded to the nearest 1 $\mu g/m^3$ before comparison with the annual standard (fractional values equal to or greater than 0.5 are to be rounded up).

Section 2.2. Data Requirements.

(a) A minimum of 75 percent of the scheduled PM_{10} samples per quarter are required.

(b) To demonstrate attainment of the annual standard at a monitoring site, the monitor must provide sufficient data to perform the required calculations of Section 3.0 of this appendix. The amount of data required varies with the sampling frequency, data capture rate and the number of years of record. In all cases, 3 years of representative monitoring data that meet the 75 percent criterion of the previous paragraph should be utilized, if available, and would suffice. More than 3 years may be considered, if all additional representative years of data meeting the 75 percent criterion are utilized. Data not meeting these criteria may also suffice to show attainment; however, such exceptions will have to be approved by the Air Quality Division Administrator.

(c) There are less stringent data requirements for showing that a monitor has failed an attainment test and thus has recorded a violation of the particulate matter standard. Although it is generally necessary to meet the minimum 75 percent data capture requirement per quarter to use the computational equations described in Section 3.0 of this appendix, this criterion does not apply when less data is sufficient to unambiguously establish nonattainment. The following examples illustrate how nonattainment can be demonstrated when a site fails to meet the completeness criteria. Nonattainment of the annual standard can be demonstrated on the basis of quarterly mean concentrations developed from observed data combined with one-half the minimum detectable concentration substituted for missing values. Expected annual values must exceed the levels allowed by the standard.

Section 2.3. Adjustment for Exceptional Events and Trends.

(a) An exceptional event is an uncontrollable event caused by natural sources of particulate matter or an event that is not expected to recur at a given location. Inclusion of such a value in the computation of exceedances or averages could result in inappropriate estimates of their respective expected annual values. To reduce the effect of unusual events, more than 3 years of representative data may be used. Alternatively, other techniques, such as the use of statistical models or the use of historical data could be considered so that the event may be discounted or weighted according to the likelihood that it will recur. The use of such techniques is subject to the approval of the Air Quality Division Administrator.

(b) In cases where long-term trends in emissions and air quality are evident, mathematical techniques should be applied to account for the trends to ensure that the expected annual values are not inappropriately biased by unrepresentative data. In the simplest case, if 3 years of data are available under stable emission conditions, this data should be used. In the event of a trend or shift in emission patterns, either the most recent representative year(s) could be used or statistical techniques or models could be used in conjunction with previous years of data to adjust for trends. The use of less than 3 years of data, and any adjustments are subject to the approval of the Air Quality Division Administrator.

Section 3.0. Computational Equations for Annual Standard.

Section 3.1. Calculation of the Annual Arithmetic Mean.

(a) An annual arithmetic mean value for PM_{10} is determined by averaging the quarterly means for the 4 calendar quarters of the year. The following equation is to be used for calculation of the mean for a calendar quarter:

Equation 1

$$\bar{x}_q = \left(1/n_q\right) \times \sum_{i=1}^{n_q} x_i$$

where:
$\bar{x}_q$ = the quarterly mean concentration for quarter q, q=1, 2, 3, or 4,
n_q = the number of samples in the quarter, and
x_i = the ith concentration value recorded in the quarter.

(b) The quarterly mean, expressed in $\mu g/m^3$, must be rounded to the nearest tenth (fractional values of 0.05 should be rounded up).

(c) The annual mean is calculated by using the following equation:

Equation 2

$$\bar{x} = \left(1/4\right) \times \sum_{q=1}^{4} \bar{x}_q$$

where:
$\bar{x}$ = the annual mean; and
$\bar{x}_q$ = the mean for calendar quarter q.

(d) The average of quarterly means must be rounded to the nearest tenth (fractional values of 0.05 should be rounded up).

(e) The use of quarterly averages to compute the annual average will not be necessary for monitoring or modeling data which results in a complete record, i.e., 365 days per year.

(f) The expected annual mean is estimated as the average of three or more annual means. This multi-year estimate, expressed in $\mu g/m^3$, shall be rounded to the nearest integer for

comparison with the annual standard (fractional values of 0.5 should be rounded up).

Example 1

Using Equation 1, the quarterly means are calculated for each calendar quarter. If the quarterly means are 52.4, 75.3, 82.1, and 63.2 μg/m^3, then the annual mean is:

$$\overline{X} = (1/4)x(52.4+75.3+82.1+63.2) = 68.25 \text{ or } 68.3.$$

Section 3.2. Adjustments for Non-scheduled Sampling Days.

(a) An adjustment in the calculation of the annual mean is needed if sampling is performed on days in addition to the days specified by the systematic sampling schedule. The quarterly averages would be calculated by using the following equation:

Equation 3

$$\bar{x}_q = \left(1/m_q\right) \times \sum_{j=1}^{m_q} \sum_{i=1}^{k_j} \left(x_{ij}/k_j\right)$$

where:

$\bar{x}_q$ = the quarterly mean concentration for quarter q, q=1, 2, 3, or 4;
x_{ij} = the ith concentration value recorded in stratum j;
k_j = the number of actual samples in stratum j; and
m_q = the number of strata with data in the quarter.

(b) If one sample value is recorded in each stratum, Equation 3 reduces to a simple arithmetic average of the observed values as described by Equation 1.

Example 2

(c) During one calendar quarter, 9 observations were recorded. These samples were distributed among 7 sampling strata, with 3 observations in one stratum. The concentrations of the 3 observations in the single stratum were 202, 242, and 180 μg/m^3. The remaining 6 observed concentrations were 55, 68, 73, 92, 120, and 155 μg/m^3. Applying the weighting factors specified in Equation 3, the quarterly mean is:

$$\overline{X}_q = (1/7)x[(1/3)x(202+242+180)+155+68+73+92+120+155] = 110.1$$

(d) Note that these values are rounded to the nearest 1 μg/m^3 for the calculation of means.

Chapter 3
General Emission Standards

Section 1. Introduction to General Emission Standards.

(a) This Chapter establishes limits on the quantity, rate, or concentration of emissions of air pollutants, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures. These general emission standards may be superseded by specific emission standards required in other chapters of the Wyoming Air Quality Standards and Regulations (WAQSR). Section 9 incorporates by reference all Code of Federal Regulations (CFRs), including their Appendices, cited in this Chapter and all American Society for Testing and Materials (ASTM) standards cited in this chapter.

Section 2. Emission Standards for Particulate Matter.

(a) Visible emissions of any contaminant discharged into the atmosphere from any single new source of emission whatsoever as determined by a qualified observer shall be limited to 20 percent opacity;

Provided, that:

(i) An owner or operator of an affected facility of the type described in Chapter 3, Section 2(h)(i) that has a heat input of not less than 2500 x 10^6 Btu per hour, may request the Wyoming Department of Environmental Quality, Air Quality Division Administrator (Administrator) to determine opacity of emissions from such affected facility during initial performance tests required by Chapter 3, Section 2(i) or during other performance tests thereafter.

(ii) Upon receipt from such owner or operator of the written report of the results of the performance tests required by WAQSR Chapter 6, Section 2(i) or later performance tests, the Administrator will make a finding concerning compliance with opacity and other applicable standards. If the Administrator finds that the affected facility is in compliance with all applicable standards for which performance tests are conducted but fails to meet an applicable opacity standard, he shall notify the owner or operator and advise him that he may petition the Administrator within ten days of receipt of notification to make appropriate adjustment to the opacity standard for such affected facility.

(iii) The Administrator will grant a petition upon a satisfactory demonstration by the owner or operator that the affected facility and associated air pollution control equipment was operated and maintained in a manner to minimize the opacity of emissions during the performance tests; that the performance tests were performed under the conditions prescribed by the Administrator; and that the affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard at or near the facility's designed capacity.

(iv) The Administrator will establish an opacity standard for such affected facility meeting the above requirements at a level at which the source will be able, as indicated by the performance and opacity tests, to meet the opacity standard at all times during which the source is meeting the mass or concentration emission standard and during which the facility and air pollution equipment is being operated properly and maintained to minimize the opacity of emissions and mass emission rate.

(b) Visible emissions of any contaminant discharged into the atmosphere from any single existing source of emission whatsoever as determined by a qualified observer shall be limited to 40 percent opacity. This limitation shall not apply to existing incinerators or wood waste burners.

(c) The emissions of visible air pollutants from gasoline engines shall be eliminated except for periods not exceeding five consecutive seconds.

(d) The emissions of visible air pollutants from stationary or portable diesel engines as determined by a qualified observer shall be limited to 30 percent opacity below 7500 feet elevation except for periods not exceeding ten consecutive seconds.

(e) Unless restricted by more stringent emission limits established elsewhere in the WAQSR or permit conditions, any single source may discharge for a period or periods aggregating not more than 6 minutes in any hour contaminants;

(i) Having an equivalent opacity of not more than 40 percent as determined by a qualified observer.

(f) Fugitive Dust. Sources operating within the State of Wyoming are required to control fugitive dust emissions. The following control measures or any equivalent method approved by the Administrator shall be considered appropriate for minimizing fugitive dust:

(i) Construction/Demolition Activities.

(A) Any person engaged in clearing or leveling of land, earthmoving, excavation, or movement of trucks or construction equipment over access haul roads or cleared land shall take steps to minimize fugitive dust from those activities. Such control measures may include frequent watering and/or chemical stabilization.

(B) Any person engaged in demolition activities including razing of homes, buildings, or other structures; or removing paving material from roads and/or parking areas shall take steps to minimize fugitive dust from such activities. Such control measures may include frequent watering and/or chemical stabilization.

(C) Any person who is engaged in construction or demolition activities which tracks earth or other materials onto paved streets shall promptly remove such material by water or other means.

(D) Any person engaged in sandblasting or similar operations shall take steps to minimize fugitive dust from such activities. Such control measures may include the installation and use of hoods, fans and fabric filters to enclose and vent the handling of dusty materials.

(ii) Handling and Transporting of Materials.

(A) Any person owning, operating or maintaining a new or existing material storage, handling and/or hauling operation shall minimize fugitive dust from such an operation. Control measures may include the application of asphalt, oil, water or suitable chemicals on unpaved roads, material stockpiles and other surfaces which can give rise to airborne dusts. Control measures for material handling may also include installation and use of hoods, fans and fabric filters to enclose and vent dusty materials.

(B) When transporting materials likely to give rise to airborne dust, open bodied trucks shall be covered when in motion.

(iii) Agricultural Practices.

(A) Any person engaged in agricultural practices, such as tilling of land and application of fertilizers shall operate in a manner to minimize fugitive dust emissions.

(g) The emission of particulate matter from any new source shall be limited as indicated in Table I. The emission of particulate matter from any existing source shall be limited as indicated in Table II.

(i) Process weight per hour means the total weight of all materials introduced into any specific process that may cause any emissions of particulate matter, including solid fuels, but excluding liquids or gases and used solely as fuels, and excluding air introduced for purposes of combustion, and excluding the weight of any water, water vapor or steam that may be introduced as part of the total materials. However, water contained as part of the normal input to a beet pulp dryer process shall be included as part of the process weight per hour. The process weight rate per hour referred to in this section shall be based upon the maximum design production rate of the equipment unless otherwise restricted by enforceable limits on potential to emit.

(ii) For a cyclical or batch operation, the process weight per hour is derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.

(iii) For a continuous operation, the process weight per hour is derived by dividing the process weight for a typical period of time.

(iv) Emission tests related to this regulation shall be measured in accordance

with the requirements of Chapter 3, Section 2(h)(iv).

TABLE I	
PROCESS WEIGHT RATE (lbs/hr)	**EMISSION RATE (lbs/hr)**
50	0.36
100	0.55
500	1.53
1,000	2.25
5,000	6.34
10,000	9.73
20,000	14.99
60,000	29.60
80,000	31.19
120,000	33.28
160,000	34.85
200,000	36.11
400,000	40.35
1,000,000	46.72

Interpolation of the data in Table I for the process weight rates up to 60,000 lbs/hr shall be accomplished by the use of the equation:

$$E = 3.59\ P^{0.62} \qquad P \leq 30 \text{ tons/hr}$$

and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lbs/hr shall be accomplished by use of the equation:

$$E = 17.31\ P^{0.16} \qquad P > 30 \text{ tons/hr}$$

Where: E = Emissions in pounds per hour.
P = Process weight rate in tons per hour.

TABLE II					
PROCESS WEIGHT RATE		**RATE OF EMISSION**	**PROCESS WEIGHT RATE**		**RATE OF EMISSION**
lb/hr	**tons/hr**	**lb/hr**	**lb/hr**	**tons/hr**	**lb/hr**
100	0.05	0.551	16,000	8	16.5
200	0.10	0.877	18,000	9	17.9
400	0.20	1.40	20,000	10	19.2
600	0.30	1.83	30,000	15	25.2
800	0.40	2.22	40,000	20	30.5
1,000	0.50	2.58	50,000	25	35.4

1,500	0.75	3.38	60,000	30	40.0
2,000	1.00	4.10	70,000	35	41.3
2,500	1.25	4.76	80,000	40	42.5
3,000	1.50	5.38	90,000	45	43.6
3,500	1.75	5.96	100,000	50	44.6
4,000	2.00	6.52	120,000	60	46.3
5,000	2.50	7.58	140,000	70	47.8
6,000	3.00	8.56	160,000	80	49.0
7,000	3.50	9.49	200,000	100	51.2
8,000	4.00	10.4	1,000,000	500	69.0
9,000	4.50	11.2	2,000,000	1,000	77.6
10,000	5.00	12.0	6,000,000	3,000	92.7
12,000	6.00	13.6			

Interpolation of the data in Table II for process weight rates up to 60,000 lb/hr shall be accomplished by use of the equation $E = 4.10\ P^{0.67}$, and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr shall be accomplished by use of the equation:

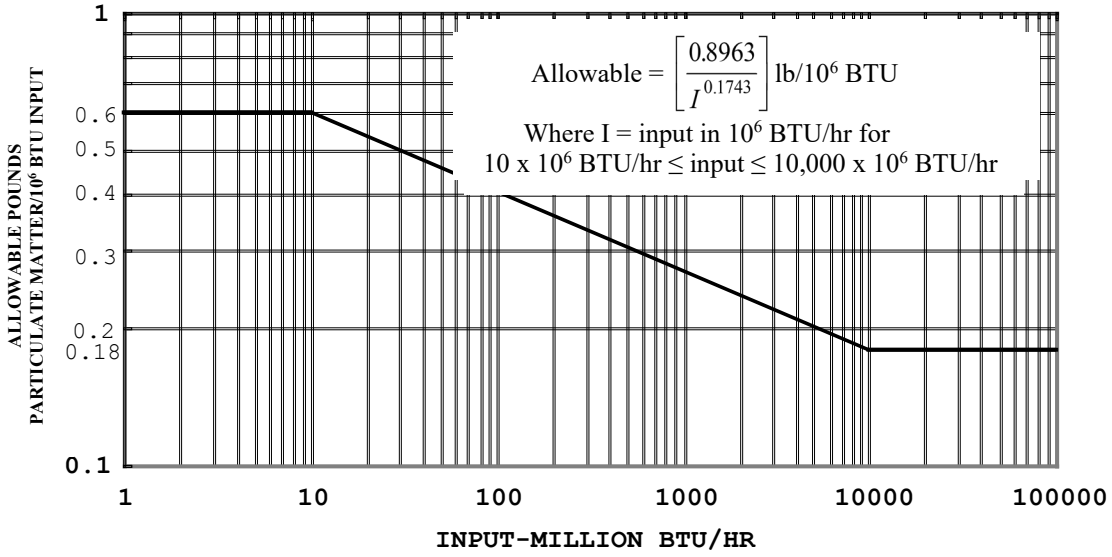
$E = 55.0\ P^{0.11} - 40$, where E = rate of emission in lb/hr

and P = process weight rate in tons/hr

Notwithstanding any other provision of Table II, any existing air contaminant source utilizing an air pollution control device having a collection efficiency of 99.5 percent or better, shall be deemed to be in compliance with all provisions of this regulation. Such efficiency shall be determined by a professional engineer licensed to practice in Wyoming and all expenses incurred in such determination shall be defrayed by the person responsible for the emission.

(h) The emissions of particulate matter from existing sources where fuel burning equipment is used for indirect heating shall be limited as shown in Figure 1 and shall be applicable to equipment burning solid fuel.

FIGURE 1 PARTICULATE EMISSION LIMITS



The emissions of particulate matter from new sources where fuel burning equipment is used for indirect heating shall be limited to 0.10 pound per million Btu input (0.18 grams per million calories) maximum 2-hour average. Except to the extent that an opacity standard has been established for an affected facility pursuant to Chapter 3, Section 2(a)(i) through (iv) hereof, the visible emissions of particulate matter from new sources where fuel burning equipment is used for indirect heating shall be no greater than 20 percent opacity, except that 40 percent opacity shall be permitted for not more than 2 minutes in any hour. This regulation is not applicable to residential or commercial fuel burning equipment with a heat input of less than 10 x 10^6 Btu/hr and used exclusively to produce building heat.

(i) This regulation applies to installations in which fuel is burned for the primary purpose of producing steam, hot water, or hot air or other indirect heating of liquids, gases, or solids, and, in the course of doing so, the products of combustion do not come into direct contact with process materials. Fuels include those such as coal, coke, lignite, fuel oil, and wood, but do not include refuse. When any products or byproducts of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

(ii) For purposes of this regulation, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or stacks, or the heat input value used shall be the equipment manufacturer or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel burning units at a plant or on a premise shall be used for determining the maximum allowable amount of particulate matter which may be emitted.

(iii) The amount of particulate matter emitted shall be measured by test Methods 1 through 5, Appendix A, 40 CFR part 60. The Administrator may require that variations to said methods be included or that entirely different methods be utilized if he

determines that such variations or different methods are necessary in order for the test data to reflect the actual emission rate of particulate matter.

(i) The emission of particulate matter from any incinerator shall be limited to:

(i) 0.20 pound per 100 pounds (2 grams per kilogram) of refuse charged as determined by a source test method approved by the Administrator for stationary sources as described in Section 2(h)(ii) of this chapter; and

(ii) A shade or density equal to but not greater than 20 percent opacity as determined by a qualified observer.

Section 3. Emission Standards for Nitrogen Oxides.

(a) The emission standards for nitrogen oxides, measured in accordance with Method 7 of 40 CFR Part 60, Appendix A-4, or by an equivalent method are:

(i) The emission of nitrogen oxides from new gas fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.20 pound per million Btu (0.36 grams per million gram calories) of heat input.

(ii) The emission of nitrogen oxides from existing gas fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.23 pound per million Btu (0.41 grams per million gram calories) of heat input.

(iii) The emission of nitrogen oxides from new oil fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.30 pounds per million Btu (0.54 grams per million gram calories) of heat input for units having a heat input of 1.0 million Btu per hour (250 million gram calories/hour) or greater and 0.60 pounds per million Btu (1.08 grams per million gram calories) of heat input for units having a heat input less than 1.0 million Btu per hour (250 million gram calories/hour).

(iv) The emission of nitrogen oxides from existing oil fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.46 pound per million Btu (0.83 grams per million gram calories) of heat input for units having a heat input of 250 million Btu per hour (62.5 billion gram calories/hour) or greater and 0.60 pound per million Btu (1.08 grams per million gram calories) of heat input for units having a heat input less than 250 million Btu per hour (62.5 billion gram calories/hour).

(v) The emission of nitrogen oxides from new nitric acid manufacturing plants, calculated as nitrogen dioxide shall be limited to 3 pounds per ton (1.5 kilograms per metric ton) of acid produced, maximum 2-hour average.

(vi) The emission of nitrogen oxides from new solid fossil fuel (except lignite) fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.70 pounds per million Btu (1.26 grams per million gram calories) heat input.

(vii) The emission of nitrogen oxides from existing solid fossil fuel (except lignite) fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.75 pounds per million Btu (1.35 grams per million gram calories) heat input.

Section 4. [Reserved].

Section 5. Emission Standards for Carbon Monoxide.

(a) The emission of carbon monoxide in stack gases from any stationary source shall be limited as may be necessary to prevent ambient standards described in WAQSR Chapter 2, Section 5 from being exceeded. Measures considered appropriate for such control are:

(i) Treatment of the waste gas stream by installation and use of a direct flame afterburner or other means which will achieve the required reduction as approved by the Administrator.

Section 6. Emission Standards for Volatile Organic Compounds.

(a) The term ***"volatile organic compounds" (VOCs)*** is defined in 40 CFR Part 51.100(s), 51.100(s)(1), and 51.100(s)(5), incorporated by reference under Section 9(a) of this chapter.

(b) VOC emissions shall be limited through the application of Best Available Control Technology (BACT) in accordance with Chapter 6, Section 2 of these regulations. Notwithstanding the above, whenever acceptable control of VOC emissions from vapor blowdown, emergency relief systems, or VOC emissions generated from oil and gas production, storage, exploration, development, or processing operations is specified pursuant to these regulations as a flare, the flare shall not exceed a 20 percent opacity emission standard. If acceptable control of VOC emissions is specified as a smokeless flare, the definition given in subsection (i) of this section applies.

(i) For the purposes of this section, ***"smokeless flare"*** means a flare designed for and operated with no visible emissions except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.

(ii) Each flare subject to Chapter 3, Section 6(b) must be equipped and operated with an automatic igniter or a continuous burning pilot which must be maintained in good working order.

Section 7. Emission Standards for Hydrogen Sulfide.

(a) Any exit process gas stream containing hydrogen sulfide which is discharged to the atmosphere from any source shall be vented, incinerated, flared or otherwise disposed of in such a manner that ambient sulfur dioxide and hydrogen sulfide standards described in Chapter 2, Sections 4 and 7 are not exceeded.

Section 8. Emission Standards of Asbestos for Demolition, Renovation, Manufacturing, Spraying and Fabricating.

(a) Applicability. The provisions of this section are applicable to those sources specified in paragraphs (g) through (n), (q), and (r).

(b) Definitions. All terms that are used in this section and are not defined below are given the same meaning as in Chapter 1, Section 3 of these regulations.

"Active waste disposal site" means any disposal site other than an inactive site.

"Adequately wet" means sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.

"Asbestos" means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite.

"Asbestos-containing waste materials" means mill tailings or any waste that contains commercial asbestos and is generated by a source subject to the provisions of this section. This term includes filters from control devices, friable asbestos waste material, and bags or other similar packaging contaminated with commercial asbestos. As applied to demolition and renovation operations, this term also includes regulated asbestos-containing material waste and materials contaminated with asbestos including disposable equipment and clothing.

"Asbestos tailings" means any solid waste that contains asbestos and is a product of asbestos mining or milling operations.

"Asbestos waste from control devices" means any waste material that contains asbestos and is collected by a pollution control device.

"Category I nonfriable asbestos-containing material (ACM)" means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in 40 CFR Part 763 Appendix E, Section 1, Polarized Light Microscopy.

"Category II nonfriable ACM" means any material, excluding Category I nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in 40 CFR Part 763 Appendix E, Section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

"Commercial asbestos" means any material containing asbestos that is extracted from ore and has value because of its asbestos content.

"Cutting" means to penetrate with a sharp-edged instrument and includes sawing, but does not include shearing, slicing, or punching.

"Demolition" means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.

"Emergency renovation operation" means a renovation operation that was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by nonroutine failures of equipment.

"Fabricating" means any processing (e.g., cutting, sawing, drilling) of a manufactured product that contains commercial asbestos, with the exception of processing at temporary sites (field fabricating) for the construction or restoration of facilities. In the case of friction products, fabricating includes bonding, debonding, grinding, sawing, drilling, or other similar operations performed as part of fabricating.

"Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For the purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this section is not excluded, regardless of its current use or function.

"Facility component" means any part of a facility including equipment.

"Friable asbestos material" means any material containing more than 1 percent asbestos as determined using the method specified in 40 CFR Part 763 Appendix E, Section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than 10 percent as determined by a method other than point counting by polarized light microscopy (PLM), verify the asbestos content by point counting using PLM.

"Fugitive source" means any source of emissions not controlled by an air pollution control device.

"Glove bag" means a sealed compartment with attached inner gloves used for the handling of asbestos-containing materials. Properly installed and used, glove bags provide a small work area enclosure typically used for small-scale asbestos stripping operations. Information on glove-bag installation, equipment and supplies, and work practices is contained in the Occupational Safety and Health Administration's (OSHA's) final rule on occupational exposure to asbestos (29 CFR § 1926.1101(g)(5)(ii)).

"Grinding" means to reduce to powder or small fragments and includes mechanical chipping or drilling.

"In poor condition" means the binding of the material is losing its integrity as indicated by peeling, cracking, or crumbling of the material.

"Inactive waste disposal site" means any disposal site or portion of it where additional asbestos-containing waste material has not been deposited within the past year.

"Installation" means any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator (or owner or operator under common control).

"Leak-tight" means that solids or liquids cannot escape or spill out. It also means dust-tight.

"Malfunction" means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner so that emissions of asbestos are increased. Failures of equipment shall not be considered malfunctions if they are caused in any way by poor maintenance, careless operation, or any other preventable upset conditions, equipment breakdown, or process failure.

"Manufacturing" means the combining of commercial asbestos--or, in the case of woven friction products, the combining of textiles containing commercial asbestos--with any other material(s), including commercial asbestos, and the processing of this combination into a product. Chlorine production is considered a part of manufacturing.

"Natural barrier" means a natural object that effectively precludes or deters access. Natural barriers include physical obstacles such as cliffs, lakes or other large bodies of water, deep and wide ravines, and mountains. Remoteness by itself is not a natural barrier.

"Nonfriable asbestos-containing material" means any material containing more than 1 percent asbestos as determined using the method specified in 40 CFR Part 763 Appendix E, Section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

"Nonscheduled renovation operation" means a renovation operation necessitated by the routine failure of equipment, which is expected to occur within a given period based on past operating experience, but for which an exact date cannot be predicted.

"Outside air" means the air outside buildings and structures, including, but not limited to, the air under a bridge or in an open air ferry dock.

"Owner or operator of a demolition or renovation activity" means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or

any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

"Particulate asbestos material" means finely divided particles of asbestos or material containing asbestos.

"Planned renovation operations" means a renovation operation, or a number of such operations, in which some regulated asbestos-containing material (RACM) will be removed or stripped within a given period of time and that can be predicted. Individual nonscheduled operations are included if a number of such operations can be predicted to occur during a given period of time based on operating experience.

"Regulated asbestos-containing material (RACM)" means: (a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this chapter.

"Remove" means to take out RACM or facility components that contain or are covered with RACM from any facility.

"Renovation" means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions.

"Resilient floor covering" means asbestos-containing floor tile, including asphalt and vinyl floor tile, and sheet vinyl floor covering containing more than 1 percent asbestos as determined using polarized light microscopy according to the method specified in 40 CFR Part 763 Appendix E, Section 1, Polarized Light Microscopy.

"Strip" means to take off RACM from any part of a facility or facility components.

"Structural member" means any load supporting member of a facility, such as beams and load supporting walls; or any nonload-supporting member, such as ceilings and nonload-supporting walls.

"Visible emissions" means any emissions, which are visually detectable without the aid of instruments, coming from RACM or asbestos-containing waste material, or from any asbestos milling, manufacturing, or fabricating operation. This does not include condensed, uncombined water vapor.

"Waste generator" means any owner or operator of a source covered by this section whose act or process produces asbestos-containing waste material.

"Waste shipment record" means the shipping document, required to be originated and signed by the waste generator, used to track and substantiate the disposal of asbestos-containing waste material.

"Working day" means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

(c) Units and Abbreviations: Used in this section are abbreviations and symbols of units of measure. These are defined as follows:

(i) System International (SI) Units of Measure:

g = gram
kg = kilogram
m = meter
m^2 = square meter
m^3 = cubic meter

(ii) Other Units of Measure:

C = Celsius (centigrade)
F = Fahrenheit
ft^2 = square feet
ft^3 = cubic feet
yd^2 = square yards
min = minute
oz = ounces

(d) Address: All requests, reports, applications, submittals, and other communications to the Administrator pursuant to this section shall be submitted to the following address:

(i) Wyoming Department of Environmental Quality, Air Quality Division, 200 West 17th St., Cheyenne, Wyoming 82002.

(e) [Reserved]

(f) Circumvention: No owner or operator shall build, erect, install, or use any article, machine, equipment, process, or method, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous dilutants to achieve compliance with a visible emissions standard, and the piecemeal carrying out of an operation to avoid coverage by a standard that applies only to operations larger than a specified size.

(g) Standard for Waste Disposal for Non-Facility Owners and Operators.

(i) All owners and operators conducting an asbestos abatement project, including an abatement project on a residential building, shall be responsible for complying with

Federal requirements and State standards for packaging, transportation, and delivery to an approved waste disposal facility as provided in paragraph (m) of this section. A non-facility is any other facility not defined under the definition of "facility" including residential buildings having four or fewer dwelling units.

(h) Standard for Manufacturing.

(i) Applicability. This paragraph applies to the following manufacturing operations using commercial asbestos.

(A) The manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials.

(B) The manufacture of cement products.

(C) The manufacture of fireproofing and insulating materials.

(D) The manufacture of friction products.

(E) The manufacture of paper, millboard, and felt.

(F) The manufacture of floor tile.

(G) The manufacture of paints, coatings, caulks, adhesives, and sealants.

(H) The manufacture of plastics and rubber materials.

(I) The manufacture of chlorine utilizing asbestos diaphragm technology.

(J) The manufacture of shotgun shell wads.

(K) The manufacture of asphalt concrete.

(ii) Standard. Each owner or operator of any of the manufacturing operations to which this paragraph applies shall either:

(A) Discharge no visible emissions to the outside air from these operations or from any building or structure in which they are conducted or from any fugitive sources; or

(B) Use the methods specified by paragraph (o) of this section to clean emissions containing asbestos material from these operations before they escape to, or are vented to, the outside air.

(C) Monitor each potential source of asbestos emissions from any part of the manufacturing facility, including air cleaning devices, process equipment, and buildings housing material processing and handling equipment, at least once each day during daylight hours for visible emissions to the outside air during periods of operation. The monitoring shall be by the visual observation of at least 15 seconds duration per source of emissions.

(D) Inspect each air cleaning device at least once each week for proper operation and for changes that signal potential for malfunctions, including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this paragraph, submit to the Administrator, and revise as necessary, a written maintenance plan to include, at a minimum, the following:

(I) Maintenance schedule.

(II) Recordkeeping plan.

(E) Maintain records of the results of visible emission monitoring and air cleaning device inspections using a format similar to that shown in Figures 1 and 2 and include the following:

(I) Date and time of each inspection.

(II) Presence or absence of visible emissions.

(III) Condition of fabric filters, including presence of any tears, holes and abrasions.

Figure 1. Record of Visible Emission Monitoring

Date of Inspection (MM/DD/YY)	Time of Inspection (a.m./p.m.)	Control Device or fugitive emission source designation or number	Visible Emissions Observed (yes/no) Corrective Action taken	Daily Operating Hours	Inspector's Initials

Figure 2. Air Pollution Control Device Inspection Checklist

1. Control Device Designation or Number:_____

2. Date of Inspection:	_____	_____	_____	_____
3. Time of Inspection:	_____	_____	_____	_____
4. Is Control Device Operating Properly (yes or no)	_____	_____	_____	_____
5. Abrasions in bags (yes or no)	_____	_____	_____	_____
6. Dust on Clean Side of bags (yes or no)	_____	_____	_____	_____
7. Other Signs of Malfunctions or Potential Mal-functions (yes or no)	_____	_____	_____	_____

8. Describe Other Malfunctions or Signs of Potential Malfunctions:

_____

9. Describe Corrective Action(s) Taken:

_____

10. Date and Time Corrective Action Taken:	_____	_____	_____	_____

11. Inspected By:

_____	_____	_____	_____
(Print/Type Name)	(Title)	(Signature)	(Date)
_____	_____	_____	_____
(Print/Type Name)	(Title)	(Signature)	(Date)

(IV) Presence of dust deposits on clean side of fabric filters.

(V) Brief description of corrective actions taken, including date and time.

(VI) Daily hours of operation for each air cleaning device.

(F) Furnish upon request, and make available at the affected facility during normal business hours for inspection by the Administrator, all records required under this paragraph.

(G) Retain a copy of all monitoring and inspection records for at least 2 years.

(H) Submit quarterly a copy of the visible emission monitoring records to the Administrator if visible emissions occurred during the report period. Quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter.

(i) Standard for Demolition and Renovation.

(i) Applicability. To determine which requirements of paragraphs (i)(i), (i)(ii), and (i)(iii) apply to the owner or operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos, including Category I and Category II nonfriable ACM. The requirements of paragraphs (i)(ii) and (i)(iii) apply to each owner or operator of a demolition or renovation activity, including the removal of RACM as follows:

(A) In a facility being demolished, all the requirements of paragraphs (i)(ii) and (i)(iii) apply, except as provided in paragraph (i)(i)(C), if the combined amount of RACM is:

(I) At least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components, or

(II) At least 1 cubic meter (35 cubic feet) off facility components where the length or area could not be measured previously.

(B) In a facility being demolished, only the notification requirements of paragraphs (i)(ii)(A), (B), (C)(I) and (IV), and (D)(I) through (D)(IX) and (XVI) apply, if the combined amount of RACM is:

(I) Less than 80 linear meters (260 linear feet) on pipes and less than 15 square meters (160 square feet) on other facility components, and

(II) Less than one cubic meter (35 cubic feet) off facility

components where the length or area could not be measured previously or there is no asbestos.

(C) If the facility is being demolished under an order of a State or local government agency, issued because the facility is structurally unsound and in danger of imminent collapse, only the requirements of paragraphs (i)(ii)(A), (i)(ii)(B), (i)(ii)(C)(III), (i)(ii)(D) (except (i)(ii)(D)(VIII)), (i)(ii)(E), and (i)(iii)(D) through (i)(iii)(I) apply.

(D) In a facility being renovated, including any individual nonscheduled renovation operation, all the requirements of paragraphs (i)(ii) and (i)(iii) apply if the combined amount of RACM to be stripped, removed, dislodged, cut, drilled, or similarly disturbed is:

(I) At least 80 linear meters (260 linear feet) on pipe or at least 15 square meters (160 square feet) on other facility components, or

(II) At least 1 cubic meter (35 cubic feet) off facility components where the length or area could not be measured previously.

(III) To determine whether paragraph (i)(i)(D) applies to planned renovation operations involving individual nonscheduled operations, predict the combined additive amount of RACM to be removed or stripped during a calendar year or January 1 through December 31.

(IV) To determine whether paragraph (i)(i)(D) applies to emergency renovation operations, estimate the combined amount of RACM to be removed or stripped as a result of the sudden, unexpected event that necessitated the renovation.

(E) In a facility being renovated, only the notification requirements of paragraphs (i)(ii)(A), (B), (C)(I) and (IV), and (D)(I) through (IX) and (XVI) apply, if the combined amount of RACM is:

(I) Less than 80 linear meters (260 linear feet) on pipes or less than 15 square meters (160 square feet) on other facility components, and

(II) Less than 1 cubic meter (35 cubic feet) off facility components where the length or area could not be measured previously or there is no asbestos.

(ii) Notification Requirements. Each owner or operator of a demolition or renovation activity to which this section applies shall:

(A) Provide the Administrator with written notice of intention to demolish or renovate. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

(B) Update notice, as necessary, including when the amount of asbestos affected changes by at least 20 percent.

(C) Postmark or deliver the notice as follows:

(I) At least 10 working days before asbestos stripping or removal work or any other activity begins (such as site preparation that would break up, dislodge or similarly disturb asbestos material), if the operation is described in paragraphs (i)(i)(A) and (D) (except (i)(i)(D)(III) and (i)(i)(D)(IV)). If the operation is as described in paragraph (i)(i)(B), notification is required 10 working days before demolition begins.

(II) At least 10 working days before the end of the calendar year preceding the year for which notice is being given for renovations described in paragraph (i)(i)(D)(III).

(III) As early as possible before, but not later than, the following working day if the operation is a demolition ordered according to paragraph (i)(i)(C) or, if the operation is a renovation described in paragraph (i)(i)(D)(IV).

(IV) For asbestos stripping or removal work in a demolition or renovation operation, described in paragraphs (i)(i)(A) and (D) (except (i)(i)(D)(III) and (i)(i)(D)(IV)), and for a demolition described in paragraph (i)(i)(B), that will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the Administrator as follows:

(1.) When the asbestos stripping or removal operation or demolition operation covered by this paragraph will begin after the date contained in the notice,

a. Notify the Administrator of the new start date by telephone as soon as possible before the original start date, and

b. Provide the Administrator with a written notice of the new start date as soon as possible before, and no later than, the original start date. Delivery of the updated notice by the U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

(2.) When the asbestos stripping or removal operation or demolition operation covered by this paragraph will begin on a date earlier than the original start date,

a. Provide the Administrator with a written notice of the new start date at least 10 working days before asbestos stripping or removal work begins.

b. For demolitions covered by paragraph (i)(i)(B), provide the Administrator written notice of a new start date at least 10 working days before commencement of demolition. Delivery of updated notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

(3.) In no event shall an operation covered by this paragraph begin on a date other than the date contained in the written notice of the new start date.

(D) Include the following in the notice:

(I) An indication of whether the notice is the original or a revised notification.

(II) Name, address, and telephone number of both the facility owner and operator and the asbestos removal contractor owner or operator.

(III) Type of operation: demolition or renovation.

(IV) Description of the facility or affected part of the facility including the size (square meters [square feet] and number of floors), age, and present and prior use of the facility.

(V) Procedure, including analytical methods, employed to detect the presence of RACM and Category I and Category II nonfriable ACM.

(VI) Estimate of the approximate amount of RACM to be removed from the facility in terms of length of pipe in linear meters (linear feet), surface area in square meters (square feet) on other facility components, or volume in cubic meters (cubic feet) if off the facility components. Also estimate the approximate amount of Category I and Category II nonfriable ACM in the affected part of the facility that will not be removed before demolition.

(VII) Location and street address (including building number or name and floor or room number, if appropriate), city, county, and state, or the facility being demolished or renovated.

(VIII) Scheduled starting and completion dates of asbestos removal work (or any other activity, such as site preparation that would break up, dislodge, or similarly disturb asbestos material) in a demolition or renovation; planned renovation operations involving individual nonscheduled operations shall only include the beginning and ending dates of the report period as described in paragraph (i)(i)(D)(III).

(IX) Scheduled starting and completion dates of demolition or renovation.

(X) Description of planned demolition or renovation work to be performed and method(s) to be employed, including demolition or renovation techniques to be used and description of affected facility components.

(XI) Description of work practices and engineering controls to be used to comply with the requirements of this section, including asbestos removal and waste-handling emission control procedures.

(XII) Name and location of the waste disposal site where the asbestos-containing waste material will be deposited.

(XIII) A certification that the individuals supervising and performing the stripping and removal described by this notification have received the training required by paragraph (i)(iii)(H).

(XIV) For facilities described in paragraph (i)(i)(C), the name, title, and authority of the State or local government representative who has ordered the demolition, the date that the order was issued, and the date on which the demolition was ordered to begin. A copy of the order shall be attached to the notification.

(XV) For emergency renovations described in paragraph (b)(xii) of this section, the date and hour that the emergency occurred, a description of the sudden, unexpected event, and an explanation of how the event caused an unsafe condition, or would cause equipment damage or an unreasonable financial burden.

(XVI) Description of procedures to be followed in the event that unexpected RACM is found or Category II nonfriable ACM becomes crumbled, pulverized, or reduced to powder.

(XVII) Name, address, and telephone number of the waste transporter.

(E) The information required in paragraph (i)(ii)(D) must be reported using a form similar to that shown in Figure 3.

(iii) Procedures for Asbestos Emission Control. Each owner or operator of a demolition or renovation activity to whom this paragraph applies, according to paragraph (i)(i), shall comply with the following procedures:

(A) Remove all RACM from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal. RACM need not be removed before demolition if:

(I) It is Category I nonfriable ACM that is not in poor condition and is not friable.

(II) It is on a facility component that is encased in concrete or other similarly hard material and is adequately wet whenever exposed during demolition; or

(III) It was not accessible for testing and was, therefore, not discovered until after demolition began and, as a result of the demolition, the material cannot be safely removed. If not removed for safety reasons, the exposed RACM and any asbestos-contaminated debris must be treated as asbestos-containing waste material and adequately wet at all times until disposed of.

(IV) They are Category II nonfriable ACM and the probability is low that the materials will become crumbled, pulverized, or reduced to powder during demolition.

(B) When a facility component that contains, is covered with, or is coated with RACM is being taken out of the facility as a unit or in sections:

(I) Adequately wet all RACM exposed during cutting or disjointing operations; and

(II) Carefully lower each unit or section to the floor and to ground level, not dropping, throwing, sliding, or otherwise damaging or disturbing the RACM.

(C) When RACM is stripped from a facility component while it remains in place in the facility, adequately wet the RACM during the stripping operation.

(I) In renovation operations, wetting is not required if:

(1.) The owner or operator has obtained prior written approval from the Administrator based on a written application that wetting to comply with this paragraph would unavoidably damage equipment or present a safety hazard; and

Figure 3
STATE OF WYOMING
NOTIFICATION OF DEMOLITION AND RENOVATION

I. FACILITY DESCRIPTION (INCLUDE BUILDING NAME, NUMBER, AND FLOOR OR ROOM NUMBER)			
BLDG NAME:			
ADDRESS:			
CITY:	STATE”	CONTACT:	
SITE DESCRIPTION (type of material being removed)			
II. FACILITY INFORMATION (IDENTIFY OWNER, REMOVAL CONTRACTOR, AND OTHER OPERATOR)			
OWNER NAME:			
ADDRESS:			
CITY:	STATE:	ZIP:	
CONTACT:			TEL:
REMOVAL CONTRACTOR:			
ADDRESS:			
CITY:	STATE:	ZIP:	
CONTACT:			TEL:
OTHER OPERATOR:			
ADDRESS:			
CITY:	STATE:	ZIP:	
CONTACT:			TEL:
BUILDING SIZE:	NUM OF FLOORS:	AGE IN YEARS:	
PRESENT USE:	PRIOR USE:		
III. TYPE OF OPERATION (D=DEMO O=ORDERED DEMO R=RENOVATION E=EMER. RENOVATION):			
IV. IS ASBESTOS PRESENT? (YES/NO)			
V. PROCEDURE, INCLUDING ANALYTICAL METHOD, IF APPROPRIATE, USED TO DETECT THE PRESENCE OF ASBESTOS MATERIAL:			
VI. SCHEDULED DATES ASBESTOS REMOVAL (MM/DD/YY) START:		COMPLETE:	
VII. SCHEDULED DATES DEMO/RENOVATION (MM/DD/YY) START:		COMPLETE:	
VIII. SCHEDULED WORK HOURS: START:		COMPLETE:	

IX. APPROXIMATE AMOUNT OF ASBESTOS, INCLUDING: 1. REGULATED ACM TO BE REMOVED 2. CATEGORY I ACM NOT REMOVED 3. CATEGORY II ACM NOT REMOVED	RACM TO BE REMOVED	NONFRIABLE ASBESTOS MATERIAL TO BE REMOVED		NONFRIABLE ASBESTOS MATERIAL NOT TO BE REMOVED	
		CAT I	CAT II	CAT I	CAT II
PIPES					
SURFACE AREA					
VOL. RACM OFF FACILITY COMPONENT					

X. DESCRIPTION OF PLANNED DEMOLITION OR RENOVATION WORK, AND METHOD(S) TO BE USED:
XI. DESCRIPTION OF WORK PRACTICES AND ENGINEERING CONTROLS TO BE USED TO PREVENT EMISSIONS OF ASBESTOS AT THE DEMOLITION AND RENOVATION SITE:

Figure 3. NOTIFICATION OF DEMOLITION AND RENOVATION (continued)

XII. TYPE OF NOTIFICATION (O=ORIGINAL R=REVISED C=CANCELED):		WPR Notice?
XIII. WASTE TRANSPORTER #1		
NAME:		
ADDRESS:		
CITY:	STATE:	ZIP:
CONTACT PERSON:		TELEPHONE:
WASTE TRANSPORTER #2		
NAME:		
ADDRESS:		
CITY:	STATE:	ZIP:
CONTACT PERSON:		TELEPHONE:
XIV. WASTE DISPOSAL SITE		
NAME:		
LOCATION:		
CITY:	STATE:	ZIP:
TELEPHONE:	CONTACT PERSON:	
XV. IF DEMOLITION ORDERED BY A GOVERNMENT AGENCY, PLEASE IDENTIFY THE AGENCY BELOW:		
NAME:	TITLE:	
AUTHORITY:		
DATE OF ORDER (MM/DD/YY):	DATE ORDERED TO BEGIN (MM/DD/YY):	
XVI. FOR EMERGENCY RENOVATIONS		
DATE AND HOUR OF EMERGENCY (MM/DD/YY):		
DESCRIPTION OF THE SUDDEN, UNEXPECTED EVENT:		
EXPLANATION OF HOW THE EVENT CAUSED UNSAFE CONDITIONS OR WOULD CAUSE EQUIPMENT DAMAGE OR AN UNREASONABLE FINANCIAL BURDEN:		
XVII. DESCRIPTION OF PROCEDURES TO BE FOLLOWED IN THE EVENT THAT UNEXPECTED ASBESTOS IS FOUND OR PREVIOUSLY NONFRIABLE ASBESTOS MATERIAL BECOMES CRUMBLED, PULVERIZED, OR REDUCED TO POWDER.		
XVIII. I CERTIFY THAT AN INDIVIDUAL TRAINED IN THE PROVISIONS OF THIS REGULATION (40 CFR PART 61, SUBPART M) WILL BE ON-SITE DURING THE DEMOLITION OR RENOVATION AND EVIDENCE THAT THE REQUIRED TRAINING HAS BEEN ACCOMPLISHED BY THIS PERSON WILL BE AVAILABLE FOR INSPECTION DURING NORMAL BUSINESS HOURS (REQUIRED 1 YEAR AFTER PROMULGATION). _____ _____ (SIGNATURE OF OWNER/OPERATOR) (DATE)		
XIX. I CERTIFY THAT THE ABOVE INFORMATION IS CORRECT. _____ _____ (SIGNATURE OF OWNER/OPERATOR) (DATE)		

(2.) The owner or operator uses one of the following emission control methods:

a. A local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the stripping and removal of the asbestos materials. The system must exhibit no visible emissions to the outside air or be designed and operated in accordance with the requirements in paragraph (o).

b. A glove-bag system designed and operated to contain the particulate asbestos material produced by the stripping of the asbestos materials.

c. Leak-tight wrapping to contain all RACM prior to dismantlement.

(II) In renovation operations where wetting would result in equipment damage or a safety hazard, and the methods allowed in paragraph (i)(iii)(C)(I) cannot be used, another method may be used after obtaining written approval from the Administrator based upon a determination that it is equivalent to wetting in controlling emissions or to the methods allowed in paragraph (i)(iii)(C)(I).

(III) A copy of the Administrator's written approval shall be kept at the worksite and made available for inspection.

(D) After a facility component covered with, coated with, or containing RACM has been taken out of the facility as a unit or in sections pursuant to paragraph (i)(iii)(B), it shall be stripped or contained in leak-tight wrapping, except as described in paragraph (i)(iii)(E). If stripped, either:

(I) Adequately wet the RACM during stripping; or

(II) Use a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the stripping. The system must exhibit no visible emissions to the outside air or be designed and operated in accordance with the requirements in paragraph (o).

(E) For large facility components such as reactor vessels, large tanks, and steam generators, but not beams (which must be handled in accordance with paragraphs (i)(iii)(B), (C), and (D)), the RACM is not required to be stripped if the following requirements are met:

(I) The component is removed, transported, stored, disposed of, or reused without disturbing or damaging the RACM.

(II) The component is encased in a leak-tight wrapping.

(III) The leak-tight wrapping is labeled according to paragraphs

(m)(iv) during all loading and unloading operations and during storage.

(F) For all RACM, including material that has been removed or stripped:

(I) Adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal in accordance with paragraph (m).

(II) Carefully lower the material to the ground and floor, not dropping, throwing, sliding, or otherwise damaging or disturbing the material.

(III) Transport the material to the ground via leak-tight chutes or containers if it has been removed or stripped more than 50 feet above ground level and was not removed as units or in sections.

(IV) RACM contained in leak-tight wrapping that has been removed in accordance with paragraphs (i)(iii)(D) and (i)(iii)(C)(I)(2.)c. need not be wetted.

(G) When the temperature at the point of wetting is below 0°C (32°F):

(I) The owner or operator need not comply with paragraph (i)(iii)(B)(I) and the wetting provisions of paragraph (i)(iii)(C).

(II) The owner or operator shall remove facility components containing, coated with, or covered with RACM as units or in sections to the maximum extent possible.

(III) During periods when wetting operations are suspended due to freezing temperatures, the owner or operator must record the temperature in the area containing the facility components at the beginning, middle, and end of each workday and keep daily temperature records available for inspection by the Administrator during normal business hours at the demolition or renovation site. The owner or operator shall retain the temperature records for at least 2 years.

(H) No RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this section unless the individuals supervising and performing the operation have been trained in the provisions of this regulation and the means of complying with them. Asbestos School Hazard Abatement Reauthorization Act (ASHARA) training will be acceptable to meet this requirement. Every year, the individuals supervising and performing asbestos operations shall receive refresher training in the provisions of this regulation. The required training shall include as a minimum: applicability; notifications; material identification; control procedures for removals including, at least, wetting, local exhaust ventilation, negative pressure enclosures, glove-bag procedures, and High Efficiency Particulate Air (HEPA) filters; waste disposal work practices; reporting and recordkeeping; and asbestos hazards and worker protection. Evidence that the required training has been completed shall be posted and made

available for inspection by the Administrator at the demolition or renovation site.

(I) For facilities described in paragraph (i)(i)(C), adequately wet the portion of the facility that contains RACM during the wrecking operation.

(J) If a facility is demolished by intentional burning, all RACM including Category I and Category II nonfriable ACM must be removed in accordance with the NESHAP before burning.

(j) Standard for Spraying.

The owner or operator of an operation in which asbestos-containing materials are spray applied shall comply with the following requirements:

(i) For spray-on application on buildings, structures, pipes, and conduits do not use material containing more than 1 percent asbestos as determined using the method specified in 40 CFR Part 763 Appendix E, Section 1, Polarized Light Microscopy, except as provided in paragraph (j)(iii).

(ii) For spray-on application of materials that contain more than 1 percent asbestos as determined using the method specified in 40 CFR Part 763 Appendix E, Section 1, Polarized Light Microscopy, on equipment and machinery, except as provided in paragraph (j)(iii):

(A) Notify the Administrator at least 20 days before beginning the spraying operation. Include the following information in the notice:

(I) Name and address of owner or operator.

(II) Location of spraying operation.

(III) Procedures to be followed to meet the requirements of paragraph (j).

(B) Discharge no visible emissions to the outside air from spray-on application of the asbestos-containing material or use the methods specified by paragraph (o) to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

(iii) The requirements of paragraphs (j)(i) and (j)(ii) do not apply to the spray-on application of materials where the asbestos fibers in the materials are encapsulated with a bituminous or resinous binder during spraying and the materials are not friable after drying.

(k) Standard for Fabricating.

(i) Applicability. This section applies to the following fabrication operations

using commercial asbestos:

(A) The fabrication of cement building products.

(B) The fabrication of friction products, except those operations that primarily install asbestos friction materials on motor vehicles.

(C) The fabrication of cement on silicate board for ventilation hoods; ovens; electrical panels; laboratory furniture, bulkheads, partitions, and ceilings for marine construction; and flow control devices for the molten metal industry.

(ii) Standard. Each owner or operator of any of the fabricating operations to which this section applies shall either:

(A) Discharge no visible emissions to the outside air from any of the operations or from any building or structure in which they are conducted or from any other fugitive sources; or

(B) Use the methods specified by paragraph (o) to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

(C) Monitor each potential source of asbestos emissions from any part of the fabricating facility, including air cleaning devices, process equipment, and buildings that house equipment for material processing and handling, at least once a day, during daylight hours, for visible emissions to the outside air during periods of operation. The monitoring shall be by visual observation of at least 15 seconds duration per source of emission.

(D) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in the filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this paragraph, submit to the Administrator, and revise as necessary, a written maintenance plan to include, at a minimum, the following:

(I) Maintenance schedule.

(II) Recordkeeping plan.

(E) Maintain records of the results of visible emission monitoring and air cleaning device inspections using a format similar to that shown in Figures 1 and 2 and include the following:

(I) Date and time of each inspection.

(II) Presence or absence of visible emissions.

(III) Condition of fabric filters, including presence of any tears, holes, and abrasions.

(IV) Presence of dust deposits on clean side of fabric filters.

(V) Brief description of corrective actions taken, including date and time.

(VI) Daily hours of operation for each air cleaning device.

(F) Furnish upon request and make available at the affected facility during normal business hours for inspection by the Administrator, all records required under this paragraph.

(G) Retain a copy of all monitoring and inspection records for at least 2 years.

(H) Submit quarterly a copy of the visible emission monitoring records to the Administrator if visible emissions occurred during the report period. Quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter.

(l) Standard for Insulating Materials. No owner or operator of a facility may install or reinstall on a facility component any insulating materials that contain commercial asbestos if the materials are either molded and friable or wet-applied and friable after drying. The provisions of this paragraph do not apply to spray-applied insulating materials regulated under paragraph (j).

(m) Standard for Waste Disposal for Non-facilities, Manufacturing, Demolition, Renovation, Spraying, and Fabricating. Each owner or operator of any source covered under the provisions of paragraphs (g), (h), (i), (j), or (k) shall meet the requirements of the Wyoming Department of Environmental Quality, Solid & Hazardous Waste Division, or, at a minimum, the requirements of the following:

(i) Discharge no visible emissions to the outside air during the collection, processing (including incineration), packaging, or transporting of any asbestos-containing waste material generated by the source, or use one of the emission control and waste treatment methods specified in paragraphs (m)(i)(A) through (D).

(A) Adequately wet asbestos-containing waste material as follows:

(I) Mix control device asbestos waste to form a slurry; adequately wet other asbestos-containing waste material; and

(II) Discharge no visible emissions to the outside air from collection, mixing, wetting, and handling operations, or use the methods specified by paragraph

(o) to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air; and

(III) After wetting, seal all asbestos-containing waste material in leak-tight containers while wet; or, for materials that will not fit into containers without additional breaking, put materials into leak-tight wrapping; and

(IV) Label the containers or wrapped materials specified in paragraph (m)(i)(A)(III) using warning labels specified by Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 CFR § 1910.1001(j)(4) or § 1926.1101(k)(8). The labels shall be printed in letters of sufficient size and contrast so as to be readily visible and legible.

(V) For asbestos-containing waste material to be transported off the facility site, label containers or wrapped materials with the name of the waste generator and the location at which the waste was generated.

(B) Process asbestos-containing waste material into nonfriable forms as follows:

(I) Form all asbestos-containing waste material into nonfriable pellets or other shapes;

(II) Discharge no visible emissions to the outside air from collection and processing operations, including incineration, or use the method specified by paragraph (o) to clean emissions containing particulate asbestos materials before they escape to, or are vented to, the outside air.

(C) For facilities demolished where the RACM is not removed prior to demolition, adequately wet asbestos-containing waste material at all times after demolition and keep wet during handling and loading for transport to a disposal site. Asbestos-containing waste materials covered by this paragraph do not have to be sealed in leak-tight containers or wrapping but may be transported and disposed of in bulk.

(D) Use an alternative emission control and waste treatment method that has received prior written approval by the Administrator.

(E) As applied to demolition and renovation, the requirements of paragraph (m)(i) do not apply to Category I and Category II nonfriable ACM waste that did not become crumbled, pulverized, or reduced to powder.

(ii) All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at:

(A) A waste disposal site operated in accordance with the provisions of paragraph (q), or

(B) An EPA-approved site that converts RACM and asbestos-containing waste material into nonasbestos (asbestos-free) material according to the provisions of paragraph (r).

(C) The requirements of paragraph (m)(ii) do not apply to Category I nonfriable ACM that is not RACM.

(iii) Mark vehicles used to transport asbestos-containing waste material during the loading and unloading of waste so that the signs are visible. The markings must:

(A) Be displayed in such a manner and location that a person can easily read the legend.

(B) Conform to the requirements for 51 cm X 36 cm (20 in X 14 in) upright format signs specified in 29 CFR § 1910.145(d)(2) and this paragraph; and

(C) Display the following legend in the lower panel with letter sizes and styles of a visibility at least equal to those specified below.

Legend
DANGER
ASBESTOS DUST HAZARD
CANCER AND LUNG DISEASE HAZARD
Authorized Personnel Only

Notation
2.5 cm (1 inch) Sans Serif, Gothic or Block
2.5 cm (1 inch) Sans Serif, Gothic or Block
1.9 cm (3/4 inch) Sans Serif, Gothic or Block
14 Point Gothic

Spacing between any two lines must be at least equal to the height of the upper of the two lines.

(iv) For All Asbestos-Containing Waste Material Transported Off the Facility Site:

(A) Maintain waste shipment records, using a form similar to that shown in Figure 4, and include the following information:

(I) The name and telephone number of the disposal site operator.

(II) The name and physical site location of the disposal site.

(III) The date transported.

(IV) The name, address, and telephone number of the transporter(s).

Figure 4. Waste Shipment Record

GENERATOR		
1. Work site name and mailing address	Owner's name	Owner's telephone no.
2. Operator's name and address		Operator's telephone no.
3. Waste disposal site (WDS) name, mailing address, and physical site location		WDS telephone no.
4. Name and address of responsible agency		
5. Description of materials	6. Containers No. Type	7. Total quantity m^3 (yd^3)
8. Special handling instructions and additional information		
9. OPERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and government regulations.		
Printed/typed name & title	Signature	Month Day Year
Transporter		
10. Transporter 1 (Acknowledgment of receipt of materials)		
Printed/typed name & title Address and telephone no.	Signature	Month Day Year
11. Transporter 2 (Acknowledgment of receipt of materials)		
Printed/typed name & title Address and telephone no.	Signature	Month Day Year
Disposal Site		
12. Discrepancy indication space		
13. Waste disposal site owner or operator: Certification of receipt of asbestos materials covered by this manifest except as noted in item 12.		
Printed/typed name & title	Signature	Month Day Year

(V) A certification that the contents of this consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and governmental regulations.

(B) Provide a copy of the waste shipment record, described in paragraph (m)(iv)(A), to the disposal site owners or operators at the same time as the asbestos-containing waste material is delivered to the disposal site.

(C) For waste shipments where a copy of the waste shipment record, signed by the owner or operator of the designated disposal site, is not received by the waste generator within 35 days of the date the waste was accepted by the initial transporter, contact the transporter and/or the owner or operator of the designated disposal site to determine the status of the waste shipment.

(D) Report in writing to the Wyoming Department of Environmental Quality, Air Quality Division, if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter. Include in the report the following information:

(I) A copy of the waste shipment record for which a confirmation of delivery was not received, and

(II) A cover letter signed by the waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts.

(E) Retain a copy of all waste shipment records, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site, for at least 2 years.

(v) Furnish upon request, and make available for inspection by the Administrator, all records required under this section.

(n) Standard for Inactive Waste Disposal Sites for Manufacturing and Fabricating Operations. Each owner or operator of any inactive waste disposal site that was operated by sources covered under paragraphs (h) or (k) and received deposits of asbestos-containing waste material generated by the sources, shall meet the requirements of the Wyoming Department of Environmental Quality, Solid & Hazardous Waste Division, or at a minimum:

(i) Comply With One of the Following:

(A) Either discharge no visible emissions to the outside air from an inactive waste disposal site subject to the paragraph; or

(B) Cover the asbestos-containing waste material with at least 15

centimeters (6 inches) of compacted nonasbestos-containing material, and grow and maintain a cover of vegetation on the area adequate to prevent exposure of the asbestos-containing waste material. In desert areas where vegetation would be difficult to maintain, at least 8 additional centimeters (3 inches) of well-graded, nonasbestos crushed rock may be placed on top of the final cover instead of vegetation and maintained to prevent emissions; or

(C) Cover the asbestos-containing waste material with at least 60 centimeters (2 feet) of compacted nonasbestos-containing material, and maintain it to prevent exposure of the asbestos-containing waste; or

(D) For inactive waste disposal sites for asbestos tailings, a resinous or petroleum-based dust suppression agent that effectively binds dust to control surface air emissions may be used instead of the methods in paragraphs (n)(i)(A), (B), and (C). Use the agent in the manner and frequency recommended for the particular asbestos tailings by the manufacturer of the dust suppression agent to achieve and maintain dust control. Obtain prior written approval of the Administrator to use other equally effective dust suppression agents. For purposes of this paragraph, any used, spent, or other waste oil is not considered a dust suppression agent.

(ii) Unless a natural barrier adequately deters access by the general public, install and maintain warning signs and fencing as follows, or comply with paragraph (n)(i)(B) or (n)(i)(C).

(A) Display warning signs at all entrances and at intervals of 100 m (328 feet) or less along the property line of the site or along the perimeter of the sections of the site where asbestos-containing waste material was deposited. The warning signs must:

(I) Be posted in such a manner and location that a person can easily read the legend;

(II) Conform to the requirements of 51 cm x 36 cm (20” x 14”) upright format signs specified in 29 CFR § 1910.145(d)(4) and this paragraph; and

(III) Display the following legend in the lower panel with letter sizes and styles of a visibility at least equal to those specified in this paragraph.

Legend
ASBESTOS WASTE DISPOSAL SITE
DO NOT CREATE DUST
Breathing Asbestos is Hazardous to Your Health

Notation
2.5 cm (1 inch) Sans Serif, Gothic or Block
1.9 cm (3/4 inch) Sans Serif, Gothic or Block

Spacing between any two lines must be at least equal to the height of the upper of the two lines.

(B) Fence the perimeter of the site in a manner adequate to deter access by the general public.

(C) When requesting a determination on whether a natural barrier adequately deters public access, supply information enabling the Administrator to determine whether a fence or a natural barrier adequately deters access by the general public.

(iii) The owner or operator may use an alternative control method that has received prior approval of the Administrator rather than comply with the requirements of paragraph (n)(i) or (n)(ii).

(iv) Notify the Administrator in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site under this section, and follow the procedures specified in the notification. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the Administrator at least 10 working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice:

(A) Scheduled starting and completion dates.

(B) Reason for disturbing the waste.

(C) Procedures to be used to control emissions during the excavation, storage, transport, and ultimate disposal of the excavated asbestos-containing waste material. If deemed necessary, the Administrator may require changes in the emission control procedures to be used.

(D) Location of any temporary storage site and the final disposal site.

(v) Within 60 days of a site becoming inactive and after the effective date of this subpart, record, in accordance with State law, a notation on the deed to the facility property and on any other instrument that would normally be examined during a title search; this notation will in perpetuity notify any potential purchaser of the property that:

(A) The land has been used for the disposal of asbestos-containing waste material;

(B) The survey plot and record of the location and quantity of asbestos-containing waste disposed of within the disposal site required in paragraph (q)(vi) have been filed with the Administrator; and

(C) The site is subject to WAQSR Chapter 3, Section 8 and to 40 CFR Part 61, Subpart M.

(o) Air Cleaning.

(i) The owner or operator who uses air cleaning, as specified in paragraphs (h)(ii)(B), (i)(iii)(C)(I)(2.)a., (i)(iii)(D)(II), (j)(ii)(B), (k)(ii)(B), (m)(i)(A)(II), (m)(i)(B)(II) and (r)(v) shall:

(A) Use fabric filter collection devices, except as noted in paragraph (o)(ii), doing all of the following:

(I) Ensuring that the airflow permeability, as determined by ASTM Method D737-04 Test Method for Air Permeability of Textile Fabrics, does not exceed 9 $m^3/min/m^2$ (30 $ft^3/min/ft^2$) for woven fabrics or 11 $m^3/min/m^2$ (35 $ft^3/min/ft^2$) for felted fabrics, except that 12 $m^3/min/m^2$ (40 $ft^3/min/ft^2$) for woven and 14 $m^3/min/m^2$ (45 $ft^3/min/ft^2$) for felted fabrics is allowed for filtering air from asbestos ore dryers;

(II) Ensuring that felted fabric weighs at least 475 grams per square meter (14 ounces per square yard) and is at least 1.6 millimeters (one-sixteenth inch) thick throughout; and

(III) Avoiding the use of synthetic fabrics that contain fill yarn other than that which is spun.

(B) Properly install, use, operate, and maintain all air-cleaning equipment authorized by this paragraph. Bypass devices may be used only during upset or emergency conditions and then only for so long as it takes to shut down the operation generating the particulate asbestos material.

(C) For fabric filter collection devices installed after January 10, 1989, provide for easy inspection for faulty bags.

(ii) There are the following exceptions to paragraph (o)(i)(A):

(A) After January 10, 1989, if the use of fabric creates a fire or explosion hazard, or the Administrator determines that a fabric filter is not feasible, the Administrator may authorize as a substitute the use of wet collectors designed to operate with a unit contacting energy of at least 9.95 kilopascals (40 inches water gage pressure).

(B) Use a HEPA filter that is certified to be at least 99.97 percent efficient for 0.3 micron particles.

(C) The Administrator may authorize the use of filtering equipment other than described in paragraphs (o)(i)(A) and (o)(ii)(A) and (B) if the owner or operator demonstrates to the Administrator's satisfaction that it is equivalent to the described equipment

in filtering particulate asbestos material.

(p) Reporting.

(i) Any new source to which this section applies (with the exception of sources subject to paragraphs (i), (j), and (l)), which has an initial startup date preceding the effective date of this revision, shall provide the following information to the Administrator postmarked or delivered within 90 days of the effective date. In the case of a new source that does not have an initial startup date preceding the effective date, the information shall be provided, postmarked or delivered, within 90 days of the initial startup date. Any owner or operator of an existing source shall provide the following information to the Administrator within 90 days of the effective date of this subpart unless the owner or operator of the existing source has previously provided this information to the Administrator. Any changes in the information provided by any existing source shall be provided to the Administrator, postmarked or delivered, within 30 days after the change.

(A) A description of the emission control equipment used for each process; and

(I) If the fabric device uses a woven fabric, the airflow permeability in $m^3/min/m^2$ and; if the fabric is synthetic, whether the fill yarn is spun or not spun; and

(II) If the fabric filter device uses a felted fabric, the density in g/m^2, the minimum thickness in inches and the airflow permeability in $m^3/min/m^2$.

(B) If a fabric filter device is used to control emissions,

(I) The airflow permeability in $m^3/min/m^2$ ($ft^3/min/ft^2$) if the fabric filter device uses a woven fabric, and, if the fabric is synthetic, whether the fill yarn is spun or not spun; and

(II) If the fabric filter device uses a felted fabric, the density in g/m^2 (oz/yd^2), the minimum thickness in millimeters (inches), and the airflow permeability in $m^3/min/m^2$ ($ft^3/min/ft^2$).

(C) If a HEPA filter is used to control emissions, the certified efficiency.

(D) For sources subject to paragraph (m):

(I) A brief description of each process that generates asbestos-containing waste material;

(II) The average volume of asbestos-containing waste material disposed of measured in m^3/day (yd^3/day);

(III) The emission control methods used in all stages of waste disposal; and

(IV) The type of disposal site or incineration site used for ultimate disposal, the name of the site operator, and the name and location of the disposal site.

(E) For sources subject to paragraphs (n) and (q):

(I) A brief description of the site; and

(II) The method or methods used to comply with the standard, or alternate procedures to be used.

(ii) The information required by paragraph (p)(i) must accompany the information required by 40 CFR Part 61, subpart A, 61.10. Active waste disposal sites subject to paragraph (q) shall also comply with this provision. Demolition and renovation, spraying, and insulating materials are exempted from the requirements of 40 CFR Part 61.10(a). The information described in this paragraph must be reported using the format of Appendix A of CFR 40 Part 61 as a guide.

(q) Standard for Active Waste Disposal Sites. Each owner or operator of an active waste disposal site that receives asbestos-containing waste material from a source covered under paragraphs (m) or (r) shall meet the requirements of the Wyoming Department of Environmental Quality, Solid & Hazardous Waste Division, or at a minimum the following:

(i) Either there must be no visible emissions to the outside air from any active waste disposal site where asbestos-containing waste material has been deposited, or the requirements of paragraph (q)(iii) or (q)(iv) must be met.

(ii) Unless a natural barrier adequately deters access by the general public, either warning signs and fencing must be installed and maintained as follows, or the requirements of paragraph (q)(iii)(A) must be met.

(A) Warning signs must be displayed at all entrances and at intervals of 100 m (330 ft) or less along the property line of the site or along the perimeter of the sections of the site where asbestos-containing waste material is deposited. The warning signs must:

(I) Be posted in such a manner and location that a person can easily read the legend;

(II) Conform to the requirements of 51 cm x 36 cm (20” x 14”) upright format signs specified in 29 CFR § 1910.145(d)(4) and this paragraph; and

(III) Display the following legend in the lower panel with letter sizes and styles of a visibility at least equal to those specified below.

Legend
ASBESTOS WASTE DISPOSAL SITE
DO NOT CREATE DUST
Breathing Asbestos is Hazardous to Your Health

Notation
2.5 cm (1 inch) Sans Serif, Gothic or Block
1.9 cm (3/4 inch) Sans Serif, Gothic or Block
14 point Gothic

Spacing between any two lines must be at least equal to the height of the upper of the two lines.

(B) The perimeter of the disposal site must be fenced in a manner adequate to deter access by the general public.

(C) Upon request and supply of appropriate information, the Administrator will determine whether a fence or a natural barrier adequately deters access by the general public.

(iii) Rather than meet the no visible emission requirement of paragraph (q)(i), at the end of each operating day, or at least once every 24-hour period while the site is in continuous operation, the asbestos-containing waste material that has been deposited at the site during the operating day or previous 24-hour period shall:

(A) Be covered with at least 15 centimeters (6 inches) of compacted nonasbestos-containing material, or

(B) Be covered with a resinous or petroleum-based dust suppression agent that effectively binds dust and controls wind erosion. Such an agent shall be used in the manner and frequency recommended for the particular dust by the dust suppression agent manufacturer to achieve and maintain dust control. Other equally effective dust suppression agents may be used upon prior approval by the Administrator. For purposes of this paragraph, any used, spent, or other waste oil is not considered a dust suppression agent.

(iv) Rather than meet the no visible emission requirement of paragraph (q)(i), use an alternative emissions control method that has received prior written approval by the Administrator.

(v) For all asbestos-containing waste material received, the owner or operator of the active waste disposal site shall:

(A) Maintain waste shipment records, using a form similar to that shown in Figure 4, and include the following information:

(I) The name, address, and telephone number of the waste generator.

(II) The name, address, and telephone number of the transporter(s).

(III) The quantity of the asbestos-containing waste material in cubic meters (cubic yards).

(IV) The presence of improperly enclosed or uncovered waste, or any asbestos-containing waste material not sealed in leak-tight containers.

(V) The date of the receipt.

(B) Upon discovering the presence of a significant amount of improperly enclosed or uncovered waste, report in writing by the following working day to the local, State, or EPA Regional office responsible for administering the asbestos NESHAP program for the waste generator (identified in the waste shipment record), and, if that office is outside the State of Wyoming, also report in writing by the following working day to the Wyoming Department of Environmental Quality, Air Quality Division. Submit a copy of the waste shipment record along with the report.

(C) As soon as possible and no longer than 30 days after receipt of the waste, send a copy of the signed waste shipment record to the waste generator.

(D) Upon discovering a discrepancy between the quantity of waste designated on the waste shipment records and the quantity actually received, attempt to reconcile the discrepancy with the waste generator. If the discrepancy is not resolved within 15 days after receiving the waste, immediately report in writing to the local, State, or EPA Regional office responsible for administering the asbestos NESHAP program for the waste generator (identified in the waste shipment record), and, if that office is outside the State of Wyoming, also report in writing to the Wyoming Department of Environmental Quality, Air Quality Division. Describe the discrepancy and attempts to reconcile it, and submit a copy of the waste shipment record along with the report.

(E) Retain a copy of all records and reports required by this paragraph for at least 2 years.

(vi) Maintain, until closure, records of the location, depth and area, and quantity in cubic meters (cubic yards) of asbestos-containing waste material within the disposal site on a map or diagram of the disposal area.

(vii) Upon closure, comply with all the provisions of paragraph (n).

(viii) Submit to the Administrator, upon closure of the facility, a copy of records of asbestos waste disposal locations and quantities.

(ix) Furnish upon request, and make available during normal business hours for inspection by the Administrator, all records required under this paragraph.

(x) Notify the Administrator in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site and is covered. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date must be provided at least 10 working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice.

(A) Scheduled starting and completion dates.

(B) Reason for disturbing the waste.

(C) Procedures to be used to control emissions during the excavation, storage, transport, and ultimate disposal of the excavated asbestos-containing waste material. If deemed necessary, the Administrator may require changes in the emission control procedures to be used.

(D) Location of any temporary storage site and the final disposal site.

(r) Standard for Operations That Convert Asbestos-Containing Waste Material Into Nonasbestos (Asbestos-Free) Material. Each owner or operator of an operation that converts RACM and asbestos-containing waste material into nonasbestos (asbestos-free) material shall:

(i) Obtain the prior written approval of the Administrator to construct the facility. To obtain approval, the owner or operator shall provide the Administrator with the following information:

(A) Application to construct pursuant to 40 CFR § 61.07.

(B) In addition to the information requirements of 40 CFR § 61.07(b)(3), a

(I) Description of waste feed handling and temporary storage.

(II) Description of process operating conditions.

(III) Description of the handling and temporary storage of the end product.

(IV) Description of the protocol to be followed when analyzing output materials by transmission electron microscopy.

(C) Performance test protocol, including provisions for obtaining

information required under paragraph (r)(ii).

(D) The Administrator may require that a demonstration of the process be performed prior to approval of the application to construct.

(ii) Conduct a Start-up Performance Test. Test Results Shall Include:

(A) A detailed description of the types and quantities of nonasbestos material, RACM, and asbestos-containing waste material processed, e.g., asbestos cement products, friable asbestos insulation, plaster, wood, plastic, wire, etc. Test feed is to include the full range of materials that will be encountered in actual operation of the process.

(B) Results of analyses, using polarized light microscopy, that document the asbestos content of the wastes processed.

(C) Results of analyses, using transmission electron microscopy, that document that the output materials are free of asbestos. Samples for analysis are to be collected as 8-hour composite samples (one 200-gram (7-ounce) sample per hour), beginning with the initial introduction of RACM or asbestos-containing waste material and continuing until the end of the performance test.

(D) A description of operation parameters, such as temperature and residence time, defining the full range over which the process is expected to operate to produce nonasbestos (asbestos-free) materials. Specify the limits for each operating parameter within which the process will produce nonasbestos (asbestos-free) materials.

(E) The length of the test.

(iii) During the initial 90 days of operation,

(A) Continuously monitor and log the operating parameters identified during start-up performance tests that are intended to ensure the production of nonasbestos (asbestos-free) output material.

(B) Monitor input materials to ensure that they are consistent with the test feed materials described during start-up performance tests in paragraph (r)(ii)(A).

(C) Collect and analyze samples, taken as 10-day composite samples (one 200-gram (7-ounce) sample collected every 8 hours of operation) of all output material for the presence of asbestos. Composite samples may be for fewer than 10 days. Transmission electron microscopy (TEM) shall be used to analyze the output material for the presence of asbestos. During the initial 90-day period, all output materials must be stored on-site until analysis shows the material to be asbestos-free or disposed of as asbestos-containing waste material according to paragraph (m).

(iv) After the initial 90 days of operation,

(A) Continuously monitor and record the operating parameters identified during start-up performance testing and any subsequent performance testing. Any output produced during a period of deviation from the range of operating conditions established to ensure the production of nonasbestos (asbestos-free) output materials shall be:

(I) Disposed of as asbestos-containing waste material according to paragraph (m), or

(II) Recycled as waste feed during process operation within the established range of operation conditions, or

(III) Stored temporarily on-site in a leak-tight container until analyzed for asbestos content. Any product material that is not asbestos-free shall be either disposed of as asbestos-containing waste material or recycled as waste feed to the process.

(B) Collect and analyze monthly composite samples (one 200-gram (7-ounce) sample collected every 8 hours of operation) of the output material. Transmission electron microscopy shall be used to analyze the output material for the presence of asbestos.

(v) Discharge no visible emissions to the outside air from any part of the operation, or use the methods specified in paragraph (o) to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

(vi) Maintain Records On-site and Include the Following Information:

(A) Results of start-up performance testing and all subsequent performance testing, including operating parameters, feed characteristic, and analyses of output materials.

(B) Results of the composite analyses required during the initial 90 days of operation under paragraph (r)(iii).

(C) Results of the monthly composite analyses required under paragraph (r)(iv).

(D) Results of continuous monitoring and logs of process operating parameters required under paragraph (r)(iii) and (iv).

(E) The information on waste shipments received as required in paragraph (q).

(F) For output materials where no analyses were performed to determine the presence of asbestos, record the name and location of the purchaser or disposal site to which the output materials were sold or deposited, and the date of sale or disposal.

(G) Retain records required by paragraph (r)(vi) for at least 2 years.

(vii) Submit the Following Reports to the Administrator:

(A) A report for each analysis of product composite samples performed during the initial 90 days of operation.

(B) A quarterly report, including the following information concerning activities during each consecutive 3-month period:

(I) Results of analyses of monthly product composite samples.

(II) A description of any deviation from the operating parameters established during performance testing, the duration of the deviation, and steps taken to correct the deviation.

(III) Disposition of any product produced during a period of deviation, including whether it was recycled, disposed of as asbestos-containing waste material, or stored temporarily on-site until analyzed for asbestos content.

(IV) The information on waste disposal activities as required in paragraph (q).

(viii) Nonasbestos (asbestos-free) output material is not subject to any of the provisions of this section. Output materials in which asbestos is detected, or output materials produced when the operating parameters deviated from those established during the start-up performance testing, unless shown by TEM analysis to be asbestos-free, shall be considered to be asbestos-containing waste and shall be handled and disposed of according to paragraphs (m) and (q) or reprocessed while all of the established operating parameters are being met.

Section 9. Incorporation by Reference.

(a) Code of Federal Regulations (CFR). All Code of Federal Regulations (CFR), including their Appendices, cited in this Chapter, revised and published as of July 1, ~~2024~~2026, not including any later amendments, are incorporated by reference. Copies of the CFR are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: http://deq.wyoming.gov/. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at https://ecfr.gov.

(b) American Society for Testing and Materials (ASTM). All ASTM standards cited in this Chapter, revised and published as of July 1, ~~2024~~2026, not including any later amendments, are incorporated by reference. Copies of the ASTM standards are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be

obtained at: http://deq.wyoming.gov/. Copies can also be obtained at cost from the American Society for Testing and Materials, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428-2959, or online at http://www.astm.org/DIGITAL_LIBRARY/index.html

Chapter 4
State Performance Standards for Specific Existing Sources

Section 1. Introduction to State Performance Standards for Specific Existing Sources.

(a) This chapter establishes state performance standards for specific existing sources. Most of the sections under this chapter were required by the Environmental Protection Agency under section 111(d) of the Clean Air Act. Each of the standards listed has an accompanying New Source Performance Standard (NSPS) under Chapter 5, Section 2 which applies to new sources. Section 6 incorporates by reference all Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices.

Section 2. Existing Sulfuric Acid Production Units.

(a) Sulfuric Acid Mist. Any existing facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides, mercaptans, or acid sludge shall limit the atmospheric discharge of acid mist in the effluent to not more than 0.50 pounds per ton of acid produced (0.25 kgm per metric ton)--maximum 2-hour average, expressed as H_2SO_4. Reference method: Method 8, Appendix A, 40 CFR Part 60 or an equivalent method.

(b) Sulfur Dioxide. Any existing facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides, mercaptans, or acid sludge shall limit the atmospheric discharge of sulfur dioxide in the effluent to not more than 2,000 ppm--maximum 2-hour average.

Section 3. Existing Nitric Acid Manufacturing Plants.

(a) The emission of nitrogen oxides from existing nitric acid manufacturing plants, calculated as nitrogen dioxide shall be limited to 5.5 pounds per ton (2.8 kilograms per metric ton) of acid produced, maximum 2-hour average.

Section 4. [Reserved].

Section 5. Existing Hospital/Medical/Infectious Waste Incinerators.

Scope:

This section contains emission limits, compliance times and general requirements for the control of certain designated pollutants from hospital/medical/infectious waste incinerator(s) (HMIWI) in accordance with sections 111 and 129 of the Clean Air Act and 40 CFR Part 60, subpart B. These rules supersede the provisions of 40 CFR Part 60.24(f) of subpart B.

(a) Definitions.

Terms used but not defined in this section have the meaning given them in the Clean Air Act and in 40 CFR Part 60, subparts A, B, and Ec.

"Standard Metropolitan Statistical Area or SMSA" means any areas listed in OMB Bulletin No. 93-17 entitled "Revised Statistical Definitions for Metropolitan Areas" dated June 30, 1993 (incorporated by reference, see 40 CFR Part 60.17).

(b) Applicability.

(i) Except as provided in paragraphs (ii) through (viii) of this subsection, the designated facility to which this regulation applies is each individual HMIWI:

(A) For which construction was commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998.

(B) For which construction was commenced after June 20, 1996, but no later than December 1, 2008, or for which modification is commenced after March 16, 1998 but no later than April 6, 2010.

(ii) A combustor is not subject to this subsection during periods when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste (all defined in 40 CFR Part 60.51c) is burned, provided the owner or operator of the combustor:

(A) Notifies the Department of Environmental Quality - Air Quality Division (AQD) Administrator and EPA Administrator of an exemption claim; and

(B) Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned.

(iii) Any co-fired combustor (defined in 40 CFR Part 60.51c) is not subject to this subsection if the owner or operator of the co-fired combustor:

(A) Notifies the AQD Administrator and EPA Administrator of an exemption claim;

(B) Provides an estimate of the relative weight of hospital waste, medical/infectious waste, and other fuels and/or wastes to be combusted; and

(C) Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor.

(iv) Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act is not subject to this subsection.

(v) Any combustor which meets the applicability requirements under 40 CFR Part 60 subpart Cb, Ea, or Eb (standards or guidelines for certain municipal waste combustors) is not subject to this subsection.

(vi) Any pyrolysis unit (defined in 40 CFR Part 60.51c) is not subject to this subsection.

(vii) Cement kilns firing hospital waste and/or medical/infectious waste are not subject to this subsection.

(viii) Physical or operational changes made to an existing HMIWI unit solely for the purpose of complying with emission limits under this subsection are not considered a modification and do not result in an existing HMIWI unit becoming subject to the provisions of 40 CFR Part 60, subpart Ec (see 40 CFR Part 60.50c).

(ix) Beginning September 15, 2000, designated facilities subject to this subsection shall operate pursuant to a permit issued under Wyoming Air Quality Standards and Regulations (WAQSR) Chapter 6, Section 3.

(x) The requirements of 40 CFR Part 60 subpart Ce as promulgated on September 15, 1997, shall apply to the designated facilities defined in paragraph (b)(i)(A) of this subsection until the applicable compliance date of the requirements of 40 CFR Part 60 subpart Ce, as amended on October 6, 2009. Upon the compliance date of the requirements of 40 CFR Part 60 subpart Ce, designated facilities as defined in paragraph (b)(i)(A) of this subsection are no longer subject to the requirements of 40 CFR Part 60 subpart Ce, as promulgated on September 15, 1997, but are subject to the requirements of 40 CFR Part 60 subpart Ce, as amended on October 6, 2009.

(xi) The authorities listed under 40 CFR Part 60.50c(i) shall be retained by the EPA Administrator and not be transferred to a state.

(c) Emissions Limits.

(i) Emissions limits for each HMIWI facility defined below shall be:

(A) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits as promulgated on September 15, 1997, the requirements listed in Table 1A of this subsection, except as provided in paragraph (ii) of this subsection.

Table 1A. Emissions Limits for Small, Medium, and Large HMIWI at Designated Facilities as Defined in Subsection (b)(i)(A)

Pollutant	Units (7 percent oxygen, dry basis)	Emission Limits			Averaging Time[1]	Method for Demonstrating Compliance[2]
		HMIWI Size				
		Small	Medium	Large		
Particulate matter	Milligrams per dry standard cubic meter (mg/dscm) (grains per dry standard cubic foot (gr/dscf)).	115 (0.05)	69 (0.03)	34 (0.015)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 5 of appendix A-3 of Part 60, or EPA Reference Method 26A or 29 of appendix A-8 of Part 60.
Carbon monoxide	Parts per million by volume (ppmv).	40	40	40	3-run average (1-hour minimum sample time per run).	EPA Reference Method 10 or 10B of appendix A-4 of Part 60.
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (ng/dscm) (grains per billion dry standard cubic feet (gr/10^9 dscf)) or ng/dscm TEQ (gr/10^9 dscf).	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)	3-run average (4-hour minimum sample time per run).	EPA Reference Method 23 of appendix A-7 of Part 60.
Hydrogen chloride	ppmv or percent reduction.	100 or 93%	100 or 93%	100 or 93%	3-run average (1-hour minimum sample time per run).	EPA Reference Method 26 or 26A of appendix A-8 of Part 60.
Sulfur dioxide	ppmv	55	55	55	3-run average (1-hour minimum sample time per run).	EPA Reference Method 6 or 6C of appendix A-4 of Part 60.
Nitrogen oxides	ppmv	250	250	250	3-run average (1-hour minimum sample time per run).	EPA Reference Method 7 or 7E of appendix A-4 of Part 60.
Lead	mg/dscm (grains per thousand dry standard cubic feet (gr/10^3 dscf)) or percent reduction.	1.2 (0.52) or 70%	1.2 (0.52) or 70%	1.2 (0.52) or 70%	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Cadmium	mg/dscm (gr/10^3 dscf) or percent reduction.	0.16 (0.07) or 65%	0.16 (0.07) or 65%	0.16 (0.07) or 65%	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Mercury	mg/dscm (gr/10^3 dscf) or percent reduction.	0.55 (0.24) or 85%	0.55 (0.24) or 85%	0.55 (0.24) or 85%	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.

1 Except as allowed under 40 CFR § 60.56c(c) for HMIWI equipped with CEMS.
2 Does not include CEMS and approved alternative non-EPA test methods allowed under 40 CFR § 60.56c(b).

(B) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits as amended on October 6, 2009, the requirements listed in Table 1B of this subsection, except as provided in paragraph (ii) of this subsection.

(C) For a designated facility as defined in subsection (b)(i)(B), the more stringent of the requirements listed in Table 1B of this subsection and Table 1A of 40 CFR

Part 60 subpart Ec.

Table 1B. Emissions Limits for Small, Medium, and Large HMIWI at Designated Facilities as Defined in Subsections (b)(i)(A) and (b)(i)(B)

Pollutant	Units (7 percent oxygen, dry basis)	Emission Limits			Averaging Time[1]	Method for Demonstrating Compliance[2]
		HMIWI Size				
		Small	Medium	Large		
Particulate matter	Milligrams per dry standard cubic meter (mg/dscm) (grains per dry standard cubic foot (gr/dscf)).	66 (0.029)	46 (0.020)	25 (0.011)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 5 of appendix A-3 of Part 60, or EPA Reference Method 26A or 29 of appendix A-8 of Part 60.
Carbon monoxide	Parts per million by volume (ppmv).	20	5.5	11	3-run average (1-hour minimum sample time per run).	EPA Reference Method 10 or 10B of appendix A-4 of Part 60.
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (ng/dscm) (grains per billion dry standard cubic feet ($gr/10^9$ dscf)) or ng/dscm TEQ ($gr/10^9$ dscf).	16 (7.0) or 0.013 (0.0057)	0.85 (0.37) or 0.020 (0.0087)	9.3 (4.1) or 0.054 (0.024)	3-run average (4-hour minimum sample time per run).	EPA Reference Method 23 of appendix A-7 of Part 60.
Hydrogen chloride	ppmv	44	7.7	6.6	3-run average (1-hour minimum sample time per run).	EPA Reference Method 26 or 26A of appendix A-8 of Part 60.
Sulfur dioxide	ppmv	4.2	4.2	9.0	3-run average (1-hour minimum sample time per run).	EPA Reference Method 6 or 6C of appendix A-4 of Part 60.
Nitrogen oxides	ppmv	190	190	140	3-run average (1-hour minimum sample time per run).	EPA Reference Method 7 or 7E of appendix A-4 of Part 60.
Lead	mg/dscm (grains per thousand dry standard cubic feet ($gr/10^3$ dscf)).	0.31 (0.14)	0.018 (0.0079)	0.036 (0.016)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Cadmium	mg/dscm ($gr/10^3$ dscf).	0.017 (0.0074)	0.013 (0.0057)	0.0092 (0.0040)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Mercury	mg/dscm ($gr/10^3$ dscf).	0.014 (0.0061)	0.025 (0.011)	0.018 (0.0079)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.

1 Except as allowed under 40 CFR § 60.56c(c) for HMIWI equipped with CEMS.
2 Does not include CEMS and approved alternative non-EPA test methods allowed under 40 CFR § 60.56c(b).

(ii) Any small HMIWI constructed on or before June 20, 1996, which is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area (defined in subsection (a) of these regulations) and which burns less than 2,000 pounds per week of hospital waste and medical/infectious waste shall meet the emissions limits required in

paragraphs (c)(ii)(A) and (B) of this subsection, as applicable. The 2,000 lb/week limitation does not apply during performance tests.

(A) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits as promulgated on September 15, 1997, the requirements listed in Table 2A of this subsection.

Table 2A. Emissions Limits for Small HMIWI Which Meet the Criteria Under Subsection (c)(ii)(A)

Pollutant	Units (7 percent oxygen, dry basis)	HMIWI Emission Limits	Averaging Time[1]	Method for Demonstrating Compliance[2]
Particulate matter	mg/dscm (gr/dscf)	197 (0.086)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 5 of appendix A-3 of Part 60, or EPA Reference Method 26A or 29 of appendix A-8 of Part 60.
Carbon monoxide	ppmv	40	3-run average (1-hour minimum sample time per run).	EPA Reference Method 10 or 10B of appendix A-4 of Part 60.
Dioxins/furans	ng/dscm total dioxins/furans (gr/10^9 dscf) or ng/dscm TEQ (gr/10^9 dscf)	800 (350) or 15 (6.6)	3-run average (4-hour minimum sample time per run).	EPA Reference Method 23 of appendix A-7 of Part 60.
Hydrogen chloride	ppmv	3,100	3-run average (1-hour minimum sample time per run).	EPA Reference Method 26 or 26A of appendix A-8 of Part 60.
Sulfur dioxide	ppmv	55	3-run average (1-hour minimum sample time per run).	EPA Reference Method 6 or 6C of appendix A-4 of Part 60.
Nitrogen oxides	ppmv	250	3-run average (1-hour minimum sample time per run).	EPA Reference Method 7 or 7E of appendix A-4 of Part 60.
Lead	mg/dscm (gr/10^3 dscf)	10 (4.4)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Cadmium	mg/dscm (gr/10^3 dscf)	4 (1.7)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Mercury	mg/dscm (gr/10^3 dscf)	7.5 (3.3)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.

1 Except as allowed under 40 CFR § 60.56c(c) for HMIWI equipped with CEMS.
2 Does not include CEMS and approved alternative non-EPA test methods allowed under 40 CFR § 60.56c(b).

(B) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits as amended on October 6, 2009, the requirements listed in Table 2B of this subsection.

Table 2B. Emissions Limits for Small HMIWI Which Meet the Criteria Under Subsection (c)(ii)(B)

Pollutant	Units (7 percent oxygen, dry basis)	HMIWI Emission Limits	Averaging Time[1]	Method for Demonstrating Compliance[2]
Particulate matter	mg/dscm (gr/dscf)	87 (0.038)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 5 of appendix A-3 of Part 60, or EPA Reference Method 26A or 29 of appendix A-8 of Part 60.
Carbon monoxide	ppmv	20	3-run average (1-hour minimum sample time per run).	EPA Reference Method 10 or 10B of appendix A-4 of Part 60.
Dioxins/furans	ng/dscm total dioxins/furans (gr/10^9 dscf) or ng/dscm TEQ (gr/10^9 dscf)	240 (100) or 5.1 (2.2)	3-run average (4-hour minimum sample time per run).	EPA Reference Method 23 of appendix A-7 of Part 60.

Pollutant	Units (7 percent oxygen, dry basis)	HMIWI Emission Limits	Averaging Time[1]	Method for Demonstrating Compliance[2]
Hydrogen chloride	ppmv	810	3-run average (1-hour minimum sample time per run).	EPA Reference Method 26 or 26A of appendix A-8 of Part 60.
Sulfur dioxide	ppmv	55	3-run average (1-hour minimum sample time per run).	EPA Reference Method 6 or 6C of appendix A-4 of Part 60.
Nitrogen oxides	ppmv	130	3-run average (1-hour minimum sample time per run).	EPA Reference Method 7 or 7E of appendix A-4 of Part 60.
Lead	mg/dscm (gr/10^3 dscf)	0.50 (0.22)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Cadmium	mg/dscm (gr/10^3 dscf)	0.11 (0.048)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.
Mercury	mg/dscm (gr/10^3 dscf)	0.0051 (0.0022)	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of Part 60.

1 Except as allowed under 40 CFR § 60.56c(c) for HMIWI equipped with CEMS.
2 Does not include CEMS and approved alternative non-EPA test methods allowed under 40 CFR § 60.56c(b).

(iii) Stack opacity requirements for each HMIWI facility defined below shall be:

(A) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits as promulgated on September 15, 1997, the requirements in 40 CFR Part 60.52c(b)(1) of subpart Ec.

(B) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits as amended on October 6, 2009 and a designated facility as defined in subsection (b)(i)(B), the requirements in 40 CFR Part 60.52c(b)(2) of subpart Ec.

(d) Operator Training and Qualification Requirements. The owner or operator of a designated facility shall comply with the operator training and qualification requirements listed in 40 CFR Part 60.53c of subpart Ec. Compliance with these requirements shall occur according to the schedule specified in subsection (i)(v).

(e) Waste Management Plan. The owner or operator of a designated facility shall prepare a waste management plan in accordance with the requirements listed in 40 CFR Part 60.55c of subpart Ec.

(f) Inspection Requirements.

(i) Each small HMIWI subject to the emissions limits under subsection (c)(ii) and each HMIWI subject to the emissions limits under subsections (c)(i)(B) and (C) shall undergo an initial equipment inspection within one year following EPA approval of the State plan, but not later than October 6, 2014.

(A) At a minimum, an inspection shall include the following:

(I) Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation; clean pilot flame sensor, as necessary;

(II) Ensure proper adjustment of primary and secondary chamber combustion air, and adjust as necessary;

(III) Inspect hinges and door latches, and lubricate as necessary;

(IV) Inspect dampers, fans, and blowers for proper operation;

(V) Inspect HMIWI door and door gaskets for proper sealing;

(VI) Inspect motors for proper operation;

(VII) Inspect primary chamber refractory lining; clean and repair/replace lining as necessary;

(VIII) Inspect incinerator shell for corrosion and/or hot spots;

(IX) Inspect secondary/tertiary chamber and stack, clean as necessary;

(X) Inspect mechanical loader, including limit switches, for proper operation, if applicable;

(XI) Visually inspect waste bed (grates), and repair/seal, as appropriate;

(XII) For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments;

(XIII) Inspect air pollution control device(s) for proper operation, if applicable;

(XIV) Inspect waste heat boiler systems to ensure proper operation, if applicable;

(XV) Inspect bypass stack components;

(XVI) Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and

(XVII) Generally observe that the equipment is maintained in good operating condition.

(B) Within 10 operating days following an equipment inspection all necessary repairs shall be completed unless the owner or operator obtains written approval from the AQD Administrator establishing a date whereby all necessary repairs of the designated facility shall be completed.

(ii) Each small HMIWI subject to the emissions limits under subsection (c)(i)

and each HMIWI subject to the emissions limits under subsections (c)(i)(B) and (C) shall undergo an equipment inspection annually (no more than 12 months following the previous annual equipment inspection), as outlined in paragraph (i) of this subsection.

(iii) Each small HMIWI subject to the emissions limits under subsection (c)(ii)(B) and each HMIWI subject to the emissions limits under subsections (c)(i)(B) and (C) shall undergo an initial air pollution control device inspection, within one year following EPA approval of the State plan, but not later than October 6, 2014.

(A) At a minimum, an inspection shall include the following:

(I) Inspect air pollution control device(s) for proper operation, if applicable;

(II) Ensure proper calibration of thermocouples, sorbent feed systems, and any other monitoring equipment; and

(III) Generally observe that the equipment is maintained in good operating condition.

(B) Within 10 operating days following an air pollution control device inspection, all necessary repairs shall be completed unless the owner or operator obtains written approval from the AQD Administrator establishing a date whereby all necessary repairs of the designated facility shall be completed.

(iv) Each small HMIWI subject to the emissions limits under subsection (c)(ii)(B) and each HMIWI subject to the emissions limits under subsections (c)(i)(B) and (C) shall undergo an air pollution control device inspection, as applicable, annually (no more than 12 months following the previous annual air pollution control device inspection), as outlined in paragraph (iii) of this subsection.

(g) Compliance, Performance Testing, and Monitoring Requirements.

(i) Except as provided in paragraph (ii) of this subsection, requirements for compliance and performance testing of a designated facility are listed in 40 CFR Part 60.56c of subpart Ec, with the following exclusions:

(A) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits in subsection (c)(i)(A), the test methods listed in 40 CFR Part 60.56c(b)(7) and (8), the fugitive emissions testing requirements under 40 CFR Part 60.56c(b)(14) and (c)(3), the CO CEMS requirements under 40 CFR Part 60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR Part 60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), (g)(6) through (10), and (h).

(B) For a designated facility as defined in subsections (b)(i)(A) and (B) subject to the emissions limits in subsections (c)(i)(B) and (C), the annual fugitive emissions

testing requirements under 40 CFR Part 60.56c(c)(3), the CO CEMS requirements under 40 CFR Part 60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR Part 60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), and (g)(6) through (10). Sources subject to the emissions limits under subsections (c)(i)(B) and (C) may, however, elect to use CO CEMS as specified under 40 CFR Part 60.56c(c)(4) or bag leak detection systems as specified under 40 CFR Part 60.57c(h).

(ii) Except as provided in paragraphs (ii)(A) and (B) of this subsection, each small HMIWI subject to the emissions limits under subsection (c)(ii) shall meet the performance testing requirements listed in 40 CFR Part 60.56c of subpart Ec. The 2,000 lb/week limitation under subsection (c)(ii) does not apply during performance tests.

(A) For a designated facility as defined in subsection (b)(i)(A) subject to the emissions limits under subsection (c)(ii)(A), the test methods listed in 40 CFR Part 60.56c(b)(7), (8), (12), (13) (Pb and Cd), and (14), the annual PM, CO, and HCl emissions testing requirements under 40 CFR Part 60.56c(c)(2), the annual fugitive emissions testing requirements under 40 CFR Part 60.56c(c)(3), the CO CEMS requirements under 40 CFR Part 60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR Part 60.56c(c)(5) through (7), and (d) through (k) do not apply.

(B) For a designated facility as defined in subsection (b)(i)(B) subject to the emissions limits under subsection (c)(ii)(B), the annual fugitive emissions testing requirements under 40 CFR Part 60.56c(c)(3), the CO CEMS requirements under 40 CFR Part 60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR Part 60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), and (g)(6) through (10) do not apply. Sources subject to the emissions limits under subsection (c)(ii)(B) may, however, elect to use CO CEMS as specified under 40 CFR Part 60.56c(c)(4) or bag leak detection systems as specified under 40 CFR Part 60.57c(h).

(iii) Each small HMIWI subject to the emissions limits under subsection (c)(ii) that is not equipped with an air pollution control device shall meet the following compliance and performance testing requirements:

(A) Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits.

(B) Following the date on which the initial performance test is completed or is required to be completed under 40 CFR Part 60.8, whichever date comes first, ensure that the designated facility does not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameters(s).

(C) Except as provided in paragraph (iii)(D) of this subsection, operation of the designated facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the PM, CO, and dioxin/furan emissions limits.

(D) The owner or operator of a designated facility may conduct a repeat performance test within 30 days of violation of applicable operating parameter(s) to demonstrate that the designated facility is not in violation of the applicable emissions limit(s). Repeat performance tests conducted pursuant to this paragraph must be conducted under process and control device operating conditions duplicating as nearly as possible those that indicated a violation under paragraph (iii)(C) of this subsection.

(iv) Any HMIWI subject to the emissions limits under subsections (c)(i) and (ii), except as provided for under paragraph (v) of this subsection, shall meet monitoring requirements listed in 40 CFR Part 60.57c of subpart Ec.

(v) Small HMIWI subject to the emissions limits under subsection (c)(ii) that are not equipped with an air pollution control device shall meet the following monitoring requirements:

(A) Install, calibrate (to manufacturers' specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation.

(B) Install, calibrate (to manufacturers' specifications), maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI.

(C) The owner or operator of a designated facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day for 90 percent of the operating hours per calendar quarter that the designated facility is combusting hospital waste and/or medical/infectious waste.

(vi) The owner or operator of a designated facility as defined in subsection (b)(i)(A) or (B) subject to emissions limits under subsection (c)(i)(B), (i)(C), or (ii)(B) may use the results of previous emissions tests to demonstrate compliance with the emissions limits, provided that the conditions in paragraphs (vi)(A) through (C) of this subsection are met:

(A) The designated facility's previous emissions tests must have been conducted using the applicable procedures and test methods listed in 40 CFR Part 60.56c(b) of subpart Ec. Previous emissions test results obtained using EPA-accepted voluntary consensus standards are also acceptable.

(B) The HMIWI at the designated facility shall currently be operated in a manner (e.g., with charge rate, secondary chamber temperature, etc.) that would be expected to result in the same or lower emissions than observed during the previous emissions test(s), and the HMIWI may not have been modified such that emissions would be expected to exceed (notwithstanding normal test-to-test variability) the results from previous emissions test(s).

(C) The previous emissions test(s) must have been conducted in 1996 or later.

(h) Reporting and Recordkeeping Requirements.

(i) Except as provided in paragraphs (i)(A) and (B) of this subsection, any designated facility shall meet the reporting and recordkeeping requirements listed in 40 CFR Part 60.58c(b) through (g) of subpart Ec.

(A) For a designated facility as defined in subsection (b)(i)(A) subject to emissions limits under subsection (c)(i)(A) or (ii)(A), excluding 40 CFR Part 60.58c(b)(2)(ii) (fugitive emissions), (b)(2)(viii) (NO_x reagent), (b)(2)(xvii) (air pollution control device inspections), (b)(2)(xviii) (bag leak detection system alarms), (b)(2)(xix) (CO CEMS data), and (b)(7) (siting documentation).

(B) For a designated facility as defined in subsection (b)(i)(A) or (B) subject to emissions limits under subsection (c)(i)(B), (C), or (ii)(B), excluding 40 CFR Part 60.58c(b)(2)(xviii) (bag leak detection system alarms), (b)(2)(xix) (CO CEMS data), and (b)(7) (siting documentation).

(ii) The owner or operator of each HMIWI subject to the emissions limits under subsection (c) shall be required to:

(A) As specified in subsection (f), maintain records of the annual equipment inspections that are required for each HMIWI subject to the emissions limits under subsections (c)(i)(B), (C), and (ii), and the annual air pollution control device inspections that are required for each HMIWI subject to the emissions limits under subsections (c)(i)(B), (C), and (ii)(B), any required maintenance, and any repairs not completed within 10 days of an inspection or the timeframe established by the AQD Administrator; and

(B) Submit an annual report containing information recorded under paragraph (ii)(A) of this subsection no later than 60 days following the year in which data were collected. Subsequent reports shall be sent no later than 12 calendar months following the previous report (once the unit is subject to permitting requirements under WAQSR Chapter 6, Section 3, the owner or operator must submit these reports semiannually). The report shall be signed by the facilities manager.

(i) Compliance Times.

(i) Except as provided in paragraphs (ii) and (iii) of this subsection, all

designated facilities shall comply with all requirements of this plan within one year of EPA's approval of this plan, or by October 6, 2014, whichever occurs first.

(ii) Except as provided in paragraphs (iii) and (iv) of this subsection, designated facilities shall comply with all requirements of the State plan on or before the date one year after EPA approval of the State plan, but not later than October 6, 2014, regardless of whether a designated facility is identified in the State plan inventory required by 40 CFR Part 60.25(a) of subpart B.

(iii) Any designated facility demonstrating measurable and enforceable incremental steps of progress towards compliance, planning to install the necessary air pollution control equipment, must be in compliance on or before the date three years after EPA approval of the State plan, but not later than October 6, 2014, for the emissions limits as amended on October 6, 2009. Measurable and enforceable activities necessary for this demonstration shall include:

(A) Date for submitting a petition for site-specific operating parameters under 40 CFR Part 60.56c(j) of subpart Ec.

(B) Date for obtaining services of an architectural and engineering firm regarding the air pollution control device(s):

(C) Date for obtaining design drawings of the air pollution control device(s):

(D) Date for ordering the air pollution control device(s):

(E) Date for obtaining the major components of the air pollution control device(s):

(F) Date for initiation of site preparation for installation of the air pollution control device(s):

(G) Date for initiation of installation of the air pollution control device(s);

(H) Date for initial startup of the air pollution control device(s); and

(I) Date for initial compliance test(s) of the air pollution control devices(s).

(iv) A designated facility petitioning the AQD Administrator for extensions beyond the compliance times required in paragraph (ii) of this subsection shall:

(A) Submit the following information in time to allow the AQD Administrator adequate time to grant or deny the extension within one year after EPA approval

of the State plan, but not later than October 6, 2014:

(I) Documentation of the analyses undertaken to support the need for an extension, including an explanation of why up to three years after EPA approval of the State plan is sufficient time to comply, while within one year after EPA approval of the State plan is not sufficient. The documentation shall also include an evaluation of the option to transport the waste offsite to a commercial medical waste treatment and disposal facility on a temporary or permanent basis; and

(II) Documentation of measurable and enforceable incremental steps of progress to be taken towards compliance with the emissions limits.

(B) The AQD Administrator will grant or deny all extensions; and

(C) If an extension is granted, the designated facility shall comply with the emissions limits on or before the date three years after EPA approval of the State plan, but not later than October 6, 2014, for the emissions limits as amended on October 6, 2009.

(v) A designated facility shall comply with subsection (d) - Operator Training and Qualification Requirements and subsection (f) - Inspection Requirements by the date one year after EPA approval of a State plan, but not later than October 6, 2014.

Section 6. Incorporation by Reference.

(a) Code of Federal Regulations (CFR). All Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices, revised and published as of July 1, ~~2024~~2026, not including any later amendments, are incorporated by reference. Copies of the CFR are available for public inspection and copies can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at https://deq.wyoming.gov/. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at https://ecfr.gov.

Chapter 5
National Emission Standards

Section 1. Introduction to National Emission Standards.

(a) This Chapter incorporates emission control regulations developed by the Environmental Protection Agency for specific source categories. The State of Wyoming, Air Quality Division adopts these federal regulations in order to maintain administrative authority with regards to the standards. In this chapter, Section 2 contains New Source Performance Standards (NSPS) which regulate criteria pollutant emissions from specific categories of new sources; Section 3 contains National Emission Standards for Hazardous Air Pollutants (NESHAP) which regulates hazardous air pollutant emissions from specific categories of new and existing sources; and Section 4 incorporates by reference all Code of Federal Regulations (CFRs), including their Appendices, cited in this Chapter and all American Society for Testing and Materials (ASTM) standards cited in this Chapter.

Section 2. New Source Performance Standards.

(a) General: The U.S. Environmental Protection Agency regulations on Standards of Performance for New Stationary Sources, designated in Chapter 5, Section 2(b) and as amended by the word or phrase "substitutions" given in Chapter 5, Section 2(c), are incorporated into these regulations. The specific documents containing the complete text of the regulations are found in 40 CFR Part 60.

(b) Designated Standards of Performance: The following Standards of Performance are incorporated by reference under Section 4(a) of this Chapter.

40 CFR Part 60, subpart D -	Standards of Performance for Fossil-Fuel-Fired Steam Generators
40 CFR Part 60, subpart Da -	Standards of Performance for Electric Utility Steam Generating Units
40 CFR Part 60, subpart Db -	Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units
40 CFR Part 60, subpart Dc -	Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units
40 CFR Part 60, subpart Ea -	Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and on or Before September 20, 1994

40 CFR Part 60, subpart Eb -	Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996
40 CFR Part 60, subpart Ec -	Standards of Performance for New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators
40 CFR Part 60, subpart F -	Standards of Performance for Portland Cement Plants
40 CFR Part 60, subpart G -	Standards of Performance for Nitric Acid Plants
40 CFR Part 60, subpart Ga -	Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011
40 CFR Part 60, subpart H -	Standards of Performance for Sulfuric Acid Plants
40 CFR Part 60, subpart I -	Standards of Performance for Hot Mix Asphalt Facilities
40 CFR Part 60, subpart J -	Standards of Performance for Petroleum Refineries
40 CFR Part 60, subpart Ja -	Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007
40 CFR Part 60, subpart K -	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978
40 CFR Part 60, subpart Ka -	Standards of Performance for Storage Vessels for Petroleum Liquids for Which

	Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984
40 CFR Part 60, subpart Kb -	Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984
40 CFR Part 60, subpart T -	Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants
40 CFR Part 60, subpart U -	Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants
40 CFR Part 60, subpart V -	Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants
40 CFR Part 60, subpart W -	Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants
40 CFR Part 60, subpart X -	Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities
40 CFR Part 60, subpart Y -	Standards of Performance for Coal Preparation and Processing Plants
40 CFR Part 60, subpart DD -	Standards of Performance for Grain Elevators
40 CFR Part 60, subpart GG -	Standards of Performance for Stationary Gas Turbines
40 CFR Part 60, subpart HH -	Standards of Performance for Lime Manufacturing Plants
40 CFR Part 60, subpart NN -	Standards of Performance for Phosphate Rock Plants

40 CFR Part 60, subpart UU -	Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture
40 CFR Part 60, subpart VV -	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006
40 CFR Part 60, subpart VVa -	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
40 CFR Part 60, subpart WW -	Standards of Performance for the Beverage Can Surface Coating Industry
40 CFR Part 60, subpart XX -	Standards of Performance for Bulk Gasoline Terminals
40 CFR Part 60, subpart AAA -	Standards of Performance for New Residential Wood Heaters
40 CFR Part 60, subpart GGG -	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006
40 CFR Part 60, subpart GGGa -	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
40 CFR Part 60, subpart JJJ -	Standards of Performance for Petroleum Dry Cleaners
40 CFR Part 60, subpart KKK -	Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and

	on or Before August 23, 2011
40 CFR Part 60, subpart LLL -	Standards of Performance for SO_2 Emissions From Onshore Natural Gas Processing for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011
40 CFR Part 60, subpart OOO -	Standards of Performance for Nonmetallic Mineral Processing Plants
40 CFR Part 60, subpart QQQ -	Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems
40 CFR Part 60, subpart UUU -	Standards of Performance for Calciners and Dryers in Mineral Industries
40 CFR Part 60, subpart WWW -	Standards of Performance for Municipal Solid Waste Landfills
40 CFR Part 60, subpart XXX -	Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014
40 CFR Part 60, subpart AAAA -	Standards of Performance for Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001
40 CFR Part 60, subpart CCCC -	Standards of Performance for Commercial and Industrial Solid Waste Incineration Units
40 CFR Part 60, subpart EEEE -	Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006
40 CFR Part 60, subpart IIII -	Standards of Performance for Stationary Compression Ignition Internal Combustion

Engines

40 CFR Part 60, subpart JJJJ - Standards of Performance for Stationary Spark Ignition Internal Combustion Engines

40 CFR Part 60, subpart KKKK - Standards of Performance for Stationary Combustion Turbines

40 CFR Part 60, subpart KKKKa - Standards of Performance for Stationary Combustion Turbines

40 CFR Part 60, subpart OOOO - Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution

40 CFR Part 60, subpart OOOOa - Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced after September 18, 2015

40 CFR Part 60, subpart OOOOb - Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After December 6, 2022

40 CFR Part 60, subpart QQQQ - Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces

40 CFR Part 60, subpart TTTT - Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units

(i) Designated Appendices. The following appendices are incorporated by reference under Section 4(a) of this Chapter.

40 CFR Part 60, Appendix A - Test Methods

40 CFR Part 60, Appendix B - Performance Specifications

40 CFR Part 60, Appendix C - Determination of Emission Rate Change

40 CFR Part 60, Appendix D - Required Emission Inventory Information

40 CFR Part 60, Appendix F - Quality Assurance Procedures

40 CFR Part 60, Appendix I - Removable Label and Owner's Manual

(c) Word or Phrase Substitutions: In the standards designated in Chapter 5, Section 2(b) substitute:

(i) Chapter 1, Section 4 for 60.12
(ii) Chapter 5, Section 2 for Subpart A
(iii) Chapter 5, Section 2(e)(i) for 60.2
(iv) Chapter 5, Section 2(e)(ii) for 60.3
(v) Chapter 5, Section 2(g) for 60.7
(vi) Chapter 5, Section 2(h) for 60.8
(vii) Chapter 5, Section 2(i) for 60.11
(viii) Chapter 5, Section 2(j) for 60.13
(ix) Chapter 5, Section 2(k) for 60.14
(x) Chapter 5, Section 2(l) for 60.15
(xi) Chapter 5, Section 2(m) for 60.18
(xii) Chapter 5, Section 2(n) for 60.19
(xiii) Chapter 6, Section 2(b)(i) for 60.5 and 60.6
(xiv) Chapter 6, Section 2(i) for 60.7(a)(2) and (3)
(xv) Chapter 6, Section 2(j) for 60.8(a) and (d)
(xvi) Section 35-11-1101 Environmental Quality Act for 60.9

(d) Applicability: The provisions of Chapter 5, Section 2 are applicable to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication of any proposed standard as designated in the applicable subparts of the Standards of Performance referenced in Chapter 5, Section 2(b) and contained in 40 CFR Part 60.

(i) In addition to complying with the provisions of this section, the owner or operator of an affected facility may be required to obtain an operating permit issued to stationary sources by the Administrator pursuant to Title V of the Clean Air Act (Act) as amended November 15, 1990 (42 U.S.C. 7661). For more information about obtaining an operating permit see Chapter 6, Section 3.

(e) Definitions and Abbreviations: The following terms are explicitly defined for use in this section. As used in this section, all terms not defined herein shall have the meaning given to them in Chapter 1, Section 3.

(i) Definitions:

"Act" means the Clean Air Act (42 U.S.C. 7401 et seq.).

"Administrator" means the Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality, except for those authorities which cannot be delegated to the state, in which case "administrator" means both the administrator of the

Environmental Protection Agency and the Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality.

"Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.

"Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the Administrator's satisfaction to, in some specific cases, produce results adequate for his determination of compliance.

"Capital expenditure" means an expenditure for a physical or operational change to an existing facility which exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in the latest edition of Internal Revenue Service (IRS) Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to an existing facility must not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.

"Clean coal technology demonstration project" means a project using funds appropriated under the heading 'Department of Energy-Clean Coal Technology', up to a total amount of $2,500,000,000 for commercial demonstrations of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency.

"Commenced" means, with respect to the definition of *new source* in section 111(a)(2) of the Act, that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

"Construction" means fabrication, erection, or installation of an affected facility.

"Continuous monitoring system" means the total equipment, required under the emission monitoring sections, used to sample and condition (if applicable), to analyze, and to provide a permanent record of emissions or process parameters.

"Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the Administrator's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

"Excess emissions and monitoring systems performance report" is a report that must be submitted periodically by a source in order to provide data on its compliance with stated emission limits and operating parameters, and on the performance of its monitoring systems.

"Existing facility" means, with reference to a stationary source, any apparatus of the type for which a standard is promulgated in this section, and the construction or modification of which was commenced before the date of proposal of that standard; or any apparatus which could be altered in such a way as to be of that type.

"Isokinetic sampling" means sampling in which the linear velocity of the gas entering the sampling nozzle is equal to that of the undisturbed gas stream at the sample point.

"Issuance" of an operating permit will occur, in accordance with Chapter 6, Section 3.

"Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

"Monitoring device" means the total equipment, required under the monitoring of operations sections, used to measure and record (if applicable) process parameters.

"Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in this section.

"One-hour period" means any 60-minute period commencing on the hour.

"Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

"Operating permit" or "Part 70 permit" means any permit or group of permits covering a source under Chapter 6, Section 3 that is issued, renewed, amended or revised pursuant to Chapter 6, Section 3.

"Owner or operator" means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source of which an affected facility is a part.

"Particulate matter" means any finely divided solid or liquid material, other than uncombined water, as measured by the reference methods specified under each subpart, or an equivalent or alternative method.

"Permit program" means the comprehensive State operating permit system established pursuant to Title V of the Act (42 U.S.C. 7661) and regulations in Chapter 6, Section 3.

"Proportional sampling" means sampling at a rate that produces a constant ratio of sampling rate to stack gas flow rate.

"Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

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

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

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

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

"Reference method" means any method of sampling and analyzing for an air pollutant as specified in the applicable subpart.

"Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator of EPA, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990. Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

"Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

"Shutdown" means the cessation of operation of an affected facility for any purpose.

"Six-minute period" means any one of the 10 equal parts of a one-hour period.

"Standard" means a standard of performance proposed or promulgated under this section.

"Standard conditions" means a temperature of 293°K (68°F) and a pressure of 101.3 Kilopascals of Hg (29.92 in. of Hg).

"Start-up" means the setting in operation of an affected facility for any purpose.

"State" means the Wyoming Air Quality Division which has been delegated authority to implement:

(A) The provisions of this section; and/or

(B) The permit program established under 40 CFR Part 70.

"Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant.

"Volatile organic compounds" means any organic compound which participates in atmospheric photochemical reactions; or which is measured by a reference method, an equivalent method, an alternative method, or which is determined by procedures specified under any subpart.

(ii) Abbreviations:

A	ampere
A.S.T.M.	American Society for Testing and Materials
Btu	British thermal unit
cal	calorie
CdS	Cadmium sulfide
cfm	cubic feet per minute
CO	carbon monoxide
CO_2	carbon dioxide
°C	degree Celsius (centigrade)
°F	degree Fahrenheit
°K	degree Kelvin
°R	degree Rankine
dscm	dry cubic meter(s) at standard conditions
dscf	dry cubic feet at standard conditions
eq	equivalents
g	gram(s)
gal	gallon(s)
g eq	gram equivalents
gr	grain(s)
HCl	hydrochloric acid
Hg	mercury

hr	hour(s)
H_2O	water
H_2S	hydrogen sulfide
H_2SO_4	sulfuric acid
Hz	hertz
in	inch(es)
J	joule
k	1,000
kg	kilogram(s)
l	liters
lb	pound(s)
lpm	Liter(s) per minute
m	meter(s)
meq	milliequivalent(s)
mg	milligram(s)
Mg	megagram - 10^6 gram
min	minute(s)
ml	milliliter(s)
mm	millimeter(s)
mol. wt.	molecular weight
mv	millivolt
N	newton
N	nitrogen
ng	nanogram - 10^{-9} gram
nm	nanometer(s) - 10^{-9} meter
NO	nitric oxide
NO_2	nitrogen dioxide
NO_x	nitrogen oxides
O_2	oxygen
Pa	pascal
ppb	parts per billion
ppm	parts per million
psia	pounds per square inch absolute
s	second
sec	second
SO_2	sulfur dioxide
SO_3	sulfur trioxide
STD	at standard conditions
µg	microgram(s) - 10^{-6} gram
V	volt
W	watt

(f) Permit Requirements: Compliance with the provisions of this section shall in no way relieve the owner or operator of responsibility for compliance with other applicable sections of these regulations. The permit requirements of Chapter 6, Section 2 are specifically applicable to affected facilities subject to the requirements of this section.

(g) Notification and Recordkeeping:

(i) Any owner or operator subject to the provisions of this section shall furnish the Administrator written notification as follows:

(A) A notification of the date construction (or reconstruction as defined under Chapter 1, Section 3) of an affected facility is commenced postmarked no later than 30 days after such date. This requirement shall not apply in the case of mass-produced facilities which are purchased in completed form.

(B) A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in Chapter 5, Section 2(k). This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Administrator may request additional relevant information subsequent to this notice.

(C) A notification of the date upon which demonstration of the continuous monitoring system performance commences in accordance with Chapter 5, Section 2(j)(iii). Notification shall be postmarked not less than 30 days prior to such date.

(D) A notification of the anticipated date for conducting the opacity observations required by Chapter 5, Section 2(i)(v) of this section. The notification shall be postmarked not less than 30 days prior to such date.

(E) A notification that continuous opacity monitoring system data results will be used to determine compliance with the applicable opacity standard during a performance test required by Chapter 5, Section 2(h) in lieu of Method 9 observation data as allowed by Chapter 5, Section 2(i)(v)(D). This notification shall be postmarked not less than 30 days prior to the date of the performance test.

(ii) Any owner or operator subject to the provisions of this section shall maintain records of the occurrence and duration of any start-up, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

(iii) Each owner or operator required to install a continuous monitoring system (CMS) or monitoring device shall submit an excess emissions and monitoring systems performance report (excess emissions are defined in applicable subparts) and/or a summary report form (see paragraph E of this section) to the Administrator semiannually, except when: more frequent reporting is specifically required by an applicable subpart; or the CMS data are to be used directly for compliance determination, in which case quarterly reports shall be submitted; or the Administrator, on a case-by-case basis, determines that more frequent reporting

is necessary to accurately assess the compliance status of the source. All reports shall be postmarked by the 30th day following the end of each calendar half (or quarter, as appropriate). Written reports of excess emissions shall include the following information:

(A) The magnitude of excess emissions computed in accordance with Chapter 5, Section 2(j)(viii), any conversion factor(s) used, and the date and time of commencement and completion of each time period of excess emissions. The process operating time during the reporting period.

(B) Specific identification of each period of excess emissions that occurs during start-ups, shutdowns, malfunctions of the affected facility. The nature and cause of any malfunction (if known), the corrective action taken or preventative measures adopted.

(C) The date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments.

(D) When no excess emissions have occurred or the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be stated in the report.

(E) The summary report form shall contain the information and be in the format shown in Form B unless otherwise specified by the Administrator. One summary report form shall be submitted for each pollutant monitored at each affected facility.

(I) If the total duration of excess emissions for the reporting period is less than 1 percent of the total operating time for the reporting period and CMS downtime for the reporting period is less than 5 percent of the total operating time for the reporting period, only the summary report form shall be submitted and the excess emission report described in paragraph (iii) of this subsection need not be submitted unless requested by the Administrator.

(II) If the total duration of excess emissions for the reporting period is 1 percent or greater of the total operating time for the reporting period or the total CMS downtime for the reporting period is 5 percent or greater of the total operating time for the reporting period, the summary report form and the excess emission report described in paragraph (iii) of this subsection shall both be submitted.

Form B

EXCESS EMISSION SUMMARY REPORT

Emission Data Summary		**CMS Performance Summary**	
I. Duration of Excess Emissions in Reporting Period Due to:		I. CMS Downtime in Reporting Period Due to:	
A. Startup/Shutdown	_____	A. Monitor Equipment Malfunctions	____
B. Control Equipment Problems	_____	B. Non-Monitor Equipment Malfunctions	____
C. Process Problems	_____	C. Quality Assurance Calibration	____
D. Other Known Causes	_____	D. Other Known Causes	____
E. Unknown Causes	_____	E. Unknown Causes	____
II. Total Duration of Excess Emission	_____	II. Total CMS Downtime	____
III. Total Duration of Excess Emissions x 100 divided by Total Source Operating Time minus Total CMS Downtime	_____	III. Total CMS Downtime x 100 divided by Total Source Operating Time	____

Total time of excess emission events due to emergency/abnormal operations_____.

NOTE:

1. Only report excess emissions which occur when the unit/process is operating. Include all excess emissions in the Emission Data Summary including those excess emissions associated with startup/shutdown and those excess emissions associated with Chapter 1, Section 5 (Emergency/Abnormal) operations. **Report times in hours for gaseous monitors and in tenths of an hour for opacity monitors.** Include detailed excess emission information and causes in the Excess Emission Table (Form C).
2. Only report CEM downtime which occurs while the unit/process is operating. **Report time in hours to one decimal point.** Include detailed CEM downtime and causes in the Monitor Outage Table (Form D).
3. Include an explanation of what corrective actions were taken for total excess emissions or monitor downtime for the quarter (Emission Data Summary and CMS Performance Summary, Item III) greater than 5%. (**See Instructions for further details.**)

On a separate page, describe any changes since last quarter in CMS, process or controls. I certify that the information contained in this report is true, accurate, and complete.

Name

_____

Signature

_____

Title

_____

Date

_____

(iv) (A) Notwithstanding the frequency of reporting requirements specified in paragraph (iii) of this subsection, an owner or operator who is required by an applicable subpart to submit excess emissions and monitoring systems performance reports (and summary reports) on a quarterly (or more frequent) basis may reduce the frequency of reporting for that standard to semiannual if the following conditions are met:

(I) For 1 full year (e.g., 4 quarterly or 12 monthly reporting periods) the affected facility's excess emissions and monitoring systems reports submitted to comply with a standard under this section continually demonstrate that the facility is in compliance with the applicable standard;

(II) The owner or operator continues to comply with all recordkeeping and monitoring requirements specified in this section and the applicable standard; and

(III) The Administrator does not object to a reduced frequency of reporting for the affected facility, as provided in paragraph (iv)(B) of this subsection.

(B) The frequency of reporting of excess emissions and monitoring systems performance (and summary) reports may be reduced only after the owner or operator notifies the Administrator in writing of the intent to make such a change and the Administrator does not object to the intended change. In deciding whether to approve a reduced frequency of reporting, the Administrator may review information concerning the source's entire previous performance history during the required recordkeeping period prior to the intended change, including performance test results, monitoring data, and evaluations of an owner or operator's conformance with operation and maintenance requirements. Such information may be used by the Administrator to make a judgment about the source's potential for noncompliance in the future. If the Administrator disapproves the owner or operator's request to reduce the frequency of reporting, the Administrator will notify the owner or operator in writing within 45 days after receiving notice of the owner or operator's intention. The notification from the Administrator to the owner or operator will specify the ground on which the disapproval is based. In the absence of a notice of disapproval within 45 days, approval is automatically granted.

(C) As soon as monitoring data indicate that the affected facility is not in compliance with any emission limitation or operating parameter specified in the applicable standard, the frequency of reporting shall revert to the frequency specified in the applicable standard, and the owner or operator shall submit an excess emissions and monitoring systems performance report (and summary report, if required) at the next appropriate reporting period following the noncomplying event. After demonstrating compliance with the applicable standard for another full year, the owner or operator may again request approval from the Administrator to reduce the frequency of reporting for that standard as provided for in paragraphs (iv)(A) and (iv)(B) of this subsection.

(v) Any owner or operator subject to the provisions of this section shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance

evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by this section recorded in a permanent form suitable for inspection. The file shall be retained for at least two years following the date of such measurements, maintenance, reports, and record.

(vi) Individual subparts of 40 CFR Part 60 may include specific provisions which clarify or made inapplicable the provisions set forth in this section.

(h) Performance Tests:

(i) The owner or operator of an affected facility shall conduct performance test(s) within the times specified in Chapter 6, Section 2(j) and furnish the Administrator a written report of the results of such performance test(s).

(ii) Performance tests shall be conducted and data reduced in accordance with the test methods and procedures contained in each applicable subpart unless the Administrator (1) specifies or approves, in specific cases, the use of a reference method with minor changes in methodology; (2) obtains approval from the EPA Administrator for use of an equivalent method; (3) obtains approval from the EPA Administrator for use of an alternative method the results of which he had determined to be adequate for indicating whether a specific source is in compliance; (4) waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the affected facility is in compliance with the standard; or (5) approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors. Nothing in this paragraph shall be construed to abrogate the Administrator's authority to require other testing.

(iii) Performance tests shall be conducted under such conditions as the Administrator shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of the performance tests. Operations during periods of start-up, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test nor shall emissions in excess of the level of the applicable emission limit during periods of start-up, shutdown, and malfunction be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.

(iv) The owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:

(A) Sampling ports adequate for test methods applicable to such facility. This includes:

(I) Constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by applicable test methods and procedures and;

(II) Providing a stack or duct free of cyclonic flow during performance tests, as demonstrated by applicable test methods and procedures;

(B) Safe sampling platform(s);

(C) Safe access to sampling platform(s);

(D) Utilities for sampling and testing equipment.

(v) Unless otherwise specified in the applicable subpart, each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances, beyond the owner or operator's control, compliance may, upon the Administrator's approval, be determined using the arithmetic mean of the results of the two other runs.

(i) Compliance With Standards and Maintenance Requirements:

(i) Compliance with standards in this section, other than opacity standards, shall be determined by performance tests established by Chapter 5, Section 2(h), unless otherwise specified in the applicable standard.

(ii) Compliance with opacity standards in this section shall be determined by conducting observations in accordance with Reference Method 9 in 40 CFR Part 60, Appendix A or any alternative method that is approved by the EPA Administrator, or as provided in paragraph (v)(D) of this section. For purposes of determining initial compliance, the minimum total time of observations shall be 3 hours (30 6-minute averages) for the performance test or other set of observations (meaning those fugitive-type emission sources subject only to an opacity standard).

(iii) The opacity standards set forth in this section shall apply at all times except during periods of start-up, shutdown, malfunction, and as otherwise provided in the applicable standard.

(iv) At all times, including periods of start-up, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(v) (A) For the purpose of demonstrating initial compliance, opacity observations shall be conducted concurrently with the initial performance test required in Chapter 5, Section 2(h) unless one of the following conditions apply. If no performance test under Chapter 5, Section 2(h) is required, then opacity observations shall be conducted within 60 days after achieving the maximum production rate at which the affected facility will be operated but no later than 180 days after initial start-up of the facility. If visibility or other conditions prevent the opacity observations from being conducted concurrently with the initial performance test required under Chapter 5, Section 2(h), the source owner or operator shall reschedule the opacity observations as soon after the initial performance test as possible, but not later than 30 days thereafter, and shall advise the Administrator of the rescheduled date. In these cases, the 30-day prior notification to the Administrator required in Chapter 5, Section 2(g)(i)(D) shall be waived. The rescheduled opacity observations shall be conducted (to the extent possible) under the same operating conditions that existed during the initial performance test conducted under Chapter 5, Section 2(h). The visible emissions observer shall determine whether visibility or other conditions prevent the opacity observations from being made concurrently with the initial performance test in accordance with procedures contained in Reference Method 9 of 40 CFR Part 60, Appendix A. Opacity reading of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. The owner or operator of an affected facility shall make available, upon request by the Administrator, any records as may be necessary to determine the conditions under which the visual observations were made and shall provide evidence indicating proof of current visible observer emission certification. Except as provided in paragraph (v)(D) of this section, the results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the source shall meet the burden of proving that the instrument used meets (at the time of the alleged violation) Performance Specification 1 in 40 CFR Part 60, Appendix B, has been properly maintained and (at the time of the alleged violation) that the resulting data have not been altered in any way.

(I) The inability of an owner or operator to secure a visible emissions observer shall not be considered a reason for not conducting the opacity observations concurrent with the initial performance test.

(B) The owner or operator of an affected facility to which an opacity standard in this section applies shall conduct opacity observations in accordance with Chapter 5, Section 2(i)(ii), shall record the opacity of emissions, and shall report to the Administrator the opacity results along with the results of the initial performance test required under Chapter 5, Section 2(h).

(C) An owner or operator of an affected facility using a continuous opacity monitor (transmissometer) shall record the monitoring data produce during the initial performance test required by Chapter 5, Section 2(h) and furnish the Administrator a written report of the monitoring results along with Method 9 and Chapter 5, Section 2(h) performance test results.

(D) An owner or operator of an affected facility subject to an opacity

standard may submit, for compliance purposes, continuous opacity monitoring system (COMS) data results produced during any performance test required under Chapter 5, Section 2(h) in lieu of Method 9 observation data. If an owner or operator elects to submit COMS data for compliance with the opacity standard, he shall notify the Administrator of that decision in writing, at least 30 days before any performance test required under Chapter 5, Section 2(h) is conducted. Once the owner or operator of an affected facility has notified the Administrator to that Effect, the COMS data results will be used to determine opacity compliance during subsequent tests required under Chapter 5, Section 2(h) until the owner or operator notifies the Administrator in writing to the contrary. For the purpose of determining compliance with the opacity standard during a performance test required under Chapter 5, Section 2(h) using COMS data the minimum total time of COMS data collection shall be the averages of all 6-minute continuous periods within the duration of the mass emission performance test. Results of the COMS opacity determinations shall be submitted along with the results of the performance test required under Chapter 5, Section 2(h). The owner or operator of an affected facility using a COMS for compliance purposes is responsible for demonstrating that the COMS meets the requirements specified in Chapter 5, Section 2(j)(iii) of this section, that the COMS has been properly maintained and operated, and that the resulting data have not been altered in any way. If COMS data results are submitted for compliance with the opacity standard for a period of time during which Method 9 data indicates noncompliance, the Method 9 data will be used to determine opacity compliance.

(E) Upon receipt from an owner or operator of the written reports of the results of the performance tests required by Chapter 5, Section 2(h), the opacity observation results and observer certification required by Chapter 5, Section 2(i)(v)(A) and the COMS results, if applicable, the Administrator will make a finding concerning compliance with opacity and other applicable standards. If COMS data results are used to comply with an opacity standard, only those results are required to be submitted along with the performance test results required by Chapter 5, Section 2(h). If the Administrator finds that an affected facility is in compliance with all applicable standards for which performance tests are conducted in accordance with Chapter 5, Section 2(h) of this section but during the time such performance tests are being conducted fails to meet any applicable opacity standard, he shall notify the owner or operator and advise him that he may petition the Administrator within 10 days of receipt of notification to make appropriate adjustment to the opacity standard for the affected facility. The notifications received requesting adjustments to the opacity standard of the affected facility will be forwarded to EPA for resolution.

(vi) Special provisions set forth under an applicable subpart in 40 CFR Part 60 shall supersede any conflicting provisions in this section.

(vii) For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in this section, nothing in this section shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with the applicable requirements if the appropriate performance or compliance test or procedure had been performed.

(j) Monitoring Requirements:

(i) For the purposes of this section, all continuous monitoring systems required under applicable subparts shall be subject to the provisions of this section upon promulgation of performance specifications for continuous monitoring systems under 40 CFR Part 60, Appendix B and, if the continuous monitoring system is used to demonstrate compliance with emission limits on a continuous basis, 40 CFR Part 60, Appendix F, unless otherwise specified in an applicable subpart or by the Administrator. Appendix F is applicable December 4, 1987.

(ii) All continuous monitoring systems and monitoring devices shall be installed and operational prior to conducting performance tests under Chapter 5, Section 2(h). Verification of operational status shall, as a minimum, include completion of manufacturer's written requirements or recommendations for installation, operation, and calibration of the device.

(iii) If the owner or operator of an affected facility elects to submit COMS data for compliance with the opacity standard as provided under Chapter 5, Section 2(i)(v)(D), he shall conduct a performance evaluation of the COMS as specified in Performance Specification 1, 40 CFR Part 60, Appendix B, before the performance test required under Chapter 5, Section 2(h) is conducted. Otherwise, the owner or operator of an affected facility shall conduct a performance evaluation of the COMS or continuous emission monitoring system (CEMS) during any performance test required under Chapter 5, Section 2(h) or within 30 days thereafter in accordance with the applicable performance specification in 40 CFR Part 60, Appendix B. The owner or operator of an affected facility shall conduct COMS or CEMS performance evaluations at such other times as may be required by the Administrator.

(A) The owner or operator of an affected facility using a COMS to determine opacity compliance during any performance test required under Chapter 5, Section 2(h) and as described in Chapter 5, Section 2(i)(v)(D) shall furnish the Administrator two or, upon request, more copies of a written report of the results of the COMS performance evaluation described in paragraph (iii) of this section at least 10 days before the performance test required under Chapter 5, Section 2(h) is conducted.

(B) Except as provided in paragraph (iii)(A) of this section, the owner or operator of an affected facility shall furnish the Administrator within 60 days of completion two or, upon request, more copies of a written report of the results of the performance evaluation.

(C) These continuous monitoring system performance evaluations, except as provided in paragraph (x) of this section shall be conducted in accordance with the requirements and procedures contained in the applicable performance specification of 40 CFR Part 60, Appendix B as follows:

(I) Continuous monitoring systems for measuring opacity of emissions installed on or after March 30, 1983 shall comply with all the provisions and

requirements in Performance Specification 1. Continuous monitoring systems for measuring opacity of emissions installed before March 30, 1983 are required to comply with the provisions and requirements of Performance Specification 1 except for the following:

(1.) Section 4 - Installation specifications.

(2.) Paragraphs 5.1.4 - Optical alignment sight, 5.1.6 - Access to external optics, 5.1.7 - Automatic zero compensation indicator, and 5.1.8 - Slotted tube of Section 5 - Design and Performance Specification 1.

(3.) Paragraph 6.4 - Optical alignment sight of Section 6. Design specifications verification procedure.

If an existing opacity monitoring system is replaced on or after March 30, 1983, the new opacity monitoring system shall comply with the requirements of Performance Specification 1, except the new monitoring system may be located at the same measurement location as for the replaced monitoring system. If a new measurement location is to be determined at the time of replacement, the new location must meet the requirements of Performance Specification 1.

(II) Continuous monitoring systems for measuring nitrogen oxides emissions shall comply with Performance Specification 2.

(III) Continuous monitoring systems for measuring sulfur dioxide emissions shall comply with Performance Specification 2.

(IV) Continuous monitoring systems for measuring the oxygen content or carbon dioxide content of effluent gases shall comply with Performance Specification 3.

(iv) (A) Owners and operators of all continuous emission monitoring systems installed in accordance with the provisions of this section shall check the zero (or low-level value between 0 and 20 percent of span value) and span (50 to 100 percent of span value) calibration drifts at least once daily in accordance with a written procedure. The zero and span shall, as a minimum, be adjusted whenever the 24-hour zero drift or 24-hour span drift exceeds two times the limits of the applicable performance specifications in 40 CFR Part 60, Appendix B. The system must allow the amount of excess zero and span drift measured at the 24-hour interval checks to be recorded and quantified, whenever specified. For continuous monitoring systems measuring opacity of emissions, the optical surfaces exposed to the effluent gases shall be cleaned prior to performing the zero and span drift adjustments except that for systems using automatic zero adjustments, the optical surfaces shall be cleaned when the cumulative zero compensation exceeds 4 percent opacity.

(B) Unless otherwise approved by the Administrator, owners and operators shall adhere to the following procedures for continuous monitoring systems measuring opacity of emissions. Minimum procedures shall include a method for producing a simulated zero opacity condition and an upscale (span value) opacity condition using a certified neutral

density filter or other related technique to produce a known obscuration of the light beam. Such procedures shall provide a system check of the analyzer internal optical surfaces and all electronic circuitry including the lamp and photodetector assembly.

(v) Except for system breakdown, repairs, calibration checks, and zero and span adjustments required under paragraph (iv) of this section, all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements as follows:

(A) All continuous monitoring systems referenced by paragraphs (iii)(A) and (B) of this section for measuring opacity of emissions shall complete a minimum of one cycle of sampling and analyzing for each successive ten-second period and one cycle of data recording for each successive six-minute period.

(B) All continuous monitoring systems referenced by paragraphs (iii)(A) and (B) of this section for measuring emissions, except opacity shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

(vi) All continuous monitoring systems or monitoring devices shall be installed such that representative measurements of emissions or process parameters from the affected facility are obtained. Owners and operators shall use additional procedures contained in the applicable Performance Standards for 40 CFR Part 60, Appendix B for location of continuous monitoring systems.

(vii) When the effluents from a single affected facility or two or more affected facilities subject to the same emission standards are combined before being released to the atmosphere, the owner or operator may install applicable continuous monitoring systems on each effluent or on the combined effluent. When the affected facilities are not subject to the same emissions standards, separate continuous monitoring systems shall be installed on each effluent. When the effluent from one affected facility is released to the atmosphere through more than one point, the owner or operator shall install applicable continuous monitoring systems on each separate effluent unless the installation of fewer systems is approved by the Administrator. When more than one continuous monitoring system is used to measure the emissions from one affected facility (e.g., multiple breechings, multiple outlets), the owner or operator shall report the results as required from each continuous monitoring system.

(viii) Owners or operators of all continuous monitoring systems for measurement of opacity shall reduce all data to six-minute averages, and shall reduce all data for systems other than opacity to one-hour averages for the time period as defined under Chapter 5, Section 2(c)(i). Six-minute opacity averages shall be calculated from 36 or more data points equally spaced over each six-minute period. For systems other than opacity, one-hour averages shall be computed from four or more data points equally spaced over each one-hour period. Data recorded during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in the data averages computed under this paragraph. An arithmetic or integrated average of all data may be used. The data output of all continuous

monitoring systems may be recorded in reduced or non-reduced form (e.g., ppm pollutant and percent O_2 or lb/million Btu of pollutant). All excess emissions shall be converted into units of the standard using the applicable conversion procedures specified in subparts. After conversion into units of the standard, the data may be rounded to the same number of significant digits used in subparts to specify the applicable standard (e.g., rounded to the nearest one percent opacity).

(ix) Upon written application by an owner or operator, the Administrator may approve alternatives to any monitoring procedures or requirements of this section including, but not limited to the following:

(A) Alternative monitoring requirements when installation of a continuous monitoring system or monitoring device specified by this section would not provide accurate measurements due to liquid water or other interferences caused by substances with the effluent gases.

(B) Alternative monitoring requirements when the affected facility is infrequently operated.

(C) Alternative monitoring requirement to accommodate continuous monitoring systems that require additional measurements to correct for stack moisture conditions.

(D) Alternative locations for installing continuous monitoring systems or monitoring devices when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements.

(E) Alternative methods of converting pollutant concentration measurements to units of the standards.

(F) Alternative procedures for performing daily checks of zero and span drift that do not involve use of span gases or test cells.

(G) Alternatives to the A.S.T.M. test methods or sampling procedures specified by any subpart.

(H) Alternative continuous monitoring systems that do not meet the design or performance requirements in Performance Specification 1 of 40 CFR Part 60, Appendix B, but adequately demonstrate a definite and consistent relationship between its measurements and the measurements of opacity by a system complying with the requirements in Performance Specification 1. The Administrator may require that such demonstration be performed for each affected facility.

(I) Alternative monitoring requirements when the effluent from a single affected facility or the combined effluent from two or more affected facilities are released to the atmosphere through more than one point.

(x) An alternative to the relative accuracy test specified in Performance Specification 2 of 40 CFR Part 60, Appendix B may be requested as follows:

(A) An alternative to the reference method tests for determining relative accuracy is available for sources with emission rates demonstrated to be less than 50 percent of the applicable standard. A source owner or operator may petition the Administrator to waive the relative accuracy test in Section 7 of Performance Specification 2 and substitute the procedures in Section 10 if the results of the performance test conducted according to the requirements in Chapter 5, Section 2(h) of this section or other tests performed following the criteria in Chapter 5, Section 2(h) demonstrate that the emission rate of the pollutant of interest in the units of the applicable standard is less than 50 percent of the applicable standard. For sources subject to standards expressed as control efficiency levels, a source owner or operator may petition the Administrator to waive the relative accuracy test and substitute the procedures in Section 10 of Performance Specification 2 if the control device exhaust emission rate is less than 50 percent of the level needed to meet the control efficiency requirement. The alternative procedures do not apply if the continuous emission monitoring system is used to determine compliance continuously with the applicable standard. The petition to waive the relative accuracy test shall include a detailed description of the procedures to be applied. Included shall be location and procedure for conducting the alternative, the concentration or response levels of the alternative RA materials, and the other equipment checks included in the alternative procedure. The Administrator will review the petition for completeness and applicability. The determination to grant a waiver will depend on the intended use of the CEMS data (e.g., data collection purposes other than NSPS) and may require specifications more stringent than in Performance Specification 2 (e.g., the applicable emission limit is more stringent than NSPS).

(B) The waiver of CEMS relative accuracy test will be reviewed and may be rescinded at such time following successful completion of the alternative RA procedure that the CEMS data indicate the source emissions approaching the level of the applicable standard. The criterion for reviewing the waiver is the collection of CEMS data showing that emissions have exceeded 70 percent of the applicable standard for seven consecutive averaging periods as specified by the applicable regulation(s). For sources subject to standards expressed as control efficiency levels, the criterion for reviewing the waiver is the collection of CEMS data showing that exhaust emissions have exceeded 70 percent of the level needed to meet the control efficiency requirement for seven consecutive averaging periods as specified by the applicable regulation(s). It is the responsibility of the source operator to maintain records and determine the level of emissions relative to the criterion on the waiver of relative accuracy testing. If this criterion is exceeded, the owner or operator must notify the Administrator within 10 days of such occurrence and include a description of the nature and cause of increasing emissions. The Administrator will review the notification and may rescind the waiver and require the owner or operator to conduct a relative accuracy test of the CEMS as specified in Section 7 of Performance Specification 2.

(k) Modification:

(i) Except as provided under paragraphs (iv) and (v) of this section, any physical or operational change to an existing facility which results in an increase in the emission

rate to the atmosphere of any pollutant to which a standard applies shall be considered a modification. Upon modification, an existing facility shall become an affected facility for each pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere.

(ii) Emission rate shall be expressed as kg/hr of any pollutant discharged into the atmosphere for which a standard is applicable. The Administrator shall use the following to determine emission rate:

(A) Emission factors as specified in the latest issue of "Compilation of Air Pollutant Emission Factors", EPA Publication No. AP-42, or other emission factors determined by the Administrator to be superior to AP-42 emission factors, in cases where utilization of emission factors demonstrate that the emission level resulting from the physical or operational change will either clearly increase or clearly not increase.

(B) Material balances, continuous monitor data, or manual emission tests in cases where utilization of emission factors as referenced in paragraph (ii)(A) of this section does not demonstrate to the Administrator's satisfaction whether the emission level resulting from the physical or operational change will either clearly increase or clearly not increase, or where an owner or operator demonstrates to the Administrator's satisfaction that there are reasonable grounds to dispute the result obtained by the Administrator utilizing emission factors as referenced in paragraph (ii)(A) of this section. When the emission rate is based on results from manual emission tests or continuous monitoring systems, the procedures specified in 40 CFR Part 60, Appendix C shall be used to determine whether an increase in emission rate has occurred. Tests shall be conducted under such conditions as the Administrator shall specify to the owner or operator based on representative performance of the facility. At least three valid test runs must be conducted before and at least three after the physical or operational change. All operating parameters which may affect emissions must be held constant to the maximum feasible degree for all test runs.

(iii) The addition of an affected facility to a stationary source as an expansion to that source or as a replacement for an existing facility shall not by itself bring within the applicability of this section any other facility within that source.

(iv) The following shall not, by themselves, be considered modifications under this section:

(A) Maintenance, repair, and replacement which the Administrator determines to be routine for a source category, subject to the provisions of paragraph (iii) of this section and Chapter 5, Section 2(I).

(B) An increase in production rate of an existing facility, if that increase can be accomplished without a capital expenditure on that facility.

(C) An increase in the hours of operation.

(D) Use of an alternative fuel or raw material if, prior to the date any standard under this section becomes applicable to that source type, as provided by Chapter 5, Section 2(d), the existing facility was designed to accommodate that alternative use. A facility shall be considered to be designed to accommodate an alternative fuel or raw material if that use could be accomplished under the facility's construction specifications, as amended, prior to the change. Conversion to coal required for energy considerations as specified in section 111(a)(8) of the Act, shall not be considered a modification.

(E) The addition or use of any system or device whose primary function is the reduction of air pollutants, except when an emission control system is removed or is replaced by a system which the Administrator determines to be less environmentally beneficial.

(F) The relocation or change in ownership of an existing facility.

(v) Special provisions set forth under an applicable subpart shall supersede any conflicting provisions of Chapter 5, Section 2(k).

(vi) Within 180 days of the completion of any physical or operational change subject to the control measures specified in paragraphs 2(k)(i) of this section, compliance with all applicable standards must be achieved.

(vii) No physical change, or change in the method of operation, at an existing electric utility steam generating unit shall be treated as a modification for the purposes of this subsection provided that such change does not increase the maximum hourly emissions of any pollutant regulated under this subsection above the maximum hourly emissions achievable at that unit during the 5 years prior to the change.

(viii) Repowering projects that are awarded funding from the Department of Energy as permanent clean coal technology demonstration projects (or similar projects funded by EPA) are exempt from the requirements of this section provided that such change does not increase the maximum hourly emissions of any pollutant regulated under this section above the maximum hourly emissions achievable at that unit during the five years prior to the change.

(ix) (A) Repowering projects that qualify for an extension under section 409(b) of the Clean Air Act are exempt from the requirements of this section, provided that such change does not increase the actual hourly emissions of any pollutant regulated under this section above the actual hourly emissions achievable at that unit during the 5 years prior to the change.

(B) This exemption shall not apply to any new unit that:

(I) Is designated as a replacement for an existing unit;

(II) Qualifies under section 409(b) of the Clean Air Act for an extension of an emission limitation compliance date under section 405 of the Clean Air Act; and

(III) Is located at a different site than the existing unit.

(x) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project is exempt from the requirements of this section. A temporary clean coal control technology demonstration project, for the purposes of this section is a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the State implementation plan for the state in which the project is located and other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.

(xi) The reactivation of a very clean coal-fired electric utility steam generating unit is exempt from the requirements of this section.

(l) Reconstruction:

(i) An existing facility, upon reconstruction, becomes an affected facility, irrespective of any change in emission rate.

(ii) ***"Reconstruction"*** means the replacement of components of an existing facility to such an extent that:

(A) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, and

(B) It is technologically and economically feasible to meet the applicable standards set forth in this section.

(iii) ***"Fixed capital cost"*** means the capital needed to provide all the depreciable components.

(iv) If an owner or operator of an existing facility proposes to replace components, and the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, he shall notify the Administrator of the proposed replacements. The notice must be postmarked 60 days (or as soon as practicable) before construction of the replacements is commenced and must include the following information:

(A) Name and address of the owner or operator.

(B) The location of the existing facility.

(C) A brief description of the existing facility and the components which are to be replaced.

(D) A description of the existing air pollution control equipment and

the proposed air pollution control equipment.

(E) An estimate of the fixed capital cost of the replacements and of constructing a comparable entirely new facility.

(F) The estimated life of the existing facility after the replacements.

(G) A discussion of any economic or technical limitations the facility may have in complying with the applicable standards of performance after the proposed replacements.

(v) The Administrator will determine, within 30 days of the receipt of the notice required by paragraph (iv) of this section and any additional information he may reasonably require, whether the proposed replacement constitutes reconstruction.

(vi) The Administrator's determination under paragraph (v) shall be based on:

(A) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility;

(B) The estimated life of the facility after the replacements compared to the life of a comparable entirely new facility;

(C) The extent to which the components being replaced cause or contribute to the emissions from the facility and

(D) Any economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.

(vii) Individual subparts may include specific provisions which refine and delimit the concept of reconstruction set forth in this section.

(m) General Control Device Requirements:

(i) This section contains requirements for control devices used to comply with applicable subparts of Chapter 5, Section 2. The requirements are placed here for administrative convenience and only apply to facilities covered by subparts referring to this section.

(ii) Flares:

(A) General Design:

(I) Flares shall be designed for and operated with no visible emissions as determined by the methods specified in paragraph (D), except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.

(II) Flares shall be operated with flame present at all times, as determined by the methods specified in paragraph (D).

(III) Flares shall be used only with the net heating value of the gas being combusted being 300 Btu/Scf (11.2 MJ/scm) or greater if the flare is steam-assisted or air-assisted or with the net heating value of the gas being combusted being 200 Btu/scf (7.45 MJ/scm) or greater if the flare is nonassisted. The net heating value of the gas being combusted shall be determined by the methods specified in paragraph (D).

(IV) Steam-assisted and nonassisted flare shall be designed for and operated with an exit velocity as determined by the methods specified in paragraph (D)(IV), less than 60 ft/sec (18.3 m/sec) except as follows:

(1.) Steam-assisted and nonassisted flares designed for and operated with an exit velocity, as determined by the methods specified in paragraph (D)(IV) equal to or greater than 60 ft/sec (18.3 m/sec) but less than 400 ft/sec (122 m/sec) are allowed if the net heating value of the gas being combusted is greater than 1000 Btu/scf (37.3 MJ/scm).

(2.) Steam-assisted and nonassisted flares designed for and operated with an exit velocity as determined by the methods specified in paragraph (D)(IV), less than the velocity Vmax, as determined by the method specified in paragraph (D)(V), and less than 400 ft/sec (122 m/sec) are allowed.

(V) Air-assisted flares shall be designed and operated with an exit velocity less than the velocity, Vmax, as determined by the method specified in paragraph (D)(VI).

(VI) Flares used to comply with this section shall be steam-assisted, air-assisted or nonassisted.

(B) Owners or operators of flares used to comply with the provisions of this section shall monitor these control devices to ensure that they are operated and maintained in conformance with their designs. Applicable subparts will provide provisions stating how owners or operators of flares shall monitor these control devices.

(C) Flares used to comply with the provisions of an applicable subpart shall be operated at all times when emissions may be vented to them.

(D) Determinations:

(I) Reference Method 22 shall be used to determine the compliance of flares with the visible emission provisions of this section. The observation period is 2 hours and shall be used according to Method 22.

(II) The presence of a flare pilot flame shall be monitored using

a thermocouple or any other equivalent device to detect the presence of a flame.

(III) The net heating value of the gas being combusted in a flare shall be calculated using the following equation:

$$H_T = K \sum_{i=1}^{n} C_i H_i$$

where:

H_T = Net heating value of the sample, MJ/scm; where the net enthalpy per mole of offgas is based on combustion at 25°C and 760 mm Hg, but the standard temperature for determining the value corresponding to one mole is 20°C.

K = Constant,

$$1.740 \times 10^{-7} \left(\frac{1}{ppm}\right)\left(\frac{gmole}{scm}\right)\left(\frac{MJ}{kcal}\right)$$

Where the standard temperature of $\left(\frac{gmole}{scm}\right)$ is 20°C

C_i = Concentration of sample component i in ppm on a wet basis, as measured for organics by reference method 18 and measured for hydrogen and carbon monoxide by ASTM D1946-90 (2006) Standard Practice for Analysis of Reformed Gas by Gas Chromatography.

H_i = Net heat of combustion of sample component i, kcal/g mole at 25°C and 760 mm Hg. The heats of combustion may be determined using ASTM D4809-00 (2005) Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter (Precision Method) if published values are not available or cannot be calculated.

(IV) The actual exit velocity of a flare shall be determined by dividing the volumetric flowrate (in units of standard temperature and pressure), as determined by reference methods 2, 2A, 2C, or 2D as appropriate; by the unobstructed (free) cross sectional area of the flare tip.

(V) The maximum permitted velocity Vmax, for flares complying with paragraph (A)(IV)(2.) shall be determined by the following equation:

$$Log_{10}(V_{max}) = \frac{H_T + 28.80}{31.7}$$

V_{max} = Maximum permitted velocity, m/sec
28.8 = Constant
31.7 = Constant
H_T = The net heating value as determined in paragraph (D)(III)

(VI) The maximum permitted velocity, Vmax, for air-assisted flares shall be determined by the following equation:

$$V_{max} = 8.706 + 0.7084(H_T)$$

V_{max} = Maximum permitted velocity m/sec
8.706 = Constant
0.7084 = Constant
H_T = The net heating value as determined in paragraph (D)(III)

(n) General Notification and Reporting Requirements:

(i) For the purposes of this section, time periods specified in days shall be measured in calendar days, even if the word "calendar" is absent, unless otherwise specified in an applicable requirement.

(ii) For the purposes of this section, if an explicit postmark deadline is not specified in an applicable requirement for the submittal of a notification, application, report, or other written communication to the Administrator, the owner or operator shall postmark the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be delivered or postmarked on or before 15 days following the end of the event. It is acceptable to use reliable non-government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery agreed to by the permitting authority.

(iii) Notwithstanding time period or postmark deadlines specified in this section for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. Procedures governing the implementation of this provision are specified in paragraph (vi) of this subsection.

(iv) The owner or operator may change the dates by which periodic reports under this section shall be submitted (without changing the frequency of reporting) to be

consistent with the schedule specified in Chapter 5, Section 2, by mutual agreement between the owner or operator and the Administrator. The allowance in the previous sentence applies beginning 1 year after the affected facility is required to be in compliance with the applicable subpart in 40 CFR Part 63. Procedures governing the implementation of this provision are specified in paragraph (vi) of this subsection.

(v) If an owner or operator supervises one or more stationary sources affected by standards set under this section and standards set under 40 CFR Part 61, Chapter 5, Section 3 or both, may be arranged by mutual agreement between the owner or operator and the Administrator a common schedule on which periodic reports required by each applicable standard shall be submitted throughout the year. The allowance in the previous sentence applies in each state beginning 1 year after the stationary source is required to be in compliance with the applicable subpart in this section, or 1 year after the stationary source is required to be in compliance with the applicable 40 CFR Part 61 or Chapter 5, Section 3, whichever is latest. Procedures governing the implementation of this provision are specified in paragraph (vi) of this subsection.

(vi) (A) (I) Until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (vi)(B) and (vi)(C) of this subsection, the owner or operator of an affected facility remains strictly subject to the requirements of this section.

(II) An owner or operator shall request the adjustment provided for in paragraphs (vi)(B) and (vi)(C) of this subsection each time changes to an applicable time period or postmark deadline specified in this section are desired.

(B) Notwithstanding time periods or postmark deadlines specified in this section for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practicable before the subject activity is required to take place. The owner or operator shall include in the request whatever information is considered useful to convince the Administrator that an adjustment is warranted.

(C) If, in the Administrator's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(D) If the Administrator is unable to meet a specified deadline, the owner or operator will be notified of any significant delay and inform the owner or operator of the amended schedule.

Section 3. National Emission Standards for Hazardous Air Pollutants.

(a) General: The U.S. Environmental Protection Agency regulations on national emission standards for hazardous air pollutants (NESHAP), established pursuant to section 112 of the Act as amended November 15, 1990, and amended by the word or phrase "substitutions" given in Chapter 5, Section 3(c) are incorporated into these regulations. The specific documents containing the complete text of the regulations are found in 40 CFR Part 63. The standards designated in Chapter 5, Section 3(b) regulate specific categories of stationary sources that emit (or have the potential to emit) one or more of the hazardous air pollutants listed pursuant to section 112(b) of the Act, and presented in subsection (c)(i)(A) of Chapter 5, Section 3.

(b) Designated National Emission Standards for Hazardous Air Pollutants: The following standards for hazardous air pollutants, as revised and published in 40 CFR Part 63, are incorporated by reference under Section 4(a) of this Chapter.

40 CFR Part 63, subpart A -	General Provisions
40 CFR Part 63, subpart D -	Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants
40 CFR Part 63, subpart F -	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry
40 CFR Part 63, subpart G -	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater
40 CFR Part 63, subpart H -	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks
40 CFR Part 63, subpart M -	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
40 CFR Part 63, subpart N -	National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

40 CFR Part 63, subpart R -	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)
40 CFR Part 63, subpart T -	National Emission Standards for Halogenated Solvent Cleaning
40 CFR Part 63, subpart AA -	National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants
40 CFR Part 63, subpart BB -	National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants
40 CFR Part 63, subpart CC -	National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries
40 CFR Part 63, subpart HH -	National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities
40 CFR Part 63, subpart JJ -	National Emission Standards for Wood Furniture Manufacturing Operations
40 CFR Part 63, subpart OO -	National Emission Standards for Tanks - Level 1
40 CFR Part 63, subpart PP -	National Emission Standards for Containers
40 CFR Part 63, subpart QQ -	National Emission Standards for Surface Impoundments
40 CFR Part 63, subpart RR -	National Emission Standards for Individual Drain Systems
40 CFR Part 63, subpart SS -	National Emission Standards for Closed Vent Systems, Control

	Devices, Recovery Devices and Routing to a Fuel Gas System or a Process
40 CFR Part 63, subpart TT -	National Emission Standards for Equipment Leaks - Control Level 1
40 CFR Part 63, subpart UU -	National Emission Standards for Equipment Leaks - Control Level 2 Standards
40 CFR Part 63, subpart VV -	National Emission Standards for Oil-Water Separators and Organic-Water Separators
40 CFR Part 63, subpart WW -	National Emission Standards for Storage Vessels (Tanks) - Control Level 2
40 CFR Part 63, subpart YY -	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards
40 CFR Part 63, subpart EEE -	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors
40 CFR Part 63, subpart HHH -	National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities
40 CFR Part 63, subpart LLL -	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry
40 CFR Part 63, subpart UUU -	National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units

40 CFR Part 63, subpart VVV -	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works
40 CFR Part 63, subpart AAAA -	National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills
40 CFR Part 63, subpart EEEE -	National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)
40 CFR Part 63, subpart KKKK -	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans
40 CFR Part 63, subpart TTTT -	National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations
40 CFR Part 63, subpart YYYY -	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines
40 CFR Part 63, subpart ZZZZ -	National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines
40 CFR Part 63, subpart AAAAA -	National Emissions Standards for Hazardous Air Pollutants for Lime Manufacturing Plants
40 CFR Part 63, subpart DDDDD -	National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters
40 CFR Part 63, subpart GGGGG -	National Emission Standards for Hazardous Air Pollutants: Site Remediation
40 CFR Part 63, subpart MMMMM -	National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication

	Operations
40 CFR Part 63, subpart NNNNN -	National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production
40 CFR Part 63, subpart UUUUU -	National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units
40 CFR Part 63, subpart BBBBBB -	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities
40 CFR Part 63, subpart CCCCCC -	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities
40 CFR Part 63, subpart JJJJJJ -	National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources
40 CFR Part 63, subpart WWWWWW -	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations
40 CFR Part 63, subpart XXXXXX -	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Nine Metal Fabrication and Finishing Source Categories

(i) Designated Appendices: The following appendices are incorporated by reference under Section 4(a) of this Chapter.

40 CFR Part 63, Appendix A - Test Methods

40 CFR Part 63, Appendix B - Sources Defined For Early Reduction Provisions

40 CFR Part 63, Appendix C - Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit

40 CFR Part 63, Appendix D - Alternative Validation Procedure for EPA Waste and Wastewater Methods

40 CFR Part 63, Appendix E - Monitoring Procedure for Nonthoroughly Mixed Open Biological Treatment Systems at Kraft Pulp Mills Under Unsafe Sampling Conditions

(c) Initial Applicability Determination For This Section.

(i) The provisions of this section apply to the owner or operator of any stationary source that:

(A) Emits or has the potential to emit any hazardous air pollutant listed in or pursuant to section 112(b) of the Act, and identified below:

CAS Number	Chemical Name
75070	Acetaldehyde
60355	Acetamide
75058	Acetonitrile
98862	Acetophenone
53963	2-Acetylaminofluorene
107028	Acrolein
79061	Acrylamide
79107	Acrylic acid
107131	Acrylonitrile
107051	Allyl chloride
92671	4-Aminobiphenyl
62533	Aniline
90040	o-Anisidine
1332214	Asbestos
71432	Benzene (including benzene from gasoline)
92875	Benzidine
98077	Benzotrichloride
100447	Benzyl chloride
92524	Biphenyl
117817	Bis(2-ethylhexyl)phthalate (DEHP)
542881	Bis(chloromethyl)ether
75252	Bromoform
106945	1-bromopropane (1-BP)
106990	1,3-Butadiene
156627	Calcium cyanamide
133062	Captan
63252	Carbaryl
75150	Carbon disulfide
56235	Carbon tetrachloride
463581	Carbonyl sulfide

CAS Number	Chemical Name
120809	Catechol
133904	Chloramben
57749	Chlordane
7782505	Chlorine
79118	Chloroacetic acid
532274	2-Chloroacetophenone
108907	Chlorobenzene
510156	Chlorobenzilate
67663	Chloroform
107302	Chloromethyl methyl ether
126998	Chloroprene
1319773	Cresols/Cresylic acid (isomers and mixture)
95487	o-Cresol
108394	m-Cresol
106445	p-Cresol
98828	Cumene
94757	2,4-D, salts and esters
3547044	DDE
334883	Diazomethane
132649	Dibenzofurans
96128	1,2-Dibromo-3-chloropropane
84742	Dibutylphthalate
106467	1,4-Dichorobenzene(p)
91941	3,3-Dichlorobenzidene
111444	Dichloroethyl ether (Bis(2-chloroethyl)ether)
542756	1,3-Dichloropropene
62737	Dichlorvos
111422	Diethanolamine
121697	N,N-Diethyl aniline (N,N-Dimethylaniline)
64675	Diethyl sulfate
119904	3,3-Dimethoxybenzidine
60117	Dimethyl aminoazobenzene
119937	3,3-Dimethyl benzidine
79447	Dimethyl carbamoyl chloride
68122	Dimethyl formamide
57147	1,1-Dimethyl hydrazine
131113	Dimethyl phthalate
77781	Dimethyl sulfate
534521	4,6-Dinitro-o-cresol, and salts
51285	2,4-Dinitrophenol
121142	2,4-Dinitrotoluene
123911	1,4-Dioxane (1,4-Diethyleneoxide)
122667	1,2-Diphenylhydrazine
106898	Epichlorohydrin (l-Chloro-2,3-epoxypropane)
106887	1,2-Epoxybutane

CAS Number	Chemical Name
140885	Ethyl acrylate
100414	Ethyl benzene
51796	Ethyl carbamate (Urethane)
75003	Ethyl chloride (Chloroethane)
106934	Ethylene dibromide (Dibromoethane)
107062	Ethylene dichloride (1,2-Dichloroethane)
107211	Ethylene glycol
151564	Ethylene imine (Aziridine)
75218	Ethylene oxide
96457	Ethylene thiourea
75343	Ethylidene dichloride (1,1-Dichloroethane)
50000	Formaldehyde
76448	Heptachlor
118741	Hexachlorobenzene
87683	Hexachlorobutadiene
77474	Hexachlorocyclopentadiene
67721	Hexachloroethane
822060	Hexamethylene-1, 6-diisocyanate
680319	Hexamethylphosphoramide
110543	Hexane
302012	Hydrazine
7647010	Hydrochloric acid
7664393	Hydrogen fluoride (Hydrofluoric acid)
123319	Hydroquinone
78591	Isophorone
58899	Lindane (all isomers)
108316	Maleic anhydride
67561	Methanol
72435	Methoxychlor
74839	Methyl bromide (Bromomethane)
74873	Methyl chloride (Chloromethane)
71556	Methyl chloroform (1,1,1-Trichloroethane)
60344	Methyl hydrazine
74884	Methyl iodide (Iodomethane)
108101	Methyl isobutyl ketone (Hexone)
624839	Methyl isocyanate
80626	Methyl methacrylate
1634044	Methyl tert butyl ether
101144	4,4-Methylene bis(2-chloroaniline)
75092	Methylene chloride (Dichloromethane)
101688	Methylene diphenyl diisocyanate (MDI)
101779	4,4-Methylenedianiline
91203	Naphthalene
98953	Nitrobenzene
92933	4-Nitrobiphenyl

CAS Number	Chemical Name
100027	4-Nitrophenol
79469	2-Nitropropane
684935	N-Nitroso-N-methylurea
62759	N-Nitrosodimethylamine
59892	N-Nitrosomorpholine
56382	Parathion
82688	Pentachloronitrobenzene (Quintobenzene)
87865	Pentachlorophenol
108952	Phenol
106503	p-Phenylenediamine
75445	Phosgene
7803512	Phosphine
7723140	Phosphorus
85449	Phthalic anhydride
1336363	Polychlorinated biphenyls (Aroclors)
1120714	1,3-Propane sultone
57578	beta-Propiolactone
123386	Propionaldehyde
114261	Propoxur (Baygon)
78875	Propylene dichloride (1,2-Dichloropropane)
75569	Propylene oxide
75558	1,2-Propylenimine (2-Methyl aziridine)
91225	Quinoline
106514	Quinone
100425	Styrene
96093	Styrene oxide
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin
79345	1,1,2,2-Tetrachloroethane
127184	Tetrachloroethylene (Perchloroethylene)
7550450	Titanium tetrachloride
108883	Toluene
95807	2,4-Toluene diamine
584849	2,4-Toluene diisocyanate
95534	o-Toluidine
8001352	Toxaphene (chlorinated camphene)
120821	1,2,4-Trichlorobenzene
79005	1,1,2-Trichloroethane
79016	Trichloroethylene
95954	2,4,5-Trichlorophenol
88062	2,4,6-Trichlorophenol
121448	Triethylamine
1582098	Trifluralin
540841	2,2,4-Trimethylpentane
108054	Vinyl acetate
593602	Vinyl bromide

CAS Number	Chemical Name
75014	Vinyl chloride
75354	Vinylidene chloride (1,1-Dichloroethylene)
95476	o-Xylenes
108383	m-Xylenes
106423	p-Xylenes
0	Antimony Compounds
0	Arsenic Compounds (inorganic including arsine)
0	Beryllium Compounds
0	Cadmium Compounds
0	Chromium Compounds
0	Cobalt Compounds
0	Coke Oven Emissions
0	Cyanide Compounds *1
0	Glycol ethers *2
0	Lead Compounds
0	Manganese Compounds
0	Mercury Compounds
0	Fine mineral fibers *3
0	Nickel Compounds
0	Polycylic Organic Matter *4
0	Radionuclides (including radon) *5
0	Selenium Compounds

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

*1 X'CN where X=H' or any other group where a formal dissociation may occur. For example KCN or $Ca(CN)_2$

*2 Includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH_2CH_2)n-OR' where

n = 1, 2, or 3
R = alkyl C7 or less; or
R = phenyl or alkyl substituted phenyl;
R' = H or alkyl C7 or less; or
OR' consisting of carboxylic acid ester, sulfate, phosphate, nitrate, or sulfonate.

*3 Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

*4 Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100°C.

*5 A type of atom which spontaneously undergoes radioactive decay.

and,

(B) Is subject to any standard, limitation, prohibition, or other federally enforceable requirement established pursuant to 40 CFR Part 63.

(ii) In addition to complying with the provisions of this section, the owner or operator of any such source may need to obtain a permit for modification or construction in accordance with Chapter 6, Section 2 of the WAQSR. The owner or operator may also need to obtain an operating permit issued in accordance with Chapter 6, Section 3 of the WAQSR.

(d) General provisions for the subparts listed in Chapter 5, Section 3(b) are contained in Subpart A of 40 CFR Part 63 and are incorporated by reference under Section 4(a) of this chapter, unless superseded by requirements in the specific subparts.

Section 4. Incorporation by Reference.

(a) Code of Federal Regulations (CFR). All Code of Federal Regulations (CFRs), including their Appendices, cited in this Chapter, revised and published as of July 1, ~~2024~~2026, not including any later amendments, are incorporated by reference. Copies of the CFR are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: https://deq.wyoming.gov. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at https://ecfr.gov.

(b) American Society for Testing and Materials (ASTM). All ASTM standards cited in this Chapter, revised and published as of July 1, ~~2024~~2026, not including any later amendments, are incorporated by reference. Copies of the ASTM standards are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Division of Air Quality, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: https://deq.wyoming.gov. Copies can also be obtained at cost from the American Society for Testing and Materials, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428-2959, or online at https://www.astm.org/DIGITAL_LIBRARY/index.html

Permitting Requirements

CHAPTER 6

Section 1. **Introduction to permitting requirements.**

(a) Chapter 6 establishes permitting requirements for all sources constructing and/or operating in the State of Wyoming. Section 2 covers general air quality permitting requirements for construction and modification as well as minor source permits to operate. Notwithstanding the requirements of Section 2(a)(i) and (iii), a preconstruction permit under Section 2 is not required for the pollutant Greenhouse Gases (GHGs) unless the facility or source is also required to obtain a permit for GHGs under Chapter 6, Section 4. Section 3 is the state operating permit program required under Title V of the Clean Air Act. Section 4 is the prevention of significant deterioration (PSD) program. The Section 5 language regarding permitting requirements for major sources of hazardous air pollutants for which a MACT (Maximum Achievable Control Technology) standard has been established under section 112 of the Clean Air Act has been removed from Chapter 6, and is now covered under Chapter 5, Section 3. Section 6 covers permitting requirements for major sources of hazardous air pollutants for which a MACT standard has not been established under section 112 of the Clean Air Act. Section 7 establishes the terms under which clean air resource allocations expire. Section 8 is reserved. Section 9 establishes Best Available Retrofit Technology (BART) requirements and provides guidelines for identifying sources subject to BART. Sections 10, 11 and 12 are reserved. Section 13 covers permitting requirements for new and modified major stationary sources located in a nonattainment area. Section 14 incorporates by reference all Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices.

Section 2. **Permit requirements for construction, modification, and operation.**

(a) (i) Any person who plans to construct any new facility or source, modify any existing facility or source, or to engage in the use of which may cause the issuance of or an increase in the issuance of air contaminants into the air of this state shall obtain a construction permit from the State of Wyoming, Department of Environmental Quality before any actual work is begun on the facility.

(ii) Any facility or source required to obtain a permit for construction or modification under this section must, if subject to the provisions of Chapter 6, Section 3 of these regulations, submit an application to the Division for a Chapter 6, Section 3 operating permit within twelve (12) months of commencing operation.

(iii) Facilities or sources not subject to the provisions of Chapter 6, Section 3 of these regulations shall obtain a Chapter 6, Section 2 operating permit from the Department, pursuant to this section, for operation after a 120-day start-up period.

(iv) A permit to operate is also required for the operation of an existing portable source in each new location. However, a permit to construct is required for each new location that is a new source or facility and for each new or modified portable source or facility.

(v) Permit Fees: Persons applying for a permit under this section, or waiver from permit requirements under Chapter 6, Section 2(k)(viii), shall pay a fee to cover the Department's cost of reviewing and acting on permit applications in accordance with paragraph (o) of this section.

(vi) Facilities or sources subject to the provisions of Chapter 6, Section 5 or Chapter 6, Section 6 shall submit the permit application as required by Chapter 6, Section 5(a)(iii) or by Chapter 6, Section 6(h)(iv) as part of the permit application submitted in accordance with Chapter 6, Section 2(b)(i).

(b) (i) The owner of the facility or the operator of the facility authorized to act for the owner is responsible for applying for and obtaining a permit to construct and/or operate. The application shall be made on forms provided by the Division of Air Quality and each application shall be accompanied by site information, plans descriptions, specifications, and drawings showing the design of the source, the nature and amount of the emissions, and the manner in which it will be operated and controlled. A detailed schedule for the construction or modification of the facility shall be included. A separate application is required for each source. Any additional information, plans, specifications, evidence, or documentation that the Administrator of the Division of Air Quality may require shall be furnished upon request. The applicant shall conduct such continuous Ambient Air Quality monitoring analyses as may be determined by the Administrator to be necessary in order to assure that adequate data are available for purposes of establishing existing concentration levels of all affected pollutants. As a guideline, such data should be gathered continuously over a period of one calendar year preceding the date of application. Upon petition of the applicant, the Administrator will review the proposed monitoring programs and advise the applicant if such is approvable or modifications are required.

(ii) For portable sources or facilities, the Division may authorize the owner or operator to utilize a "self issuance" operating permit system for new locations which are not new sources or facilities. For purposes of this paragraph, a new source or facility is a source or facility for which operation or construction commenced after May 29, 1974, and for which a permit has not previously been issued.

The Division shall provide to authorized owners or operators of portable sources, forms upon which the self-issued permits are to be recorded. The owner or operator shall, at a minimum provide, as appropriate the permit number previously issued to the portable source or facility, the new location for which the permit is issued, the duration of operation of the new location, the production rate at the new location and the production at the new location in addition to any other information that the Administrator may require. Such permit shall be executed and a copy provided to the Air Quality Division prior to operation at the new location.

All conditions previously issued for the operation of the portable facility continue as applicable conditions for operation at subsequent locations.

(c) No approval to construct or modify shall be granted unless the applicant shows, to the

satisfaction of the Administrator of the Division of Air Quality that:

(i) The proposed facility will comply with all rules and regulations of the Wyoming Department of Environmental Quality, Division of Air Quality, and with the intent of the Wyoming Environmental Quality Act.

(ii) The proposed facility will not prevent the attainment or maintenance of any ambient air quality standard.

(A) A facility will be considered to cause or contribute to a violation of an ambient air quality standard if the projected impact of emissions from the facility exceed the following significance levels at any locality that does not or would not meet the applicable standard:

POLLUTANT	AVERAGING TIME (HOURS)				
	ANNUAL ($\mu g/m^3$)	24 ($\mu g/m^3$)	8 (mg/m^3)	3 ($\mu g/m^3$)	1 (mg/m^3)
SO_2	1.0	5	---	25	---
PM_{10}	1.0	5	---	---	---
NO_x	1.0	---	---	---	---
CO	---	---	0.5	---	2

(B) Notwithstanding the provisions of Chapter 6, Section 2(c)(ii)(A) above, no facility with the potential to emit 100 tons per year or more of PM_{10} (including sources of fugitive dust) shall be allowed to construct within the City of Sheridan designated PM_{10} nonattainment area until such time as the area is redesignated to an attainment area for PM_{10} ambient standards in accordance with section 107 of the Clean Air Act. In addition, no existing facility with the potential to emit 100 TPY or more of PM_{10} within the Sheridan designated PM_{10} nonattainment area shall be allowed to modify operations to increase potential PM_{10} emissions by 15 tons per year or more (including sources of fugitive dust), until such time as the area is redesignated by EPA as an attainment area for PM_{10} ambient standards. For the purpose of this paragraph, "potential to emit" shall have the same meaning as in Chapter 6, Section 4.

(iii) The proposed facility will not cause significant deterioration of existing ambient air quality in the Region as defined by any Wyoming standard or regulation that might address significant deterioration.

(iv) The proposed facility will be located in accordance with p roper land use planning as determined by the appropriate state or local agency charged with such responsibility.

(v) The proposed facility will utilize the Best Available Control Technology with consideration of the technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from the facility. For large mining operations, specific measures normally required and to be considered include but are not limited to:

(A) The paving of access roads;

(B) The treating of major haul roads with a suitable dust suppressant;

(C) The treatment of temporary haul roads;

(D) The use of silos, trough barns, or similar enclosed containers for the storage of large volumes of material awaiting load out and shipment;

(E) The treatment of active work areas; and

(F) The treatment of temporary ore stockpiles.

(vi) The proposed facility will have provisions for measuring the emissions of significant air contaminants as determined by the Administrator of the Division of Air Quality.

(vii) The proposed facility will achieve the performance specified in the application for the permit to construct or modify.

(viii) The proposed facility will not emit any air pollutant in amounts which will (i) prevent attainment or maintenance by any other state of any such national primary or secondary Ambient Air Quality Standard or (ii) interfere with measures required by the Federal Clean Air Act to be included in the applicable Implementation Plan for any other state to prevent significant deterioration of air quality or to protect visibility.

(d) In meeting the requirements of Chapter 6, Section 2(c) above pertaining to compliance with an applicable Ambient Air Quality Standard or increment, the degree of emission limitation required shall not be affected by (a) so much of the stack height of any source as exceeds good engineering practice stack height or (b) any other dispersion technique.

(i) For purposes of this requirement, "good engineering practice stack height" means the height equal to or less than:

(A) 30 meters as measured from the ground-level elevation at the base of the stack, or

(B) H + 1.5L where H is the height of nearby structure(s) measured from the ground level elevation at the base of the stack and L is the lesser dimension (height or width) of, the source, or nearby structure, provided that the Administrator may require the use of a field study or fluid model to verify good engineering practice stack height for the source, or

(C) Such other height as is demonstrated by a fluid model or a field study approved by the Administrator, which ensures that emissions from a stack do not result in excessive concentrations in the immediate vicinity of the source as a result of atmospheric downwash, eddies, or wakes which may be created by the source, nearby structures or nearby terrain features.

(ii) For purposes of this requirement, "dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

(A) Using that portion of a stack which exceeds good engineering practice stack height, or

(B) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant, or

(C) Increasing the final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack, or other selective manipulation of exhaust gas streams so as to increase the exhaust gas plume rise.

(iii) For purposes of this requirement, "dispersion technique" does not include:

(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream, or

(B) The merging of exhaust gas streams where the source owner or operator demonstrates that the facility was originally designed and constructed with such merged streams.

(iv) For the purposes of this requirement, "emission limitation" means a requirement established by the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(v) "Nearby" as used in Chapter 6, Section 2(d)(i) is defined for a specific structure or terrain feature, and

(A) For purposes of applying the formula provided in Chapter 6, Section 2(d)(i)(B) means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than one half mile (0.8 km), and

(B) For conducting demonstrations under Chapter 6, Section 2(d)(i)(C) means not greater than one half mile (0.8 km), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if such feature achieves a height one half mile from the stack that is at least 40 percent of the GEP stack height determined by the formula provided in Chapter 6, Section 2(d)(i)(B) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure of terrain feature is measured from the ground-level elevation at the base of the stack.

(vi) ***"Excessive concentration"*** is defined for the purpose of determining good engineering practice stack height under Chapter 6, Section 2(d)(i)(C) and means,

(A) For sources seeking credit for stack height exceeding that established under Chapter 6, Section 2(d)(i)(B), a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration (Chapter 6, Section 4), an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this section shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Administrator, an alternative emission rate shall be established in consultation with the source owner or operator.

(vii) After the Administrator has reached a proposed decision to approve or disapprove a permit application in which the source relies on a good engineering practice stack height that exceeds the height allowed by Chapter 6, Section 2(d)(i)(A) or (B) the Administrator will notify the public of the availability of the demonstration study and proved the opportunity for public hearing. Specific notification of the Administrator's decision, availability of the demonstration and opportunity for public hearing will be included as part of the public notice required in Chapter 6, Section 2(m) of these regulations.

(e) No permit to operate may be granted until the applicant demonstrates to the satisfaction of the Administrator of the Division of Air Quality that:

(i) The facility is complying with the Wyoming Air Quality Standards and Regulations applicable at the time the permit to construct or modify was granted and with the intent of the Wyoming Environmental Quality Act, 1973.

(ii) The facility has been constructed or modified in accordance with the requirements and conditions contained in the permit to construct or modify.

(f) The Administrator of the Division of Air Quality may impose any reasonable conditions upon an approval to construct, modify, or operate including, but not limited to, conditions requiring the source to be provided with:

(i) Sampling and testing facilities as the Administrator may require;

(ii) Safe access to the sampling facilities;

(iii) Instrumentation to monitor and record emission data; and

(iv) Ambient Air Quality monitoring which, in the judgment of the Administrator, is necessary to determine the effect which emissions from a source may have, or is having, on air quality in any area which may be affected by emissions from such source.

(g) The Administrator will review each application within 30 days and notify the applicant as to whether or not the application is complete. If the application is complete, the Administrator will propose approval, conditional approval or denial and will publish such proposal within 60 days of the determination that the application is complete. If the application is not complete, the application will be considered inactive and additional information as necessary will be requested. A complete application shall include all materials and analyses which the Administrator determines are necessary for the Division to review the facility as a source of air pollution.

(h) A permit to construct or modify shall remain in effect until the permit to operate the facility for which the application was filed is granted or denied or the application is canceled. However, an approval to construct or modify shall become invalid if construction is not commenced within 24 months after receipt of such approval or if construction is discontinued for a period of 24 months or more. The Administrator may extend such time period(s) upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; however, each phase must commence construction within 24 months of the projected and approved commencement date for such phase. Notwithstanding the above, a permit containing a case-by-case MACT determination pursuant to Chapter 6, Section 6 shall expire if construction or reconstruction has not commenced within 18 months of issuance, unless the Division has granted an extension which shall not exceed an additional 12 months.

(i) Any owner or operator subject to the provisions of this regulation shall furnish the Administrator written notification as follows:

(i) A notification of the anticipated date of initial start-up of each source not more than 60 days or less than 30 days prior to such date.

(ii) A notification of the actual date of initial start-up of each source within 15 days after such date.

(j) Within 30 days after achieving the maximum design production rate for which the permit is approved and at which each source will be operated, but not later than 90 days after initial start-up of such source, the owner or operator of such source shall conduct a performance test(s) in accordance with methods and under operating conditions approved by the Administrator and furnish the Administrator a written report of the results of each performance test.

(i) Such test shall be at the expense of the owner or operator.

(ii) The Administrator may monitor such test and may also conduct performance tests.

(iii) The owner or operator of a source shall provide the Administrator 15 days prior notice of the performance test to afford the Administrator the opportunity to have an observer present.

(iv) The Administrator may waive the requirement for performance tests if the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the source is being operated in compliance with all State and Federal Regulations which are part of the applicable plan.

(v) If the maximum design production rate for which the permit is approved is not achieved within 90 days of initial start-up, testing will be conducted on a schedule to be defined by the Administrator. This schedule may require that the source be tested at the production rate achieved within 90 days of initial start-up and again when maximum design production rate is achieved.

(k) Approval to construct or modify shall not be required for:

(i) The installation or alteration of an air pollutant detector, air pollutants recorder, combustion controller, or combustion shutoff.

(ii) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment.

(iii) Fuel burning equipment other than a smokehouse generator which has a heat input of not more than 25 million BTU per hour (6.25 billion gm-cal/hr) and burns only gaseous fuel containing not more than 20 grains total sulfur per 100 std. ft^3; has a heat input of not more than 10 million BTU/hr (2.5 billion gm-cal/hr) and burns any other fuel.

(iv) Mobile internal combustion engines.

(v) Laboratory equipment used exclusively for chemical or physical analyses.

(vi) The installation of air pollution control equipment which is not a part of a project which requires a construction or modification permit under Chapter 6, Section 2 or 4 of these regulations.

(vii) Gasoline storage tanks at retail establishments.

(viii) Such other minor sources which the Administrator determines to be insignificant in both emission rate and ambient air quality impact.

Notwithstanding the above exemptions, any facility which is a major emitting facility pursuant to the definition in Chapter 6, Section 4 shall comply with the requirements of both Chapter 6, Sections 2 and 4.

(l) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, state and federal rules and regulations.

(m) After the Administrator has reached a proposed decision based upon the information presented in the permit application to construct or modify, the Division of Air Quality will advertise such proposed decision in a newspaper of general circulation in the county in which the source is proposed. This advertisement will indicate the general nature of the proposed facility, the proposed approval/disapproval of the permit, and a location in the region where the public might inspect the information submitted in support of the requested permit and the Air Quality Division's analysis of the effect on air quality. A copy of the public notice required above will be sent as appropriate to (a) the applicant, (b) the U.S. EPA, (c) any affected comprehensive regional land use planning agency, (d) affected county commissioners, (e) any state or federal land manager or Indian governing body whose lands may be significantly affected by emissions from the proposed facility. The public notice will include notification of the opportunity for a public hearing and will indicate the anticipated degree of increment consumption if the source is subject to Chapter 6, Section 4 of these Regulations. The public will be afforded a 30-day period in which to make comments and recommendations to the Division of Air Quality. A public hearing may be called if sufficient interest is generated or if any aggrieved party so requests in writing within the 30-day comment period. After considering all comments, including those presented at any hearings held, the Administrator will reach a decision and notify the appropriate parties.

(n) (i) Within 30 days of receipt of a permit application for a new major emitting facility or major modification which is subject to the provisions of Chapter 6, Section 4, but not later than 60 days prior to public notice issued under Chapter 6, Section 2(m) above, the Administrator shall provide written notification to all Federal Class I Area Federal Land Managers of such proposed new major emitting facility or major modification whose emissions may affect the Federal Class I Area or affect visibility in such Area. This notification must contain a copy of all information relevant to the permit application including an analysis of the anticipated impacts on air quality and visibility in any Federal Class I Area.

(ii) Within 30 days of receipt of advance notification of a permit application for a new source or facility which may be subject to Chapter 6, Section 4, and which may affect visibility in a Federal Class I Area, the Administrator shall notify the affected Federal Land Manager of such advance notification.

(o) A permit fee will be assessed on the owner or operator (applicant), based on the cost to the Department in reviewing and acting on permit applications submitted to the Division under this section.

(i) Fees for Reviewing the Application: The Department shall provide written notice of the fee to the applicant at such time as the Administrator of the Division reaches a proposed decision on the application under paragraph (m) of this section.

(A) The fee shall include all costs incurred by the Department in reviewing the application to this point in the permit process including the costs of advertising such decision and providing public notice.

(B) The fee is due upon receipt of the written notice unless the fee assessment is appealed pursuant to W.S. 35-11-211(d).

(C) Payment of this fee shall be required before the issuance of any permit under this section.

(ii) Fees for Issuing Permit: An additional fee shall be assessed and written notice provided to the applicant for any additional costs incurred by the Department (after the date of public notice) in reaching a final decision, including the costs of holding public hearings, reviewing public comments, and issuing permits.

(iii) Portable sources or facilities shall be assessed a fee of $150.00 for operation in each new location. This fee shall be submitted with each "self issuance" permit submitted to the Division for operation under Chapter 6, Section 2(a)(iv) and Chapter 6, Section 2(b) of these regulations. For portable sources or facilities which are not authorized to use the "self issuance" permits, the fee assessment shall be $300.00 for operation at each new location.

Section 3. **Operating permits.**

(a) Applicability. The following sources are subject to the operating permit requirements of this section:

(i) Any major source;

(ii) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 of the Act and Chapter 5, Section 2 of the WAQSR;

(iii) Any source, including an area source, subject to a standard or other requirement under section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the Act;

(iv) Any "affected source" subject to the acid rain provisions of Title IV of the Act;

(v) Any stationary source subject to preconstruction review requirements pursuant to the Prevention of Significant Deterioration of Chapter 6, Section 4 of the WAQSR;

(vi) Any other stationary source in a source category that the EPA may designate

by regulation pursuant to the authority granted under the Act;

(vii) The following sources are specifically exempt from operating permit requirements of this section:

(A) Sources subject to Chapter 5, Section 2, Subpart AAA - Standards of Performance for New Residential Wood Heaters; and

(B) Sources subject to the asbestos standards for demolition and renovation of Chapter 3, Section 8.

(viii) Permitted sources which are not subject to the requirements of this section must obtain an operating permit under Chapter 6, Section 2 of the WAQSR;

(ix) Research and Development Activities. Emissions from research and development facilities which are support facilities collocated with another source under common ownership or control must be included (along with other emissions from the source) in determining the applicability of Chapter 6, Section 3 if fifty (50) percent or more of the output from the research and development facility is used by the main activity at the source. Otherwise, research and development operations may be considered as separate and discrete stationary sources in determining whether such operations are subject to Chapter 6, Section 3 operating permit requirements.

(x) Emissions Units and Chapter 6, Section 3 Sources.

(A) For major sources, the Division shall include in the permit all applicable requirements for all relevant emissions units in the major source;

(B) For any nonmajor source subject to the Chapter 6, Section 3 program under paragraph Chapter 6, Section 3(a), the Division shall include in the permit all applicable requirements applicable to emissions units that cause the source to be subject to the Chapter 6, Section 3 program.

(xi) Fugitive Emissions. Fugitive emissions from a Chapter 6, Section 3 source shall be included in the permit application and the Chapter 6, Section 3 permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

(b) Definitions. The following definitions apply to Chapter 6, Section 3. Unless defined differently below, the meaning of the terms used in this section is the same as in Chapter 1, Section 3; Chapter 5, Section 2; Chapter 6, Section 4 of the WAQSR.

"Act" means the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.

"Affected source" shall have the meaning given to it in regulations promulgated under Title IV of the Act for the acid rain program.

"Affected states" are all states:

(i) Whose air quality may be affected and that are contiguous to the State of Wyoming where an operating permit, permit modification or permit renewal subject to the provisions of this section is being proposed; or

(ii) That are within fifty miles of the permitted source.

"Affected unit" shall have the meaning given to it in the regulations promulgated under Title IV of the Act.

"Alternative operating scenario (AOS)" means a scenario authorized by the Division in an operating permit that involves a change in a source subject to this section for a particular emissions unit, that either results in the unit being subject to one or more applicable requirements which differ from those applicable to the emissions unit prior to implementation of the change or renders inapplicable one or more requirements previously applicable to the emissions unit prior to implementation of the change.

"Applicable requirement" means all of the following as they apply to emissions units at a source subject to this section (including requirements with future effective compliance dates that have been promulgated or approved by the EPA or the State through rulemaking at the time of issuance of the operating permit):

(i) Any standard or other requirement provided for in the Wyoming implementation plan approved or promulgated by the EPA under Title I of the Act that implements the relevant requirements of the Act, including any revisions to the plan promulgated in 40 CFR part 52;

(ii) Any standards or requirements in the WAQSR which are not a part of the approved Wyoming implementation plan and are not federally enforceable;

(iii) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D of the Act and including Chapter 5, Section 2 and Chapter 6, Sections 2 and 4 of the WAQSR;

(iv) Any standard or other requirement promulgated under section 111 of the Act, including section 111(d) and Chapter 5, Section 2 of the WAQSR;

(v) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act and including any regulations promulgated by the EPA and the State pursuant to Section 112 of the Act;

(vi) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(vii) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act concerning enhanced monitoring and compliance certifications;

(viii) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(ix) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act (having to do with the release of volatile organic compounds under ozone control requirements);

(x) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the EPA has determined that such requirements need not be contained in a Title V permit;

(xi) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act;

(xii) Any state ambient air quality standard or increment or visibility requirement of the WAQSR;

(xiii) Nothing under the definition of "Applicable requirement" in paragraph (b) of this section shall be construed as affecting the allowance program and Phase II compliance schedule under the acid rain provision of Title IV of the Act.

"Approved replicable methodology (ARM)" means an operating permit term that:

(i) Specifies a protocol which is consistent with and implements an applicable requirement, or requirement of this section, such that the protocol is based on sound scientific and/or mathematical principles and provides reproducible results using the same inputs; and

(ii) Require the results of that protocol to be recorded and used for assuring compliance with such applicable requirement, any other applicable requirement implicated by implementation of the ARM, or requirement of this section, including where an ARM is used for determining applicability of a specific requirement to a particular change.

"Commencement of operation" means the setting into operation of a new or modified source (subject to the provisions of this section) for any purpose.

"Department" means the Wyoming Department of Environmental Quality or its Director.

"Designated representative" or ***"alternate designated representative"*** shall have the meaning given to it in the regulations promulgated under Title IV of the Act.

"Division" means the Air Quality Division of the Wyoming Department of Environmental Quality or its Administrator.

"Draft permit" means the version of a permit for which the Division offers public notice and an opportunity for public comment and hearing.

"Emissions allowed under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

"EPA" means the Administrator of the U.S. Environmental Protection Agency or the Administrator's designee.

"Final permit" means the version of an operating permit under this section issued by the Division that has completed all review procedures required by Chapter 6, Section 3(d) and Section 3(e).

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

"General permit" means an operating permit under this section that meets the requirements of Chapter 6, Section 3(i).

"Greenhouse gases (GHGs)" means the air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person or persons under common control) belonging to a single major industrial grouping and this is described in paragraphs (i), (ii), or (iii) of this definition. For the purpose of defining "major source", a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(i) A major source under section 112 of the Act, which is defined as:

(A) For pollutants other than radionuclides, any stationary source or

group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the EPA may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(B) For radionuclides, "major source" shall have the meaning specified by the EPA by rule.

(ii) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant including any major source of fugitive emissions of any such pollutant, as determined by rule by the EPA, except that a source that meets this definition for only GHGs and no other air pollutant, shall not be required to comply with the provisions of this section. Emissions of air pollutants regulated solely due to section 112(r) of the Act shall not be considered in determining whether a source is a "major source" for purposes of Chapter 6, Section 3 applicability. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source unless the source belongs to one of the following categories of stationary sources:

(A) Stationary sources listed under the definition for "Major stationary source", item (a), in Chapter 6, Section 4(a) of the WAQSR; or

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

(iii) A major stationary source as defined in part D of Title I of the Act (in reference to sources located in nonattainment areas).

"Operating permit" means any permit or group of permits covering a source under this section that is issued, renewed, amended, or revised pursuant to this section.

"Permit modification" means a revision to an operating permit that meets the requirements of Chapter 6, Section 3(d)(vi).

"Permit revision" means any permit modification or administrative permit amendment.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation is enforceable by the EPA and the Division. This term does not alter or affect the use of this term for any other purposes under the

Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

"Proposed permit" means the version of a permit that the Division proposes to issue and forwards to the EPA for review.

"Regulated air pollutant" means the following:

(i) Nitrogen oxides (NO_x) or any volatile organic compound;

(ii) Any pollutant for which a national ambient air quality standard has been promulgated;

(iii) Any pollutant that is subject to any standard established in Chapter 5, Section 2 of the WAQSR or section 111 of the Act;

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

(v) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act, including sections 112(g), (j), and (r) of the Act, including the following:

(A) Any pollutant subject to requirements under section 112(j) of the Act. If the EPA fails to promulgate a standard by the date established pursuant to section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and

(B) Any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to section 112(g)(2) requirement.

(vi) Pollutants regulated solely under section 112(r) of the Act are to be regulated only with respect to the requirements of section 112(r) for permits issued under this section.

"Regulated pollutant (for fee calculation)", which is used only for purposes of Chapter 6, Section 3(f), means any "regulated air pollutant" except the following:

(i) Carbon monoxide;

(ii) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or

(iii) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(i) For a Corporation:

(A) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) A duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(I) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

(II) The delegation of authority to such representative is approved in advance by the Division.

(ii) For a Partnership or Sole Proprietorship: a general partner or the proprietor, respectively;

(iii) For a Municipality, State, Federal, or Other Public Agency: Either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency; or

(iv) For Affected Sources:

(A) The designated representative or alternate designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

(B) The designated representative, alternate designated representative, or responsible official under the definition for "Responsible official" in Chapter 6, Section 3(b) for all other purposes under this section.

"Section 502(b)(10) changes" are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting or compliance certification requirements.

"Source" means any stationary source or area source (if subject to a standard, limitation or other requirement under section 111 or 112 of the Act).

"State" means any non-Federal permitting authority, including any local agency, interstate association, or statewide program. "State" shall have its conventional meaning where such meaning is clear from the context.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

"tpy CO_2 equivalent emissions (CO_2e)" shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to Subpart A of 40 CFR part 98--Global Warming Potentials, and summing the resultant value for each to compute a tpy CO_2e. Prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material). Table A-1 to Subpart A of 40 CFR part 98 is adopted by reference.

"WAQSR" means the Wyoming Air Quality Standards and Regulations promulgated under the Wyoming Environmental Quality Act, W.S. § 35-11-101 *et seq*.

(c) Permit Applications. Any stationary source or group of stationary sources subject to this section shall submit a timely and complete permit application in accordance with this paragraph.

(i) Timely Application.

(A) A timely application for a source applying for an operating permit under this section for the first time is one that is submitted to the Division within twelve (12) months after the source becomes subject to this section.

(B) Every stationary source or group of stationary sources which are subject to this section under paragraph (a), and which is required to obtain a construction or modification permit under Chapter 5, Section 2 or Chapter 6, Section 2 or 4 of the WAQSR or section 112(g) of the Act shall file a complete application to obtain an operating permit within twelve (12) months after commencing operation. Where an existing operating permit would prohibit such construction or change in operation, the owner or operator must obtain a permit revision before commencing operation.

(C) For the purpose of an operating permit renewal, a timely application is one that is submitted at least six (6) months, but no earlier than eighteen (18) months, prior to the date of the permit expiration.

(D) Transition Period. Initial operating permit applications for sources subject to this section shall be submitted as follows:

(I) Permit applications for operating natural gas compressor engines, operating natural gas sweetening plants, and operating natural gas processing plants subject to the standards of performance of Subpart KKK of Chapter 5, Section 2 of the WAQSR, shall be submitted within four (4) months of the EPA's approval of this operating permit program, but not later than November 15, 1995. This requirement for the early submittal of permit applications includes only major sources as defined in Chapter 6, Section 3(b).

(II) Permit applications for all other operating sources subject to this section shall be submitted within twelve (12) months of the EPA's approval of this operating permit program, but not later than November 15, 1995.

(III) Applications for affected facilities addressing State and federal requirements, other than Title IV acid rain program requirements, shall be submitted to the Division within twelve (12) months of EPA approval of the operating permit program, but no later than November 15, 1995. Applications for phase II acid rain permits and all other acid rain permits for affected facilities shall be submitted in accordance with the acid rain permit application deadlines of Chapter 11, Section 2(c)(i)(B).

(IV) All sources listed at Chapter 6, Section 3(a) that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, shall submit a permit application pursuant to this section at such time as the EPA requires such sources to obtain an operating permit in final regulations promulgated pursuant to Title V of the Act.

(ii) Complete Application.

(A) Operating permit applications shall be submitted on the Division's standard operating permit application forms and any required EPA Title IV acid rain permit forms. The information which must be included in the permit application is specified below:

(I) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(II) A description of the source's processes and products (by Standard Industrial Classification Code) including those associated with any proposed AOS identified by the source.

(III) The following emissions related information:

(1.) All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit. Sufficient information

shall be provided to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule developed pursuant to Chapter 6, Section 3(f).

The source shall not be required to furnish the above information for insignificant activities and emission levels such as maintenance, cleaning and painting, welding, chemical storage and transfer, and other activities which are incidental to the source's primary business activity and which result in emissions of less than one ton per year of a regulated pollutant not included in the section 112(b) list of hazardous air pollutants or emissions less than 1,000 pounds per year of a pollutant regulated pursuant to listing under section 112(b) of the Act. Provided however, such emission levels of hazardous air pollutants do not exceed exemptions based on insignificant emission levels established by EPA through rulemaking for modification under section 112(g) of the Act. The source shall list such insignificant activities, proposed for exclusion, in its application and certify that emissions from each of these activities are less than the above quantities. Activities and emissions which have applicable requirements shall not be excluded from the operating permit application.

(2.) Identification and description of all emission points and fugitive emission sources in sufficient detail to establish the basis for fees and applicability of requirements of the Act and the WAQSR.

(3.) Emission rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable emission standard and reference test method. For emissions units subject to an annual emissions cap, tpy can be reported as part of the aggregate emissions associated with the cap, except where more specific information is needed, including where necessary to determine and/or assure compliance with the applicable requirement.

(4.) The following information to the extent it is emissions related: fuels, fuel use, raw materials, production rates, and operating schedules.

(5.) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(6.) Limitations on source operations affecting emissions or any work practice standards, where applicable, for all regulated pollutants.

(7.) Other information required by any applicable requirements (including information related to stack height limitations pursuant to Chapter 6, Section 2).

(8.) Calculations on which the information in items (1.) through (7.) is based.

(IV) The following air pollution control requirements:

(1.) Citation and description of all applicable requirements; and

(2.) Description of or reference to any applicable test method for determining compliance with each applicable requirement and permit limitation.

(V) Other specific information that may be necessary to implement, and enforce other requirements of the Act and the WAQSR or to determine the applicability of such requirements.

(VI) An explanation of any proposed exemptions from otherwise applicable requirements.

(VII) Additional information as determined to be necessary by the Division to define proposed AOSs identified by the source pursuant to Chapter 6, Section 3(h)(i)(I) or to define permit terms and conditions implementing Chapter 6, Section 3(h)(i)(J). The permit application shall include documentation demonstrating that the source has obtained authorization(s) required under the applicable requirements relevant to any proposed AOSs, or a certification that the source has submitted all relevant materials to the appropriate permitting authority for obtaining such authorization(s).

(VIII) A compliance plan that contains the following:

(1.) A description of the compliance status of the source with respect to all applicable requirements.

(2.) A description as follows:

a. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

b. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

c. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

d. For applicable requirements associated with a proposed AOS, a statement that the source will meet such requirements upon implementation of the AOS. If the proposed AOS would implicate an applicable requirement that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

(3.) A compliance schedule as follows:

a. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

b. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

c. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

d. For applicable requirements associated with a proposed AOS, a statement that the source will meet such requirements upon implementation of the AOS. If a proposed AOS would implicate an applicable requirement that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term will satisfy this provision unless a more detailed schedule is expressly required by the applicable requirement.

(4.) A schedule for submission of certified progress reports where applicable no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation.

(5.) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(IX) Requirements for compliance certification, including the following:

(1.) A certification of compliance with all applicable requirements by a responsible official consistent with Chapter 6, Section 3(c)(iv) and section 114(a)(3) of the Act;

(2.) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(3.) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or this Division; and

(4.) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(X) The use of nationally standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act.

(B) Confidential Information. As provided in sections 35-11-1101(a) and 35-11-205(d) of the Wyoming Environmental Quality Act, upon a satisfactory showing that records, reports or information or particular parts thereof, other than emission and pollution data, if made public would divulge trade secrets, the records, reports or information or particular portions thereof shall be treated as confidential by the Division. The Division may also request under Chapter 6, Section 3(h)(i)(F)(V) that the applicant provide this information directly to the EPA.

(I) An applicant who submits information which it desires to be held confidential may do so by stamping the information as "Confidential" and submitting it in a separate envelope marked "Confidential".

(iii) Duty to Supplement. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

(iv) Certification. Any application form, report, or compliance certification submitted pursuant to the WAQSR shall require certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this section shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(d) Permit Issuance, Renewal, Reopenings, and Revisions.

(i) Action on Application.

(A) A permit, permit revision, or renewal may be issued only if all of the

following conditions have been met:

(I) The Division has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under Chapter 6, Section 3(i);

(II) Except for modifications qualifying for minor permit modification procedures under Chapter 6, Section 3(d)(vi), the Division has complied with the requirements for public participation specified in this section;

(III) The Division has complied with the requirements for notifying and responding to affected States as required in this section;

(IV) The conditions of the permit provide for compliance with all applicable requirements and requirements of this section; and

(V) The EPA has received a copy of the proposed permit and any notices required under this section, and has not objected to the issuance of the permit within the time period specified in this section.

(B) Except for permits issued during the initial transitional period or under regulations promulgated under Title IV of the Act for permitting affected units under the acid rain program, the Division shall take final action on each permit application, including a request for a permit modification or renewal within 18 months after receiving a complete permit application.

(C) Within 60 days of the receipt of the application, the Division shall provide notice of whether the application is complete. Unless additional information is requested subject to the application or if the applicant is otherwise notified of incompleteness, the application shall be deemed complete after this 60-day period. A completeness determination will not be made for minor permit modifications under Chapter 6, Section 3(d)(vi)(A) and (B).

(D) The Division shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The Division will provide this statement to the EPA and any other person who requests it.

(E) The submittal of a complete permit application shall not affect the requirement that any source have a preconstruction permit under Chapter 6, Section 2 or 4 of the WAQSR.

(ii) Requirement for a Permit. Except as provided in this paragraph or in Chapter 6, Section 3(d)(iii), no source requiring an operating permit under Chapter 6, Section 3 may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under this section. If a source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have an operating

permit is not a violation of this section until the Division takes final action on the permit application, except as noted in this paragraph. This protection shall cease to apply after a completeness determination made pursuant to Chapter 6, Section 3(d)(i)(C), if the applicant fails to submit by the deadline specified in writing by the Division any additional information identified as being needed to process the application.

(iii) Changes for Which No Permit Revision is Required.

(A) A source may change operations without a permit revision, as allowed under section 502(b)(10) of the Act and W.S. § 35-11-206(f)(iii), provided that:

(I) The change is not a modification under any provision of Title I of the Act and does not violate applicable acid rain requirements under Title IV of the Act;

(II) The change has met the requirements of Chapter 6, Section 2 and is not a modification under Chapter 5, Section 2 or Chapter 6, Section 4 of the WAQSR and the changes do not exceed the emissions allowed under the permit (whether expressed therein as a rate of emissions or in terms of total emissions); and

(III) The source provides the EPA and the Division with written notification at least fourteen (14) days in advance of the proposed change. The source, the EPA, and the Division shall attach such notice to their copy of the relevant permit.

(1.) For each such change, the written notification required shall include a brief description of the change within the permitted source, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.

(2.) The permit shield described in Chapter 6, Section 3(k) shall not apply to any change made pursuant to Chapter 6, Section 3(d)(iii).

(iv) Permit Renewal and Expiration.

(A) Permits being renewed are subject to the same procedural requirements, including those for public participation, and affected State and EPA review, that apply to initial permit issuance.

(B) Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with Chapter 6, Section 3(d)(ii) and Chapter 6, Section 3(c)(i)(C).

(v) Administrative Permit Amendments.

(A) An "administrative permit amendment" is a permit revision that can accomplish one or more of the following changes:

(I) Corrects typographical errors;

(II) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

(III) Requires more frequent monitoring or reporting by the permittee;

(IV) Allows for a change in ownership or operational control of a source where the Division determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees has been submitted to the Division;

(V) Incorporates into the operating permit the requirements from preconstruction review permits issued pursuant to Chapter 6, Sections 2 and 4 of the WAQSR, provided that the process for issuing the preconstruction permit meets procedural requirements substantially equivalent to those that would be applicable under Chapter 6, Section 3(d) and (e) if the change were subject to review as an operating permit modification, and that the permit meets compliance requirements substantially equivalent to those of Chapter 6, Section 3(h); or

(VI) Incorporates any other type of change which the EPA has determined as part of the approved operating permit program to be similar to Chapter 6, Section 3(d)(v)(A)(I) through (V) above.

(B) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act.

(C) An administrative permit amendment may be made by the Division consistent with the following:

(I) The Division shall take final action on a request for an administrative permit amendment within 60 days from the receipt of the request, and may incorporate such changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.

(II) The Division shall submit a copy of the revised permit to the EPA.

(III) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(D) The Division may, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in Chapter 6, Section 3(k) for administrative permit amendments made pursuant to Chapter 6, Section 3(d)(v)(A)(V) which meet the relevant requirements of Chapter 6, Section 3(d), 3(h), and 3(e) for significant permit

modifications.

(vi) Permit Modification. A permit modification is any revision to an operating permit which cannot be accomplished as an administrative permit amendment under Chapter 6, Section 3(d)(v). A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act.

(A) Minor Permit Modification Procedures.

(I) Criteria.

(1.) Minor permit modification procedures shall be used only for those permit modifications that:

a. Do not violate any applicable requirement;

b. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

c. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

d. Do not seek to change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed in order to avoid an otherwise applicable requirement. Such terms and conditions include:

1. A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Act;

2. An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Act concerning early reductions of hazardous air pollutants; and

3. A federally enforceable emissions cap assumed to avoid being subject to provisions of this section pursuant to Chapter 6, Section 3(m) regarding synthetic minors.

e. Are not modifications under any provision of Title I of the Act; and

f. Are not required to be processed as a significant modification.

(2.) Notwithstanding Chapter 6, Sections 3(d)(vi)(A) and

3(d)(vi)(B), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the implementation plan.

(3.) Qualifying for a minor permit modification under this section does not relieve a source of its responsibility to obtain a modification permit under the preconstruction permit requirements of Chapter 6, Section 2 of the WAQSR.

(II) Application. An application requesting the use of minor permit modification procedures shall meet the requirements of Chapter 6, Section 3(c)(ii) and shall include the following:

(1.) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(2.) The source's suggested draft permit;

(3.) Certification by a responsible official, consistent with Chapter 6, Section 3(c)(iv), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

(4.) Completed forms for the Division to use to notify the EPA and affected States as required under Chapter 6, Section 3(e).

(III) EPA and Affected State Notification. Within 5 working days of receipt of a complete permit modification application, the Division shall meet its obligation under Chapter 6, Sections 3(e)(i)(A) and 3(e)(ii)(A) to notify the EPA and affected States of the requested permit modification. The Division shall promptly send any notice required under Chapter 6, Section 3(e)(ii)(B) to the EPA.

(IV) Timetable for Issuance. The Division may not issue a final minor permit modification until after the EPA's 45-day review period or until EPA has notified the Division that EPA will not object to issuance of the permit modification, whichever is first, although the Division can approve the permit modification prior to that time. Within 90 days of the Division's receipt of an application under minor permit modification procedures or 15 days after the end of the EPA's 45-day review period under Chapter 6, Section 3(e)(ii)(D), whichever is later, the Division shall:

(1.) Issue the permit modification as proposed;

(2.) Deny the permit modification application;

(3.) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or

(4.) Revise the draft permit modification and transmit to the EPA the new proposed permit modification as required by Chapter 6, Section 3(e)(i).

(V) Source's Ability to Make Change.

(1.) The Division will allow the source to make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the Division takes any of the actions specified in Chapter 6, Sections 3(d)(vi)(A)(IV)(1.) through (3.), the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify; however, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(VI) Permit Shield. The permit shield under Chapter 6, Section 3(k) does not extend to minor permit modifications.

(B) Group Processing of Minor Permit Modifications. The Division may process groups of a source's applications for certain modifications eligible for minor permit modification processing.

(I) Criteria. Group processing of modifications may be used only for those permit modifications:

(1.) That meet the criteria for minor permit modification procedures under Chapter 6, Section 3(d)(vi)(A)(I)(1.); and

(2.) That are collectively below a threshold of 10 percent of the emissions allowed under the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source in Chapter 6, Section 3(b), or 5 tons per year, whichever is least.

(II) Application. An application requesting the use of group processing procedures shall meet the requirements of Chapter 6, Section 3(c)(ii) and shall include the following:

(1.) A description of the change, the emission resulting from the change, and any new applicable requirements that will apply if the change occurs.

(2.) The source's suggested draft permit.

(3.) Certification by a responsible official, consistent with Chapter 6, Section 3(c)(iv) that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.

(4.) A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold levels of this section.

(5.) Certification, consistent with Chapter 6, Section 3(c)(iv), that the source has notified EPA of the proposed modification. Such notification need only contain a brief description of the requested modifications.

(6.) Completed forms for the Division to use to notify the EPA and affected States as required under Chapter 6, Section 3(e).

(III) EPA and Affected State Notification. On a quarterly basis or within 5 business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level of this section, whichever is earlier, the Division shall meet its obligation under Chapter 6, Sections 3(e)(i)(a) and 3(e)(ii)(a) to notify the EPA and affected States of the requested permit modifications. The Division shall send any notice required under Chapter 6, Section 3(e)(ii)(B) to the EPA.

(IV) Timetable for Issuance. The provisions of Chapter 6, Section 3(d)(vi)(A)(IV) shall apply to modifications eligible for group processing, except that the Division shall take one of the actions specified in Chapter 6, Sections 3(d)(vi)(A)(IV)(1.) through (4.) within 180 days of receipt of the application or 15 days after the end of the EPA's 45-day review period, whichever is later.

(V) Source's Ability to Make Change. The provisions of Chapter 6, Section 3(d)(vi)(A)(V) apply to modifications eligible for group processing.

(VI) Permit Shield. The permit shield under Chapter 6, Section 3(k) does not extend to modifications eligible for group processing.

(C) Significant Modification Procedures.

(I) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall require a permit modification under this paragraph. Nothing herein shall be construed to preclude the permittee from making changes consistent with this section that would render existing permit compliance terms and conditions irrelevant.

(II) Significant permit modifications shall meet all requirements of this section including those for applications, public participation, review by affected States, and review by EPA, as they apply to permit issuance and permit renewal. The Division shall complete review on the majority of significant permit modifications within 9 months after receipt of a complete application.

(vii) Reopening for Cause.

(A) Every operating permit issued shall contain provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following conditions:

(I) Additional applicable requirements under the Act or the WAQSR become applicable to a major source subject to Chapter 6, Section 3 with a remaining permit term of 3 or more years. Such reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended.

(II) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval of the EPA, excess emissions offset plans shall be deemed to be incorporated into the permit.

(III) The Division or the EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

(IV) The Division or the EPA determines that the permit must be revised or revoked to assure compliance with applicable requirements.

(B) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

(C) Reopenings under Chapter 6, Section 3(d)(vii)(A) shall not be initiated before a notice of such intent is provided to the source by the Division at least 30 days in advance of the date that the permit is to be reopened, except that the Division may provide a shorter time period in the case of an emergency.

(viii) Reopenings for Cause by the Environmental Protection Agency.

(A) If the EPA finds that cause exists to terminate, modify or revoke and reissue a permit pursuant to Chapter 6, Section 3(d)(vii), the EPA will notify the Division and the permittee of such finding in writing.

(B) The Division shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The EPA may extend this 90-day period for an additional 90 days if a new or revised permit application is necessary or if the Division must require the permittee to submit additional information.

(C) The EPA shall review the proposed determination from the Division within 90 days of receipt.

(D) The Division shall have 90 days from receipt of an EPA objection to resolve the objection and to terminate, modify or revoke and reissue the permit in accordance with the EPA's objection.

(E) If the Division fails to submit a proposed determination or fails to resolve any EPA objection, the EPA will terminate, modify, or revoke and reissue the permit after taking the following actions:

(I) Providing at least 30 day's notice to the permittee in writing of the reasons for any such action; and

(II) Providing the permittee an opportunity for comment on the EPA's proposed action and an opportunity for a hearing.

(ix) Public Participation. Except for modification qualifying for minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall provide procedures for public notice including offering an opportunity for public comment and a hearing on the draft permit. These procedures shall include the following:

(A) Notice shall be given by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice; to persons on a mailing list developed by the Division, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public;

(B) The notice shall identify the affected source; the name and address of the permittee; the name and address of the Division; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, and all other materials available to the Division that are relevant to the permit decision; a brief description of the comment procedures; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled);

(C) The Division shall provide such notice and opportunity for participation by affected States as provided in Chapter 6, Section 3(e);

(D) Timing. The Division shall provide for a 30-day period for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing.

(E) The Division shall keep a record of the commenters and also of the issues raised during the public participation process so that the EPA may fulfill its obligation under section 505(b)(2) of the Act to determine whether a citizen petition may be granted, and such records shall be available to the public.

(e) Permit Review by the Environmental Protection Agency and Affected States.

(i) Information Provided to the Environmental Protection Agency.

(A) The Division shall provide a copy of the permit application (including the compliance plan) directly to the EPA, or the Division may require that the applicant requiring a permit under this section submit a copy of the application directly to the EPA.

(B) The Division shall provide to the Administrator of the EPA a copy of each proposed permit and each final operating permit.

(C) The Division shall keep all records associated with applications and permits under this section for a period of five years.

(ii) Review by Affected States.

(A) The Division shall give notice of each draft permit to any affected State at the time notice is provided to the public under Chapter 6, Section 3(d)(ix), except to the extent Chapter 6, Section 3(d)(vi)(A) allows the time of the notice to be different for minor permit modification procedures.

(B) The Division, as part of the submittal of the proposed permit to the EPA, or for a minor permit modification procedure, as soon thereafter as possible, shall notify the EPA and any affected State in writing of any refusal to accept all recommendations for the proposed permit that the affected State submitted during the public comment period. The notice shall include the Division's reasons for not accepting any such recommendation. The Division is not required to accept recommendations that are not based on applicable requirements or the requirements of this section.

(iii) EPA Objection.

(A) No permit shall be issued if the Administrator of the EPA objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information.

(B) Any EPA objection under Chapter 6, Section 3(e)(ii)(C) shall include a statement of reasons for the objection and a description of the terms and conditions that the permit must include to respond to the objections. The EPA shall provide the permit applicant with a copy of the objection.

(C) Failure of the Division to do any of the following shall also constitute grounds for an objection:

(I) Comply with Chapter 6, Sections 3(e)(i)(A) and (B), and Chapter 6, Sections 3(e)(ii)(A) and (B);

(II) Submit any information necessary to adequately review the proposed permit; or

(III) Process the permit under the procedures approved to meet the public participation requirements of Chapter 6, Section 3(d)(ix) except for minor permit modifications.

(D) If the Division fails, within ninety (90) days after the date of an objection under Chapter 6, Section 3(e)(ii)(C), to revise and submit a proposed permit in response to the objection, the EPA will issue or deny the permit in accordance with the requirements of the federal program promulgated under Title V of the Act.

(iv) Public Petitions to the EPA. If the EPA does not object in writing under paragraph (C) of this subsection, any person may petition the EPA within 60 days after the expiration of the 45-day review period to make such an objection. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in Chapter 6, Section 3(d)(ix), unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the EPA objects to the permit as a result of a petition filed under this paragraph, the Division shall not issue the permit until the EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to the EPA objection. If a permit has been issued, the Division may thereafter issue only a revised permit that satisfies the EPA objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(v) No operating permit (including a permit renewal or revision) will be issued until affected States and EPA have had an opportunity to review the proposed permit as required under this section.

(f) Fees.

(i) Fee Requirement. Any source required to obtain a permit under this section shall, as a condition of continued operation, submit an annual fee to the Department.

(ii) Fee Payment. The Department shall give written notice of the amount of fee to be assessed and the basis for such fee assessment to the owner or operator of the source annually. The assessed fee is due on receipt of the notice unless the fee assessment is appealed pursuant to W.S. § 35-11-211(d). If any part of the fee assessment is not appealed it shall be paid to the Department on receipt of the written notice. Any remaining fee which may be due

after completion of the appeal is immediately due and payable upon issuance of the council's decision.

(iii) Basis of Fee to Support the Program.

(A) Fees shall be assessed annually for each operating source, based on emissions of each regulated pollutant in an amount sufficient to cover all reasonable direct and indirect costs of the Department in developing, implementing and administering the operating permit program of this section, including the Department's Small Business Assistance Program. The permit fee will cover all reasonable direct and indirect program costs including cost of:

(I) Reviewing and acting on permit applications, permit renewals, permit reopenings, and permit revisions;

(II) Implementing and enforcing the terms and conditions of a permit (not including any court costs or other costs associated with any enforcement action) which include but is not limited to the following:

(1.) Source inspections including the witnessing and review of stack emission tests;

(2.) Ambient monitoring data review and reporting;

(3.) Continuous emission monitoring (CEM) reports and data review;

(4.) Complaint investigations;

(5.) Special purpose monitoring;

(6.) Ambient and CEM systems audits;

(7.) EPA reporting and data entry;

(III) Emissions and ambient monitoring;

(IV) Regulation preparation and guidance;

(V) Modeling analyses and demonstrations;

(VI) Preparing emission and source inventories and tracking emissions;

(VII) Fee assessment, billing and fiscal management;

(VIII) All other permit-related functions performed by the

Department;

(IX) Development and administration of Department Small Business Assistance Program; and

(X) Informational management activities.

(B) Exclusions.

(I) No fee will be assessed for emissions of a regulated pollutant in excess of 4,000 tons per year at a source.

(II) For purposes of fee assessment, only under this section, the term "regulated pollutant" shall not include carbon monoxide, asbestos as regulated in Chapter 3, Section 8 of the WAQSR, residential wood smoke as regulated under Chapter 5, Section 2, Subpart AAA, or any substance which would be regulated only because it is listed or regulated under section 112(r) of the Act, prevention of accidental releases for hazardous air pollutants.

(III) Fugitive emissions of total suspended particulate matter (TSP) emissions, provided however, that portion of TSP which is PM_{10} particulate matter will be estimated and assessed fees.

(iv) Fee Determination.

(A) Fees for individual sources shall be computed by multiplying the total annual emissions, in tons up to a maximum of 4,000 tons per year of each regulated pollutant emitted by the source, by the dollar per ton fee calculated as follows:

$$x = F \div T$$

Where: x = dollars per ton of emissions for each regulated pollutant emitted.

F = total annual fee target.

T = total number of tons state-wide of all regulated pollutants listed in the most recent annual emissions inventory for all sources subject to this section.

(B) Annual Fee Target. The annual fee target shall be computed as follows:

Annual fee target (F) = (LA - NSR) ÷ 2

Where: LA = The amount of funds appropriated from the permit fee fund by the legislature for the operation and implementation of the construction and modification permit programs and the operating permit program for a two-year period. This appropriation includes any carry over in the fund from previous budget periods.

NSR = Projected costs of reviewing and issuing construction and modification permits under the Division's new source review program pursuant to Chapter 6, Sections 2 and 4 of the WAQSR for the two-year budget period.

(C) Individual source fees shall be the greater of fees calculated pursuant to Chapter 6, Section 3(f)(iv)(A) or $500.00.

(D) A fee of $250.00 shall be required for the operation of a temporary source at each new location.

(E) Any affected unit which is utilized in an EPA-approved Phase I substitution plan under section 404 of the Act during the years of 1995-1999 (inclusive) shall be subject to an annual fee of $35,000, in lieu of a fee based on actual emissions under Chapter 6, Section 3(d)(v), for each year that it participates in such a substitution plan for the purpose of covering the portion of direct and indirect costs described in Chapter 6, Section 3(d)(iii)(A) attributed to administrating the program for those affected units.

(v) Fees Shall Be Based on Actual Emissions.

(A) Actual emissions for purposes of assessing fees are, in order of decreasing accuracy:

(I) Emissions measured by a continuous emissions monitoring system (CEMS) that converts pollutant concentrations to mass emission rates and that meets the requirements for CEMS installation, operation, and certification of the WAQSR or any regulation promulgated by EPA under the Act. Actual emissions are the total emissions measured by the CEMS for the year plus estimated emissions during times when the CEMS was not operational.

(II) Emissions measured by periodic stack emission tests which have been accepted by the Division as being representative of normal source operation. Actual emissions are the hourly emission rates multiplied by the annual hours of operation.

(III) Emissions estimated by the utilization of data from the manufacturer of an internal combustion engine or turbine. Actual emissions are the hourly emission rates multiplied by the annual hours of operation.

(IV) Emissions estimated by utilization of the EPA document AP-42, "Compilation of Air Pollutant Emission Factors", or Division-approved source-specific emission factors. Actual emissions are the hourly emission rates multiplied by the annual hours of operation.

(B) The methodology selected for the determination of actual emissions for fee assessment by the Division shall be equivalent to methods specified in any Chapter 6, Section 2 permit that the source may hold for initial applications applied for under this section, or emissions as verified by methods prescribed in a permit issued under this section. Actual emissions for sources for which no permit has previously been issued or for which no method has been prescribed in the permit shall be determined by the Division utilizing the most accurate method available as enumerated above under Chapter 6, Section 3(f)(v)(A).

(C) Actual emissions may, at the source's choice, be presumed to be allowable emissions as determined by applicable requirements (standards and regulations) or by permit unless there is evidence that actual emissions are in excess of allowable emissions.

(D) Particulate Emissions: Until such time as continuous measurement of particulate mass emission rates from stacks becomes available or required, particulate mass emission rates for purposes of fee assessment will be based on allowable emission rates.

(E) Fugitive emission rates, for purposes of fee assessment, will be determined by EPA AP-42 emission factors, or by Division-approved emission factors, in the case of emissions from surface coal mines and other similar sources of fugitive dust emissions. The use of alternative emission factors which are source specific must be well documented and approved for use by the Division prior to the date on which emission inventories are due to be submitted to the Division.

(F) Emissions in excess of applicable requirements or permit limits due to equipment malfunction and/or failure, or process start-up and shutdowns, to the extent that such emissions are quantifiable through recognized engineering calculations or emissions and process monitoring, shall be included in source emission inventories and assessed a fee.

(G) Fees shall be assessed against owners or operators of sources applying for any permit under this section and annually thereafter for the duration of the permit. Emission inventories for sources subject to this section shall be submitted to the Division for fee assessment and compliance determinations within sixty (60) days following the end of the calendar year.

(I) During the initial year of the operating permit program, sources required to apply for a permit under this section shall be assessed fees which include operations for the calendar year 1994.

(II) Fees shall be based on calendar year source operations.

(III) New sources applying for initial permits under this section shall pay a fee based on emissions occurring since the commencement of operation for the previous calendar year and annually thereafter.

(vi) Failure to Pay Fees. Failure to pay fees owed the Department is a violation of this section and W.S. § 35-11-203 and may be cause for the revocation of any permit issued to the source.

(g) Small Business Assistance Program.

(i) Any source operated or owned by a business which qualifies as a small business under the Department **Small Business Assistance Program** may apply for assistance in complying with the requirements of this section.

(h) Permit Content.

(i) Standard Permit Requirements. Each permit issued under this section shall include the following elements:

(A) Emission limitations and standards, including those operational requirements and limitations that are applied to assure compliance with all applicable requirements at the time of permit issuance. Such requirements and limitations may include ARMs identified by the source in its operating permit application as approved by the Division, provided that no ARM shall contravene any terms needed to comply with an otherwise applicable requirement or require of this section or circumvent any applicable requirements that would apply as a result of implementing the ARM.

(I) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(II) The permit shall state that, where an applicable requirement of the Act is more stringent than any applicable requirement of regulations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the EPA and the Division.

(III) In addition to the requirements in Chapter 6, Section 3(h)(i)(A)(I) and (II), the permit shall include emission limitations and standards which are a part of the WAQSR and are more stringent than those of any requirements of the Act. However, such requirements shall not be federally enforceable.

(B) Permit Duration. The Division shall issue permits for a fixed term of five years for all sources except in such circumstances as provided in W.S. § 35-11-206(f)(i), where a permit may be issued for a shorter term.

(C) Monitoring and Related Recordkeeping and Reporting Requirements.

(I) Each permit shall contain the following requirements with respect to monitoring:

(1.) All emissions monitoring and analysis procedures or test methods required under the applicable monitoring and testing requirements, including any procedures and methods promulgated pursuant to Title IV and sections 504(b) or 114(a)(3) of the Act. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as the result of such streamlining;

(2.) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to Chapter 6, Section 3(h)(i)(C)(III). Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph; and

(3.) As necessary, requirements concerning the use, maintenance, and, when appropriate, installation of monitoring equipment or methods.

(II) With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(1.) Records of monitoring information that include the following:

a. The date, place as defined in the permit, and time of sampling or measurements;

b. The date(s) the analyses were performed;

c. The company or entity that performed the analyses;

d. The analytical techniques or methods used;

e. The results of such analyses; and

f. The operating conditions as they existed at the time of sampling or measurement.

(2.) Retention of records of all monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

(III) With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(1.) Submittal of Reports of Any Required Monitoring at Least Every Six Months. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with Chapter 6, Section 3(c)(iv).

(2.) Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The Division shall define "prompt" in relation to the degree and type of deviation likely to occur and the applicable requirements.

(IV) To meet the requirements of Title IV of the Act, for affected sources under the acid rain program, the permit shall incorporate all provisions for monitoring, recordkeeping, and reporting promulgated in 40 CFR part 75.

(D) A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder.

(I) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(II) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense for noncompliance with any other applicable requirement.

(III) Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act.

(E) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion(s) of the permit.

(F) Provisions Stating the Following:

(I) Duty to Comply. The permittee must comply with all conditions of the operating permit. Any permit noncompliance constitutes a violation of the Act,

Article 2 of the Wyoming Environmental Quality Act and the WAQSR and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

(II) Need to Halt or Reduce Activity is Not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(III) Permit Actions. The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(IV) Property Rights. The permit does not convey any property rights of any sort, or any exclusive privilege.

(V) Duty to Provide Information. The permittee shall furnish to the Division, within a reasonable time, any information that the Division may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Division copies of records required to be kept by the permit, including information claimed and shown to be confidential under Section 35-11-1101(a) of the Wyoming Environmental Quality Act. Upon request by the Division, the permittee shall also furnish confidential information directly to EPA along with a claim of confidentiality.

(G) A provision to ensure that any source under this section pays fees to the Division consistent with Chapter 6, Section 3(f) and the fee schedule developed by the Division and approved by the joint appropriations committee of the Wyoming State Legislature.

(H) Emissions Trading. A provision stating that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

(I) Terms and conditions for reasonably anticipated AOSs identified by the source in its application as approved by the Division. Such terms and conditions:

(I) Shall require the source, contemporaneously with making a change from one AOS to another, to record in a log at the permitted source a record of the AOS under which it is operating;

(II) May extend the permit shield described in Chapter 6, Section 3(k) to all terms and conditions under each such AOS; and

(III) Must ensure that the terms and conditions of each such AOS meet all applicable requirements and the requirements of this section. The Division shall not approve a proposed AOS into the operating permit until the source has obtained all

authorizations required under any applicable requirement relevant to that AOS.

(J) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted source, to the extent that the applicable requirements, including the State Implementation Plan, provide for trading such increases and decreases without a case-by-case approval of each emissions trade. Such terms and conditions:

(I) Shall include all terms required under Chapter 6, Section 3(h)(i) and (iii) to determine compliance;

(II) May extend the permit shield described in Chapter 6, Section 3(k) to all terms and conditions that allow such increases and decreases in emissions; and

(III) Must meet all applicable requirements and requirements of this section.

(ii) Federally-Enforceable Requirements.

(A) All terms and conditions in an operating permit under this section, including any provisions designed to limit a source's potential to emit, are enforceable by the EPA and citizens under the Act.

(B) Notwithstanding paragraph (A) above, the Division shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or any regulations promulgated thereunder.

(iii) Compliance Requirements. All operating permits under this section shall contain the following elements with respect to compliance:

(A) Consistent with Chapter 6, Section 3(h)(i)(C), compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by an operating permit under this section shall contain a certification by a responsible official that meets the requirements of Chapter 6, Section 3(c)(iv).

(B) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Division or an authorized representative to perform the following:

(I) Enter upon the permittee's premises where a source is located or emissions related activity is conducted, or where records must be kept under the conditions of the permit.

(II) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit.

(III) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit.

(IV) As authorized by the Act, sample or monitor, at reasonable times, any substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(C) A schedule of compliance consistent with Chapter 6, Section 3(c)(ii)(A)(VIII).

(D) Progress reports consistent with an applicable schedule of compliance and Chapter 6, Section 3(c)(ii)(A)(VIII) to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the Division. Such progress reports shall contain the following:

(I) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(II) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(E) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

(I) The frequency (not less than annually or such more frequent period as specified in the applicable requirement or by the Division) of submissions of compliance certifications;

(II) A means for assessing or monitoring the compliance of the source with its emissions limitations, standards, and work practices;

(III) A requirement that the compliance certification include the following (provided that the identification of applicable information may cross-reference the permit or previous reports as applicable):

(1.) The identification of each term or condition of the permit that is the basis of the certification;

(2.) The status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the method or means designated in Chapter 6, Section 3(h)(iii)(E)(III)(4.). The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also

identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined in Chapter 7, Section 3 occurred;

(3.) Whether compliance was continuous or intermittent;

(4.) The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period, and whether such methods or other means provide continuous or intermittent data. Such methods and other means shall include, at a minimum, the methods and means required under Chapter 6, Section 3(h)(i)(C). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)2 of the Clean Air Act, which prohibits knowingly making a false certification or omitting material information;

(5.) Such other facts as the Division may require to determine the status of the source;

(IV) A requirement that all compliance certifications be submitted to the EPA as well as to the Division.

(F) Such other provisions as the Division may require.

(i) General Permits.

(i) Issuance. The Division may, after notice and opportunity for public comment and hearing pursuant to Chapter 6, Section 3(d)(ix), issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to other operating permits under this section and shall identify criteria by which sources may qualify for the general permit. To sources that qualify, the Division shall grant the conditions and terms of the general permit. Notwithstanding the shield provisions of Chapter 6, Section 3(k), the source shall be subject to enforcement action for operation without an operating permit under this section if the source is later determined not to qualify for the conditions and terms of the general permit. General permits shall not be authorized for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the Act.

(ii) Application. Sources under this section that would qualify for a general permit must apply to the Division for coverage under the terms of the general permit or must apply for an operating permit consistent with Chapter 6, Section 3(c). The Division may provide for general permit applications which deviate from the requirements of Chapter 6, Section 3(c) provided that such applications meet the requirements of Title V of the Act and include all information necessary to determine qualification for, and to assure compliance with, the general permit. The Division may grant a source's request for authorization to operate under a general permit without repeating the notice and comment procedures required under Chapter 6, Section 3(d)(ix), but such issuance shall not be a final action for purposes of judicial review.

(j) Temporary Sources (Portable Sources). The Division may issue a single permit

authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operations must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

(i) Conditions that will assure compliance with all applicable requirements at all authorized locations;

(ii) Requirements that the owner or operator notify the Division at least ten days in advance of each change in location; and

(iii) Conditions that assure compliance with all other provisions of this section.

(k) Permit Shield.

(i) Except as provided in this section, the Division may expressly include in an operating permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

(A) Such applicable requirements are included and are specifically identified in the permit; or

(B) The Division, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

(ii) An operating permit under this section that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(iii) Nothing in this paragraph or in any operating permit under this section shall alter or affect the following:

(A) The provisions of section 303 of the Act (emergency orders), including the authority of the EPA under that section.

(B) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance.

(C) The applicable requirements of the acid rain program, consistent with section 408(a) of the Act.

(D) The ability of the EPA to obtain information from a source pursuant to section 114 of the Act, or the Division to obtain information pursuant to Section 35-11-110 of the Wyoming Environmental Quality Act.

(l) [Reserved].

(m) Permits for Synthetic Minors.

(i) Applicability. A source may apply under this section for a permit or for a condition to a permit to limit emissions below any threshold level which would otherwise subject the source to an applicable requirement or to the provisions of this section utilizing the source's potential to emit. With respect to a condition or permit so issued, the source will not have to comply with the other provisions of this section with the exception of the following:

(A) The payment of a fee based on tons of emissions emitted pursuant to the fee schedule developed under Chapter 6, Section 3(f);

(B) The emissions limit specified in the permit shall be federally enforceable and enforceable by the Division; and

(C) Compliance with any applicable requirements specified in the permit or elsewhere in the WAQSR.

(ii) Use of General Permits. General permits issued in accordance with Chapter 6, Section 3(i) may be utilized by the Division to permit numerous similar synthetic minor sources.

(iii) Use of Chapter 6, Section 2 Permit. A source may apply for a permit under Chapter 6, Section 2 of the WAQSR to qualify as a synthetic minor, provided the permit is federally enforceable.

Section 4. **Prevention of significant deterioration.**

(a) Definitions. For purposes of this section:

"Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (i) through (iii) of this definition, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under paragraph (b)(xv) of this section. Instead, the definitions for "Projected actual emissions" and "Baseline actual emissions" of this section shall apply for those purposes.

(i) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Division shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(ii) The Division may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(iii) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Administrator" means Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality.

"Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both) and the most stringent of the following:

(i) Applicable standards set forth in Chapter 5, Section 2 or Section 3 of these regulations and other new source performance standards and national emission standards for hazardous air pollutants promulgated by the EPA but not yet adopted by the State of Wyoming.

(ii) Any other applicable emission limit in these regulations.

(iii) The emission rate agreed to by the owner or operator as an enforceable permit condition.

"Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with paragraphs (i) through (iv) of this definition.

(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 Division shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

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

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

(C) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(D) The average rate shall not be based on any consecutive 24-month

period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraph (i)(B) of this definition.

(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 Chapter 6, Section 4 permit, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

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

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

(C) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the 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 EPA Administrator proposed or promulgated under 40 CFR 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 51.165(a)(3)(ii)(G).

(D) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must 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.

(E) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraphs (ii)(B) and (C) of this definition.

(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.

(iv) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (i) of this definition, for other existing emissions units in accordance with the procedures contained in paragraph (ii) of this definition, and for a new emissions unit in accordance with the procedures contained in paragraph (iii) of this definition.

"Baseline area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under the Federal Clean Air Act in which a major source or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established as follows: Equal to or greater than 1 $\mu g/m^3$ (annual average) for SO_2, NO_2, or PM_{10}; or equal to or greater than 0.3 $\mu g/m^3$ (annual average) for $PM_{2.5}$.

(i) The following baseline areas have been designated as separate particulate matter attainment areas under section 107 of the Clean Air Act:

(A) The Powder River Basin Area, described as that area bounded by Township 40 through 52 North, and Range 69 through 73 West, inclusive of the Sixth Principal Meridian, Campbell and Converse Counties, excluding the areas defined as the Pacific Power and Light attainment area and the Hampshire Energy attainment area.

(B) The Pacific Power and Light Area, described as that area bounded by the NW¼ of Section 27, T50N, R71W, Campbell County, Wyoming.

(C) The Hampshire Energy Area, described as that area bounded by Section 6 excluding the SW¼; E½ Section 7; Section 17 excluding the SW¼; Section 14 excluding the SE¼; Sections 2, 3, 4, 5, 8, 9, 10, 11, 15, 16 of T48N, R70W and Section 26 excluding the NE¼; SW¼ Section 23; Sections 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, 35 of T49N, R70W, Campbell County, Wyoming.

(D) The Kennecott-Puron Area, described as the area bounded by the W½SW¼ Section 18, W½NW¼, NW¼SW¼ Section 19, T47N, R70W, S½ Section 13, N½, N½SW¼, N½SE¼ Section 24 T47N, R71W, Campbell County, Wyoming.

(E) The remainder of the State of Wyoming.

(ii) Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments.

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

(i) The actual emissions, as defined in this section, representative of sources in existence on the applicable minor source baseline date, except as provided in paragraph (iv) of this definition;

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

(iii) Contributions due to emissions from any emitting source or modification which (1) is not listed in Chapter 6, Section 4(a) under the definition for "Major stationary source", item (a) and qualified as "major" prior to August 7, 1980 only because fugitive emissions were included in determining potential to emit, (2) submitted a complete permit application under Chapter 6, Section 4(b) or the Federal Clean Air Act prior to August 7, 1980, and (3) was in existence as of the minor source baseline date;

(iv) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increment:

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

(B) Actual emissions increases and decreases, as determined in accordance with the definition for "Actual emissions" in this section, at any stationary source occurring after the minor source baseline date.

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

"Best available control technology" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction of each pollutant subject to regulation under these Standards and Regulations or regulation under the Federal Clean Air Act, which would be emitted from or which results for any proposed major stationary source or major modification which the Administrator, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application or production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emission standard infeasible, he may instead prescribe a design, equipment, work practice or operational standard or combination thereof to satisfy the requirement of Best Available Control Technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results. Application of BACT shall not result in emissions in excess of those allowed under Chapter 5, Section 2 or Section 3 of these regulations and any other new source performance standard or national emission standards for hazardous air pollutants promulgated by the EPA but not yet adopted by the State of Wyoming.

"Clean coal technology" means any technology, including technologies applied at the

precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reduction in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology", up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

"Commenced", as applied to construction of a major stationary source or major modification, means that the owner or operator has obtained a Construction Permit required by Chapter 6, Section 2 and either has (i) begun, or caused to begin, a continuous program of actual on-site construction of the source or (ii) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

"Complete" means, in reference to an application for a permit, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Division from requesting or accepting any additional information.

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

"Continuous emissions monitoring system (CEMS)" means all of the equipment that may be required to meet the data acquisition and availability requirements of this section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

"Continuous emissions rate monitoring system (CERMS)" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

"Continuous parameter monitoring system (CPMS)" means all of the equipment necessary to meet the data acquisition and availability requirements of this section, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and to record average operational parameter value(s) on a continuous basis.

"Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output

capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric utility steam generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

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

(i) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

(ii) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (i) of this definition.

"Enforceable" means all limitations and conditions which are enforceable under provisions of the Wyoming Environmental Quality Act and/or are federally enforceable by the Administrator of the EPA, including those requirements developed pursuant to 40 CFR parts 60 and 61, requirements within the State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 51.166.

"Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.

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

"Greenhouse gases (GHGs)", the air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraph (iii) of this definition.

(i) For purposes of paragraphs (ii) and (iii) of this definition, the term ***"tpy CO_2 equivalent emissions (CO_2e)"*** shall represent an amount of GHGs emitted, and shall be computed as follows:

(A) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to Subpart A of 40 CFR part 98--Global Warming Potentials. Table A-1 to Subpart A of 40 CFR part 98 is adopted by reference.

(B) Sum the resultant value from paragraph (i)(A) of this definition for each gas to compute a tpy CO_2e.

(C) Prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

(ii) The term ***"emissions increase"*** as used in paragraph (iii) of this definition shall mean that both a significant emissions increase (as calculated using the procedures in (b)(i)(J) of this section) and a significant net emissions increase (as "net emissions increase" and "significant" are defined in this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO_2e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and "significant" is defined as 75,000 tpy CO_2e instead of applying the provisions in paragraphs (ii) or (iii) of the definition of "significant" in this section.

(iii) The pollutant GHGs is subject to regulation if the stationary source is:

(A) A new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO_2e or more; or

(B) An existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO_2e or more; or,

(C) A new stationary source that will emit or have the potential to emit 100,000 tpy CO_2e; or

(D) An existing stationary source that emits or has the potential to emit 100,000 tpy CO_2e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO_2e or more.

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

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

"Indian Reservation" means any federally recognized reservation established by treaty, agreement, executive order, or act of Congress.

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of

achieving at least comparable reductions at lower cost in terms of energy, economics, or non air quality environmental impacts.

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

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

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

"Low terrain" means any area other than high terrain.

"Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in: a significant emissions increase (as defined in the definition for "Significant emissions increase" in this section) of a regulated NSR pollutant (as defined in the definition for "Regulated NSR pollutant" in this section); and a significant net emissions increase of that pollutant from the major stationary source. Any significant emissions increase (as defined in the definition for "Significant emissions increase" in this section) from any emissions units or net emissions increase (as defined in the definition for "Net emissions increase" in this section) at a major stationary source that is significant for volatile organic compounds or NO_x shall be considered significant for ozone.

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

(A) Routine maintenance, repair and replacement.

(B) Use of an alternative fuel by reason of an order under section 125 of the Federal Clean Air Act;

(C) An increase in the hours of operation or in the production rate, if such increase does not exceed the operating design capacity of the major stationary source unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division;

(D) Use of an alternative fuel or raw material by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

(E) Use of an alternative fuel or raw material, if prior to January 6, 1975, the source was capable of accommodating such fuel or material unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division, or if the source is approved to use such fuel or material through an enforceable permit issued under these regulations;

(F) Change in ownership of the stationary source;

(G) The use of municipal solid waste as an alternative fuel at a steam generating plant;

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

(I) The Wyoming State Implementation Plan, and

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

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

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

(ii) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under paragraph (b)(xv) of this section for a PAL for that pollutant. Instead, the definition in paragraph (b)(xv)(B) for "PAL major modification" of this section shall apply.

"Major source baseline date" means:

(i) In the case of PM_{10} and sulfur dioxide, January 6, 1975; and

(ii) In the case of nitrogen dioxide, February 8, 1988.

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

"Major stationary source" means (a) any of the following stationary sources of air pollutants which emit, or have the potential to emit, one hundred tons per year or more of any air pollutant for which standards are established under these Standards and Regulations or under the Federal Clean Air Act, except for sources of GHGs addressed separately under (e) of this definition: fossil fuel-fired steam electric plants of more than two hundred and fifty million

British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, Portland Cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than two hundred and fifty tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil fuel boilers (or combinations thereof) of more than two hundred and fifty million British thermal units per hour heat input, petroleum storage and transfer plants with a capacity exceeding three hundred thousand barrels, taconite ore processing plants, glass fiber processing plants, charcoal production plants. (b) Such term also includes any stationary source which emits, or has the potential to emit, two hundred and fifty tons per year or more of any air pollutant for which standards are established under these Standards and Regulations or under the Federal Clean Air Act, except for sources of GHGs addressed separately under (e) of this definition. (c) Such term also includes any physical change that would occur at a stationary source not otherwise qualifying under this definition if the change would constitute a major stationary source by itself. (d) A major source which is major for volatile organic compounds or NO_x is considered to be major for ozone. (e) Such term also includes any source of greenhouse gases as defined in Chapter 6, Section 4(a), but only if: the greenhouse gases are subject to regulation under subsection (iii) of that definition, and the source's potential to emit greenhouse gases exceeds 100 tpy on a mass basis if listed under (a) of this definition of "Major stationary source" or 250 tpy on a mass basis if listed under (b) of this definition of "Major stationary source."

"Minor source baseline date" means the earliest date after August 7, 1977 for PM_{10} and sulfur dioxide, and after February 8, 1988 for nitrogen oxides, and after October 20, 2011 for $PM_{2.5}$ on which a major stationary source or major modification submits a complete permit application under Chapter 6, Section 4(b) or under the Federal Clean Air Act.

(i) The minor source baseline date for sulfur dioxide for the State of Wyoming is February 2, 1978.

(ii) The minor source baseline date for nitrogen oxides for the State of Wyoming is February 26, 1988.

(iii) The minor source baseline date for PM_{10} is as follows:

(A) For the Powder River Basin Area - March 6, 1997;

(B) For the Pacific Power and Light Area - June 18 1980;

(C) For the Hampshire Energy Area - September 30, 1982;

(D) For the Kennecott-Puron Area - February 27, 1995;

(E) For the rest of the State of Wyoming - February 22, 1979.

(iv) The minor source baseline date for $PM_{2.5}$ is as follows:

(A) For Laramie County - March 1, 2012;

(B) For the City of Cheyenne - March 1, 2012;

(C) For Carbon County - May 1, 2012;

(D) For Sweetwater County - December 12, 2012.

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

(A) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under the Federal Clean Air Act for the pollutant on the date of its complete application; and

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

(vi) The baseline date is not established by the permit application for an emitting source or modification which (1) is not listed in Chapter 6, Section 4(a) under the definition for "Major stationary source", item (a), (2) qualified as "major" prior to August 7, 1980 only because fugitive emissions were included in determining potential to emit, and (3) submitted a complete permit application under Chapter 6, Section 4(b) or the Federal Clean Air Act prior to August 7, 1980.

(vii) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments.

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

(i) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to paragraph (b)(i)(J) of this section;

(ii) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this paragraph (ii) shall be determined as provided in the definition for "Baseline actual emissions", except that paragraphs (i)(C) and (ii)(D) of the definition for "Baseline actual emissions" shall not apply.

(iii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(A) The date five years before construction on the particular change commences; and

(B) The date that the increase from the particular change occurs.

(iv) An increase or decrease in actual emissions is creditable only if:

(A) The Division has not relied on it in issuing a Chapter 6, Section 4 permit for the source, which is in effect when the increase in actual emissions from the particular change occurs.

(v) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

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

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

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

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

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

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

(ix) The definition of "Actual emissions" of this section, shall not apply for determining creditable increases and decreases.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or the type or amount of material combusted, stored, or

processed, shall be treated as part of its design if the limitation or the affect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Predictive emissions monitoring system (PEMS)" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

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

"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.

(i) In determining the projected actual emissions under the above paragraph of this section (before beginning actual construction), the owner or operator of the major stationary source:

(A) Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans approved by the Division;

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

(C) Shall 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 the definition for "Baseline actual emissions" of this section and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,

(D) In lieu of using the method set out in paragraphs (i)(A) through (C) of this definition, may elect to use the emissions unit's potential to emit, in tons per year, as defined under the definition of "Potential to emit" of this section.

"Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with the commencement of

commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

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

(ii) Was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of not less than 98 percent;

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

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

"Regulated NSR pollutant", for purposes of this section, means the following:

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

(A) $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits. Compliance with emissions limitations for $PM_{2.5}$ and PM_{10} issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this subsection unless the applicable implementation plan required condensable particulate matter to be included;

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

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

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

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

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

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

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

(iv) Any pollutant that otherwise is subject to regulation under the Federal Clean Air Act; except that any or all hazardous air pollutants either listed in section 112 of the Federal Clean Air Act or added to the list pursuant to section 112(b)(2) of the Federal Clean Air Act, which have not been delisted pursuant to section 112(b)(3) of the Federal Clean Air Act, are not regulated NSR pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Federal Clean Air Act.

(v) [Reserved.]

"Replacement unit" means an emissions unit for which all the criteria listed in this section are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

(i) The emissions unit is a reconstructed unit within the meaning of 40 CFR part 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

(ii) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(iii) The replacement does not change the basic design parameter(s) (as discussed in 40 CFR part 51.166(y)(2)) of the process unit.

(iv) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

"Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator of EPA, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and

any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

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

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

"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or modification of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle or from a train.

"Significant" means:

(i) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

POLLUTANT AND EMISSIONS RATE

Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
Particulate matter:	25 tpy of particulate matter emissions; 15 tpy of PM_{10} emissions
$PM_{2.5}$:	10 tpy of direct $PM_{2.5}$ emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a $PM_{2.5}$ precursor under the definition of "Regulated NSR pollutant" in Section 4(a) of this chapter
Ozone:	40 tpy of volatile organic compounds or nitrogen oxides
Lead:	0.6 tpy
Fluorides:	3 tpy

Sulfuric acid mist:	7 tpy
Hydrogen sulfide (H_2S):	10 tpy
Total reduced sulfur (including H_2S):	10 tpy
Reduced sulfur compounds (including H_2S):	10 tpy
Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans):	3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year)
Municipal waste combustor metals (measured as particulate matter):	14 megagrams per year (15 tons per year)
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride):	36 megagrams per year (40 tons per year)
Municipal solid waste landfill emissions (measured as nonmethane organic compounds):	45 megagrams per year (50 tons per year)

(ii) "Significant" means, in reference to a net emissions increase or the potential of a source to emit a pollutant subject to these regulations and regulations under the Clean Air Act, that paragraph (i) above does not list, any emissions rate.

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

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in paragraph (i) of the definition of "Significant" in this section) for that pollutant.

"Stationary source" means any structure, building, facility, equipment, installation or operation (or combination thereof) which emits or may emit any air pollutant subject to these regulations or regulations under the Federal Clean Air Act.

"Structure, building, facility, equipment, installation, or operation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same *Major Group* (i.e., which have the same two-digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Wyoming State Implementation Plan and other requirements necessary to

attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Volatile organic compounds (VOCs)" is defined in Chapter 3, Section 6(a) of these regulations.

(b) Any person who plans to construct any major stationary source or undertake a major modification of an existing stationary source shall be subject to the conditions outlined below.

(i) (A) (I) The review of the stationary source for the construction or modification permit(s) required under Chapter 6, Section 2 of these regulations shall apply and shall be expanded so as to include analysis of the predicted impact of the allowable and secondary emissions from the stationary source on the ambient air quality in areas affected by such emissions. An analysis of the predicted impact of emissions from the stationary source is required for all pollutants for which standards have been established under these regulations or under the Federal Clean Air Act and which are emitted in significant amounts. An analysis of the impact of other pollutants may be required by the Administrator. Such analysis shall identify and quantify the impact on the air quality in the area of all emissions not included in the baseline concentrations including, but not limited to, those emissions resulting from the instant application and all other permits issued in the area. The purpose of this analysis is to determine the total deterioration of air quality from the baseline concentrations; however, projections of deterioration due to general non-stationary source growth in the area predicted to occur after the date of application is not required. A permit to construct pursuant to Chapter 6, Section 2 shall be issued only if the conditions of Chapter 6, Section 2 are complied with and if the predicted impact (over and above the baseline concentration) of emissions defined above is less than the maximum allowable increment shown in Table 1 for the classification of the area in which the impact is predicted, and if the ambient standard for the pollutant(s) is not exceeded.

Table 1

Maximum Allowable Increments of Deterioration - $\mu g/m^3$

Pollutant	Class I	Class II
Particulate Matter:		
$PM_{2.5}$, annual arithmetic mean	1	4
$PM_{2.5}$, 24-hr maximum*	2	9
PM_{10}, annual arithmetic mean	4	17
PM_{10}, 24-hour maximum*	8	30
Sulfur Dioxide:		
Annual arithmetic mean	2	20
24-hour maximum*	5	91
3-hour maximum*	25	512
Nitrogen Dioxide		
Annual arithmetic mean	2.5	25

*Maximum allowable increment may be exceeded once per year at any receptor site.

(II) Notwithstanding the provisions of paragraph (b)(i)(A)(I) above, the following concentrations shall be excluded in determining compliance with maximum allowable increases:

(l.) Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order. No such exclusion shall apply for more than five years after the later of such effective dates;

(2.) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan. No such exclusion shall apply for more than 5 years after the later of such effective date;

(3.) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;

(4.) The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentrations; and

(5.) Concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate matter, or nitrogen oxides from stationary sources as

specified below.

a. The temporary emissions do not occur for more than 2 years.

b. The 2-year time period is not renewable.

c. Such temporary emissions are not eligible for exclusion if they would impact a Class I Area or an area where the applicable increment is known to be violated or an area where they would cause or contribute to a violation of the applicable ambient air quality standard.

d. At the end of the temporary emission time frame, emissions from the stationary source causing these temporary emissions shall not exceed those levels occurring at such source prior to such temporary emission.

(B) In addition to the analyses required under Chapter 6, Section 4(b)(i)(A) above,

(I) The owner or operator shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

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

(C) The requirements for demonstration of compliance with applicable increments of Chapter 6, Section 4(b)(i)(A)(I), the additional analysis requirements of Chapter 6, Section 4(b)(i)(B) and the ambient air quality analysis requirements of Chapter 6, Section 4(b)(i)(E) shall not apply to a proposed major stationary source or modification with respect to a particular pollutant if the Administrator determines that:

(I) The increase in allowable emissions of that pollutant from the stationary source or the net emissions increase of that pollutant from a modification would be temporary and would impact no Class I Area and no area where an applicable increment is known to be violated; or

(II) The stationary source was in existence on March 1, 1978, and that the maximum allowable emission increases only impact Class II Areas, and that after application of BACT, the increase in allowable emissions of each pollutant would be less than 50 tons per year.

(D) Fugitive emissions, to the extent quantifiable, will be considered in calculating the potential to emit of the stationary source or modification only for:

(I) Sources listed in Chapter 6, Section 4(a) under the definition of "Major stationary source", item (a).

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

(III) And such other sources as the Environmental Quality Council may later determine.

(E) An application subject to this section shall contain an analysis of ambient air quality in the area that would be affected by the stationary source or modification as required below:

(I) For each pollutant that the source would have the potential to emit in a significant amount.

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

(III) For pollutants for which National Ambient Air Quality Standards have been established, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

(IV) In general, the required continuous air quality monitoring data shall have been gathered over a period of one year immediately preceding receipt of the application. The Administrator may provide that the monitoring period specification may be reduced to a minimum of four months if he is satisfied that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year.

(V) All monitoring conducted pursuant to the requirements of this section shall meet the requirements of Appendix B of 40 CFR part 58.

(VI) The requirements for pre-construction monitoring specified above and under Chapter 6, Section 2(b) with respect to monitoring for a particular pollutant may be waived by the Administrator upon petition from an applicant if:

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

a. Carbon Monoxide - 575 $\mu g/m^3$, 8-hour average;

b. Nitrogen Dioxide - 14 μg/m^3, annual average;

c. $PM_{2.5}$ - 4 μg/m^3, 24-hour average;

d. PM_{10} - 10 μg/m^3 of PM_{10}, 24-hour average;

e. Sulfur Dioxide - 13 μg/m^3, 24-hour average;

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

g. Lead - 0.1 μg/m^3, 3-month average;

h. Fluorides - 0.25 μg/m^3, 24-hour average;

i. Total Reduced Sulfur - 10 μg/m^3, 1-hour average;

j. Hydrogen Sulfide - 0.2 μg/m^3, 1-hour average;

k. Reduced Sulfur Compounds - 10 μg/m^3, 1-hour average; or

(2.) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in paragraph (b)(i)(E)(VI)(1.) of this section; or

(3.) The pollutant is not listed in paragraph (b)(i)(E)(VI)(1.) of this section.

(F) The Administrator may require an applicant subject to the provisions of this section to conduct an approved visibility monitoring program in any Class I Area which may be impacted by emissions from the proposed stationary source.

(G) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, then all of the provisions of Chapter 6, Sections 2 and 4 shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(H) The following specific provisions apply to projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where the owner or operator elects to use the method specified in paragraphs (i)(A) through (C) of the definition for “Projected actual emissions” 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:

(1.) A description of the project;

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

(3.) 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 (i)(C) of the definition for "Projected actual emissions" in Section 4(a) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(II) Before beginning actual construction, the owner or operator shall provide the information set out in paragraph (b)(i)(H)(I) of this section to the Division as a Chapter 6, Section 2 permit application.

(III) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph (b)(i)(H)(I)(2.) of this section; and calculate and maintain 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 or potential to emit of that regulated NSR pollutant at such emissions unit.

(IV) 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 paragraph (b)(i)(H)(III) of this section setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(I) The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph (b)(i)(H) of this section available for review upon request for inspection by the Division or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).

(J) (I) Except as otherwise provided in paragraph (b)(xv) of this section, and consistent with the definition of "Major modification" contained in Section 4(a), a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases - a significant emissions increase (as defined in the definition for "Significant emissions increase" in Section 4(a)), and a significant net emissions increase (as defined in the definitions for "Net emissions increase" and "Significant" in Section 4(a)). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a

significant net emissions increase.

(II) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (b)(i)(J)(III) through (V) of this section. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition for "Net emissions increase" in Section 4(a). Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(III) Actual-to-Projected-Actual Applicability Test For Projects That Only Involve Existing Emissions Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in the definition for "Projected actual emissions" in Section 4(a)) and the baseline actual emissions (as defined in paragraphs (i) and (ii) in the definition of "Baseline actual emissions" in Section 4(a)) for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in the definition of "Significant" in Section 4(a)).

(IV) Actual-to-Potential Test For Projects That Only Involve Construction of a New Emissions Unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in the definition for "Potential to emit" in Section 4(a)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in paragraph (iii) for the definition of "Baseline actual emissions" in Section 4(a)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in the definition of "Significant" in Section 4(a)).

(V) 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 (b)(i)(J)(III) and (IV) of this section as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in the definition of "Significant" in Section 4(a)).

(ii) (A) The required permit shall not be issued unless the proposed major stationary source or major modification would meet an emission limit(s) or equipment standard(s) specified by the Administrator to represent the application of Best Available Control Technology for each pollutant regulated under these Standards and Regulations and under the Federal Clean Air Act and having the potential to emit in significant amounts. For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest, most reasonable time no later than 18 months prior to commencement of each phase of the proposed project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available

control technology for the stationary source.

(B) In the case of a major modification, the requirements for Best Available Control Technology shall apply only to each new or modified emissions unit at which a net emissions increase of the pollutant would occur.

(C) (I) The applicant for a permit for a source subject to this section may petition the Administrator to approve a system of innovative control technology.

(II) The Administrator, with the approval of the governor(s) of other affected state(s) may approve the employment of a system of innovative control technology if:

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

(2.) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under paragraphs (ii)(A) and (B) above by a date specified by the Administrator. Such date shall not be later than 4 years from the time of startup or 7 years from permit issuance.

(3.) The major stationary source or major modification would meet the requirements equivalent to those in paragraphs (b)(i)(A)(I), (b)(ii)(A), and (b)(ii)(B) above based on the emission rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Administrator.

(4.) The source or modification would not before the date specified by the Administrator:

a. Cause or contribute to any violation of an applicable National Ambient Air Quality Standard, or

b. Impact any Class I Area, or

c. Impact any area where an applicable increment is known to be violated.

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

(III) The approval to employ a system of innovative control technology shall be withdrawn by the Administrator if:

(1.) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate, or

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

(3.) The Administrator decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

(IV) If the source or modification fails to meet the required level of continuous emissions reduction within the specified time period or if the approval is withdrawn in accordance with (III) above, the Administrator may allow the source or modification up to an additional three years to meet the requirement for the application of BACT through use of a demonstrated system of control.

(iii) Temporary particulate matter emissions such as those associated with the construction phase of the source shall not be included in the determination on the issuance or denial of a required permit and shall not be taken into account when determining compliance with the maximum allowable increments in Table 1; however, Best Available Control Technology shall be applied to abate such temporary emission.

(iv) All applications of air quality modeling required under paragraph (b)(i) above shall be based on the applicable models, databases, and other requirements specified in Appendix W of 40 CFR part 51 (Guideline on Air Quality Models). Where an air quality model specified in Appendix W of 40 CFR part 51 (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific State of Wyoming program. Written approval of the EPA Administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures set forth in Chapter 6, Section 2(g).

(v) In any case where the federal official charged with direct responsibility for management of any lands within a Class I Area, or the Administrator of EPA or the governor of an adjacent state containing such a Class I Area, files a notice alleging that emissions from a proposed source or major modification may cause or contribute to a change in the air quality in such area and identifying the potential adverse impact of such change, a permit shall not be issued unless the owner or operator of such source demonstrates to the satisfaction of the Administrator that emissions of particulate matter, sulfur dioxide, and nitrogen oxides will not cause or contribute to concentrations which exceed the maximum allowable increases for the Class I Area in question.

(vi) (A) In any case where a Federal Land Manager demonstrates to the satisfaction of the Administrator that the emissions from such source will have an adverse impact on the air quality-related values (including visibility) of such Class I Areas, notwithstanding the fact that the change in air quality resulting from emissions from such source will not cause or

contribute to concentrations which exceed the maximum allowable increases for Class I Areas, a permit shall not be issued.

(B) However, in the case where the Federal Land Manager provides to the Division at least 30 days prior to the Public Notice issued pursuant to Chapter 6, Section 2(m) of these regulations, an analysis of the impact of the emissions on visibility in a Federal Class I Area, the Division must consider such analysis in making its proposed decision. If the Federal Land Manager's analysis concludes that an adverse impact on visibility in the Federal Class I Area will occur but the Administrator determines that the analysis does not demonstrate to his satisfaction that such an adverse impact on visibility will occur, the Administrator shall in the Public Notice issued pursuant to the requirements of Chapter 6, Section 2(m), explain his decision or give notice as to where the explanation can be obtained.

(vii) In any case where the owner or operator of such source demonstrates to the satisfaction of the Federal Land Manager, and the Federal Land Manager so certifies, that the emissions from such source will have no adverse impact on the air quality-related values of such Class I Areas (including visibility) notwithstanding the fact that the change in air quality resulting from emissions from such source will cause or contribute to concentrations which exceed the maximum allowable increases for Class I Areas, the Administrator may issue a permit.

(viii) In the case of a permit issued pursuant to subsection (vii), such source shall comply with such emission limitation under such permit as may be necessary to assure that emissions of sulfur oxides, particulate matter, and nitrogen oxides from such source, will not cause or contribute to concentrations of such pollutant which exceeds the following maximum allowable increases over the baseline concentration for such pollutants:

	Maximum Allowable Increase (micrograms per cubic meter)
Particulate matter:	
$PM_{2.5}$, annual arithmetic mean	4
$PM_{2.5}$, 24-hr maximum	9
PM_{10}, annual arithmetic mean	17
PM_{10}, 24-hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
Twenty-four-hour maximum	91
Three-hour maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

(ix) (A) In any case where the owner or operator of a proposed major

stationary source or major modification who has been denied a certification under subparagraph (vii) demonstrates to the satisfaction of the Governor of Wyoming (hereinafter the Governor), after notice and public hearing, and the Governor finds, that the source cannot be constructed by reason of any maximum allowable increases for sulfur dioxide for periods of twenty-four hours or less applicable to any Class I Area and, in the case of federal Mandatory Class I Areas, that a variance under this clause will not adversely affect the air quality related values of the area (including visibility), the Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may grant a variance from such maximum allowable increase. If a variance is granted, a permit may be issued to such source pursuant to the requirements of this subparagraph provided other requirements of this section are met.

(B) In the case of a permit issued pursuant to subparagraph (ix)(A), such source shall comply with such emission limitations under such permit as may be necessary to assure that emissions of sulfur oxides from such source will not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which exceed the following maximum allowable increases for such areas over the baseline concentration for such pollutant and to assure that such emissions will not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less on more than 18 days during any annual period.

	Maximum Allowable Increase (micrograms per cubic meter)
Period of exposure:	
Low terrain areas:	
24-hr maximum	36
3-hr maximum	130
High terrain areas:	
24-hr maximum	62
3-hr maximum	221

(x) Notwithstanding other requirements of this section, a portable source which is a major stationary source and which has otherwise received a construction permit under Chapter 6, Sections 2 and 4 shall not be required to obtain additional relocation permits under this section if:

(A) Emissions from the source would not exceed allowable emissions;

and

(B) Such relocation would impact no Class I Area and no area where an applicable increment is known to be violated; and

(C) Notice is given to the Division at least 10 days prior to such relocation identifying the proposed new location and the probable duration of operation at such location; and

(D) Emissions at the new location will be temporary.

(xi) After a final decision is made on an application for a source subject to this section, the final decision will be transmitted in writing to the applicant and the final decision and all comments received by the Division during the public comment period will be made available for public inspection in the same location where the application and analysis was posted. A copy of each permit application for each source or modification subject to this section and impacting a Federal Class I Area will be transmitted to EPA. EPA will be provided with notice of each action taken by the Division on such application.

(xii) [Reserved.]

(xiii) [Reserved.]

(xiv) [Reserved.]

(xv) Actuals Plantwide Applicability Limitations (PALs).

(A) Applicability.

(I) The Division may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in paragraphs (b)(xv)(A) through (O) of this section. The term "PAL" shall mean "actuals PAL" throughout paragraph (b)(xv) of this section.

(II) Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in paragraphs (b)(xv)(A) through (O) of this section, and complies with the PAL permit:

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

(2.) Does not have to be approved through a Chapter 6, Section 4 permit; and

(3.) Is not subject to the provisions in paragraph (b)(i)(G) of this section (restrictions on relaxing enforceable emission limitations that the major stationary

source used to avoid applicability of Chapter 6, Section 4).

(III) Except as provided under paragraph (b)(xv)(A)(II)(3.) of this section, a major stationary source shall continue to comply with all applicable Federal or State of Wyoming requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

(B) Definitions. The following definitions shall be used for actuals PALs consistent with paragraphs (b)(xv)(A) through (O) of this section. When a term is not defined in these paragraphs, it shall have the meaning given in Section 4(a) of this section or in the Clean Air Act.

"Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 4(a)) of all emissions units (as defined in the definition for "Source" in Section 4(a)) at the source, that emit or have the potential to emit the PAL pollutant.

"Allowable emissions" has the same meaning as in the definition for "Allowable emissions" in Section 4(a), except as this definition is modified according to paragraphs (i) and (ii) of this definition.

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

(ii) An emissions unit's potential to emit shall be determined using the definition of "Potential to emit" in Section 4(a), except that the words "or enforceable as a practical matter" should be added after "enforceable".

"Major emissions unit" means:

(i) Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or

(ii) Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Clean Air Act for nonattainment areas. (For example, in accordance with the definition of major stationary source in section 182(c) of the Clean Air Act, an emissions unit would be a major emissions unit for VOC if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOC per year.)

"PAL effective date" generally means the date of issuance of the PAL permit; however, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

"PAL effective period" means the period beginning with the PAL effective date and ending 10 years later.

"PAL major modification" means, notwithstanding the definitions for "Major modification" and "Net emissions increase" of Section 4(a), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

"PAL permit" means the Chapter 6, Section 2 or Section 4 permit issued by the Division that establishes a PAL for a major stationary source.

"PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

"Plantwide applicability limitation (PAL)" means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with paragraphs (b)(xv)(A) through (O) of this section.

"Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in the definition for "Significant" in Section 4(a) or in the Clean Air Act, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in paragraph (b)(xv)(B) for the definition of "Major emissions unit" of this section.

"Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in the definition for "Significant" in Section 4(a) or in the Clean Air Act, whichever is lower.

(C) Permit Application Requirements. As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information in paragraphs (b)(xv)(C)(I) through (III) of this section to the Division for approval.

(I) A List of All Emissions Units at the Source Designated as Small, Significant or Major Based on Their Potential to Emit. In addition, the owner or operator of the source shall indicate which, if any, Federal or State of Wyoming applicable requirements, emission limitations, or work practices apply to each unit.

(II) Calculations of the Baseline Actual Emissions (With Supporting Documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction.

(III) The calculation procedures that the major stationary source

owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph (b)(xv)(M)(I) of this section.

(D) General Requirements For Establishing PALs.

(I) The Division may establish a PAL at a major stationary source, provided that at a minimum, the requirements in paragraphs (b)(xv)(D)(I)(1.) through (7.) of this section are met.

(1.) The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

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

(3.) The PAL permit shall contain all the requirements of paragraph (b)(xv)(G) of this section.

(4.) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

(5.) Each PAL shall regulate emissions of only one pollutant.

(6.) Each PAL shall have a PAL effective period of 10 years.

(7.) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in paragraphs (b)(xv)(L) through (N) of this section for each emissions unit under the PAL through the PAL effective period.

(II) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under 40 CFR part 51.165(a)(3)(ii) unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

(E) Public Participation Requirements For PALs. PALs for existing major stationary sources shall be established, renewed, or increased, through a procedure that is consistent with Chapter 6, Section 2. This includes the requirement that the Division provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The Division must address all material comments before taking final action on the permit.

(F) Setting the 10-Year Actuals PAL Level.

(I) Except as provided in paragraph (b)(xv)(F)(II) of this section, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 4(a)) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under the definition of "Significant" in Section 4(a) or under the Clean Air Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units; however, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Division shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable Federal or State of Wyoming regulatory requirement(s) that the Division is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).

(II) 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 actual emissions as specified in paragraph (b)(xv)(F)(I) of this section, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

(G) Contents of the PAL Permit. The PAL permit shall contain, at a minimum, the information in paragraphs (b)(xv)(G)(I) through (X) of this section.

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

(II) The PAL permit effective date and the expiration date of the PAL (PAL effective period).

(III) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with paragraph (b)(xv)(J) of this section before the end of the PAL effective period, then the PAL shall not expire at the end of the

PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Division.

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

(V) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of paragraph (b)(xv)(I) of this section.

(VI) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph (b)(xv)(C)(I) of this section.

(VII) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under paragraph (b)(xv)(M) of this section.

(VIII) A requirement to retain the records required under paragraph (b)(xv)(M) of this section on site. Such records may be retained in an electronic format.

(IX) A requirement to submit the reports required under paragraph (b)(xv)(N) of this section by the required deadlines.

(X) Any other requirements that the Division deems necessary to implement and enforce the PAL.

(H) PAL Effective Period and Reopening of the PAL Permit.

(I) PAL Effective Period. The PAL effective period shall be 10 years.

(II) Reopening of the PAL Permit.

(1.) During the PAL effective period, the Division shall reopen the PAL permit to:

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

b. Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under 40 CFR part 51.165(a)(3)(ii); and

c. Revise the PAL to reflect an increase in the PAL

as provided under paragraph (b)(xv)(K) of this section.

(2.) The Division may reopen the PAL permit for the following:

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

b. Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the Division may impose on the major stationary source; and

c. Reduce the PAL if the Division determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an AQRV that has been identified for a Federal Class I Area by a Federal Land Manager and for which information is available to the general public.

(3.) Except for the permit reopening in paragraph (b)(xv)(H)(II)(1.)a. of this section for the correction of typographical/calculation errors that do not increase the PAL level, all reopenings shall be carried out in accordance with the public participation requirements of paragraph (b)(xv)(E) of this section.

(I) Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in paragraph (b)(xv)(J) of this section shall expire at the end of the PAL effective period, and the requirements in paragraphs (b)(xv)(I)(I) through (V) of this section shall apply.

(I) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the procedures in paragraphs (b)(xv)(I)(I)(1.) and (2.) of this section.

(1.) Within the time frame specified for PAL renewals in paragraph (b)(xv)(J)(II) of this section, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Division) by distributing the PAL-allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph (b)(xv)(J)(V) of this section, such distribution shall be made as if the PAL had been adjusted.

(2.) The Division shall decide whether and how the PAL-allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Division determines is appropriate.

(II) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Division may approve the use of

monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS or CPMS to demonstrate compliance with the allowable emission limitation.

(III) Until the Division issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (b)(xv)(I)(I)(2.) of this section, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(IV) Any physical change or change in the method of operation at the major stationary source will be subject to Chapter 6, Section 4 requirements if such change meets the definition of "Major modification" in Section 4(a).

(V) The major stationary source owner or operator shall continue to comply with any State of Wyoming or Federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to paragraph (b)(i)(G) of this section, but were eliminated by the PAL in accordance with the provisions in paragraph (b)(xv)(A)(II)(3.) of this section.

(J) Renewal of a PAL.

(I) The Division shall follow the procedures specified in paragraph (b)(xv)(E) of this section in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Division.

(II) Application Deadline. A major stationary source owner or operator shall submit a timely application to the Division to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

(III) Application Requirements. The application to renew a PAL permit shall contain the information required in paragraphs (b)(xv)(J)(III)(1.) through (4.) of this section.

(1.) The information required in paragraphs (b)(xv)(C)(I) through (III) of this section.

(2.) A proposed PAL level.

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

(4.) Any other information the owner or operator wishes the Division to consider in determining the appropriate level for renewing the PAL.

(IV) PAL Adjustment. In determining whether and how to adjust the PAL, the Division shall consider the options outlined in paragraphs (b)(xv)(J)(IV)(1.) and (2.) of this section; however, in no case may any such adjustment fail to comply with paragraph (b)(xv)(J)(IV)(3.) of this section.

(1.) If the emissions level calculated in accordance with paragraph (b)(xv)(F) of this section is equal to or greater than 80 percent of the PAL level, the Division may renew the PAL at the same level without considering the factors set forth in paragraph (b)(xv)(J)(IV)(2.) of this section; or

(2.) The Division may set the PAL at a level that it determines to be more representative of the source's baseline actual emissions, or that it determines to be 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 Division in its written rationale.

(3.) Notwithstanding paragraphs (b)(xv)(J)(IV)(1.) and (2.) of this section:

a. If the potential to emit of the major stationary source is less than the PAL, the Division shall adjust the PAL to a level no greater than the potential to emit of the source; and

b. The Division shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of paragraph (b)(xv)(K) of this section (increasing a PAL).

(V) If the compliance date for a State of Wyoming or Federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Division has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or Chapter 6, Section 3 operating permit renewal, whichever occurs first.

(K) Increasing a PAL During the PAL Effective Period.

(I) The Division may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (b)(xv)(K)(I)(1.) through (4.) of this section.

(1.) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in

emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(2.) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(3.) The owner or operator obtains a Chapter 6, Section 4 permit for all emissions unit(s) identified in paragraph (b)(xv)(K)(I)(1.) of this section, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the Chapter 6, Section 4 process (for example, BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.

(4.) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(II) The Division shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with paragraph (b)(xv)(K)(I)(2.) of this section), plus the sum of the baseline actual emissions of the small emissions units.

(III) The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of paragraph (b)(xv)(E) of this section.

(L) Monitoring Requirements for PALs.

(I) General Requirements.

(1.) Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(2.) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in paragraphs (b)(xv)(L)(II)(1.) through (4.) of this section and must be approved by the Division.

(3.) Notwithstanding paragraph (b)(xv)(L)(I)(2.) of this section, you may also employ an alternative monitoring approach that meets paragraph (b)(xv)(L)(I)(1.) of this section if approved by the Division.

(4.) Failure to use a monitoring system that meets the requirements of this section renders the PAL invalid.

(II) Minimum Performance Requirements For Approved Monitoring Approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (b)(xv)(L)(III) through (IX) of this section:

(1.) Mass balance calculations for activities using coatings or solvents;

(2.) CEMS;

(3.) CPMS or PEMS; and

(4.) Emission factors.

(III) Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

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

(2.) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

(3.) Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Division determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(IV) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1.) CEMS must comply with applicable Performance Specifications found in 40 CFR part 60, Appendix B; and

(2.) CEMS must sample, analyze, and record data at least every 15 minutes while the emissions unit is operating.

(V) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1.) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

(2.) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Division, while the emissions unit is operating.

(VI) Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

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

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

(3.) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the Division determines that testing is not required.

(VII) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

(VIII) Notwithstanding the requirements in paragraphs (b)(xv)(L)(III) through (VIII) of this section, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Division shall, at the time of permit issuance:

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

(2.) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

(IX) Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Division. Such testing must occur at least once every 5 years after issuance of the PAL.

(M) Recordkeeping Requirements.

(I) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of paragraph (b)(xv) of this section and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record.

(II) The PAL permit shall require an owner or operator to retain a copy of the following records, for the duration of the PAL effective period plus 5 years:

(1.) A copy of the PAL permit application and any applications for revisions to the PAL; and

(2.) Each annual certification of compliance pursuant to Chapter 6, Section 3 and the data relied on in certifying the compliance.

(N) Reporting and Notification Requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Division in accordance with the applicable Chapter 6, Section 3 operating permit program. The reports shall meet the requirements in paragraphs (b)(xv)(N)(I) through (III) of this section.

(I) Semi-annual Report. The semi-annual report shall be submitted to the Division within 30 days of the end of each reporting period. This report shall contain the information required in paragraphs (b)(xv)(N)(I)(1.) through (7.) of this section.

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

(2.) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to paragraph (b)(xv)(M)(I) of this section.

(3.) All data relied upon, including, but not limited to, any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions.

(4.) A list of any emissions units modified or added to the

major stationary source during the preceding 6-month period.

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

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

(7.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(II) Deviation Report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to Chapter 6, Section 3(h)(i)(C)(III)(2.) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by Chapter 6, Section 3(h)(i)(C)(III)(2.). The reports shall contain the following information:

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

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

(3.) Emissions resulting from the deviation or the exceedance; and

(4.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(III) Re-validation Results. The owner or operator shall submit to the Division the results of any re-validation test or method within three months after completion of such test or method.

(O) Transition Requirements.

(I) The Division shall not issue a PAL that does not comply with the requirements in paragraphs (b)(xv)(A) through (O) of this section after the Administrator has

approved regulations incorporating these requirements into Chapter 6, Section 4.

(II) The Division may supersede any PAL which was established prior to the date of approval of this regulation by the Administrator of EPA with a PAL that complies with the requirements of paragraphs (b)(xv)(A) through (O) of this section.

(xvi) If any provision of this section, or the application of such provision to any person or circumstance, is held invalid, the remainder of this section, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(xvii) Transition:

(A) The requirements for BACT in Chapter 6, Section 4(b)(ii) and the requirements for air quality analysis in Chapter 6, Section 4(b)(i) shall not apply to a major stationary source or major modification that was subject to Chapter 6, Section 4, as effective on January 25, 1979, if the owner or operator of the source submitted an application for a permit under these regulations before August 7, 1980, and the Administrator subsequently determines that the application submitted before that date was complete. Instead, the requirements of Chapter 6, Section 4 as in effect on January 25, 1979, apply to any such source or modification.

(B) The requirements for air quality monitoring in paragraph (b)(i)(E) shall not apply to a particular source or modification that was subject to Chapter 6, Section 4, as effective on January 25, 1979, if the owner or operator of the source or modification submits an application for a permit under these regulations on or before June 8, 1981, and the Administrator subsequently determines that the application submitted before that date was complete with respect to the requirements for ambient air quality data analyses as in effect on January 25, 1979. Instead, the latter requirements shall apply to such source or modification.

(C) The requirements for air quality monitoring in paragraph (b)(i)(E) shall not apply to a particular source or modification that was not subject to Chapter 6, Section 4, as effective on January 25, 1979, if the owner or operator of the source or modification submits an application for a permit under these regulations before June 8, 1981, and the Administrator subsequently determines that the application as submitted before that date was complete except with respect to the requirements in paragraph (b)(i)(F).

(D) The requirements for air quality monitoring for PM_{10} in paragraphs (b)(i)(E)(I) through (IV) of this section, effective February 13, 1989, shall not apply to a particular source or modification, if the owner or operator of the source or modification submits an application for a permit under Chapter 6, Section 4 on or before June 1, 1988 and the Administrator subsequently determines that the application submitted before that date was complete, except with respect to the requirements for monitoring particulate matter.

(E) The requirements for air quality monitoring of PM_{10} in paragraphs (b)(i)(E)(IV) through (b)(i)(E)(V) of this section, effective February 13, 1989, shall apply to a particular source or modification if the owner or operator of the source or modification submits

an application for a permit under this section after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions set forth under paragraph (b)(xvii)(G) of this section, except that the Administrator may provide that the monitoring period specification may be reduced to a minimum of four months if he is satisfied that a complete and adequate analysis can be accomplished with monitoring data gathered over that shorter period of time.

(F) For any application under this section that becomes complete except as to the requirements of paragraphs (b)(i)(E)(III) and (b)(i)(E)(IV) pertaining to PM_{10}, after December 1, 1988 and no later than August 1, 1989, the data that paragraph (b)(i)(E)(III) requires will have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete. The Administrator may provide that the monitoring period specification may be reduced to a minimum of four months if he is satisfied that a complete and adequate analysis can be accomplished with monitoring data gathered over that shorter period of time.

(G) With respect to any requirements for air quality monitoring of PM_{10} specified under paragraphs (b)(xvii)(D) and (b)(xvii)(E) of this section, effective February 13, 1989, the owner or operator of the source or modification shall use a monitoring method approved by the Administrator and shall estimate the ambient concentrations of PM_{10} using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Administrator.

(H) The requirement to demonstrate compliance with the maximum allowable increment for nitrogen dioxide shall not apply to a major stationary source or major modification that was subject to Chapter 6, Section 4, as effective on February 8, 1988, if the owner or operator of the source or modification submits an application for a permit under these regulations on or before October 30, 1990 and the Administrator subsequently determines that the application submitted before that date was complete.

(I) The requirement to demonstrate compliance with the maximum allowable increment for PM_{10} shall not apply to a major stationary source or major modification that was subject to Chapter 6, Section 4, as effective on June 3, 1993, if the owner or operator of the source or modification submits an application for a permit under these regulations on or before the effective date of this regulation revision and the Administrator subsequently determines that the application submitted before that date was complete. Instead, the requirement to demonstrate compliance with the maximum allowable increment for TSP, as in effect at the time the application was submitted, shall apply:

Maximum Allowable Increments of Deterioration - $\mu g/m^3$

Pollutant	Class I	Class II
Particulate Matter:		
TSP, Annual geometric mean	5	19

TSP, 24-hour maximum*	10	37

*Maximum allowable increment may be exceeded once per year at any receptor site.

(c) All national parks, national wilderness areas, and national memorial parks in Wyoming as of January 25, 1979, shall be designated Class I and may not be redesignated. All other areas of the State of Wyoming shall be designated Class II as of the effective date of this regulation.

(d) Redesignation. All redesignation of areas within the State of Wyoming shall be accomplished through the process of establishment of Standards and Regulations set forth in the Wyoming Environmental Quality Act.

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

(A) An area which exceeds 10,000 acres in size and is a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore; and

(B) A national park or national wilderness area which exceeds 10,000 acres in size and is established after the effective date of this regulation.

(ii) Except as provided in paragraph (c) above, any area may be redesignated as Class I or II, with the approval of the Administrator of the Environmental Protection Agency, in accordance with the provisions of paragraph (iii) below; provided, however, that lands within the exterior boundaries of reservations of federally recognized Indian tribes may be redesignated to any class, but only by the appropriate Indian governing body.

(iii) (A) At least one public hearing must be held in accordance with the provisions for adoption of regulations as set forth in the Administrative Procedures Act and the Wyoming Environmental Quality Act.

(B) At least 30 days prior to the public hearing, a description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation shall be prepared and made available for public inspection. Any person petitioning the Department or Council to redesignate an area shall be responsible for preparing or submitting such description and analysis. Such persons shall also be responsible for revising this required documentation to the extent necessary to satisfy the Administrator of the U.S. EPA. The notice of the public hearing shall contain appropriate notification of the availability of the description and analysis of the proposed redesignation.

(C) Agencies from neighboring states, Indian governing bodies, Federal Land Managers, and local governments whose land may be affected by the proposed redesignation shall be notified at least 30 days prior to the hearing.

(D) Prior to proposing a redesignation, the Division and the Air Quality

Advisory Board shall consult with the elected leadership of local and other substate general purpose governments in the area covered by the redesignation.

(E) Prior to public notice of the proposed redesignation the Division shall provide written notice to any Federal Land Manager who may be responsible for any federal lands within the area proposed for such redesignation and shall afford adequate opportunity (but not in excess of 60 days) to confer with the State respecting the intended notice of designation. The Federal Land Manager shall be offered the opportunity to submit written comments and recommendations with respect to such intended notice of redesignation. In redesignating any area with respect to which the federal land manager has submitted written comments and recommendations, the Division will publish a list of any inconsistency between such redesignation and such recommendation with an explanation of such inconsistency (together with the reasons for making such redesignation against the recommendation of the Federal Land Manager).

(F) The Council shall review and examine the description and analysis prepared pursuant to subparagraph (iii)(B) above prior to any redesignation.

(iv) (A) If an area has been proposed for redesignation to a more stringent class, no permit to construct may be granted to a source which may cause an impact in the area proposed for redesignation and for which an application to construct is received by the Division after the filing of the petition for redesignation with the Environmental Quality Council until the proposed redesignation has been acted upon; however, approval may be granted if, in the Administrator's judgment, the proposed source would not violate the applicable increments of the proposed redesignation. Such approval shall be withheld only so long as in the Administrator's judgment, the petitioner is expeditiously proceeding toward development of the "description and analysis" required under (iii)(B) above, and provided that such "description and analysis" is complete and submitted to the Council for action on the petition within 18 months of the filing of the initial petition. Upon good cause shown, the Council may extend the foregoing deadline.

(B) Where an application for a permit to construct a source has been received by the Division prior to the receipt by the Council of a petition for redesignation of an area to a more stringent class and where such source may cause an impact in the area proposed for redesignation, the permit application shall be processed considering the classification of an area which existed at the time of permit application. For purposes of establishing a priority date under this Chapter 6, Section 4(d)(vi)(B), (1) such permit application is not required to meet the provisions for completeness in Chapter 6, Section 2, and (2) the time frames in Chapter 6, Section 2(g) for action on applications shall not apply.

However, a priority date established under Chapter 6, Section 4(d)(vi)(B), shall remain in effect only so long as in the Administrator's judgment, the applicant is expeditiously proceeding toward the development and submittal of such other information and data as required to make the application complete under the provisions of Chapter 6, Section 2, and provided that such other information and data is submitted to, and judged to be complete by the Administrator within 18 months of the filing of the initial permit application. Upon good cause shown, the Administrator

may extend the foregoing deadline.

Section 5. **Permit requirements for construction and modification of NESHAPs sources.**

Permit requirements for construction and modification of NESHAP sources are no longer covered under Chapter 6, Section 5. Refer to Chapter 5, National Emission Standards, Section 3, National emission standards for hazardous air pollutants.

Section 6. **Permit requirements for case-by-case maximum achievable control technology (MACT) determination.**

(a) Applicability. The requirements of this section carry out section 112(g)(2)(B) of the Clean Air Act, as amended in 1990.

(b) Overall Requirements. The requirements of this section apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after the effective date of this section unless the major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to section 112(d), section 112(h), or section 112(j) and incorporated in 40 CFR part 63 or Chapter 5, Section 3, or the owner or operator of such major source has received all necessary air quality permits for such construction or reconstruction project before the effective date of this section.

(c) Exclusion for Electric Utility Steam Generating Units. The requirements of this section do not apply to electric utility steam generating units unless and until such time as these units are added to the source category list pursuant to section 112(c)(5) of the Act.

(d) Exclusion for Stationary Sources in Deleted Source Categories. The requirements of this section do not apply to stationary sources that are within a source category that has been deleted from the source category list pursuant to section 112(c)(9) of the Act.

(e) Exclusion for Research and Development Activities. The requirements of this section do not apply to research and development activities, as defined in Chapter 6, Section 6(f)(xiii).

(f) Definitions:

Terms used in this section that are not defined in this section have the meaning given to them in the Act and in Chapter 5, Section 3.

(i) ***"Affected source"*** means the stationary source or group of stationary sources which, when fabricated (on site), erected, or installed meets the definition of "construct a major source" or the definition of "reconstruct a major source" contained in this section.

(ii) ***"Affected States"*** are all States:

(A) Whose air quality may be affected and that are contiguous to the State of Wyoming where a MACT determination is made in accordance with this Section; or

(B) Whose air quality may be affected and that are within 50 miles of the major source for which a MACT determination is made in accordance with this section.

(iii) ***"Available information"*** means, for purposes of identifying control technology options for the affected source, information contained in the following information sources as of the date of approval of the MACT determination by the Division:

(A) A relevant proposed regulation, including all supporting information;

(B) Background information documents for a draft or proposed regulation;

(C) Data and information available for the EPA Control Technology Center developed pursuant to section 113 of the Act;

(D) Data and information contained in the EPA Aerometric Informational Retrieval System including information in the MACT data base;

(E) Any additional information that can be expeditiously provided by EPA; and

(F) For the purpose of determinations by the Division, any additional information provided by the applicant or others, and any additional information considered available by the Division.

(iv) ***"Construct a major source"*** means:

(A) To Fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAPs or 25 tons per year of any combination of HAP, or

(B) To fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, unless the process or production unit satisfies criteria in paragraphs (B)(I) through (VI) of this definition.

(I) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of this section will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

(II) (1.) The Division has determined within a period of 5 years

prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented best available control technology (BACT), toxics-best available control technology (T-BACT), under Chapter 6, Section 2, or MACT based on State air toxic rules for the category of pollutants which includes those HAPs to be emitted by the process or production unit; or

(2.) The Division determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, T-BACT, or State air toxic rule MACT determination);

(III) The Division determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

(IV) The Division has provided notice and an opportunity for public comment concerning its determination that criteria in paragraphs (B)(I), (B)(II), and (B)(III) of this definition apply and concerning the continued adequacy of any prior BACT, T-BACT, or State air toxic rule MACT determination;

(V) If any commenter has asserted that a prior BACT, T-BACT, or State air toxic rule MACT determination is no longer adequate, the Division has determined that the level of control required by that prior determination remains adequate; and

(VI) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the Division are applicable requirements under Chapter 6, Section 3 and either have been incorporated into any existing operating permit for the affected facility or will be incorporated into such permit upon issuance.

(v) ***"Control technology"*** means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants through process changes, substitution of materials or other modifications;

(A) Reduce the quantity of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications;

(B) Enclose systems or processes to eliminate emissions;

(C) Collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

(D) Are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 U.S.C. 7412(h); or

(E) Are a combination of paragraphs (A) through (D) of this definition.

(vi) ***"Electric utility steam generating unit"*** means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that co-generates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

(vii) ***"Greenfield site"*** means a contiguous area under common control that is an undeveloped site.

(viii) ***"List of Source Categories"*** means the Source Category List required by section 112(c) of the Act.

(ix) ***"Maximum achievable control technology (MACT) emission limitation for new sources"*** means the emission limitation which is not less stringent than the emission limitation achieved in practice by the best controlled similar source, and which reflects the maximum degree of reduction in emissions that the Division, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.

(x) ***"Notice of MACT Approval"*** means a Chapter 6, Section 2 permit issued by a Division containing all federally enforceable conditions necessary to enforce the application and operation of MACT or other control technologies such that the MACT emission limitation is met.

(xi) ***"Process or production unit"*** means any collection of structures and/or equipment, that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.

(xii) ***"Reconstruct a major source"*** means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever:

(A) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and

(B) It is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this section.

(xiii) ***"Research and development activities"*** means activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development

into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.

(xiv) ***"Similar source"*** means a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology.

(g) Prohibition. After the effective date of this section no person may begin actual construction or reconstruction of a major source of HAP unless:

(i) The major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to section 112(d), section 112(h) or section 112(j) in 40 CFR part 63, and the owner and operator has fully complied with all procedures and requirements for preconstruction review established by that standard, including any applicable requirements set forth in Chapter 5, Section 3; or

(ii) The Division has made a final and effective case-by-case determination pursuant to the provisions of Chapter 6, Section 6(h) such that emissions from the constructed or reconstructed major source will be controlled to a level no less stringent than the maximum achievable control technology emission limitation for new sources.

(h) Maximum Achievable Control Technology (MACT) Determinations for Constructed and Reconstructed Major Sources.

(i) Applicability. The requirements of this section apply to an owner or operator who constructs or reconstructs a major source of HAP subject to a case-by-case determination of maximum achievable control technology pursuant to Chapter 6, Section 6(g).

(ii) Requirements for Constructed and Reconstructed Major Sources. When a case-by-case determination of MACT is required by Chapter 6, Section 6(g), the owner and operator shall obtain from the Division an approved MACT determination in conjunction with the required Chapter 6, Section 2 permit according to the requirements listed in Chapter 6, Section 6(h)(iv).

(iii) Principles of MACT Determinations. The following general principles shall govern preparation by the owner or operator of each permit application or other application requiring a case-by-case MACT determination concerning construction or reconstruction of a major source, and all subsequent review of and actions taken concerning such an application by the Division:

(A) The MACT emission limitation or MACT requirements recommended by the applicant and approved by the Division shall not be less stringent than the emission control which is achieved in practice by the best controlled similar source, as determined by the Division.

(B) Based upon available information, as defined in this section, the MACT emission limitation and control technology (including any requirements under Chapter 6, Section 6(h)(iii)(C)) recommended by the applicant and approved by the Division shall achieve the maximum degree of reduction in emissions of HAP which can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements associated with the emission reduction.

(C) The applicant may recommend a specific design, equipment, work practice, or operational standard, or a combination thereof, and the Division may approve such a standard if the Division specifically determines that it is not feasible to prescribe or enforce an emission limitation under the criteria set forth in section 112(h)(2) of the Act.

(D) If EPA has either proposed a relevant emission standard pursuant to section 112(d) or section 112(h) of the Act or adopted a presumptive MACT determination for the source category which includes the constructed or reconstructed major source, then the MACT requirements applied to the constructed or reconstructed major source shall have considered those MACT emission limitations and requirements of the proposed standard or presumptive MACT determination.

(iv) Application Requirements for a Case-By-Case MACT Determination.

(A) An application for a MACT determination, in conjunction with an application for a permit pursuant to Chapter 6, Section 2, shall specify a control technology selected by the owner or operator that, if properly operated and maintained, will meet the MACT emission limitation or standard as determined according to the principles set forth in Chapter 6, Section 6(h)(iii).

(B) In each instance where a constructed or reconstructed major source would require additional control technology or a change in control technology, the application for a MACT determination shall contain the following information:

(I) The name and address (physical location) of the major source to be constructed or reconstructed;

(II) A brief description of the major source to be constructed or reconstructed and identification of any listed source category or categories in which it is included;

(III) The expected commencement date for the construction or reconstruction of the major source;

(IV) The expected completion date for construction or reconstruction of the major source;

(V) The anticipated date of start-up for the constructed or

reconstructed major source;

(VI) The HAP emitted by the constructed or reconstructed major source, and the estimated emission rate for each such HAP, to the extent this information is needed by the Division to determine MACT;

(VII) Any federally enforceable emission limitations applicable to the constructed or reconstructed major source;

(VIII) The maximum and expected utilization of capacity of the constructed or reconstructed major source, and the associated uncontrolled emission rates for that source, to the extent this information is needed by the Division to determine MACT;

(IX) The controlled emissions for the constructed or reconstructed major source in tons/yr at expected and maximum utilization of capacity, to the extent this information is needed by the Division to determine MACT;

(X) A recommended emission limitation for the constructed or reconstructed major source consistent with the principles set forth in paragraph (iii) of this section;

(XI) The selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the Division);

(XII) Supporting documentation including identification of alternative control technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology; and

(XIII) Any other relevant information required pursuant to Section 33.

(C) In each instance where the owner or operator contends that a constructed or reconstructed major source will be in compliance, upon startup, with case-by-case MACT under this section without a change in control technology, the application for a MACT determination shall contain the following information:

(I) The information described in Chapter 6, Section 6(h)(iv)(B)(I) through (iv)(B)(X); and

(II) Documentation of the control technology in place.

(v) Administrative Procedures for Review of the Notice of MACT Approval.

(A) The administrative procedures for review shall follow the procedures specified in Chapter 6, Section 2(g) for the permit review and approval or denial process.

(vi) Notice of MACT Approval.

(A) The Notice of MACT Approval will contain a MACT emission limitation (or a MACT work practice standard if the Division determines it is not feasible to prescribe or enforce an emission standard) to control the emissions of HAP. The MACT emission limitation or standard will be determined by the Division and will conform to the principles set forth in Chapter 6, Section 6(h)(iii) of this section.

(B) The Notice of MACT Approval will specify any notification, operation and maintenance, performance testing, monitoring, reporting and recordkeeping requirements. The Notice of MACT Approval shall include:

(I) In addition to the MACT emission limitation or MACT work practice standard established under this section, additional emission limits, production limits, operational limits or other terms and conditions necessary to ensure Federal enforceability of the MACT emission limitation;

(II) Compliance certifications, testing, monitoring, reporting and recordkeeping requirements that are consistent with the requirements of Chapter 6, Section 3(h);

(III) In accordance with section 114(a)(3) of the Act, monitoring shall be capable of demonstrating continuous compliance during the applicable reporting period. Such monitoring data shall be of sufficient quality to be used as a basis for enforcing all applicable requirements established under this section, including emission limitations;

(IV) A statement requiring the owner or operator to comply with all applicable requirements contained in Chapter 5, Section 3.

(C) All provisions contained in the Notice of MACT Approval shall be federally enforceable upon the effective date of issuance of such notice, as provided by Chapter 6, Section 6(h)(ix).

(D) The Notice of MACT Approval shall expire if construction or reconstruction has not commenced within 18 months of issuance, unless the Division has granted an extension which shall not exceed an additional 12 months.

(vii) Opportunity for Public Comment on the Notice of MACT Approval.

(A) The opportunity for public comment shall follow the procedures specified in Chapter 6, Section 2(m) for the permit review and approval process.

(viii) EPA Notification. The Division shall send a copy of the final Notice of MACT Approval issued pursuant to Chapter 6, Section 2 and this section to the EPA through the

appropriate Regional Office, and to all other State and local air pollution control agencies having jurisdiction in affected States.

(ix) Effective Date. The effective date of a MACT determination shall be the date of issuance of the Chapter 6, Section 2 permit to construct or reconstruct.

(x) Compliance Date. On and after the date of start-up, a constructed or reconstructed major source which is subject to the requirements of this section shall be in compliance with all applicable requirements specified in the MACT determination.

(xi) Compliance With MACT Determinations.

(A) An owner or operator of a constructed or reconstructed major source that is subject to a MACT determination shall comply with all requirements in the final Notice of MACT Approval, including but not limited to any MACT emission limitation or MACT work practice standard, and any notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements.

(B) An owner or operator of a constructed or reconstructed major source which has obtained a MACT determination shall be deemed to be in compliance with Chapter 6, Section 6(g) only to the extent that the constructed or reconstructed major source is in compliance with all requirements set forth in the final Notice of MACT Approval issued pursuant to Chapter 6, Section 2 and this section. Any violation of such requirements by the owner or operator shall be deemed by the Division and by EPA to be a violation of the prohibition on construction or reconstruction in Chapter 6, Section 6(g) for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action.

(xii) Reporting to EPA. Within 60 days of the issuance of a final Notice of MACT Approval issued pursuant to Chapter 6, Section 2 and this section, the Division shall provide a copy of such notice to the Administrator, and shall provide a summary in a compatible electronic format for inclusion in the MACT data base.

(i) Requirements for Constructed or Reconstructed Major Sources Subject to a Subsequently Promulgated MACT Standard or MACT Requirement.

(i) If EPA promulgates an emission standard under section 112(d) or section 112(h) of the Act or the Division issues a determination under section 112(j) of the Act that is applicable to a stationary source or group of sources which would be deemed to be a constructed or reconstructed major source under this section before the date that the owner or operator has obtained a final and legally effective MACT determination pursuant to Chapter 6, Section 6(h), the owner or operator of the source(s) shall comply with the promulgated standard or determination rather than any MACT determination under this section by the Division, and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

(ii) If EPA promulgates an emission standard under section 112(d) or section 112(h) of the Act or the Division makes a determination under section 112(j) of the Act that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this section and has been subject to a prior case-by-case MACT determination pursuant to Chapter 6, Section 6(h), and the owner and operator obtained a final and legally effective case-by-case MACT determination prior to the promulgation date of such emission standard, then the Division shall (if the initial operating permit has not yet been issued) issue an initial operating permit which incorporates the emission standard or determination, or shall (if the initial operating permit has been issued) revise the operating permit according to the reopening procedures in Chapter 6, Section 3(d)(vii) to incorporate the emission standard or determination.

(A) The EPA may include in the emission standard established under section 112(d) or section 112(h) of the Act a specific compliance date for those sources which have obtained a final and legally effective MACT determination under this section and which have submitted the information required by Chapter 6, Section 6(h) to the EPA before the close of the public comment period for the standard established under section 112(d) of the Act. Such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but not longer than 8 years after such standard is promulgated. In that event, the Division shall incorporate the applicable compliance date in the Chapter 6, Section 3 operating permit.

(B) If no compliance date has been established in the promulgated 112(d) or 112(h) standard or section 112(j) determination, for those sources which have obtained a final and legally effective MACT determination under this section, then the Division shall establish a compliance date in the Chapter 6, Section 3 operating permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than 8 years after such standard is promulgated or a section 112(j) determination is made.

(iii) Notwithstanding the requirements of paragraphs (i) and (ii) of this section, if EPA promulgates an emission standard under section 112(d) or section 112(h) of the Act or the Division issues a determination under section 112(j) of the Act that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this section and which is the subject of a prior case-by-case MACT determination pursuant to subsection (h), and the level of control required by the emission standard issued under section 112(d) or section 112(h) or the determination issued under section 112(j) is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the Division is not required to incorporate any less stringent terms of the promulgated standard in the Chapter 6, Section 3 operating permit applicable to such source(s) and may in its discretion consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such an operating permit.

Section 7. **Clean air resource allocation expiration.**

(a) (i) Any owner or operator of a facility which ceases operation shall not be entitled to the continued use of the clean air resource necessary to accommodate the emissions from such facility if such cessation of operation extends beyond a day 5 years after the date of cessation of such operation.

(ii) Within 60 days after determining that a facility has ceased operation, the Administrator shall notify in writing the affected owner or operator that this section is applicable. The notice shall further advise the owner or operator of the proposed expiration date for the facility's entitlement to use its allocated air resource and provide the operator or owner the opportunity to review the Administrator's decision.

Within 60 days after receiving the notice, the owner or operator of the facility shall notify the Administrator if it intends to operate the facility in the future. Failure to so notify the Administrator will constitute a rebuttable presumption that the owner or operator has permanently and purposefully ceased operation of the facility with no intent to operate in the future. The continuous five-year period shall not begin earlier than 60 days prior to receipt by the owner or operator of the notice from the Administrator.

(iii) Prior to revoking an air allocation, the Administrator shall provide notice to the affected owner or operator and if requested by the owner or operator will hold a public hearing pursuant to the Rules of Practice and Procedure of the Department on the impending expiration of the entitlement to use the allocated clean air resource. Said notice shall be served no later than six months prior to the proposed expiration date. The Administrator's decision issued as a result of the hearing may be appealed to the Environmental Quality Council in the manner set forth in the Environmental Quality Act and the applicable rules and regulations.

(iv) The Administrator may extend the 5-year time period for non-use upon a satisfactory showing that the owner or operator intends and can demonstrate firm plans to operate the facility in the future.

(v) The transfer of ownership of a facility shall not affect the entitlement for use by the facility of the clean air resource. Such a transfer of ownership does not extend the expiration date defined in paragraph (a)(i).

(vi) For purposes of this section "operation" means to function in a manner which directly contributes to the accomplishment of the primary purpose of the facility. The definition of operation of a mining facility shall include: (i) all of the primary activities associated with mining, such as ore and overburden removal, topsoil stripping and haulage, reclamation and associated construction activities, and (ii) activities and commitments accepted by the Department as "interim stabilization" measures which qualify the mine for "temporary cessation and a resultant extension of reclamation obligations" under the regulations of the Land Quality Division of the Department.

(b) (i) In a case where an owner or operator permanently and purposefully ceases operation with no expressed intent to operate the facility in the future, the associated clean air resource allocation is not reserved to the owner or operator and immediately reverts to the state.

(ii) Prior to such revocation the Administrator shall provide notice to the affected owner or operator and if requested by such owner or operator will hold a public hearing pursuant to the Rules of Practice and Procedure of the Department.

(c) Start-up and operation of a facility after a period of non-use which lasts at least 5 years shall be considered to represent the operation of a new facility and shall be subject to the permit requirements of Chapter 6, Section 2. The provisions of Chapter 6, Section 4 may also be applicable.

(d) Brief periods of facility operation which are clearly designed to circumvent the intent of this section shall not be considered as operation under the provisions of subsections (a) and (b) above. For purposes of this section, operation must be for commercial purposes (which does not include temporary operation for period testing or maintenance of the facility in a standby status).

Section 8. **[Reserved.]**

Section 9. **Best available retrofit technology (BART).**

(a) Applicability. The provisions of this regulation apply to existing stationary facilities, as defined in Section 9(b) of this chapter.

(b) Definitions.

"Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with 1) times of visitor use of the Federal Class I area, and 2) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.

"Applicable technology" means a commercially available control option that has been or is soon to be deployed (e.g., is specified in a permit) on the same or a similar source type or a technology that has been used on a pollutant-bearing gas stream that is the same or similar to the gas stream characteristics of the source.

"Available technology" means that a technology is licensed and available through commercial sales.

"Average cost effectiveness" means the total annualized costs of control divided by annual emissions reductions (the difference between baseline annual emissions and the estimate of emissions after controls). For the purposes of calculating average cost effectiveness, baseline annual emissions means a realistic depiction of anticipated annual emissions for the source. The source or the Division may use State or Federally enforceable permit limits or estimate the anticipated annual emissions based upon actual emissions from a representative baseline period.

"BART alternative" means an alternative measure to the installation, operation, and maintenance of BART that will achieve greater reasonable progress toward national visibility goals than would have resulted from the installation, operation, and maintenance of BART at BART-eligible sources within industry source categories subject to BART requirements.

"Best available retrofit technology (BART)" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant that is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source or unit, the remaining useful life of the source or unit, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

"Deciview" means a measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements):

Deciview haze index = $10 \ln_e (b_{ext}/10\ Mm^{-1})$

Where b_{ext} = the atmospheric light extinction coefficient, expressed in inverse megameters (Mm^{-1}).

"Existing stationary facility" means any of the following stationary sources of air pollutants, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit 250 tons per year or more of any visibility impairing air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted.

(i) Fossil fuel-fired steam electric plants of more than 250 million British thermal units (BTU) per hour heat input that generate electricity for sale.

(A) Boiler capacities shall be aggregated to determine the heat input of a plant.

(B) Includes plants that co-generate steam and electricity and combined cycle turbines.

(ii) Coal cleaning plants (thermal dryers).

(iii) Kraft pulp mills.

(iv) Portland cement plants.

(v) Primary zinc smelters.

(vi) Iron and steel mill plants.

(vii) Primary aluminum ore reduction plants.

(viii) Primary copper smelters.

(ix) Municipal incinerators capable of charging more than 250 tons of refuse per day.

(x) Hydrofluoric, sulfuric, and nitric acid plants.

(xi) Petroleum refineries.

(xii) Lime plants.

(xiii) Phosphate rock processing plants. Includes all types of phosphate rock processing facilities, including elemental phosphorous plants as well as fertilizer production plants.

(xiv) Coke oven batteries.

(xv) Sulfur recovery plants.

(xvi) Carbon black plants (furnace process).

(xvii) Primary lead smelters.

(xviii) Fuel conversion plants.

(xix) Sintering plants.

(xx) Secondary metal production facilities. Includes nonferrous metal facilities included within Standard Industrial Classification code 3341, and secondary ferrous metal facilities in the category “iron and steel mill plants”.

(xxi) Chemical process plants. Includes those facilities within the 2-digit Standard Industrial Classification 28, including pharmaceutical manufacturing facilities.

(xxii) Fossil fuel boilers of more than 250 million BTUs per hour heat input.

(A) Individual boilers greater than 250 million BTU/hr, considering federally enforceable operational limits.

(B) Includes multi-fuel boilers that burn at least fifty percent fossil fuels.

(xxiii) Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels.

(A) 300,000 barrels refers to total facility-wide tank capacity for tanks put in place after August 7, 1962 and in existence on August 7, 1977.

(B) Includes gasoline and other petroleum-derived liquids.

(xxiv) Taconite ore processing facilities.

(xxv) Glass fiber processing plants.

(xxvi) Charcoal production facilities. Includes charcoal briquette manufacturing and activated carbon production.

"Incremental cost effectiveness" means the comparison of the costs and emissions performance level of a control option to those of the next most stringent option, as shown in the following formula:

Incremental Cost Effectiveness (dollars per incremental ton removed) = [(Total annualized costs of control option) - (Total annualized costs of next control option)] ÷ [(Next control option annual emissions) - (Control option annual emissions)]

"In existence" means that the owner or operator has obtained all necessary preconstruction approvals or permits required by Federal, State, or local air pollution emissions and air quality laws or regulations and either has 1) begun, or caused to begin, a continuous program of physical on-site construction of the facility or 2) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed in a reasonable time.

"In operation" means engaged in activity related to the primary design function of the source.

"Integral vista" means a view perceived from within the mandatory Class I Federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal area.

"Natural conditions" means naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.

"Plant" means all emissions units at a stationary source.

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

"Visibility-impairing air pollutant" includes the following:

(i) Sulfur dioxide (SO_2);

(ii) Nitrogen oxides (NO_x); and

(iii) Particulate matter. (PM_{10} will be used as the indicator for particulate matter. Emissions of PM_{10} include the components of $PM_{2.5}$ as a subset).

(c) Guidelines for BART Determinations.

(i) The U.S. Environmental Protection Agency regulations contained in 40 CFR part 51, Appendix Y, are incorporated by reference into these regulations. The specific documents containing the complete text of the regulations are found in 40 CFR part 51, Appendix Y, as published on July 6, 2005 in the Federal Register beginning on page 39104, not including later amendments. Copies of the July 6, 2005 materials can be obtained from the Department of Environmental Quality, Division of Air Quality, 122 W. 25th Street, Cheyenne, Wyoming 82002.

(ii) The owner or operator of a fossil fuel-fired steam electric plant with a generating capacity greater than seven hundred fifty megawatts of electricity shall comply with the requirements of 40 CFR part 51, Appendix Y. All other facility owners or operators shall use Appendix Y as guidance for preparing their best available control retrofit technology determinations.

(d) Identification of Sources Subject to BART.

(i) Identification of sources subject to BART shall be performed by the Air Quality Division in accordance with EPA's guidelines for BART determinations under the regional haze rule 40 CFR part 51, Appendix Y, and incorporated by reference under Section 9(c). A BART-eligible source is subject to BART unless valid air quality dispersion modeling demonstrates that the source will not cause or contribute to visibility impairment in any Class I area.

(A) A single source that is responsible for a 1.0 deciview change or more is considered to "cause" visibility impairment in any Class I area.

(B) A single source that is responsible for a 0.5 deciview change or more is considered to "contribute" visibility impairment in any Class I area.

(C) A single source is exempt from BART if the 98th percentile daily change in visibility, as compared against natural background conditions, is less than 0.5 deciviews at all Class I federal areas for each year modeled and for the entire multi-year modeling period.

(ii) The Division will provide written notice to each source determined to be subject to BART.

(e) BART Requirements.

(i) Submission of Best Available Retrofit Technology (BART) Permit Application. The owner or operator of each source subject to BART as determined under Section 9(d), shall submit a BART permit application to the Division. The permit application shall be submitted according to a schedule determined by the Division. Sources with a potential to emit less than 40 tons per year SO_2 or NO_x or less than 15 tons per year PM_{10} may exclude those de minimis level pollutants from the BART analysis. The BART permit application shall include:

(A) The name and address (physical location) of the existing stationary facility subject to BART.

(B) A brief description of the source and identification of any listed source categories in which it is included.

(C) Information on de minimis levels if pollutants are excluded from the analysis.

(D) An analysis of control options performed in accordance with 40 CFR part 51, Appendix Y, IV.

(E) A proposal and justification for BART emission limits and control technology that reflect the BART requirements established in 40 CFR part 51, Appendix Y.

(F) A description of the proposed emission control systems, including the estimated control efficiencies.

(G) A schedule to install and operate BART.

(H) Additional relevant information as the Administrator may request.

(ii) Administrative Procedures for Review of a BART Permit Application. The administrative procedures for review shall follow the procedures specified in Chapter 6, Section 2(g) of these regulations.

(iii) Proposed Permits. The Administrator shall prepare a proposed permit following the Division's review of the BART permit application. The Administrator may approve, or amend the proposed emission limits, BART technology, and compliance schedule. Any proposed permit shall specify any notification, operation and maintenance, performance testing, monitoring, reporting and recordkeeping requirements determined by the Administrator to be reasonable and necessary.

(iv) Opportunity for Public Comment. The opportunity for public comment shall follow the procedures specified in Chapter 6, Section 2(m) for permit review.

(v) Modifications to BART Permits. Any source seeking to modify the BART determination for that facility must obtain the Administrator's approval.

(vi) Operating Permit Requirements. BART requirements established pursuant to any BART permit issued under this section shall be included in a Chapter 6, Section 3 Operating Permit according to the procedures established in Chapter 6, Section 3.

(vii) Fees. Persons applying for a permit under this section shall pay a fee to cover the Department's cost of reviewing and acting on permit applications in accordance with Chapter 6, Section 2(o).

(viii) Installation of Best Available Retrofit Technology. The owner or operator of any source required to operate under a BART permit issued under Section 9(e)(iii), shall install and operate best available retrofit technology unless an alternative to the installation of BART as specified under Section 9(f) has been approved by the Division. Any control equipment required under a permit issued in this section shall be installed and operating as expeditiously as practicable but in no event later than five years after the United States Environmental Protection Agency's approval of Wyoming's State Implementation Plan revision for Regional Haze.

(ix) Operation and Maintenance of Best Available Retrofit Technology. The owner or operator of a facility required to install best available retrofit technology under Section 9(e)(viii) shall establish procedures to ensure such equipment is properly operated and maintained.

(f) BART Alternative.

(i) The Administrator may implement or require participation in an emissions trading program or other alternative measures developed in accordance with 40 CFR 51.308(e) rather than to require sources subject to BART to install, operate and maintain BART.

(g) Monitoring, Recordkeeping and Reporting. The owner or operator of any existing stationary facility that is required to install best available retrofit technology or an approved BART alternative shall conduct monitoring, recordkeeping and reporting sufficient to show compliance or noncompliance on a continuous basis.

Section 10. **[Reserved.]**

Section 11. **[Reserved.]**

Section 12. **[Reserved.]**

Section 13. **Nonattainment new source review permit requirements.**

(a) This section applies to new major stationary sources or major modifications to existing major stationary sources located in areas of the state which are designated as nonattainment pursuant to Section 107 of the Clean Air Act for any regulated NSR pollutant.

(b) Definitions. For purposes of this section:

"Act" means Clean Air Act, as amended, 42 U.S.C 7401, et seq.

"Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (i) through (iii) of this definition, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a plantwide applicability limitation (PAL) under paragraph (g)(i) of this section. Instead, the definitions for "Projected actual emissions" and "Baseline actual emissions" of this section shall apply for those purposes.

(i) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Division shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(ii) The Division may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(iii) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Administrator" means Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality.

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

(i) Applicable standards set forth in Chapter 5, Section 2 or Section 3 of these regulations and other new source performance standards and national emission standards for hazardous air pollutants promulgated by the EPA but not yet adopted by the State of Wyoming;

(ii) Any other applicable, SIP-approved emission limit, including those with a future compliance date; or

(iii) The emission rate specified as a federally enforceable permit condition, including those with a future compliance date.

"Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with paragraphs (i) through (iv) of this definition.

(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 Division shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

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

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

(C) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(D) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraph (i)(B) of this definition.

(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 Chapter 6, Section 13 permit, or under a plan approved by the EPA Administrator, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

(A) The average rate shall include fugitive emissions to the extent

quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

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

(C) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the 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 EPA Administrator proposed or promulgated under 40 CFR 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 (e)(vii) of this section.

(D) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must 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.

(E) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraphs (ii)(B) and (C) of this definition.

(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.

(iv) For a PAL for a major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (i) of this definition, for other existing emissions units in accordance with the procedures contained in paragraph (ii) of this definition, and for a new emissions unit in accordance with the procedures contained in paragraph (iii) of this definition.

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

"Best available control technology" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction of each pollutant-subject to regulation under these Standards and Regulations or regulation under the Act, which would be emitted from or which results from any proposed major stationary source or major modification

which the Administrator, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emission standard infeasible, he may instead prescribe a design, equipment, work practice or operational standard or combination thereof to satisfy the requirement of Best Available Control Technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results. Application of BACT shall not result in emissions in excess of those allowed under Chapter 5, Section 2 or Section 3 of these regulations and any other new source performance standard or national emission standards for hazardous air pollutants promulgated by the EPA but not yet adopted by the State of Wyoming.

"Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reduction in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology", up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

"Commence", as applied to construction of a major stationary source or major modification, means that the owner or operator has obtained a Construction Permit required by Chapter 6, Section 2 and either has (i) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time or (ii) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

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

"Continuous emissions monitoring system (CEMS)" means all of the equipment that may be required to meet the data acquisition and availability requirements of this section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

"Continuous emissions rate monitoring system (CERMS)" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

"Continuous parameter monitoring system (CPMS)" means all of the equipment necessary to meet the data acquisition and availability requirements of this section, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and to record average operational parameter value(s) on a continuous basis.

"Division" means the Air Quality Division of the Wyoming Department of Environmental Quality.

"Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric utility steam generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

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

(i) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

(ii) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (i) of this definition. A replacement unit, as defined in this section, is an existing emissions unit.

"Enforceable" means all limitations and conditions which are enforceable under provisions of the Wyoming Environmental Quality Act and/or are federally enforceable by the Administrator of the EPA, including those requirements developed pursuant to 40 CFR parts 60 and 61, requirements within the State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I, including operating permits issued under Chapter 6, Section 3 of these regulations.

"Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.

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

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

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

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

"Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in: a significant emissions increase (as defined in the definition for "Significant emissions increase" in this section) of a regulated NSR pollutant (as defined in the definition for "Regulated NSR pollutant" in this section); and a significant net emissions increase of that pollutant from the major stationary source. Any significant emissions increase (as defined in the definition for "Significant emissions increase" in this section) from any emissions units or net emissions increase (as defined in the definition for "Net emissions increase" in this section) at a major stationary source that is significant for volatile organic compounds (VOCs) or NO_x shall be considered significant for ozone.

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

(A) Routine maintenance, repair and replacement;

(B) Use of an alternative fuel or raw material by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

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

(D) The use of municipal solid waste as an alternative fuel at a steam generating plant;

(E) Use of an alternative fuel or raw material, if prior to December 21, 1976, the source was capable of accommodating such fuel or material unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division, or if the source is approved to use such fuel or material through an enforceable permit issued under these regulations;

(F) An increase in the hours of operation or in the production rate, if such increase does not exceed the operating design capacity of the major stationary source unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division;

(G) Change in ownership of the stationary source;

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

(I) The Wyoming State Implementation Plan; and

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

(ii) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under paragraph (g)(i) of this section for a PAL for that pollutant. Instead, the definition in paragraph (g)(i)(B) for "PAL major modification" of this section shall apply.

(iii) For the purposes of applying the requirements of paragraph (f)(i) of this section to modifications at major stationary sources of nitrogen oxides located in ozone nonattainment areas or in ozone transport regions, whether or not subject to subpart 2, part D, title I of the Act, any significant net emissions increase of nitrogen oxides is considered significant for ozone.

(iv) Any physical change in, or change in the method of operation of, a major stationary source of VOCs that results in any increase in emissions of VOCs from any discrete operation, emissions unit, or other pollutant emitting activity at the source shall be considered a significant net emissions increase and a major modification for ozone, if the major stationary source is located in an extreme ozone nonattainment area that is subject to subpart 2, part D, title I of the Act.

"Major stationary source"

(i) Means:

(A) Any stationary source of air pollutants that emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant, except that lower emissions thresholds shall apply in areas subject to subpart 2, subpart 3, or subpart 4 of part D, title I of the Act, according to paragraphs (I) through (VI) below:

(I) 50 tons per year of VOCs in any serious ozone nonattainment area.

(II) 50 tons per year of VOCs in an area within an ozone transport

region, except for any severe or extreme ozone nonattainment area.

(III) 25 tons per year of VOCs in any severe ozone nonattainment area.

(IV) 10 tons per year of VOCs in any extreme ozone nonattainment area.

(V) 50 tons per year of carbon monoxide in any serious nonattainment area for carbon monoxide, where stationary sources contribute significantly to carbon monoxide levels in the area (as determined under rules issued by the EPA Administrator).

(VI) 70 tons per year of PM_{10} in any serious nonattainment area for PM_{10};

(B) For the purposes of applying the requirements of paragraph (f)(i) of this section to stationary sources of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, any stationary source which emits, or has the potential to emit, 100 tons per year or more of nitrogen oxides emissions, except that the emission thresholds in paragraphs (I) through (VI) below shall apply in areas subject to subpart 2 of part D, title I of the Act:

(I) 100 tons per year or more of nitrogen oxides in any ozone nonattainment area classified as marginal or moderate.

(II) 100 tons per year or more of nitrogen oxides in any ozone nonattainment area classified as a transitional, submarginal, or incomplete or no data area, when such area is located in an ozone transport region.

(III) 100 tons per year or more of nitrogen oxides in any area designated under section 107(d) of the Act as attainment or unclassifiable for ozone that is located in an ozone transport region.

(IV) 50 tons per year or more of nitrogen oxides in any serious nonattainment area for ozone.

(V) 25 tons per year or more of nitrogen oxides in any severe nonattainment area for ozone.

(VI) 10 tons per year or more of nitrogen oxides in any extreme nonattainment area for ozone; or

(C) Any physical change that would occur at a stationary source not qualifying under paragraphs (i)(A) or (B) of this definition as a major stationary source, if the change would constitute a major stationary source by itself.

(ii) A major stationary source that is major for VOCs shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this paragraph whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources: coal cleaning plants (with thermal dryers); kraft pulp mills; Portland cement plants; primary zinc smelters; iron and steel mills; primary aluminum ore reduction plants; primary copper smelters; municipal incinerators capable of charging more than 250 tons of refuse per day; hydrofluoric, sulfuric, or nitric acid plants; petroleum refineries; lime plants; phosphate rock processing plants; coke oven batteries; sulfur recovery plants; carbon black plants (furnace process); primary lead smelters; fuel conversion plants; sintering plants; secondary metal production plants; chemical process plants--the term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140; fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input; petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels; taconite ore processing plants; glass fiber processing plants; charcoal production plants; fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

"Net emissions increase" means,

(i) With respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

(A) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to paragraph (c)(ii)(B) of this section;

(B) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this paragraph (ii) shall be determined as provided in the definition for "Baseline actual emissions", except that paragraphs (i)(C) and (ii)(D) of the definition for "Baseline actual emissions" shall not apply.

(ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(A) The date five years before construction on the particular change commences; and

(B) The date that the increase from the particular change occurs.

(iii) An increase or decrease in actual emissions is creditable only if:

(A) It occurs within a reasonable period specified by the Division;

(B) The Division has not relied on it in issuing a Chapter 6, Section 13 permit for the source, which is in effect when the increase in actual emissions from the particular change occurs; and

(C) As it pertains to an increase or decrease in fugitive emissions (to the extent quantifiable), it occurs at an emissions unit that is part of one of the source categories listed in paragraph (iii) in the definition of "Major stationary source" of this section or it occurs at an emissions unit that is located at a major stationary source that belongs to one of the listed source categories. Fugitive emission increases or decreases are not creditable for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in paragraph (iii) in the definition of "Major stationary source" of this section and are not, by themselves, part of a listed source category.

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

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

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

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

(C) The Division has not relied on it in issuing any permits approved pursuant to 40 CFR part 51 subpart I or in demonstrating attainment or reasonable further progress;

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

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

(vii) The definition of "Actual emissions" of this section, shall not apply for determining creditable increases and decreases after a change.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or the type or amount of material combusted, stored, or

processed, shall be treated as part of its design if the limitation or the affect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Predictive emissions monitoring system (PEMS)" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

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

"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.

(i) In determining the projected actual emissions under the above paragraph of this section (before beginning actual construction), the owner or operator of the major stationary source:

(A) Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans approved by the Division;

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

(C) Shall 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 the definition for "Baseline actual emissions" of this section and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

(D) In lieu of using the method set out in paragraphs (i)(A) through (C) of this definition, may elect to use the emissions unit's potential to emit, in tons per year, as defined under the definition of "Potential to emit" of this section.

"Regulated NSR pollutant", for purposes of this section, means the following:

(i) Nitrogen oxides or any VOCs.

(ii) Any pollutant for which a national ambient air quality standard has been promulgated.

(iii) Any pollutant identified under this paragraph as a constituent or precursor to a pollutant listed above under paragraphs (i) and (ii) of this definition, provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors identified by the EPA Administrator for purposes of NSR are the following:

(A) VOCs and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(B) Sulfur dioxide is a precursor to $PM_{2.5}$ in all $PM_{2.5}$ nonattainment areas.

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

(D) VOCs and ammonia are presumed not to be precursors to $PM_{2.5}$ in any nonattainment area, unless the State demonstrates to the EPA Administrator's satisfaction or EPA demonstrates that emissions of VOCs from sources in a specific area are a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

(iv) $PM_{2.5}$ emissions and PM_{10} emissions. $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in Chapter 6, Section 13 permits. Compliance with emissions limitations for $PM_{2.5}$ and PM_{10} issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this subsection unless the applicable implementation plan required condensable particulate matter to be included.

"Replacement unit" means an emissions unit for which all the criteria listed below in this definition are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

(i) The emissions unit is a reconstructed unit within the meaning of 40 CFR part 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

(ii) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(iii) The replacement does not change the basic design parameter(s).

(iv) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

"Reviewing Authority" means Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality.

"Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or modification of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle or from a train, or from a vessel.

"Significant" means:

(i) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

POLLUTANT	AND EMISSIONS RATE
Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
PM_{10}:	15 tpy of PM_{10} emissions
$PM_{2.5}$:	10 tpy of direct $PM_{2.5}$ emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a $PM_{2.5}$ precursor under the definition of "Regulated NSR pollutant" in this section
Ozone:	40 tpy of VOCs or nitrogen oxides
Lead:	0.6 tpy

(ii) Notwithstanding the significant emissions rate for ozone in paragraph (i) of this definition, "significant" means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of VOCs that would result from any physical change in, or change in the method of operation of, a major stationary source locating in a serious or severe nonattainment area that is subject to subpart 2, part D, title I of the Act, if such emissions increase of VOCs exceeds 25 tons per year.

(iii) For the purpose of applying the requirements of paragraph f(i) of this section to modifications at major stationary sources of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, the significant emission rates and other requirements for VOCs in paragraphs (i), (ii) and (v) of this definition shall apply to nitrogen oxide emissions.

(iv) Notwithstanding the significant emissions rate for carbon monoxide under paragraph (i) of this definition, "significant" means, in reference to an emissions increase or net emissions increase, any increase in actual emissions of carbon monoxide that would result from any physical change in, or change in the method of operation of, a major stationary source in a serious area for carbon monoxide if such increase equals or exceeds 50 tons per year, provided the EPA Administrator has determined that stationary sources contribute significantly to carbon monoxide levels in the area.

(v) Notwithstanding the significant emission rates for ozone under paragraphs (i) and (ii) of this definition, any increase in actual emissions of VOCs from any emissions unit at a major stationary source of VOCs located in an extreme ozone nonattainment area that is subject to subpart 2, part D, title I of the Act shall be considered a significant net emissions increase.

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant (according to the definition of "Significant" in this section) for that pollutant.

"Stationary source" means any structure, building, facility, equipment, installation or operation (or combination thereof) which emits or may emit any air pollutant subject to these regulations or regulations under the Act.

"Structure, building, facility, equipment, installation, or operation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same *Major Group* (i.e., which have the same two-digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which

complies with the Wyoming State Implementation Plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Volatile organic compounds (VOCs)" is defined in Chapter 3, Section 6(a) of these regulations.

(c) Non-attainment New Source Review (NNSR) Permit Required.

(i) New major stationary sources or major modifications to existing major stationary sources must obtain an NNSR permit before beginning actual construction if they are located in an area designated nonattainment for any national ambient air quality standard if the source is major for the pollutant for which the area is designated nonattainment. Notwithstanding the source category-based exemptions set forth under Chapter 6, Section 2(k), any new major stationary facility or major stationary source undergoing a major modification under this Section will not be granted any of the Section 2(k) exemptions.

(ii) Except as provided by a PAL under paragraph (g) of this section, a proposed project is considered a major modification (as defined in the definition for "Major modification" in Section 13(b)) to an existing major source if the proposed project meets the criteria outlined in paragraphs in Section 13(c)(ii)(A) through (E) below:

(A) A project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases--a significant emissions increase (as defined in the definition for "Significant emissions increase" in Section 13(b)), and a significant net emissions increase (as defined in the definitions for "Significant emissions increase", "Net emissions increase" and "Significant" in Section 13(b)). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(B) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (C) through (E) below. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition for "Net emissions increase" in Section 13(b). Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(C) Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in the definition for "Projected actual emissions" in Section 13(b)) and the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 13(b), as applicable), for each existing emissions unit, equals or exceeds the significant amount for that

pollutant (as defined in the definition for "Significant" in Section 13(b)).

(D) Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in the definition for "Potential to emit" in Section 13(b)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 13(b)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in the definition for "Significant" in Section 13(b)).

(E) 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 (C) through (D) above 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 the definition for "Significant" in Section 13(b)).

(d) NNSR Permit.

(i) Requirements for construction or modification of a source specified under Chapter 6, Section 2 of these regulations shall apply.

(ii) The following specific provisions apply to projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where the owner or operator elects to use the method specified in paragraphs (i)(A) through (C) of the definition for "Projected actual emissions" for calculating projected actual emissions.

(A) 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 (i)(C) of the definition for "Projected actual emissions" in Section 13(b) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(B) Before beginning actual construction, the owner or operator shall provide the information set out in paragraph (d)(ii)(A) of this section to the Division as a Chapter 6, Section 2 permit application.

(C) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph (d)(ii)(A)(II) of this section; and calculate and maintain 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 or potential to emit of that regulated NSR pollutant at such emissions unit.

(D) 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 paragraph (d)(ii)(C) of this section setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(iii) The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph (d)(ii) of this section available for review upon request for inspection by the Division or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).

(iv) All requirements for construction or modification of a major source listed under 40 CFR 51, Appendix S, Section IV (A) shall apply. Notwithstanding the requirements of Chapter 6, Section 2(c)(v), the BACT analysis requirement is hereby superseded by the Appendix S, Section IV(A), Condition 1, LAER analysis requirement.

(v) Approval to construct does not relieve an owner or operator of the responsibility to comply with applicable provisions of this section, the Act or any other requirements under local, state or federal law.

(vi) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, then all the provisions of Chapter 6, Section 2 and 13 shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(e) Determining Credit for Emission Offsets. The baseline for determining credit for emission offsets is the emission limit in effect at the time the application to construct is filed, except that the offset baseline is the actual emission of the unit from which offset credit is obtained if the demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emission of sources located within a designated nonattainment area; or if there is no applicable emission limit. In determining credit for emission offsets, the following criteria shall be met:

(i) If the emissions limit allows greater emissions than the potential to emit of the unit, the emission offset credit is allowed only for the control below the potential to emit of the unit;

(ii) For an existing fuel combustion unit, credit shall be based on the emission limit for the type of fuel being burned at the time the application to construct is filed. If the existing source agrees to switch to a cleaner fuel at some future date, emission offset credits based on the allowable or actual emissions for the fuels involved may be allowed only if permit conditions specify an alternative control measure that would achieve the same degree of emission reduction if the source switched back to the dirtier fuel at some later date. The owner or operator will submit a demonstration to ensure that adequate long-term supplies of the new fuel are available before the Division grants emission offset credit for fuel switches;

(iii) Emission reductions achieved by shutting down an existing unit or curtailing production or operating hours below baseline levels may be credited if the reductions are surplus, permanent, quantifiable, federally enforceable, and the area has a federally-approved attainment plan. In addition, the shutdown or curtailed production must occur after August 7, 1977, or less than one year before the date of submitting the permit application, whichever is earlier. Emission reductions may be credited in the absence of a federally-approved attainment plan if the shutdown or curtailment occurred on or after the date the application is filed for a new unit or if the applicant can establish that the proposed new unit is a replacement for the shutdown or curtailed unit, and the shutdown or curtailment occurred after August 7, 1977, or less than one year before the date of submitting the permit application, whichever is earlier;

(iv) Emission offset credit may not be allowed for replacing one hydrocarbon compound with another of lesser reactivity except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314, July 8, 1977);

(v) All emission reductions claimed as offset credit must be federally enforceable;

(vi) The permissible location of offsetting emissions shall be conducted in accordance with 40 CFR 51, Appendix S, section IV. D;

(vii) Credit for emissions reduction may be claimed to the extent that the Division has not relied on it in issuing a permit or in its demonstration of attainment or reasonable further progress;

(viii) The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emission unit;

(ix) External offsets or those emission limitations from sources not owned, operated, or controlled by an applicant for a permit shall be made through a revision of the permit conditions of the participating source or sources. At no time may the baseline be exceeded;

(x) The offset ratio of total actual emissions reductions to the emissions increase

shall be at least 1 to 1 unless an alternative ratio is provided in accordance with the ozone nonattainment offset requirements listed below in (x)(A) through (D):

(A) The Administrator may impose an alternative ratio that is more stringent than the applicable numerical ratios listed in (B) through (D).

(B) For ozone nonattainment areas subject to subpart 2, part D, title I of the Act, the ratio of total actual emissions reductions of VOCs to the emission increase of VOCs shall be as follows:

(I) In any marginal nonattainment area for ozone--at least 1.1:1;

(II) In any moderate nonattainment area for ozone--at least 1.15:1;

(III) In any serious nonattainment area for ozone--at least 1.2:1;

(IV) In any severe nonattainment area for ozone--at least 1.3:1 (except that the ratio may be at least 1.2:1 if the approved State Implementation Plan also requires all existing major sources in such nonattainment area to use BACT for the control of VOCs); and

(V) In any extreme nonattainment area for ozone--at least 1.5:1 (except that the ratio may be at least 1.2:1 if the approved State Implementation Plan also requires all existing major sources in such nonattainment area to use BACT for the control of VOCs).

(C) Notwithstanding the requirements of paragraph (x)(A) of this section, the ratio of total actual emissions reductions of VOCs to the emissions increase of VOCs shall be at least 1.15:1 for all areas within an ozone transport region that is subject to subpart 2, part D, title I of the Act, except for serious, severe and extreme nonattainment areas that are subject to subpart 2, part D, title I of the Act.

(D) For ozone nonattainment areas subject to subpart 1, part D, title I of the Act (but are not subject to subpart 2, part D, title I of the Act, including 8-hour ozone nonattainment areas subject to 40 CFR 51.902(b)), the ratio of total actual emissions reductions of VOCs to the emission increase of VOCs shall be at least 1:1.

(f) Application in ozone, PM_{10}, and $PM_{2.5}$ nonattainment areas

(i) Requirements of this section which apply to major stationary sources and major modifications of VOCs shall also apply to nitrogen oxides emissions from major stationary sources and major modifications of nitrogen oxides in an ozone transport region or in any ozone nonattainment area, except in ozone nonattainment areas or portions of an ozone transport region where the EPA Administrator has granted a NO_x waiver applying the standards set forth under section 182(f) of the Act and the waiver continues to apply.

(ii) Except as provided under paragraph f(iii) below, requirements of this section which apply to major stationary sources and major modifications of PM_{10} shall also apply to major stationary sources and major modifications of PM_{10} precursors, except where the EPA Administrator determines that such sources do not contribute significantly to PM_{10} levels that exceed the PM_{10} ambient standards in the area.

(iii) Requirements of this section shall not apply in the Sheridan PM_{10} nonattainment area, where a major source construction ban is in place per the requirements of Chapter 6, Section 2(c)(ii)(B) of these regulations.

(iv) In meeting the requirements of Section 13(e), the emission offsets obtained shall be for the same regulated NSR pollutant, with the following exception provided for $PM_{2.5}$. Direct $PM_{2.5}$ emissions or emissions of precursors of $PM_{2.5}$ may be offset by direct $PM_{2.5}$ emissions or any $PM_{2.5}$ precursors identified in the definition for "Regulated NSR pollutant" in Section 13(b) if such offsets comply with the interprecursor trading hierarchy and ratio established in the Wyoming State Implementation Plan.

(g) Actuals Plantwide Applicability Limitations (PALs).

(i) The Division may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements specified in paragraphs (g)(i)(A) through (O) of this section.

(A) Applicability.

(I) The term "PAL" shall mean "actuals PAL" throughout subsection (g)(i). The Division will not allow an actuals PAL for VOC or NO_x for any major stationary source located in an extreme ozone nonattainment area.

(II) Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in paragraphs (g)(i)(A) through (O) of this section, and complies with the PAL permit:

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

(2.) Does not have to be approved through a Chapter 6, Section 13 permit; and

(3.) Is not subject to the provisions in paragraph (d)(vi) of this section (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of Chapter 6, Section 13).

(III) Except as provided under paragraph (g)(i)(A)(II)(3.) of this section, a major stationary source shall continue to comply with all applicable Federal or State of Wyoming requirements, emission limitations, and work practice requirements that were

established prior to the effective date of the PAL.

(B) Definitions. The following definitions shall be used for actuals PALs consistent with paragraphs (g)(i)(A) through (O) of this section. When a term is not defined in the paragraphs below, it shall have the meaning given in paragraph (b) of this section, or in the Act.

"Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 13(b)) of all emissions units (as defined in the definition for "Emission Unit" in Section 13(b)) at the source, that emit or have the potential to emit the PAL pollutant.

"Allowable emissions" has the same meaning as in the definition for "Allowable emissions" in Section 13(b), except as this definition is modified according to paragraphs (I) and (II) of this definition.

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

(II) An emissions unit's potential to emit shall be determined using the definition of "Potential to emit" in Section 13(b), except that the words "or enforceable as a practical matter" should be added after "federally enforceable".

"Major emissions unit" means:

(I) Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or

(II) Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Act for nonattainment areas. (For example, in accordance with the definition of major stationary source in section 182(c) of the Act, an emissions unit would be a major emissions unit for VOCs if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOCs per year.)

"PAL effective date" generally means the date of issuance of the PAL permit; however, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

"PAL effective period" means the period beginning with the PAL effective date and ending 10 years later.

"PAL major modification" means, notwithstanding the definitions for "Major modification" and "Net emissions increase" in Section 13(b), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a

level equal to or greater than the PAL.

"PAL permit" means the Chapter 6, Section 2 and Section 13 permit issued by the Division that establishes a PAL for a major stationary source.

"PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

"Plantwide applicability limitation (PAL)" means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with paragraphs (g)(i)(A) through (O) of this section.

"Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in the definition for "Significant" in Section 13(b) or in the Act, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a "Major emissions unit" as defined in this section.

"Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in the definition for "Significant" in Section 13(b) or in the Act, whichever is lower.

(C) Permit Application Requirements. As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information in paragraphs (g)(i)(C)(I) through (III) of this section to the Division for approval:

(I) A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, Federal or State of Wyoming applicable requirements, emission limitations, or work practices apply to each unit;

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

(III) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph (g)(i)(M)(I) of this section.

(D) General Requirements for Establishing PALs.

(I) The Division may establish a PAL at a major stationary source, provided that at a minimum, the requirements in paragraphs (g)(i)(D)(I)(1.) through (7.) of this

section are met.

(1.) The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(2.) The PAL shall be established in a PAL permit that meets the public participation requirements in paragraph (g)(i)(E) of this section.

(3.) The PAL permit shall contain all the requirements of paragraph (g)(i)(G) of this section.

(4.) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

(5.) Each PAL shall regulate emissions of only one pollutant.

(6.) Each PAL shall have a PAL effective period of 10 years.

(7.) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in paragraphs (g)(i)(L) through (N) of this section for each emissions unit under the PAL through the PAL effective period.

(II) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under paragraph (e) of this section unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

(E) Public Participation Requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or increased, through a procedure that is consistent with Chapter 6, Section 2. This includes the requirement that the Division provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The Division must address all material comments before taking final action on the permit.

(F) Setting the 10-Year Actuals PAL Level.

(I) Except as provided in paragraph (g)(i)(F)(II) of this section, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 13(b)) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under the definition of "Significant" in Section 13(b) or under the Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units; however, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Division shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable Federal or State of Wyoming regulatory requirement(s) that the Division is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).

(II) 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 actual emissions as specified in paragraph (g)(i)(F)(I) of this section, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

(G) Contents of the PAL Permit. The PAL permit shall contain, at a minimum, the information in paragraphs (g)(i)(G)(I) through (X) of this section.

(I) The PAL pollutant and the applicable source-wide emission limitation in tons per year;

(II) The PAL permit effective date and the expiration date of the PAL (PAL effective period);

(III) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with paragraph (g)(i)(J) of this section before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Division;

(IV) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns and malfunctions;

(V) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of paragraph (g)(i)(I) of this section;

(VI) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph (g)(i)(C)(III) of this section;

(VII) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under paragraph (g)(i)(M) of this section;

(VIII) A requirement to retain the records required under paragraph (g)(i)(M) of this section on site. Such records may be retained in an electronic format;

(IX) A requirement to submit the reports required under paragraph (g)(i)(N) of this section by the required deadlines; and

(X) Any other requirements that the Division deems necessary to implement and enforce the PAL.

(H) PAL Effective Period and Reopening of the PAL Permit.

(I) PAL Effective Period. The PAL effective period shall be 10 years.

(II) Reopening of the PAL Permit.

(1.) During the PAL effective period, the Division shall reopen the PAL permit to:

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

b. Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Section 13(e); and

c. Revise the PAL to reflect an increase in the PAL as provided under paragraph (g)(i)(K) of this section.

(2.) The Division may reopen the PAL permit for the following:

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

b. Reduce the PAL consistent with any other

requirement, that is enforceable as a practical matter, and that the Division may impose on the major stationary source; and

c. Reduce the PAL if the Division determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an AQRV that has been identified for a Federal Class I Area by a Federal Land Manager and for which information is available to the general public.

(3.) Except for the permit reopening in paragraph (g)(i)(H)(II)(1.)a. of this section for the correction of typographical/calculation errors that do not increase the PAL level, all reopenings shall be carried out in accordance with the public participation requirements of paragraph (g)(i)(E) of this section.

(I) Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in paragraph (g)(i)(J) of this section shall expire at the end of the PAL effective period, and the requirements in paragraphs (g)(i)(I)(I) through (V) of this section shall apply.

(I) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the procedures in paragraphs (g)(i)(I)(I)(1.) and (2.) of this section.

(1.) Within the time frame specified for PAL renewals in paragraph (g)(i)(J)(II) of this section, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Division) by distributing the PAL-allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph (g)(i)(J)(V) of this section, such distribution shall be made as if the PAL had been adjusted.

(2.) The Division shall decide whether and how the PAL-allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Division determines is appropriate.

(II) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Division may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS or CPMS to demonstrate compliance with the allowable emission limitation.

(III) Until the Division issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (g)(i)(I)(I)(2.) of this section, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(IV) Any physical change or change in the method of operation at

the major stationary source will be subject to Chapter 6, Section 13 requirements if such change meets the definition of "Major modification" in Section 13(b).

(V) The major stationary source owner or operator shall continue to comply with any State of Wyoming or Federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to paragraph (d)(vi) of this section, but were eliminated by the PAL in accordance with the provisions in paragraph (g)(i)(A)(II)(3.) of this section.

(J) Renewal of a PAL.

(I) The Division shall follow the procedures specified in paragraph (g)(i)(E) of this section in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Division.

(II) Application Deadline. A major stationary source owner or operator shall submit a timely application to the Division to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

(III) Application Requirements. The application to renew a PAL permit shall contain the information required in paragraphs (g)(i)(J)(III)(1.) through (4.) of this section.

(1.) The information required in paragraphs (g)(i)(C)(I) through (III) of this section;

(2.) A proposed PAL level;

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

(4.) Any other information the owner or operator wishes the Division to consider in determining the appropriate level for renewing the PAL.

(IV) PAL Adjustment. In determining whether and how to adjust the PAL, the Division shall consider the options outlined in paragraphs (g)(i)(J)(IV)(1.) and (2.) of this section; however, in no case may any such adjustment fail to comply with paragraph (g)(i)(J)(IV)(3.) of this section.

(1.) If the emissions level calculated in accordance with paragraph (g)(i)(F) of this section is equal to or greater than 80 percent of the PAL level, the Division may renew the PAL at the same level without considering the factors set forth in paragraph (g)(i)(J)(IV)(2.) of this section; or

(2.) The Division may set the PAL at a level that it determines to be more representative of the source's baseline actual emissions, or that it determines to be 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 Division in its written rationale.

(3.) Notwithstanding paragraphs (g)(i)(J)(IV)(1.) and (2.) of this section:

a. If the potential to emit of the major stationary source is less than the PAL, the Division shall adjust the PAL to a level no greater than the potential to emit of the source; and

b. The Division shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of paragraph (g)(i)(K) of this section (increasing a PAL).

(V) If the compliance date for a State of Wyoming or Federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Division has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or Chapter 6, Section 3 operating permit renewal, whichever occurs first.

(K) Increasing a PAL During the PAL Effective Period.

(I) The Division may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (g)(i)(K)(I)(1.) through (4.) of this section.

(1.) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(2.) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless

the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(3.) The owner or operator obtains a Chapter 6, Section 4 permit for all emissions unit(s) identified in paragraph (g)(i)(K)(I)(1.) of this section, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the Chapter 6, Section 13 process (for example, LAER), even though they have also become subject to the PAL or continue to be subject to the PAL.

(4.) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(II) The Division shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with paragraph (g)(i)(K)(I)(2.) of this section), plus the sum of the baseline actual emissions of the small emissions units.

(III) The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of paragraph (g)(i)(E) of this section.

(L) Monitoring Requirements for PALs.

(I) General Requirements.

(1.) Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(2.) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in paragraphs (g)(i)(L)(II)(1.) through (4.) of this section and must be approved by the Division.

(3.) Notwithstanding paragraph (g)(i)(L)(I)(2.) of this section, an alternative monitoring approach that meets paragraph (g)(i)(L)(I)(1.) of this section may be employed if approved by the Division.

(4.) Failure to use a monitoring system that meets the

requirements of this section renders the PAL invalid.

(II) Minimum Performance Requirements for Approved Monitoring Approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (g)(i)(L)(III) through (IX) of this section:

(1.) Mass balance calculations for activities using coatings or solvents;

(2.) CEMS;

(3.) CPMS or PEMS; and

(4.) Emission factors.

(III) Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

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

(2.) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

(3.) Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Division determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(IV) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1.) CEMS must comply with applicable Performance Specifications found in 40 CFR part 60, Appendix B; and

(2.) CEMS must sample, analyze, and record data at least every 15 minutes while the emissions unit is operating.

(V) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1.) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

(2.) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Division, while the emissions unit is operating.

(VI) Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

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

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

(3.) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the Division determines that testing is not required.

(VII) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

(VIII) Notwithstanding the requirements in paragraphs (g)(i)(L)(III) through (VII) of this section, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Division shall, at the time of permit issuance:

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

(2.) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

(IX) Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Division. Such testing must occur at least once every 5 years after issuance of the PAL.

(M) Recordkeeping Requirements.

(I) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of subsection (g)(i) of this section and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record.

(II) The PAL permit shall require an owner or operator to retain a copy of the following records, for the duration of the PAL effective period plus 5 years:

(1.) A copy of the PAL permit application and any applications for revisions to the PAL; and

(2.) Each annual certification of compliance pursuant to Chapter 6, Section 3 and the data relied on in certifying the compliance.

(N) Reporting and Notification Requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Division in accordance with the applicable Chapter 6, Section 3 operating permit program. The reports shall meet the requirements in paragraphs (g)(i)(N)(I) through (III) of this section.

(I) Semi-annual Report. The semi-annual report shall be submitted to the Division within 30 days of the end of each reporting period. This report shall contain the information required in paragraphs (g)(i)(N)(I)(1.) through (7.) of this section.

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

(2.) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to paragraph (g)(i)(M)(I) of this section;

(3.) All data relied upon, including, but not limited to, any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions;

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

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

(6.) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another

monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by paragraph (g)(i)(L)(VII) of this section; and

(7.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(II) Deviation Report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to Chapter 6, Section 3(h)(i)(C)(III)(2.) shall satisfy this reporting requirement. The deviation reports shall be submitted as prescribed by Chapter 6, Section 3(h)(i)(C)(III)(2.). The reports shall contain the following information:

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

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

(3.) Emissions resulting from the deviation or the exceedance; and

(4.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(III) Re-validation Results. The owner or operator shall submit to the Division the results of any re-validation test or method within three months after completion of such test or method.

(O) Transition Requirements.

(I) The Division shall not issue a PAL that does not comply with the requirements in paragraphs (g)(i)(A) through (O) of this section after the EPA Administrator has approved this regulation into the Wyoming State Implementation Plan.

(II) The Division may supersede any PAL which was established prior to the date of approval of this regulation by the Administrator of EPA with a PAL that complies with the requirements of paragraphs (g)(i)(A) through (O) of this section.

(ii) If any provision of this section, or the application of such provision to any person or circumstance, is held invalid, the remainder of this section, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be

affected thereby.

Section 14. **Incorporation by reference.**

(a) Code of Federal Regulations (CFR). Except as otherwise noted, all Code of Federal Regulations (CFRs), including their Appendices, cited in this Chapter, revised and published as of July 1, ~~2024~~2026, not including any later amendments, are incorporated by reference. Copies of the CFR are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: http://deq.wyoming.gov/. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at https://ecfr.gov.

Chapter 8
Nonattainment Area Regulations

Section 1. Introduction to Nonattainment Area Regulations.

(a) Chapter 8 establishes regulations specific to areas not attaining the National Ambient Air Quality Standards. Section 2 applies exclusively to Sweetwater County, Wyoming particulate matter regulations. Section 3 applies to general federal actions, excluding those covered under Section 4, within any federally designated nonattainment area of the state. Section 4 applies to specific transportation projects within any federally designated nonattainment area of the state. Section 5 establishes requirements for the submittal of emission inventories from facilities or sources located in an ozone nonattainment area(s) pursuant to the requirements of the Clean Air Act, Section 182. Section 6 establishes requirements for all PAD and single-well oil and gas production facilities or sources, and all compressor stations, located in the Upper Green River Basin (UGRB) ozone nonattainment area that were existing as of January 1, 2014. Sections 7 through 9 are reserved. Section 10 incorporates by reference all Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices.

Section 2. Sweetwater County Particulate Matter Regulations.

(a) Notwithstanding other provisions in these regulations concerning the emission of particulate matter or required fugitive dust control measures, the requirements and emission limitations set forth in Chapter 8, Section 2(b) and (c) for the specific sources and activities enumerated are applicable. Sources and/or activities which cause particulate matter to be emitted into the air and which are not addressed in this section are subject to the requirements of other sections.

(b) Point Source Particulate Matter Emission Rate Allowables:

The following tables specify the maximum allowable particulate matter emission rate for each of the listed sources. The emission of particulate matter is measured as specified in Chapter 3, Section 2(h)(iv) of these regulations.

(i) Stauffer Chemical Company of Wyoming, Green River Soda Ash Plant.

Table (i) Stauffer Chemical Company of Wyoming, Green River Soda Ash Plant.

Source Description	Allowable Emission Rate (lb/hr)
#1 Boiler	3.00
#2 Boiler	3.00
#3 Boiler	N.A.
#4 Boiler	7.50
#5 Boiler	8.62
#6 Boiler	7.50
ES-1	30.6
2ES-1	27.3

Source Description	Allowable Emission Rate (lb/hr)
3ES-1	29.2
3ES-2	34.5
4SC-2	51.6
4SC-3	5.2
4SC-4	52.6
4ES-201	23.1
Phase II Dryer-Cooler	12.0

(ii) Allied Chemical Corporation, Green River Works

Table (ii) Allied Chemical Corporation, Green River Works.

Source Description	Company ID	Allowable Emission Rate (lb/hr)
Crusher Building	GR-I-A	3.0
Prod. Loading	GR-I-B(1)	3.0
Prod. Loading	GR-I-B(2)	3.0
Calciner #1	GR-I-C	20.0
Calciner #2	GR-I-D	25.0
Calciner #3	GR-I-E	20.0
Dryer #1	GR-I-F	4.0
Dryer #2	GR-I-G	4.0
Dryer #3	GR-I-H	4.0
Housekeeping (North)	GR-I-J(1)	2.0
Housekeeping (South)	GR-I-J(2)	2.0
Product Cooler	GR-I-K	2.0
Coal Handling Tunnel	CH-1	1.7
Coal Handling Gallery	CH-2	1.0
Ore Bin Gallery	GR-II-A	3.0
Product Storage	GR-II-B	4.0
Calciner #4	GR-II-C	20.0
Calciner #5	GR-II-D	20.0
Dissolver #1	GR-II-E-1	3.0
Dissolver #2	GR-II-E-2	3.0
Dryer #4	GR-II-F	4.0
Dryer #5	GR-II-G	4.0
Dryer #6	GR-II-H	4.0
Housekeeping	GR-II-J	10.0
Product Cooler	GR-II-K	3.0
Lime Storage	GR-II-O	0.1
Reclaim Ore System	RO-1	1.4
Crusher	GR-III-A	3.0
Ore Conveyor	GR-III-B	1.0
Ore Gallery	GR-III-C	1.0
Calciner #1	GR-III-D	37.9
Calciner #2	GR-III-E	37.9

Source Description	Company ID	Allowable Emission Rate (lb/hr)
Dissolver #1 (East)	GR-III-F	2.0
Dissolver #2 (West)	GR-III-G	2.0
Filter Aid	GR-III-H	NIL
Dryer #1	GR-III-K	1.5
Dryer #2	GR-III-L	1.5
Dryer #3	GR-III-M	1.5
Dryer #4	GR-III-N	1.5
Dryer #5	GR-III-P	1.5
Dryer Vent	GR-III-R	2.0
Prod. Cooler #1	GR-III-S	1.0
Prod. Cooler #2	GR-III-T	1.0
Housekeeping #1	GR-III-U	3.0
Housekeeping #2	GR-III-V	3.0
Crusher	A-305	2.0
Crusher	A-309	2.0
"C" Boiler	GR-II-L	50.0
"D" Boiler	GR-III-W	80.0

(iii) FMC Corporation, Green River

Table (iii) FMC Corporation, Green River.

Source Description	Company ID	Allowable Emission Rate (lb/hr)
Crusher	PA-4; PA-5	2.5
Dissolver	PA-6	1.0
Dissolver	PA-7	1.0
Dissolver	PA-8	1.0
Dissolver	PA-9	1.0
Sesqui Dryer	RA-1	10.0
Dust Collector	RA-2	2.0
Calciner	RA-13	8.0
Calciner	RA-14	4.0
Calciner	RA-15	4.0
Calciner	RA-16	4.0
Calciner Scrubber	RA-22	35.0
Calciner Scrubber	RA-23	35.0
Calciner Scrubber	RA-24	45.0
Fluid Bed Calciner	RA-25	26.5
Dust Collector	RA-27	3.0
Dust Collector	RA-33	3.0
Phosphorus Furnace	PP-12	15.0
Spray Dryer	PP-21	28.0
Dust Collector	PP-24	4.0
Calciner	PP-25	15.0

Source Description	Company ID	Allowable Emission Rate (lb/hr)
Dust Collector	PP-26	2.0
Dust Collector	PP-27	2.0
Trona Calciner	NA-2	3.0
Dust Collection	NA-3	10.0
Cooler	NA-5	6.0
Dust Collection	Mono 2	2.6
Dust Collection	Mono 3	1.3
Dust Collection	Mono 4	2.0
Calciner	Mono 5	53.0
Dryer	Mono 6	20.0
Dust Collection	Mono 7	2.0
Dust Collection	Mono 8	1.9
Dust Collection	NS-2	0.5
Calciner	NS-3	41.0
Crusher	NS-4	1.0
Dissolver	NS-5	2.7
Dryer	NS-6	20.0
Coal Dust Collection	NS-7	0.5
Coal Dust Collection	NS-8	0.5
Coal Dust Collection	NS-9	0.5
Gas/Oil Boiler	PH-1	8.4
Gas/Oil Boiler	PH-2	4.2
Gas/Oil Boiler	PH-3	8.4
Gas/Oil Boiler	Mono I	7.5
Coal Boiler	NS-1A	45.0
Coal Boiler	NS-1B	45.0

(iv) Church and Dwight Company

Table (iv) Church and Dwight Company

Source Description	Company ID	Allowable Emission Rate (lb/hr)
Soda Ash Unloading	SA	3.0
Throwing Box Scrubber	TB	2.0
Jeffrey Dryer Scrubber	JD	3.0
#1 Process Dryer	1PD	2.0
#2 Process Dryer	2PD	5.0
#3 Process Dryer	3PD	2.0
#1 House Dust System	1HDS	2.0
#2 House Dust System	2HDS	2.0
#3 House Dust System	3HDS	2.0

(c) Fugitive Dust Controls. The following subparagraphs specify fugitive dust

control measures required for the delineated activities and sources and the schedules for completion of such measures. If, at any time, the Administrator is satisfied that the applicable suspended particulate matter standards have been attained and will be maintained, uncompleted programs may be completed at the option of the owner of the facility if failure to complete the same will not in the opinion of the Administrator adversely affect such attainment status.

(i) Allied Chemical, Green River

Unpaved Roads – Pave all roads in facility areas that encounter frequent traffic and maintain such roads in a clean condition through the use of a vacuum sweeper as required. Complete: November 30, 1980.

Distressed Area – Reclaim the distressed area outside the east fence or apply suitable soil binders. Complete: December 1, 1981.

Coal Stockpile – The active coal stockpile is to be enclosed or a dust suppression system installed and used during periods of activity. Complete: December 31, 1982.

Equipment Movement – Equipment movement around the periphery of the trona stockpile should be further reduced. Complete: June 1, 1979.

(ii) FMC Corporation

Stockpile – Installation and effective operation of the following abatement program elements is required to control excessive fugitive emissions from the coal handling facilities.

(A) Dust collectors with pick-ups at the transfer points.

(B) A dust suppression spray system to apply wetting agents to coal being unloaded, transferred, reclaimed, crushed and handled.

(C) Rapid unloading railroad cars.

(D) Use of counter weighted hood-type doors on the coal stacker.

Ore Stockpile – Install variable height booms so that the free fall distance of the ore is held to a minimum and install shroud (wind shield) to contain the ore as much as possible after it drops from the end of the boom. Complete: Sesqui Areas – January 1, 1981; Mono Areas – April 1, 1981.

Loadout Facilities – The mono loadout facilities are to be equipped with hoods around product chutes of adequate size to cap hatches of slot top or hatch top rail cars. The resultant dust generated due to displacement shall be aspirated to adequate dust collectors. The above requirements also apply to any truck bulk product loadout facilities. Complete: July 1, 1982.

Unpaved Roads – All unpaved roads that encounter frequent traffic in the facility area

shall be paved and maintained in a clean condition through the use of a vacuum sweeper as required. Infrequently traveled roads are to be treated with oil or other suitable dust suppressants. Complete: October 1, 1980.

Overflow Chutes – Overflow or spillover chutes which discharge in the open, are to be eliminated or emptied into closed containers. Chutes for housekeeping purposes are to be eliminated and replaced with a vacuum dust system that utilizes a dust collector. Complete: October 1, 1980.

(iii) Stauffer Chemical, Green River

Ore Stockpile – Install and utilize a variable height boom so that the free fall distance of the ore is held to a minimum. A shroud (wind shield) to contain the ore as much as possible after it drops from the end of the boom is to be installed and utilized. Complete: July 1981.

Product Loadout – Rail loadout facilities are to be equipped with hoods around product chutes of adequate size to cap hatches of slot and portal top rail cars. The resultant dust generated due to displacement should be aspirated to adequate dust collectors. The above requirements will also apply to any truck bulk product loadout facilities. Maintenance or redesigning of existing baghouse collectors will also be necessary at these facilities. Complete: September 1982.

Product Handling and Storage – Product silo vents are to be equipped with dust collectors. Proper maintenance and/or redesign of existing dust collectors is also required in this area. Complete: September 1982.

Crusher Area – The removing of accumulated dust from crusher building by sweeping or dumping the material outside the building is to be eliminated. Housekeeping chores in this area as well as other areas are to be accomplished by the use of a vacuum system and dust collector. Existing baghouse collectors are to be properly maintained and if necessary other control measures installed and utilized at all transfer points in and around the crusher area. Complete: September 1982.

Overflow Chutes – Overflow or spillover chutes which discharge in the open are to be eliminated or emptied into closed containers. Complete: March 1979.

Unpaved Roads – All roads within the facility area that encounter frequent traffic are to be paved and maintained in a clean condition through the use of a vacuum sweeper as required. All other less frequently used roads are to be treated with oil or other suitable dust suppressants. Complete: September 1982.

Distressed Areas – Distressed areas to the south of the facility which contain distressed product piles and tailing pond dredgings are to be reclaimed and treated with dust suppressants. Complete: September 1979.

Section 3. Conformity of General Federal Actions to State Implementation

Plans.

(a) Prohibition.

(i) No department, agency or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan.

(ii) A Federal agency must make a determination that a Federal action conforms to the applicable implementation plan in accordance with the requirements of this section before the action is taken.

(iii) [Reserved]

(iv) Notwithstanding any provision of this section, a determination that an action is in conformance with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, the National Environmental Policy Act (NEPA), or the CAA.

(v) If an action would result in emissions originating in more than one nonattainment or maintenance area, the conformity must be evaluated for each area separately.

(b) Definitions. Terms used but not defined in this section shall have the meaning given them by the CAA and EPA's regulations (40 CFR Chapter 1), in that order of priority.

"Affected Federal land manager" means the Federal agency or the Federal official charged with direct responsibility for management of an area designated Class I under the CAA (42 U.S.C. 7472) that is located within 100 km of the proposed Federal action.

"Applicability analysis" is the process of determining if your Federal action must be supported by a conformity determination.

"Applicable implementation plan or applicable SIP" means the portion (or portions) of the SIP or most recent revision thereof, which has been approved under section 110(k) of the CAA, or promulgated under section 110(c) of the CAA (Federal implementation plan), or a plan promulgated or approved pursuant to section 301(d) of the CAA (Tribal implementation plan or TIP) and which implements the relevant requirements of the CAA.

"Areawide air quality modeling analysis" means an assessment on a scale that includes the entire nonattainment or maintenance area which uses an air quality dispersion model or photochemical grid model to determine the effects of emissions on air quality, for example, an assessment using EPA's community multi-scale air quality (CMAQ) modeling system.

"CAA" means the Clean Air Act, as amended.

"Cause or contribute to a new violation" means a Federal action that:

(i) Causes a new violation of a national ambient air quality standard (NAAQS) at a location in a nonattainment or maintenance area which would otherwise not be in violation of the standard during the future period in question if the Federal action were not taken; or

(ii) Contributes, in conjunction with other reasonably foreseeable actions, to a new violation of a NAAQS at a location in a nonattainment or maintenance area in a manner that would increase the frequency or severity of the new violation.

"Caused by", as used in the terms "direct emissions" and "indirect emissions," means emissions that would not otherwise occur in the absence of the Federal action.

"Confidential business information (CBI)" means information that has been determined by a Federal agency, in accordance with its applicable regulations, to be a trade secret, or commercial or financial information obtained from a person and privileged or confidential and is exempt from required disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(4)).

"Conformity determination" is the evaluation (made after an applicability analysis is completed) that a Federal action conforms to the applicable implementation plan and meets the requirements of this section.

"Conformity evaluation" is the entire process from the applicability analysis through the conformity determination that is used to demonstrate that the Federal action conforms to the requirements of this section.

"Continuing program responsibility" means a Federal agency has responsibility for emissions caused by:

(i) Actions it takes itself; or

(ii) Actions of non-Federal entities that the Federal agency, in exercising its normal programs and authorities, approves, funds, licenses or permits, provided the agency can impose conditions on any portion of the action that could affect the emissions.

"Continuous program to implement" means that the Federal agency has started the action identified in the plan and does not stop the actions for more than an 18-month period, unless it can demonstrate that such a stoppage was included in the original plan.

"Criteria pollutant or standard" means any pollutant for which there is established a NAAQS at 40 CFR Part 50.

"Direct emissions" means those emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and originate in a nonattainment or maintenance area and occur at the same time and place as the action and are reasonably foreseeable.

"Emergency" means a situation where extremely quick action on the part of the Federal

agencies involved is needed and where the timing of such Federal activities makes it impractical to meet the requirements of this section, such as natural disasters like hurricanes or earthquakes, civil disturbances such as terrorist acts and military mobilizations.

"Emissions budgets" are those portions of the applicable SIP's projected emission inventories that describe the levels of emissions (mobile, stationary, area, etc.) that provide for meeting reasonable further progress milestones, attainment, and/or maintenance for any criteria pollutant or its precursors.

"Emission inventory" means a listing of information on the location, type of source, type and quantity of pollutant emitted as well as other parameters of the emissions.

"Emissions offsets", for purposes of Subsection (h), are emissions reductions which are quantifiable, consistent with the applicable SIP attainment and reasonable further progress demonstrations, surplus to reductions required by, and credited to, other applicable SIP provisions, enforceable at both the State and Federal levels, and permanent within the timeframe specified by the program.

"EPA" means the U.S. Environmental Protection Agency.

"Federal action" means any activity engaged in by a department, agency, or instrumentality of the Federal government, or any activity that a department, agency or instrumentality of the Federal government supports in any way, provides financial assistance for, licenses, permits, or approves, other than activities related to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.). Where the Federal action is a permit, license, or other approval for some aspect of a non-Federal undertaking, the relevant activity is the part, portion, or phase or the non-Federal undertaking that requires the Federal permit, license, or approval.

"Federal agency" means, for purposes of this section, a Federal department, agency, or instrumentality of the Federal government.

"Increase the frequency or severity of any existing violation of any standard in any area" means to cause a nonattainment area to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented.

"Indirect emissions" means those emissions of a criteria pollutant or its precursors:

(i) That are caused or initiated by the Federal action and originate in the same nonattainment or maintenance area but occur at a different time or place as the action;

(ii) That are reasonably foreseeable;

(iii) That the Federal agency can practically control; and

(iv) For which the Federal agency has continuing program responsibility.

For the purposes of this definition, even if a Federal licensing, rulemaking or other approving action is a required initial step for a subsequent activity that causes emissions, such initial steps do not mean that a Federal agency can practically control any resulting emissions.

"Local air quality modeling analysis" means an assessment of localized impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadways on a Federal facility, which uses an air quality dispersion model (e.g., Industrial Source Complex Model or Emission and Dispersion Model System) to determine the effects of emissions on air quality.

"Maintenance area" means an area that was designated as nonattainment and has been re-designated in 40 CFR Part 81 to attainment, meeting the provisions of section 107(d)(3)(E) of the CAA and has a maintenance plan approved under section 175A of the CAA.

"Maintenance plan" means a revision to the applicable SIP, meeting the requirements of section 175A of the CAA.

"Metropolitan Planning Organization (MPO)" means the policy board of an organization created as a result of the designation process in 23 U.S.C. 134(d).

"Milestone" has the meaning given in sections 182(g)(1) and 189(c)(1) of the CAA.

"Mitigation measure" means any method of reducing emissions of the pollutant or its precursor taken at the location of the Federal action and used to reduce the impact of the emissions of that pollutant caused by the action.

"National ambient air quality standards (NAAQS)" are those standards established pursuant to section 109 of the CAA and include standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO_2), ozone, particulate matter (PM_{10} and $PM_{2.5}$), and sulfur dioxide (SO_2).

"NEPA" is the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

"Nonattainment area (NAA)" means an area designated as nonattainment under section 107 of the CAA and described in 40 CFR Part 81.

"Precursors of a criteria pollutant" are:

(i) For ozone, nitrogen oxides (NO_x), unless an area is exempted from NO_x requirements under section 182(f) of the CAA, and volatile organic compounds (VOC).

(ii) For PM_{10}, those pollutants described in the PM_{10} nonattainment area applicable SIP as significant contributors to the PM_{10} levels.

(iii) For $PM_{2.5}$:

(A) Sulfur dioxide (SO_2) in all $PM_{2.5}$ nonattainment and maintenance areas,

(B) Nitrogen oxides in all $PM_{2.5}$ nonattainment and maintenance areas unless both the State and EPA determine that it is not a significant precursor, and

(C) Volatile organic compounds (VOC) and ammonia (NH_3) only in $PM_{2.5}$ nonattainment or maintenance areas where either the State or EPA determines that they are significant precursors.

"Reasonably foreseeable emissions" are projected future direct and indirect emissions that are identified at the time the conformity determination is made; the location of such emissions is known and the emissions are quantifiable as described and documented by the Federal agency based on its own information and after reviewing any information presented to the Federal agency.

"Regional water and/or wastewater projects" include construction, operation, and maintenance of water or wastewater conveyances, water or wastewater treatment facilities, and water storage reservoirs which affect a large portion of a nonattainment or maintenance area.

"Restricted information" is information that is privileged or that is otherwise protected from disclosure pursuant to applicable statutes, Executive Orders, or regulations. Such information includes but is not limited to: Classified national security information, protected critical infrastructure information, sensitive security information, and proprietary business information.

"Take or start the Federal action" means the date that the Federal agency signs or approves the permit, license, grant or contract or otherwise physically begins the Federal action that requires a conformity evaluation under this section.

"Total of direct and indirect emissions" means the sum of direct and indirect emissions increases and decreases caused by the Federal action; i.e., the "net" emissions considering all direct and indirect emissions. The portion of emissions which are exempt or presumed to conform under Subsections (c)(iii), (iv), (v), or (vi) are not included in the "total of direct and indirect emissions." The "total of direct and indirect emissions" includes emissions of criteria pollutants and emissions of precursors of criteria pollutants.

(c) Applicability.

(i) Conformity determinations for Federal actions related to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.) must meet the procedures and criteria of Chapter 8, Section 4, in lieu of the procedures set forth in this section.

(ii) For Federal actions not covered by paragraph (i) of this subsection, a conformity determination is required for each criteria pollutant or precursor where the total of direct and indirect emissions of the criteria pollutant or precursor in a nonattainment or maintenance area caused by a Federal action would equal or exceed any of the rates in paragraphs (ii)(A) or (B) of this subsection.

(A) For purposes of paragraph (ii) of this subsection, the following rates apply in nonattainment areas (NAAs):

Criteria Pollutant	**Tons/Year**
Ozone (VOCs or NO_x):	
Serious NAAs	50
Severe NAAs	25
Extreme NAAs	10
Other ozone NAAs outside an ozone transport region:	100
Other ozone NAAs inside an ozone transport region:	
VOC	50
NO_x	100
Carbon monoxide:	
All NAAs	100
SO_2 or NO_2:	
All NAAs	100
PM_{10}:	
Moderate NAAs	100
Serious NAAs	70
$PM_{2.5}$:	
Direct emissions	100
SO_2	100
NO_x (unless determined not to be significant precursors)	100
VOC or ammonia (if determined to be significant precursors)	100
Pb:	
All NAAs	25

(B) For purposes of paragraph (ii) of this subsection, the following rates apply in maintenance areas:

Criteria Pollutant	Tons/Year
Ozone (NO_x, SO_2 or NO_2):	
All Maintenance Areas	100
Ozone (VOCs):	
Maintenance areas inside an ozone transport region	50
Maintenance areas outside an ozone transport region	100
Carbon monoxide:	
All maintenance areas	100
PM_{10}:	
All maintenance areas	100
$PM_{2.5}$:	
Direct emissions	100
SO_2	100
NO_x (unless determined not to be significant precursors):	100
VOC or ammonia (if determined to be significant precursors):	100
Pb:	
All maintenance areas	25

(iii) The requirements of this section shall not apply to the following Federal actions:

(A) Actions where the total of direct and indirect emissions are below the emissions levels specified in paragraph (ii) of this subsection.

(B) Actions which would result in no emissions increase or an increase in emissions that is clearly de minimus:

(I) Judicial and legislative proceedings.

(II) Continuing and recurring activities such as permit renewals where activities conducted will be similar in scope and operation to activities currently being conducted.

(III) Rulemaking and policy development and issuance.

(IV) Routine maintenance and repair activities, including repair and maintenance of administrative sites, roads, trails, and facilities.

(V) Civil and criminal enforcement activities, such as investigations, audits, inspections, examinations, prosecutions, and the training of law

enforcement personnel.

(VI) Administrative actions such as personnel actions, organization changes, debt management or collection, cash management, internal agency audits, program budget proposals, and matters relating to the administration and collection of taxes, duties and fees.

(VII) The routine, recurring transportation of material and personnel.

(VIII) Routine movement of mobile assets, such as ships and aircraft, in home port reassignments and stations (when no new support facilities or personnel are required) to perform as operational groups and/or for repair or overhaul.

(IX) Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site.

(X) Actions, such as the following, with respect to existing structures, properties, facilities and lands where future activities conducted will be similar in scope and operation to activities currently being conducted at the existing structures, properties, facilities, and lands; for example, relocation of personnel, disposition of federally-owned existing structures, properties, facilities, and lands, rent subsidies, operation and maintenance cost subsidies, the exercise of receivership or conservatorship authority, assistance in purchasing structures, and the production of coins and currency.

(XI) The granting of leases, licenses such as for exports and trade, permits, and easements where activities conducted will be similar in scope and operation to activities currently being conducted.

(XII) Planning, studies, and provision of technical assistance.

(XIII) Routine operation of facilities, mobile assets and equipment.

(XIV) Transfers of ownership, interests, and titles in land, facilities, and real and personal properties, regardless of the form or method of the transfer.

(XV) The designation of empowerment zones, enterprise communities, or viticultural areas.

(XVI) Actions by any of the Federal banking agencies or the Federal Reserve Banks, including actions regarding charters, applications, notices, licenses, the supervision or examination of depository institutions or depository institution holding companies, access to the discount window, or the provision of financial services to banking organizations or to any department, agency or instrumentality of the United States.

(XVII) Actions by the Board of Governors of the Federal Reserve System or any Federal Reserve Bank necessary to affect monetary or exchange rate policy.

(XVIII)Actions that implement a foreign affairs function of the United States.

(XIX) Actions (or portions thereof) associated with transfers of land, facilities, title, and real properties through an enforceable contract or lease agreement where the delivery of the deed is required to occur promptly after a specific, reasonable condition is met, such as promptly after the land is certified as meeting the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and where the Federal agency does not retain continuing authority to control emissions associated with the lands, facilities, title, or real properties.

(XX) Transfers of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity and assignments of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity for subsequent deeding to eligible applicants.

(XXI) Actions by the Department of the Treasury to effect fiscal policy and to exercise the borrowing authority of the United States.

(XXII) Air traffic control activities and adopting approach, departure, and enroute procedures for aircraft operations above the mixing height specified in the applicable SIP. Where the applicable SIP does not specify a mixing height, the Federal agency can use the 3,000 feet above ground level as a default mixing height, unless the agency demonstrates that use of a different mixing height is appropriate because the change in emissions at and above that height caused by the Federal action is *de minimis*.

(C) Actions where the emissions are not reasonably foreseeable, such as the following:

(I) Initial Outer Continental Shelf lease sales which are made on a broad scale and are followed by exploration and development plans on a project level.

(II) Electric power marketing activities that involve the acquisition, sale and transmission of electric energy.

(D) Actions which implement a decision to conduct or carry out a conforming program such as prescribed burning actions which are consistent with a conforming land management plan.

(iv) Notwithstanding the other requirements of this section, a conformity determination is not required for the following Federal actions (or portion thereof):

(A) The portion of an action that includes major or minor new or modified stationary sources that require a permit under the new source review (NSR) program (Section 110(a)(2)(C) and Section 173 of the CAA) or the prevention of significant deterioration (PSD) program (Title I, part C of the CAA);

(B) Actions in response to emergencies which are typically commenced on the order of hours or days after the emergency and, if applicable, which meet the requirements of paragraph (v) of this subsection;

(C) Research, investigations, studies, demonstrations, or training (other than those exempted under paragraph (iii)(B) of this subsection), where no environmental detriment is incurred and/or, the particular action furthers air quality research, as determined by the State agency primarily responsible for the applicable SIP;

(D) Alteration and additions of existing structures as specifically required by new or existing applicable environmental legislation or environmental regulations (e.g., hush houses for aircraft engines and scrubbers for air emissions);

(E) Direct emissions from remedial and removal actions carried out under CERCLA and associated regulations to the extent such emissions either comply with the substantive requirements of the PSD/NSR permitting program or are exempted from other environmental regulation under the provisions of CERCLA and applicable regulations issued under CERCLA.

(v) Federal actions which are part of a continuing response to an emergency or disaster under paragraph (iv)(B) of this subsection and which are to be taken more than 6 months after the commencement of the response to the emergency or disaster under paragraph (iv)(B) of this subsection are exempt from the requirements of this section only if:

(A) The Federal agency taking the actions makes a written determination that, for a specified period not to exceed an additional 6 months, it is impractical to prepare the conformity analyses which would otherwise be required, and the actions cannot be delayed due to overriding concerns for public health and welfare, national security interests and foreign policy commitments; or

(B) For actions which are to be taken after those actions covered by paragraph (v)(A) of this subsection, the Federal agency makes a new determination as provided in paragraph (v)(A) of this subsection and:

(I) Provides a draft copy of the written determinations required to affected EPA Regional office(s), the affected State(s) and/or air pollution control agencies, and any Federal recognized Indian tribal government in the nonattainment or maintenance area. Those organizations must be allowed 15 days from the beginning of the extension period to comment on the draft determination; and

(II) Within 30 days after making the determination, publish a

notice of the determination by placing a prominent advertisement in a daily newspaper of general circulation in the area affected by the action.

(C) If additional actions are necessary in response to an emergency or disaster under paragraph (iv)(B) of this subsection beyond the specified time period in paragraph (v)(B) of this subsection, a Federal agency can make a new written determination as described in (v)(B) of this subsection for as many 6-month periods as needed, but in no case shall this exemption extend beyond three 6-month periods except where an agency:

(I) Provides information to EPA and the State stating that the conditions that gave rise to the emergency exemption continue to exist and how such conditions effectively prevent the agency from conducting a conformity evaluation.

(vi) Notwithstanding other requirements of this section, actions specified by individual Federal agencies that have met the criteria set forth in either paragraphs (vii)(A), (vii)(B), or (vii)(C) of this subsection and the procedures set forth in paragraph (viii) of this subsection are "presumed to conform", except as provided in paragraph (x) of this subsection. Actions specified by individual Federal agencies as "presumed to conform" may not be used in combination with one another when the total direct and indirect emissions from the combination of actions would equal or exceed any of the rates specified in paragraphs (ii)(A) or (ii)(B) of this subsection.

(vii) The Federal agency must meet the criteria for establishing activities that are presumed to conform by fulfilling the requirements set forth in either paragraphs (vii)(A), (vii)(B), or (vii)(C) of this subsection:

(A) The Federal agency must clearly demonstrate using methods consistent with this section that the total of direct and indirect emissions from the type of activities which would be presumed to conform would not:

(I) Cause or contribute to any new violation of any standard in any area;

(II) Interfere with provisions in the applicable SIP for maintenance of any standard;

(III) Increase the frequency or severity of any existing violation of any standard in any area; or

(IV) Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of:

(1.) A demonstration of reasonable further progress;

(2.) A demonstration of attainment;

(3.) A maintenance plan; or

(B) The Federal agency must provide documentation that the total of direct and indirect emissions from such future actions would be below the emission rates for a conformity determination that are established in paragraph (ii) of this subsection, based, for example, on similar actions taken over recent years.

(C) The Federal agency must clearly demonstrate that the emissions from the type or category of actions and the amount of emissions from the action are included in the applicable SIP and the State, local, or tribal air quality agencies responsible for the SIP(s) provide written concurrence that the emissions from the actions along with all other expected emissions in the area will not exceed the emission budget in the SIP.

(viii) In addition to meeting the criteria for establishing exemptions set forth in paragraphs (vii)(A), (vii)(B), or (vii)(C) of this subsection, the following procedures must also be complied with to presume that activities will conform:

(A) The Federal agency must identify through publication in the Federal Register its list of proposed activities that are "presumed to conform" and the basis for the presumptions. The notice must clearly identify the type and size of the action that would be "presumed to conform" and provide criteria for determining if the type and size of action qualifies it for the presumption;

(B) The Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies and, where applicable, the agency designated under §174 of the CAA and the MPO and provide at least 30 days for the public to comment on the list of proposed activities "presumed to conform". If the "presumed to conform" action has regional or national application (e.g., the action will cause emission increases in excess of the *de minimis* levels identified in paragraph (ii) of this subsection in more than one of EPA's Regions), the Federal agency, as an alternative to sending it to EPA Regional Offices, can send the draft conformity determination to U.S. EPA, Office of Air Quality Planning and Standards;

(C) The Federal Agency must document its response to all the comments received and make the comments, response, and final list of activities available to the public upon request; and

(D) The Federal agency must publish the final list of such activities in the Federal Register.

(ix) Emissions from the following actions are "presumed to conform":

(A) Actions at installations with facility-wide emission budgets meeting the requirements in Subsection (k) provided that the State has included the emission budget in the EPA-approved SIP and the emissions from the action along with all other emissions from the installation will not exceed the facility-wide emission budget.

(B) Prescribed fires conducted in accordance with a smoke management program (SMP) which meets the requirements of EPA's Interim Air Quality Policy on Wildland and Prescribed Fires or an equivalent replacement EPA policy.

(C) Emissions for actions that the State identifies in the EPA-approved SIP as "presumed to conform".

(x) Even though an action would otherwise be "presumed to conform" under paragraphs (vi) or (ix) of this subsection, an action shall not be "presumed to conform" and the requirements of Subsection (a), 40 CFR Part 93.151, Subsections (d) through (j) and Subsections (l) through (n) shall apply to the action if EPA or a third party shows that the action would:

(A) Cause or contribute to any new violation of any standard in any area;

(B) Interfere with provisions in the applicable SIP for maintenance of any standard;

(C) Increase the frequency or severity of any existing violation of any standard in any area; or

(D) Delay timely attainment of any standard or any required interim emissions reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of:

(I) A demonstration of reasonable further progress;

(II) A demonstration of attainment; or

(III) A maintenance plan.

(xi) The provisions of this section shall apply in all nonattainment and maintenance areas except conformity requirements for newly designated nonattainment areas are not applicable until 1 year after the effective date of the final nonattainment designation for each NAAQS and pollutant in accordance with section 176(c)(6) of the CAA.

(d) Federal Agency Conformity Responsibility. Any department, agency, or instrumentality of the Federal government taking an action subject to this section must make its own conformity determination consistent with the requirements of this section. In making its conformity determination, a Federal agency must follow the requirements in Subsections (e) through (j) and Subsections (l) through (o) and must consider comments from any interested parties. Where multiple Federal agencies have jurisdiction for various aspects of a project, a Federal agency may choose to adopt the analysis of another Federal agency or develop its own analysis in order to make its conformity determination.

(e) Reporting Requirements.

(i) A Federal agency making a conformity determination under Subsections (d) through (j) and Subsections (l) through (n) must provide to the appropriate EPA Regional Office(s), State and local air quality agencies, any federally-recognized Indian tribal government in the nonattainment or maintenance area, and, where applicable, affected Federal Land Managers, the agency designated under section 174 of the CAA and the MPO, a 30-day notice which describes the proposed action and the Federal agency's draft conformity determination on the action. If the action has multi-regional or national impacts (e.g., the action will cause emission increases in excess of the *de minimis* levels identified in Subsection (c)(ii) in three or more of EPA's Regions), the Federal agency, as an alternative to sending it to EPA Regional Offices, can provide the notice to EPA's Office of Air Quality Planning and Standards.

(ii) A Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies, any federally-recognized Indian tribal government in the nonattainment or maintenance area, and, where applicable, affected Federal Land Managers, the agency designated under section 174 of the Clean Air Act and the MPO, within 30 days after making a final conformity determination under this section.

(iii) The draft and final conformity determination shall exclude any restricted information or confidential business information. The disclosure of restricted information and confidential business information shall be controlled by the applicable laws, regulations, security manuals, or executive orders concerning the use, access, and release of such materials. Subject to applicable procedures to protect restricted information from public disclosure, any information or materials excluded from the draft or final conformity determination or supporting materials may be made available in a restricted information annex to the determination for review by Federal and State representatives who have received appropriate clearances to review the information.

(f) Public Participation.

(i) Upon request by any person regarding a specific Federal action, a Federal agency must make available, subject to the limitation in paragraph (v) of this section, for review its draft conformity determination under Subsection (d) with supporting materials which describe the analytical methods and conclusions relied upon in making the applicability analysis and draft conformity determination.

(ii) A Federal agency must make public its draft conformity determination under Subsection (d) by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process. If the action has multi-regional or national impacts (e.g., the action will cause emission increases in excess of the *de minimis* levels identified in Subsection (c)(ii) in three or more of EPA's Regions), the Federal agency, as an alternative to publishing separate notices, can publish a notice in the Federal Register.

(iii) A Federal agency must document its response to all the comments received on its draft conformity determination under Subsection (d) and make the comments and responses available, subject to the limitation in paragraph (v) of this subsection, upon request by any person regarding a specific Federal action, within 30 days of the final conformity determination.

(iv) A Federal agency must make public its final conformity determination under Subsection (d) for a federal action by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action within 30 days of the final conformity determination. If the action would have multi-regional or national impacts, the Federal agency, as an alternative, can publish the notice in the Federal Register.

(v) The draft and final conformity determination shall exclude any restricted information or confidential business information. The disclosure of restricted information and confidential business information shall be controlled by the applicable laws, regulations or executive orders concerning the release of such materials.

(g) Reevaluation of Conformity.

(i) Once a conformity determination is completed by a Federal agency, that determination is not required to be reevaluated if the agency has maintained a continuous program to implement the action; the determination has not lapsed as specified in paragraph (ii) of this subsection; or any modification to the action does not result in an increase in emissions above the levels specified in Subsection (c)(ii). If a conformity determination is not required for the action at the time the NEPA analysis is completed, the date of the finding of no significant impact (FONSI) for an Environmental Assessment, a record of decision (ROD) for an Environmental Impact Statement, or a categorical exclusion determination can be used as a substitute date for the conformity determination date.

(ii) The conformity status of a Federal action automatically lapses 5 years from the date a final conformity determination is reported under Subsection (e), unless the Federal action has been completed or a continuous program to implement the Federal action has commenced.

(iii) Ongoing Federal activities at a given site showing continuous progress are not new actions and do not require periodic redeterminations so long as such activities are within the scope of the final conformity determination reported under Section (e).

(iv) If the Federal agency originally determined through the applicability analysis that a conformity determination was not necessary because the emissions for the action were below the limits in Subsection (c)(ii) and changes to the action would result in the total emissions from the action being above the limits in Subsection (c)(ii), then the Federal agency must make a conformity determination.

(h) Criteria for Determining Conformity of General Federal Actions.

(i) An action required under Subsection (c) to have a conformity determination for a specific pollutant, will be determined to conform to the applicable SIP if, for each pollutant that exceeds the rates in Subsection (c)(ii), or otherwise requires a conformity determination due to the total of direct and indirect emissions from the action, the action meets the requirements of paragraph (iii) of this subsection, and meets any of the following requirements:

(A) For any criteria pollutant or precursor, the total of direct and indirect emissions from the action are specifically identified and accounted for in the applicable SIP's attainment or maintenance demonstration or reasonable further progress milestone or in a facility-wide emission budget included in a SIP in accordance with Subsection (k);

(B) For precursors of ozone, nitrogen dioxide, or PM, the total of direct and indirect emissions from the action are fully offset within the same nonattainment or maintenance area (or nearby area of equal or higher classification provided the emissions from that area contribute to the violations, or have contributed to violations in the past, in the area with the Federal action) through a revision to the applicable SIP or a similarly enforceable measure that effects emissions reductions so that there is no net increase in emissions of that pollutant;

(C) For any directly-emitted criteria pollutant, the total of direct and indirect emissions from the action meets the requirements:

(I) Specified in paragraph (ii) of this subsection, based on areawide air quality modeling analysis and local air quality modeling analysis; or

(II) Meet the requirements of paragraph (i)(E) of this subsection and, for local air quality modeling analysis, the requirement of paragraph (ii) of this subsection;

(D) For CO or directly emitted PM:

(I) Where the State agency primarily responsible for the applicable SIP determines that an areawide air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in paragraph (ii) of this subsection, based on local air quality modeling analysis; or

(II) Where the State agency primarily responsible for the applicable SIP determines that an areawide air quality modeling analysis is appropriate and that a local air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in paragraph (ii) of this subsection, based on areawide modeling, or meet the requirements of paragraph (i)(E) of this subsection; or

(E) For ozone or nitrogen dioxide, and for purposes of paragraphs (i)(C)(II) and (i)(D)(II) of this subsection, each portion of the action or the action as a whole meets any of the following requirements:

(I) Where EPA has approved a revision to the applicable implementation plan after the area was designated as nonattainment and the State makes a determination as provided in paragraph (i)(E)(I)(1.) of this subsection or where the State makes a commitment as provided in paragraph (i)(E)(I)(2.) of this subsection:

(1.) The total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the State agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would not exceed the emissions budgets specified in the applicable SIP.

(2.) The total of direct and indirect emissions from the action (or portion thereof) is determined by the State agency responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would exceed an emissions budget specified in the applicable SIP and the State Governor or the Governor's designee for SIP actions makes a written commitment to EPA which includes the following:

a. A specific schedule for adoption and submittal of a revision to the SIP which would achieve the needed emission reductions prior to the time emissions from the Federal action would occur;

b. Identification of specific measures for incorporation into the SIP which would result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed any emissions budget specified in the applicable SIP;

c. A demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the Federal action, and that local authority to implement additional requirements has been fully pursued;

d. A determination that the responsible Federal agencies have required all reasonable mitigation measures associated with their action; and

e. Written documentation including all air quality analyses supporting the conformity determination.

(3.) Where a Federal agency made a conformity determination based on a State's commitment under paragraph (i)(E)(I)(2.) of this subsection and the State has submitted a SIP to EPA covering the time period during which the emissions will occur or is scheduled to submit such a SIP within 18 months of the conformity determination, the State commitment is automatically deemed a call for a SIP revision by EPA under section 110(k)(5) of the CAA, effective on the date of the Federal conformity determination and requiring response within 18 months or any shorter time within which the State commits to revise the applicable SIP;

(4.) Where a Federal agency made a conformity determination based on a State commitment under paragraph (i)(E)(I)(2.) of this subsection and the State has not submitted a SIP covering the time period when the emissions will occur or is not scheduled to submit such a SIP within 18 months of the conformity determination, the State must, within 18 months, submit to EPA a revision to the existing SIP committing to include the emissions in the future SIP revision.

(II) The action (or portion thereof), as determined by the MPO, is specifically included in a current transportation plan and transportation improvement program which have been found to conform to the applicable SIP under Chapter 8, Section 4, or 40 CFR Part 93, Subpart A;

(III) The action (or portion thereof) fully offsets its emissions within the same nonattainment or maintenance area (or nearby area of equal or higher classification provided the emissions from that area contribute to the violations, or have contributed to violations in the past, in the area with the Federal action) through a revision to the applicable SIP or an equally enforceable measure that effects emissions reductions equal to or greater than the total of direct and indirect emissions from the action so that there is no net increase in emissions of that pollutant;

(IV) Where EPA has not approved a revision to the relevant SIP since the area was redesignated or reclassified, the total of direct and indirect emissions from the action for the future years (described in Subsection (i)(iv)) do not increase emissions with respect to the baseline emissions:

(1.) The baseline emissions reflect the historical activity levels that occurred in the geographic area affected by the proposed Federal action during:

a. The most current calendar year with a complete emission inventory available before an area is designated unless EPA sets another year; or

b. The emission budget in the applicable SIP;

c. The year of the baseline inventory in the PM_{10} applicable SIP;

(2.) The baseline emissions are the total of direct and indirect emissions calculated for the future years (described in Subsection (i)(iv)) using the historic activity levels (described in paragraph (i)(E)(IV)(1.) of this subsection) and appropriate emission factors for the future years; or

(V) Where the action involves regional water and/or wastewater projects, such projects are sized to meet only the needs of population projections that are in the applicable SIP.

(ii) The areawide and/or local air quality modeling analyses must:

(A) Meet the requirements in Subsection (i); and

(B) Show that the action does not:

(I) Cause or contribute to any new violation of any standard in any area; or

(II) Increase the frequency or severity of any existing violation of any standard in any area.

(iii) Notwithstanding any other requirements of this subsection, an action subject to this section may not be determined to conform to the applicable SIP unless the total of direct and indirect emissions from the action is in compliance or consistent with all relevant requirements and milestones contained in the applicable SIP, such as elements identified as part of the reasonable further progress schedules, assumptions specified in the attainment or maintenance demonstration, prohibitions, numerical emission limits, and work practice requirements.

(iv) Any analyses required under this subsection must be completed, and any mitigation requirements necessary for a finding of conformity must be identified before the determination of conformity is made.

(i) Procedures for Conformity Determinations of General Federal Actions.

(i) The analyses required under this section must be based on the latest planning assumptions.

(A) All planning assumptions must be derived from the estimates of population, employment, travel, and congestion most recently approved by the MPO, or other agency authorized to make such estimates, where available.

(B) Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved by the MPO or other agency authorized to make such estimates for the urban area.

(ii) The analyses required under this section must be based on the latest and most accurate emission estimation techniques available as described below, unless such techniques are inappropriate. If such techniques are inappropriate, the Federal agency may obtain written approval from the appropriate EPA Regional Administrator for modification or substitution, of another technique on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program.

(A) For motor vehicle emissions, the most current version of the motor vehicle emissions model specified by EPA and available for use in the preparation or revision of SIPs in that State must be used for the conformity analysis as specified in paragraphs (ii)(A)(I) and (II) of this subsection:

(I) The EPA must publish in the Federal Register a notice of availability of any new motor vehicle emissions model; and

(II) A grace period of three months shall apply during which the motor vehicle emissions model previously specified by EPA as the most current version may be used unless EPA announces a longer grace period in the Federal Register. Conformity analyses for which the analysis was begun during the grace period or no more than 3 months before the Federal Register notice of availability of the latest emission model may continue to use the previous version of the model specified by EPA.

(B) For non-motor vehicle sources, including stationary and area source emissions, the latest emission factors specified by EPA in the "Compilation of Air Pollutant Emission Factors" (AP-42) must be used for the conformity analysis unless more accurate emission data are available, such as actual stack test data from stationary sources which are part of the conformity analysis.

(iii) The air quality modeling analyses required under this section must be based on the applicable air quality models, databases, and other requirements specified in the most recent version of the "Guideline on Air Quality Models" (Appendix W to 40 CFR Part 51), unless:

(A) The guideline techniques are inappropriate, in which case the model may be modified or another model substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program; and

(B) Written approval of the EPA Regional Administrator is obtained for any modification or substitution.

(iv) The analyses required under this section must be based on the total of direct and indirect emissions from the action and must reflect emission scenarios that are expected to occur under each of the following cases:

(A) The attainment year specified in the SIP, or if the SIP does not specify an attainment year, the latest attainment year possible under the CAA; or

(B) The last year for which emissions are projected in the maintenance plan;

(C) The year during which the total of direct and indirect emissions from the action is expected to be the greatest on an annual basis; and

(D) Any year for which the applicable SIP specifies an emissions budget.

(j) Mitigation of Air Quality Impacts.

(i) Any measures that are intended to mitigate air quality impacts must be identified and the process for implementation and enforcement of such measures must be described, including an implementation schedule containing explicit timelines for implementation.

(ii) Prior to determining that a Federal action is in conformity, the Federal agency making the conformity determination must obtain written commitments from the appropriate persons or agencies to implement any mitigation measures which are identified as conditions for making conformity determinations.

(iii) Persons or agencies voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.

(iv) In instances where the Federal agency is licensing, permitting or otherwise approving the action of another governmental or private entity, approval by the Federal agency must be conditioned on the other entity meeting the mitigation measures set forth in the conformity determination.

(v) When necessary because of changed circumstances, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination. Any proposed change in the mitigation measures is subject to the reporting requirements of Subsection (e) and the public participation requirements of Subsection (f).

(vi) Written commitments to mitigation measures must be obtained prior to a positive conformity determination and that such commitments must be fulfilled.

(vii) After a State revises its SIP and EPA approves that SIP revision, any agreements, including mitigation measures, necessary for a conformity determination will be both State and federally enforceable. Enforceability through the applicable SIP will apply to all persons who agree to mitigate direct and indirect emissions associated with a Federal action for a conformity determination.

(k) Conformity Evaluation for Federal Installations with Facility-Wide Emission Budgets.

(i) The State or local agency responsible for implementing and enforcing the SIP can in cooperation with Federal agencies or third parties authorized by the agency that operate installations subject to Federal oversight develop and adopt a facility-wide emission budget to be used for demonstrating conformity under Subsection (h)(i)(A). The facility-wide budget must meet the following criteria:

(A) Be for a set time period;

(B) Cover the pollutants or precursors of the pollutants for which the area is designated nonattainment or maintenance;

(C) Include specific quantities allowed to be emitted on an annual or seasonal basis;

(D) The emissions from the facility along with all other emissions in the area will not exceed the emission budget for the area;

(E) Include specific measures to ensure compliance with the budget, such as periodic reporting requirements or compliance demonstration, when the Federal agency is taking an action that would otherwise require a conformity determination;

(F) Be submitted to EPA as a SIP revision;

(G) The SIP revision must be approved by EPA.

(ii) The facility-wide budget developed and adopted in accordance with paragraph (i) of this subsection can be revised by following the requirements in paragraph (i) of this subsection.

(iii) Total direct and indirect emissions from Federal actions in conjunction with all other emissions subject to General Conformity from the facility that do not exceed the facility budget adopted pursuant to paragraph (i) of this subsection are "presumed to conform" to the SIP and do not require a conformity analysis.

(iv) If the total direct and indirect emissions from the Federal actions in conjunction with the other emissions subject to General Conformity from the facility exceed the budget adopted pursuant to paragraph (i) of this subsection, the action must be evaluated for conformity. A Federal agency can use the compliance with the facility-wide emissions budget as part of the demonstration of conformity, i.e., the agency would have to mitigate or offset the emissions that exceed the emission budget.

(v) If the SIP for the area includes a category for construction emissions, the negotiated budget can exempt construction emissions from further conformity analysis.

(l) Emissions Beyond the Time Period Covered by the SIP. If a Federal action would result in total direct and indirect emissions above the applicable thresholds which would be emitted beyond the time period covered by the SIP, the Federal agency can:

(i) Demonstrate conformity with the last emission budget in the SIP; or

(ii) Request the State to adopt an emissions budget for the action for inclusion

in the SIP. The State must submit a SIP revision to EPA within 18 months either including the emissions in the existing SIP or establishing an enforceable commitment to include the emissions in future SIP revisions based on the latest planning assumptions at the time of the SIP revision. No such commitment by a State shall restrict a State's ability to require RACT, RACM or any other control measures within the State's authority to ensure timely attainment of the NAAQS.

(m) Timing of Offsets and Mitigation Measures.

(i) The emissions reductions from an offset or mitigation measure used to demonstrate conformity must occur during the same calendar year as the emission increases from the action except, as provided in paragraph (ii) of this subsection.

(ii) The State may approve emissions reductions in other years provided:

(A) The reductions are greater than the emission increases by the following ratios:

(I) Extreme nonattainment areas 1.5:1

(II) Severe nonattainment areas 1.3:1

(III) Serious nonattainment areas 1.2:1

(IV) Moderate nonattainment areas 1.15:1

(V) All other areas 1.1:1

(B) The time period for completing the emissions reductions must not exceed twice the period of the emissions.

(C) The offset or mitigation measure with emissions reductions in another year will not:

(I) Cause or contribute to a new violation of any air quality standard;

(II) Increase the frequency or severity of any existing violation of any air quality standard; or

(III) Delay the timely attainment of any standard or any interim emissions reductions or other milestones in any area.

(iii) The approval by the State of an offset or mitigation measure with emissions reductions in another year does not relieve the State of any obligation to meet any SIP or CAA milestone or deadline. The approval of an alternate schedule for mitigation measures is at the discretion of the State, and they are not required to approve an alternate schedule.

(n) Inter-precursor Mitigation Measures and Offsets. Federal agencies must reduce the same type of pollutant as being increased by the Federal action except the State may approve offsets or mitigation measures of different precursors of the same criteria pollutant, if such trades are allowed by a State in a SIP approved NSR regulation, is technically justified, and has a demonstrated environmental benefit.

(o) Early Emission Reduction Credit Programs at Federal Facilities and Installation Subject to Federal Oversight.

(i) Federal facilities and installations subject to Federal oversight can, with the approval of the State agency responsible for the SIP in that area, create an early emissions reductions credit program. The Federal agency can create the emission reduction credits in accordance with the requirements in paragraph (ii) of this subsection and can use them in accordance with paragraph (iii) of this subsection.

(ii) Creation of Emission Reduction Credits.

(A) Emissions reductions must be quantifiable through the use of standard emission factors or measurement techniques. If non-standard factors or techniques to quantify the emissions reductions are used, the Federal agency must receive approval from the State agency responsible for the implementation of the SIP and from EPA's Regional Office. The emission reduction credits do not have to be quantified before the reduction strategy is implemented, but must be quantified before the credits are used in the General Conformity evaluation.

(B) The emission reduction methods must be consistent with the applicable SIP attainment and reasonable further progress demonstrations.

(C) The emissions reductions cannot be required by or credited to other applicable SIP provisions.

(D) Both the State and Federal air quality agencies must be able to take legal action to ensure continued implementation of the emission reduction strategy. In addition, private citizens must also be able to initiate action to ensure compliance with the control requirement.

(E) The emissions reductions must be permanent or the timeframe for the reductions must be specified.

(F) The Federal agency must document the emissions reductions and provide a copy of the document to the State air quality agency and the EPA Regional Office for review. The documentation must include a detailed description of the emission reduction strategy and a discussion of how it meets the requirements of paragraphs (ii)(A) through (E) of this subsection.

(iii) Use of Emission Reduction Credits. The emission reduction credits created in accordance with paragraph (ii) of this subsection can be used, subject to the following limitations, to reduce the emissions increase from a Federal action at the facility for the conformity evaluation.

(A) If the technique used to create the emission reduction is implemented at the same facility as the Federal action and could have occurred in conjunction with the Federal action, then the credits can be used to reduce the total direct and indirect emissions used to determine the applicability of the regulation as required in Subsection (c) and as offsets or mitigation measures required by Subsection (h).

(B) If the technique used to create the emission reduction is not implemented at the same facility as the Federal action or could not have occurred in conjunction with the Federal action, then the credits cannot be used to reduce the total direct and indirect emissions used to determine the applicability of the regulation as required in Subsection (c), but can be used to offset or mitigate the emissions as required by Subsection (h).

(C) Emissions reductions credits must be used in the same year in which they are generated.

(D) Once the emission reduction credits are used, they cannot be used as credits for another conformity evaluation. However, unused credits from a strategy used for one conformity evaluation can be used for another conformity evaluation as long as the reduction credits are not double counted.

(E) Federal agencies must notify the State air quality agency responsible for the implementation of the SIP and EPA Regional Office when the emission reduction credits are being used.

Section 4. Transportation Conformity.

(a) Purpose. Any entity making a transportation conformity determination or adopting or approving a regionally significant project shall comply with the provisions of 40 CFR Part 93, Subpart A, in addition to the Wyoming-specific provisions described below pursuant to 40 CFR Part 93.105, 40 CFR Part 93.122(a)(4)(ii), and 40 CFR Part 93.125(c).

(~~a~~b) Definitions. Terms used but not defined in this subsection~~part~~ shall have the meaning given them by the Clean Air Act (CAA), titles 23 and 49 U.S.C., other United States Environmental Protection Agency (EPA) regulations, or other United States Department of Transportation (DOT) regulations, in that order of priority.

~~***"Applicable implementation plan"*** is defined in §302(q) of the CAA and means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under §110, or promulgated under §110(c), or promulgated or approved pursuant to regulations promulgated under §301(d) and which implements the relevant requirements of the CAA.~~

~~***"CAA"*** means the Clean Air Act, as amended.~~

~~***"Cause or contribute to a new violation"*** for a project means:~~

~~(A) To cause or contribute to a new violation of a standard in the area substantially affected by the project or over a region which would otherwise not be in violation of the standard during the future period in question, if the project were not implemented, or~~

~~(B) To contribute to a new violation in a manner that would increase the frequency or severity of a new violation of a standard in such area.~~

~~***"Control strategy implementation plan revision"*** is the applicable implementation plan which contains specific strategies for controlling the emissions of and reducing ambient levels of pollutants in order to satisfy CAA requirements for demonstrations of reasonable further progress and attainment (CAA §§182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 189(a)(1)(B), and 189(b)(1)(A); and §§192(a) and 192(b), for nitrogen dioxide).~~

~~***"Control strategy period"*** with respect to particulate matter less than 10 microns in diameter (PM_{10}), carbon monoxide (CO), nitrogen dioxide (NO_2), and/or ozone precursors (volatile organic compounds and oxides of nitrogen), means that period of time after EPA approves control strategy implementation plan revisions containing strategies for controlling PM_{10}, NO_2, CO, and/or ozone, as appropriate. This period ends when a State submits and EPA approves a request under §107(d) of the CAA for redesignation to an attainment area.~~

~~***"Design concept"*** means the type of facility identified by the project, e.g., freeway, expressway, arterial highway, grade-separated highway, reserved right-of-way rail transit, mixed-traffic rail transit, exclusive busway, etc.~~

~~***"Design scope"*** means the design aspects which will affect the proposed facility's impact on regional emissions, usually as they relate to vehicle or person carrying capacity and control, e.g., number of lanes or tracks to be constructed or added, length of project, signalization, access control including approximate number and location of interchanges, preferential treatment for high-occupancy vehicles, etc.~~

"Division" means the Air Quality Division of the Department of Environmental Quality (WDEQ).

~~***"DOT"*** means the United States Department of Transportation.~~

~~***"EPA"*** means the Environmental Protection Agency.~~

"FHWA" means the Federal Highway Administration of DOT.

~~***"FHWA/FTA project"*** for the purpose of this subpart, is any highway or transit project which is proposed to receive funding assistance and approval through the Federal-Aid Highway~~

~~program or the Federal mass transit program or requires Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) approval for some aspect of the project, such as connection to an interstate highway or deviation from applicable design standards on the interstate system.~~

"FTA" means the Federal Transit Administration of DOT.

~~***"Forecast period"*** with respect to a transportation plan is the period covered by the transportation plan pursuant to 23 CFR Part 450.~~

~~***"Highway project"*** is an undertaking to implement or modify a highway facility or highway-related program. Such an undertaking consists of all required phases necessary for implementation. For analytical purposes, it must be defined sufficiently to:~~

~~(A) Connect logical termini and be of sufficient length to address environmental matters on a broad scope;~~

~~(B) Have independent utility or significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and~~

~~(C) Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.~~

~~***"Horizon year"*** is a year for which the transportation plan describes the envisioned transportation system according to Chapter 8, Section 4(f).~~

"Hot-spot analysis" ~~is~~means an estimation of likely future localized CO, ~~and~~ PM_{10}, and/or $PM_{2.5}$ pollutant concentrations and a comparison of those concentrations to the national ambient air quality standards. ~~Pollutant concentrations to be estimated should be based on the total emissions burden which may result from the implementation of a single, specific project, summed together with future background concentrations (which can be estimated using the ratio of future to current traffic multiplied by the ratio of future to current emission factors) expected in the area. The total concentration must be estimated and analyzed at appropriate receptor locations in the area substantially affected by the project.~~ Federally required ~~H~~hot-spot analysis assesses impacts of pollutants on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections, ~~and~~ highways ~~s~~ portions, or transit terminals, ~~and~~ use~~ings~~ ~~s an~~ air quality dispersion modeling to determine the effects of emissions on air quality. Such an analysis of the area substantially affected by the project demonstrates that CAA conformity requirements are met for the relevant NAAQS in the "project area."

"MPO" means metropolitan planning organization designated as being responsible for conducting the cooperative and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C 1607.

~~***"Incomplete data area"*** means any ozone nonattainment area which EPA has classified, in 40 CFR Part 81, as an incomplete data area.~~

~~***"Increase the frequency or severity"*** means to cause a location or region to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented.~~

~~***"ISTEA"*** means the Intermodal Surface Transportation Efficiency Act of 1991.~~

~~***"Maintenance area"*** means any geographic region of the United States previously designated nonattainment pursuant to the CAA Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under §175A of the CAA, as amended.~~

~~***"Maintenance period"*** with respect to a pollutant or pollutant precursor means that period of time beginning when a State submits and EPA approves a request under §107(d) of the CAA for redesignation to an attainment area, and lasting for 20 years, unless the applicable implementation plan specifies that the maintenance period shall last for more than 20 years.~~

~~***"Metropolitan planning organization (MPO)"*** is that organization designated as being responsible, together with the State, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 1607. It is the forum for cooperative transportation decision-making.~~

~~***"Milestone"*** has the meaning given in §182(g)(1) and §189(c) of the CAA. A milestone consists of an emissions level and the date on which it is required to be achieved.~~

~~***"Motor vehicle emissions budget"*** is that portion of the total allowable emissions defined in a revision to the applicable implementation plan (or in an implementation plan revision which was endorsed by the Governor or his or her designee, subject to a public hearing, and submitted to EPA, but not yet approved by EPA) for a certain date for the purpose of meeting reasonable further progress milestones or attainment or maintenance demonstrations, for any criteria pollutant or its precursors, allocated by the applicable implementation plan to highway and transit vehicles. The applicable implementation plan for an ozone nonattainment area may also designate a motor vehicle emissions budget for oxides of nitrogen (NO_x) for a reasonable further progress milestone year if the applicable implementation plan demonstrates that this NO_x budget will be achieved with measures in the implementation plan (as an implementation plan must do for VOC milestone requirements). The applicable implementation plan for an ozone nonattainment area includes a NO_x budget if NO_x reductions are being substituted for reductions in volatile organic compounds in milestone years required for reasonable further progress.~~

~~***"National ambient air quality standards (NAAQS)"*** are those standards established pursuant to §109 of the CAA.~~

"NEPA" means the National Environmental Policy Act of 1969, as amended (42 U.S.C.

4321 et seq.).

~~***"NEPA process completion"***, for the purposes of this subpart, with respect to FHWA or FTA, means the point at which there is a specific action to make a determination that a project is categorically excluded, to make a Finding of No Significant Impact, or to issue a record of decision on a Final Environmental Impact Statement under NEPA.~~

~~***"Nonattainment area"*** means any geographic region of the United States which has been designated as nonattainment under §107 of the CAA for any pollutant for which a national ambient air quality standard exists.~~

~~***"Not classified area"*** means any carbon monoxide nonattainment area which EPA has not classified as either moderate or serious.~~

~~***"Phase II of the interim period"*** with respect to a pollutant or pollutant precursor, means that period of time after the effective date of this rule, lasting until the earlier of the following:~~

~~(A) Submission to EPA of the relevant control strategy implementation plan revisions which have been endorsed by the Governor (or his or her designee) and have been subject to a public hearing, or~~

~~(B) The date that the Clean Air Act requires relevant control strategy implementation plans to be submitted to EPA, provided EPA has made a finding of the State's failure to submit any such plans and the State, MPO, and DOT have received notice of such finding of the State's failure to submit any such plans. The precise end of Phase II of the interim period is defined in Chapter 8, Section 4(bb).~~

~~***"Project"*** means a highway project or transit project.~~

~~***"Recipient of funds designated under Title 23 U.S.C. or the Federal Transit Act"*** means any agency at any level of State, county, city, or regional government that routinely receives Title 23 U.S.C. or Federal Transit Act funds to construct FHWA/FTA projects, operate FHWA/FTA projects or equipment, purchase equipment, or undertake other services or operations via contracts or agreements. This definition does not include private landowners or developers, or contractors or entities that are only paid for services or products created by their own employees.~~

"*Project-Level Conformity"* see *Hot Spot Analysis.*

"Review Team" means the group of interagency representatives who consult regarding Transportation Conformity assessment and findings. The review team's responsibilities are defined in subsection (c) of this rule.

"Regionally Significant Project" means a transportation project (other than an exempt project) ~~that is on~~ for a facility ~~which~~ that serves regional transportation needs (such as access to and from the area outside ~~of~~ the region, major activity centers in the region, major planned

developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would ~~normally~~ be included in the modeling of a metropolitan area's transportation network, including at a minimum all principal arterial highways~~,~~ and all fixed guideway transit facilities that offer an alternative to regional highway travel. For purposes of this rule, regionally significant projects include only those located in nonattainment or maintenance areas ~~and any project that the Division identifies as having the potential to affect air quality on a regional basis, after consultation in accordance with Chapter 8, Section 4(e)~~. **Exempt projects are listed in the Federal Regulation at 40 CFR Part 93.126 and Part 93.127 and include safety improvements.*

~~***"Rural transport ozone nonattainment area"*** means an ozone nonattainment area that does not include, and is not adjacent to, any part of a Metropolitan Statistical Area, or, where one exists, a Consolidated Metropolitan Statistical Area (as defined by the United States Bureau of the Census) and is classified under Clean Air Act §182(h) as a rural transport area.~~

~~***"Standard"*** means a national ambient air quality standard.~~

~~***"Submarginal area"*** means any ozone nonattainment area which EPA has classified as submarginal in 40 CFR Part 81.~~

"SIP" means State Implementation Plan as developed by the Division.

"TCM" means transportation control measure. A TCM is any measure that is specifically identified and committed to in the applicable SIP through a process established in the CAA Section 176(c)(8), that is either one of the types listed in CAA Section 108 or any other measure designed to reduce emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Vehicle technology-based, fuel-based and maintenance-based measures, e.g., inspection and maintenance programs are not TCMs.

"TIP" means Transportation Improvement Program. A TIP is a prioritized program of transportation projects funded with federal transportation funds, developed under 23 U.S.C. 134(j) and 23 CFR Parts 450.324 through 450.330. The TIP must be fiscally constrained, and in air quality nonattainment and maintenance areas, the MPO, FHWA and FTA must determine that the TIP achieves conformity.

~~***"Title 23 U.S.C."*** means Title 23 of the United States Code.~~

~~***"Transit"*** is mass transportation by bus, rail, or other conveyance which provides general or special service to the public on a regular and continuing basis. It does not include school buses or charter or sightseeing services.~~

~~***"Transit project"*** is an undertaking to implement or modify a transit facility or transit-related program, purchase transit vehicles or equipment, or provide financial assistance for transit operations. It does not include actions that are solely within the jurisdiction of local transit agencies, such as changes in routes, schedules, or fares. It may consist of several phases.~~

~~For analytical purposes, it must be defined inclusively enough to:~~

~~(A) Connect logical termini and be of sufficient length to address environmental matters on a broad scope;~~

~~(B) Have independent utility or independent significance, i.e., be a reasonable expenditure even if no additional transportation improvements in the area are made; and~~

~~(C) Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.~~

~~***"Transitional area"*** means any ozone nonattainment area which EPA has classified as transitional in 40 CFR Part 81.~~

~~***"Transitional period"*** with respect to a pollutant or pollutant precursor means that period of time which begins after submission to EPA of the relevant control strategy implementation plan which has been endorsed by the Governor (or his or her designee) and has been subject to a public hearing. The transitional period lasts until EPA takes final approval or disapproval action on the control strategy implementation plan submission or finds it to be incomplete. The precise beginning and end of the transitional period is defined in Chapter 8, Section 4(bb).~~

~~***"Transportation control measure (TCM)"*** is any measure that is specifically identified and committed to in the applicable implementation plan that is either one of the types listed in §108 of the CAA, or any other measure for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Notwithstanding the above, vehicle technology-based, fuel-based, and maintenance-based measures which control the emissions from vehicles under fixed traffic conditions are not TCMs for the purposes of this subpart.~~

~~***"Transportation improvement program (TIP)"*** means a staged, multiyear, intermodal program of transportation projects covering a metropolitan planning area which is consistent with the metropolitan transportation plan, and developed pursuant to 23 CFR Part 450.~~

"Transportation plan" means the official intermodal metropolitan transportation plan that is developed through the metropolitan planning process for the metropolitan planning area, developed pursuant to 23 CFR Part 450.

"Written commitment" means a written commitment that includes a description of the action to be taken; a schedule for the completion of the action; a demonstration that funding necessary to implement the action has been authorized by the appropriating or authorizing body; and an acknowledgement that the commitment is an enforceable obligation under the applicable implementation plan.

~~***"Transportation project"*** is a highway project or a transit project.~~

"WYDOT" means the Wyoming Department of Transportation.

~~(b) Applicability.~~

~~(i) Action Applicability.~~

~~(A) Except as provided for in paragraph (iii) of this section or Chapter 8, Section 4(hh), conformity determinations are required for:~~

~~(I) The adoption, acceptance, approval or support of transportation plans developed pursuant to 23 CFR Part 450 or 49 CFR Part 613 by an MPO or DOT;~~

~~(II) The adoption, acceptance, approval or support of TIPs developed pursuant to 23 CFR Part 450 or 49 CFR Part 613 by an MPO or DOT; and~~

~~(III) The approval, funding, or implementation of FHWA/FTA projects.~~

~~(B) Conformity determinations are not required under this rule for individual projects which are not FHWA/FTA projects. However, Chapter 8, Section 4(cc) applies to such projects if they are regionally significant.~~

~~(ii) Geographic Applicability.~~

~~(A) The provisions of this subpart shall apply in all nonattainment and maintenance areas for transportation-related criteria pollutants for which the area is designated nonattainment or has a maintenance plan.~~

~~(B) The provisions of this subpart apply with respect to emissions of the following criteria pollutants: ozone, carbon monoxide, nitrogen dioxide, and particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}).~~

~~(C) The provisions of this subpart apply with respect to emissions of the following precursor pollutants:~~

~~(I) Volatile organic compounds and nitrogen oxides in ozone areas (unless the Administrator determines under §182(f) of the CAA that additional reductions of NO_x would not contribute to attainment);~~

~~(II) Nitrogen oxides in nitrogen dioxide areas; and~~

~~(III) Volatile organic compounds, nitrogen oxides, and PM_{10} in PM_{10} areas if:~~

~~(1.) During the interim period, the EPA Regional Administrator or the Director of the State air agency has made a finding (including a finding as~~

~~part of an applicable implementation plan or a submitted implementation revision) that transportation-related precursor emissions within the nonattainment area are a significant contributor to the PM_{10} nonattainment problem and has so notified the MPO and DOT; or~~

~~(2.) During the transitional, control strategy, and maintenance periods, the applicable implementation plan (or implementation plan submission) establishes a budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy.~~

~~(iii) Limitations.~~

~~(A) Projects subject to this regulation for which the NEPA process and a conformity determination have been completed by FHWA or FTA may proceed toward implementation without further conformity determinations if one of the following major steps has occurred within the most recent three-year period: NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications and estimates. All phases of such projects which were considered in the conformity determination are also included, if those phases were for the purpose of funding, final design, right-of-way acquisition, construction, or any combination of these phases.~~

~~(B) A new conformity determination for the project will be required if there is a significant change in project design concept and scope, if a supplemental environmental document for air quality purposes is initiated, or if no major steps to advance the project have occurred within the most recent three-year period.~~

~~(c) Priority. When assisting or approving any action with air quality-related consequences, FHWA and FTA shall give priority to the implementation of those transportation portions of an applicable implementation plan prepared to attain and maintain the NAAQS. This priority shall be consistent with statutory requirements for allocation of funds among States or other jurisdictions.~~

~~(d) Frequency of Conformity Determinations.~~

~~(i) Conformity determinations and conformity redeterminations for transportation plans, TIPs, and FHWA/FTA projects must be made according to the requirements of this section and the applicable implementation plan.~~

~~(ii) Transportation Plans.~~

~~(A) Each new transportation plan must be found to conform before the transportation plan is approved by the MPO or accepted by DOT.~~

~~(B) All transportation plan revisions must be found to conform before the transportation plan revisions are approved by MPO or accepted by DOT, unless the revision merely adds or deletes exempt projects listed in Chapter 8, Section 4(hh) and has been made in accordance with the notification process provisions of Chapter 8, Section 4(e)(iii)(A)(VII). The~~

~~conformity determination must be based on the transportation plan and the revision taken as a whole.~~

~~(C) The existing conformity determination will lapse unless conformity of the existing transportation plans is redetermined:~~

~~(I) By May 1, 1995 (unless previously redetermined in accordance with 40 CFR Part 51 Subpart T); or~~

~~(II) Within 18 months of EPA approval of an implementation plan revision which:~~

~~(1.) Establishes or revises a transportation-related emissions budget (as required by CAA §§175A(a), 182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 189(a)(1)(B), and 189(b)(1)(A); and §§192(a) and 192(b), for nitrogen dioxide; or~~

~~(2.) Adds, deletes, or changes TCMs; and~~

~~(III) Within 18 months of EPA promulgation of an implementation plan which establishes or revises a transportation-related emissions budget or adds, deletes, or changes TCMs.~~

~~(D) In any case, conformity determinations must be made no less frequently than every three years, or the existing conformity determination will lapse.~~

~~(iii) Transportation Improvement Programs.~~

~~(A) A new TIP must be found to conform before the TIP is approved by the MPO or accepted by DOT.~~

~~(B) A TIP amendment requires a new conformity determination for the entire TIP before the amendment is approved by the MPO or accepted by DOT, unless the amendment merely adds or deletes exempt projects listed in Chapter 8, Section 4(hh) and has been made in accordance with the notification process provisions of Chapter 8, Section 4(e)(iii)(A)(VII).~~

~~(C) After an MPO adopts a new or revised transportation plan, conformity must be redetermined by the MPO and DOT within six months from the data of adoption of the plan, unless the new or revised plan merely adds or deletes exempt projects listed in Chapter 8, Section 4(hh) and has been made in accordance with the notification process provisions of Chapter 8, Section 4(e)(iii)(A)(VII). Otherwise, the existing conformity determination for the TIP will lapse.~~

~~(D) In any case, conformity determinations must be made no less frequently than every three years or the existing conformity determination will lapse.~~

(iv) Projects. FHWA/FTA projects must be found to conform before they are adopted, accepted, approved, or funded. Conformity must be redetermined for any FHWA/FTA project if none of the following major steps has occurred within the most recent three-year period: NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications and estimates.

(ec) Interagency Consultation.

(i) General. This section establishes the roles and responsibilities for transportation rule provides procedures for interagency consultation (Federal, State, and local) and resolution of conflicts. Such consultation procedures shall be undertaken by the WYDOT, MPOs and the DOT with the Division and EPA before making conformity determinations, and related SIP development, as well as establishes minimum requirements for interagency consultation (Federal, State, and local) and resolution of conflicts by the Division and EPA with MPOs, the WYDOT and DOT in developing and revising applicable implementation plans.

(ii) Interagency Consultation Procedures: General Factors.

(A) Representatives of the MPOs, the Division and the WYDOT, the Division, and affected MPOs, when applicable, shall undertake an interagency consultation process before making conformity determinations in accordance with this section. This process shall involve consultation with each other, with representatives of appropriate cities, towns, and counties and with local or regional offices of EPA, FHWA, and FTA, on the development of the implementation plan, the list of TCMs in the applicable implementation plan, the unified planning work program under 23 CFR §450.314, the transportation plan, the TIP any revisions to the preceding documents, and all conformity determinations required by this rule. The interagency consultation process shall be used in developing or noticing revisions to TIPs, SIPs and conformity determinations that could affect Transportation Conformity.

(B) In addition to the other duties specified in this section, the specific roles and responsibilities of the various participants in the interagency consultation process shall be as follows: The agency with the responsibility for a transportation plan, program, project, or applicable implementation plan shall also be responsible for preparing the final document of decision subject to the interagency consultation process and shall be the lead agency. It shall be the affirmative responsibility of the lead agency to initiate the process by notifying other participants, to convene consultation meetings early in the process of decision on the final document, to appoint the conveners of technical meetings, and to assure that all relevant documents and information are supplied to all participants in the consultation process in a timely manner.

(I) The Division shall be responsible for: preparing and submitting SIP revisions; emission inventories; air quality modeling and quality assuring air quality modeling; performing attainment demonstrations; providing technical and policy input regarding emission factors and emission budgets; and updating motor vehicle emissions factors.

(II) In areas where transportation projects are located inside a metropolitan planning area, the affected MPO shall be responsible for: establishing a review team, developing transportation plans and TIPs and making conformity determinations on transportation plans and TIPs within the applicable area; developing transportation and socioeconomic data and planning assumptions and provide such data and planning assumptions to the Division for use in air quality analysis; performing transportation modeling and documentation of timely TCMs needed for conformity assessments and SIP development; monitoring regionally significant projects and ensuring that all disclosed, or otherwise known, regionally significant projects are included in the regional emissions analysis.

(III) WYDOT shall be responsible for providing technical input on proposed revisions to motor vehicle emission factors, and comment on transportation control measures and other aspects of the SIP that affect the operation, construction or maintenance of the transportation system. In non-attainment and maintenance areas where there is no designated MPO, WYDOT is the lead transportation agency and assumes the MPO transportation planning responsibilities described in Chapter 8(4)(c)(i)(B)(II) above.

(IV) The Director of the WDEQ will decide whether a transportation conformity determination shall be appealed to the Governor.

(ii) Establishing a Review Team for Conformity Consultation.

(A) The minimum consultation requirements, to be undertaken by the review team, are the following:

(I) The MPO or WYDOT, when appropriate, shall establish a review team for regular consultation. In addition to meeting in-person, virtual meeting platforms or written correspondence may also be used to hold meetings required by this rule. The review team shall comply with the requirements set out in Chapter 8(4)(c)(ii)(A)(II) and (III) below, except that, in instances where a nonattainment area is outside of the metro planning areas, WYDOT shall perform the roles and responsibilities assigned to the MPO.

(II) The review team shall consist, at a minimum, of the MPO as the lead agency, WYDOT, the Division, EPA, FHWA and FTA. Agencies on the review team may appoint individual staff members, of any organizational level, to participate on the review team.

(III) The review team established pursuant of paragraphs I and II shall comply with the following requirements when coordinating the consultation process:

(1.) The MPO shall begin the consultation process early enough for the review team to adequately review and provide meaningful input on the draft transportation plans, TIPs, and conformity determinations, including supporting documents.

(2.) A schedule of meetings or a process for providing adequate notice of subsequent meetings shall be developed as part of the consultation process.

The schedule of meetings shall be frequent enough to address all significant issues in a timely fashion.

a. The MPO shall establish an agenda for each meeting and shall include in such an agenda any issue or time upon the request of any member.

b. Any member may, at any time, request a meeting through the consultation process. Upon such a request, the MPO should schedule a meeting as soon as practicable and provide adequate notice to the review team.

(3.) The MPO shall respond in written form to written comments received from any member of the review team, copying all review team members.

(iii) Topics for Consultation.

(A.) The review team shall be responsible for addressing the following topics in the manner provided:

(I) Evaluating and choosing models and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses.

(1.) The Division shall be responsible for selecting the transportation modeling procedures to be used within its modeling domain. The MPO, WYDOT, and the Division shall consult on an as-needed basis on the design, schedule, funding and data collection efforts for regional transportation model development.

(2.) The Division shall be responsible for selecting the emissions or air quality modeling procedures used for regional emissions analyses, conformity determinations, and SIP revisions.

(II) Determining which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of regional emissions analysis (in addition to those functionally classified as principal arterial or higher or fixed guideway systems or extensions that offer an alternative to regional highway travel), and which projects may have undergone a significant change in design concept or scope since a previous TIP was approved, regardless of the source of funding (federal or local).

(1.) The review team shall be responsible for reviewing the transportation network to identify minor arterials that serve a regional transportation need; review transportation plans to determine if the project is regionally significant; and identify significant changes to projects since the previous TIP was approved.

(III) Evaluating whether projects otherwise exempted from meeting the requirements of 40 CFR Part 93.126 and Part 93.127 should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason.

(1.) The review team shall be responsible for determining whether projects that are exempt from meeting the requirements of 40 CFR Part 93.126 and Part 93.127 should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason.

(2.) For nonattainment areas that are outside of a metropolitan planning area, WYDOT shall consult with the review team to identify exempt projects that should be treated as non-exempt for the area.

(IV) Determining, as required by 40 CFR Part 93.113(c)(1), whether past obstacles to TCM implementation that are behind the schedule established in the applicable SIP have been identified and are being overcome, and whether State and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs.

(1.) The Division shall provide the MPO with information necessary to develop a list of TCMs.

(2.) The MPO, after consultation with the review team, shall determine whether past obstacles to implementation of TCMs have been identified and are being overcome, and whether State and local agencies are giving maximum priority to approval or funding for TCMs.

(3.) The MPO shall report any situation in which it determines that obstacles to implementing a TCM are not being overcome, or that the State and local agencies with influence over approvals or funding are not giving maximum priority to approval or funding for TCMs. The report shall be provided to the agency sponsoring the TCM, the Division, and the Governor.

(4.) The Division shall consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures.

(V) Providing notification of transportation plan and TIP amendments which only add or delete exempt projects listed in 93.126 and 93.127.

(1.) The MPO shall provide notice through the normal planning process of any proposed transportation plan or TIP revisions or amendments that merely add or delete exempt projects listed in 40 CFR Part 93.126 or Part 93.127.

(VI) Choosing conformity tests and methodologies for isolated rural nonattainment areas, as required by 40 CFR Part 93.109(g).

(1.) The Division, in consultation with the review team, shall be responsible for choosing conformity tests and methodologies for isolated rural nonattainment areas and maintenance areas, as required by 40 CFR Part 93.109(g)(2)(iii).

(VII) Evaluating events that will trigger new conformity determinations in addition to those required by 40 CFR Part 93.104.

(1.) WYDOT, in consultation with the MPO when appropriate, shall be responsible for evaluating if events will trigger conformity determinations in addition to those identified in 40 CFR Part 93.104 or a pollutant-specific SIP.

(VIII) Determining emission analysis for transportation activities that cross borders of MPOs or nonattainment areas or basins.

(1.) WYDOT shall be responsible for consulting and coordinating the review team on procedures for emissions analysis for transportation activities that cross the borders of MPOs or nonattainment areas or air basins, or situations where the metropolitan planning area does not include an entire nonattainment area.

(IX) Determining conformity or projects outside the metropolitan area and within the nonattainment or maintenance area.

(1.) WYDOT, in consultation with the MPO, shall establish a process detailing the planning and analysis for determining conformity of projects outside the metropolitan area and within the nonattainment or maintenance area, in instances where the metropolitan planning area does not include the entire nonattainment or maintenance area.

(X) Specifying a process to ensure disclosure of plans for regionally significant non-FHWA/FTA projects (including projects for which alternatives are still being considered) to the MPO on a regular basis, and immediate disclosure of any changes to those plans.

(1.) WYDOT shall be responsible for disclosing plans for the construction of any regionally significant projects that are not FHWA/FTA projects (including projects for which alternatives are still being considered), including those by recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws, to the MPO and associated county and public transit agencies located within the MPO, on a regular basis, and that any changes to such plans are immediately disclosed.

(XI) Providing a process involving any recipients of federal funds for assuming project location and design concept/scope where these features are not adequately defined for regional emissions analysis.

(1.) WYDOT, the MPO, and any other recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws for assuming the location and design concept and scope of projects, which are disclosed to the MPO as required by (c)(iii)(A)(X)(1.) of this section but whose sponsors have not yet decided these features shall, in consultation with the Division, perform a regional emissions analysis according to the

requirements of 40 CFR Part 93.122.

(XII) Specifying a process for consulting on design, schedule, and funding of research and data collection efforts and regional transportation model development.

(1.) WYDOT, in consultation with the MPO when appropriate, shall determine the design, schedule and funding of significant research and data collection efforts and regional transportation model development.

(XIII) Determining a process for providing final documents and supporting information to the review team.

(1.) The MPO shall provide final documents (including applicable TIPs and TIP revisions) and supporting information to each agency within the review team, described in (c)(i)(A), after approval or adoption.

(iv) Dispute Resolution Process

(A) As specified in 40 CFR Part 93.105(d), conformity related conflicts among WDEQ, WYDOT, and MPOs are escalated to the Governor, or designee, if they cannot be resolved by the heads of the involved agencies. WDEQ has 14 days to appeal to the Governor after WDEQ has received written notice of approval of the conformity analysis by the MPO or WYDOT.

(B) If WDEQ does not appeal to the Governor within 14 days of receiving written notice of approval of the conformity analysis, the MPO or WYDOT may proceed with the final conformity determination. The Governor may delegate his or her role in this process, but not any member or employee of WDEQ, AQAB, WYDOT, the Wyoming Transportation Commission or MPOs.

(v) Public Consultation Procedures.

(A) When making consultation determinations, the MPO or WYDOT will continue to implement a proactive public involvement process which provides for review and public comment prior to taking any formal action on a conformity determination for all transportation plans and TIPs consistent with the requirements of 23 CFR Part 450.316(a) and W.S. 16-4-204(d) of the Wyoming Administrative Procedures Act. Technical and policy information considered by WYDOT or the MPO on a conformity determination will be made available at the beginning of the public comment period.

(B) Any charges imposed for public inspection and copying should be consistent with the fee structure established in Chapter 2, Section 4 and Chapter 2, Section 5, of the Wyoming Department of Administration & Information Director's Office Rules & Regulations, per the rulemaking authority established under W.S. 16-4-204(d) of the Wyoming Administrative Procedures Act.

(C) The MPO or WYDOT, when appropriate, must specifically address in writing all public comments that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. Additionally, the MPO or WYDOT must provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

(d) Written Commitments for Control Measures not included in Transportation Plans and TIPs.

(i) In accordance with all requirements of 40 CFR Part 93.122(a)(4), written commitments from the responsible agency must be obtained prior to conformity determination for any transportation control measures identified in the SIP and included in the emissions analysis, but which are not included in the transportation plan or TIP.

(e) Enforceability of Project-level Mitigation and Control Measures.

(i) Pursuant to 40 CFR Part 93.125(c), written commitments from the project sponsor must be obtained for any transportation project level mitigation measures identified as conditions for NEPA process completion or a positive conformity determination on a transportation plan or TIP, or necessary for a positive project-level conformity determination (which may include a hot-spot analysis). Mitigation measures directed at reducing project construction emissions (such as dust control) but not specifically identified as necessary for a positive conformity finding, do not require written commitments.

~~(C) Regular consultation on routine activities such as the selection of models or any determination of conformity on transportation projects shall include meetings at regular, scheduled quarterly intervals, if determined necessary by the lead agency and shall be on the agenda of at least one meeting attended by representatives at the policy level of each agency. In addition, technical meetings shall be convened as necessary.~~

~~(D) Each lead agency in the consultation process required under this section shall confer with all other agencies identified under paragraph (A) with an interest in the document to be developed, provide all information to those agencies needed for meaningful input, and, prior to taking any action, consider the views of each such agency and respond to those views in a timely, substantive written manner prior to any final decision on such document. Such views and written response shall be made part of the record of any decision or action, if any.~~

~~(iii) Interagency Consultation Procedures: Specific Processes.~~

~~(A) An interagency consultation process in accordance with Chapter 8, Section 4(e)(ii) involving the MPO, the Division, the WYDOT, EPA, and DOT shall be undertaken for the following:~~

(I) Evaluating and choosing each model (or models) and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses, including vehicle miles traveled ("VMT") forecasting, to be initiated by the WYDOT and conducted in accordance with Chapter 8, Section 4(e)(ii).

(II) Determining which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of regional emissions analysis (in addition to those functionally classified as principal arterial or higher or fixed guideway systems or extension that offer an alternative to regional highway travel), and which projects should be considered to have a significant change in design concept and scope from the transportation plan of TIP, to be initiated by the WYDOT and conducted in accordance with Chapter 8, Section 4(e)(ii).

(III) Evaluate whether projects otherwise exempted from meeting the requirements of this section should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason, to be initiated by the Division and conducted in accordance with Chapter 8, Section 4(e)(ii).

(IV) Make a determination, as required by Chapter 8, Section 4(m)(iii)(A), whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether State and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs, to be initiated by the Division and conducted in accordance with Chapter 8, Section 4(e)(ii). This consultation process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures.

(V) Making a determination, as required by Chapter 8, Section 4(cc)(ii), whether the project is included in the regional emission analysis supporting the currently conforming TIP's conformity determination, even if the project is not strictly "included" in the TIP for the purposes of MPO project selection or endorsement, and whether the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility, to be initiated by the WYDOT and conducted in accordance with Chapter 8, Section 4(e)(ii).

(VI) Identify, as required by Chapter 8, Section 4(ee)(iv), projects located at sites in PM_{10} nonattainment areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM_{10} hot-spot analysis, to be initiated by the Division and conducted in accordance with Chapter 8, Section 4(e)(ii).

(VII) Notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in Chapter 8, Section 4(hh), to be initiated by the WYDOT and conducted in accordance with Chapter 8, Section 4(e)(ii).

(VIII) Determining what forecast of vehicle miles traveled (VMT) to use in establishing or tracking emissions budgets, developing transportation plans, TIPS, or applicable implementation plans, or making conformity determinations, to be initiated by the WYDOT and conducted in accordance with Chapter 8, Section 4(e)(ii).

(B) An interagency consultation process in accordance with Chapter 8, Section 4(e)(ii) involving the MPO, the Division and the WYDOT, shall be undertaken for the following:

(I) Evaluating events which will trigger new conformity determinations in addition to those triggering events established in Chapter 8, Section 4(d), to be initiated by the Division and conducted in accordance with Chapter 8, Section 4(e)(ii); and

(II) Consulting on emissions analysis for transportation activities which cross the borders of MPOs or nonattainment areas or air basins, to be initiated by the Division and conducted in accordance with Chapter 8, Section 4(e)(ii).

(C) Where any metropolitan planning area does not include an entire nonattainment or maintenance area, an interagency consultation process in accordance with Chapter 8, Section 4(e)(ii) involving the MPO and the WYDOT shall be undertaken for cooperative planning and analysis purposes of determining conformity of all projects outside the metropolitan area and within the nonattainment or maintenance area, to be initiated by the WYDOT and conducted in accordance with Chapter 8, Section 4(e)(ii).

(D) (I) An interagency consultation process in accordance with Chapter 8, Section 4(e)(ii) involving the MPO, the Division, the WYDOT, and recipients of funds designated under Title 23 U.S.C. or the Federal Transit Act shall be undertaken to assure that plans for construction of regionally significant projects which are not FHWA/FTA projects (including projects for which alternative locations, design concept and scope, or the no-build option are still being considered), including those by recipients of funds designated under Title 23 U.S.C. or the Federal Transit Act, are disclosed to the MPO on a regular basis, and to assure that any changes to those plans are immediately disclosed.

(II) The sponsor of any such regionally significant project, and any agency that becomes aware of any such project through applications for approval, permitting or funding or otherwise, shall disclose such project to the MPO in a timely manner. Such disclosure shall be made not later than the first occasion on which any of the following actions are sought: any policy board action necessary for the project to proceed, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract to design or construct the facility, the execution of any indebtedness for the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with design, permitting or construction of the project, or the execution of any contract to design or construct or any approval needed for any facility that is dependent on the completion of a regionally significant project.

(III) In the case of any such regionally significant project that

has not been disclosed to the MPO and other interested agencies participating in the consultation process in a timely manner, such regionally significant project shall be deemed not to be included in the regional emissions analysis supporting the currently conforming TIP's conformity determination and not to be consistent with the motor vehicle emissions budget in the applicable implementation plan, for the purposes of Chapter 8, Section 4(cc).

(IV) For the purposes of this section and Chapter 8, Section 4(cc), the phrase "adopt or approve of a regionally significant project" means the first time any action necessary to authorizing a project occurs, such as any policy board action necessary for the project to proceed, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract to construct the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with construction of the project, or any written decision or authorization from the MPO that the project may be adopted or approved.

(E) An interagency cooperation process in accordance with Chapter 8, Section 4(e)(ii) involving the MPO and any other recipients of funds designated under Title 23 U.S.C. or the Federal Transit Act shall be undertaken for assuming the location and design concept and scope of projects which are disclosed to the MPO under Chapter 8, Section 4(e)(iii)(E) of this section but whose sponsors have not yet decided these features, in sufficient detail to perform the regional emissions analysis according to the requirements of Chapter 8, Section 4(dd), to be initiated by the MPO and conducted in accordance with Chapter 8, Section 4(e)(ii).

(F) An interagency consultation process in accordance with Chapter 8, Section 4(e)(ii) involving any MPO, the Division and the WYDOT shall be undertaken for the design, schedule, and funding of research and data collection efforts and regional transportation model development by the MPO (e.g., household/travel transportation surveys), to be initiated by the MPO and conducted in accordance with Chapter 8, Section 4(e)(ii).

(iv) Resolving Conflicts.

(A) Any conflict among State agencies or between State agencies and an MPO shall be escalated to the Governor if the conflict cannot be resolved by the heads of the involved agencies. In the first instance, such agencies shall make every effort to resolve any differences, including personal meetings between the heads of such agencies or their policy-level representatives, to the extent possible.

(B) The Division has 14 calendar days to appeal a proposed determination of conformity to the Governor after the WYDOT or MPO has notified the Division of the resolution of all comments on such proposed determination of conformity or policy decision. Such 14-day period shall commence when the MPO or the WYDOT has confirmed receipt by the Administrator of the Division of the resolution of the comments of the Division.

(C) The final conformity decision must have the concurrence of the

Governor if the Division appeals a conformity decision. If there is no appeal by the Division, the MPO or the WYDOT may proceed with the final conformity determination.

(D) The Division must provide notice of any appeal under Chapter 8, Section 4(e)(iv)(B) to WYDOT and MPO.

(E) The Governor may delegate his/her role in the appeal process to anyone except the head or staff of the Division, the WYDOT, the Wyoming Environmental Quality Council, the Wyoming Transportation Commission or an MPO.

(v) Public Participation.

(A) Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process which provides opportunity for public review and comment prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with the requirements of 23 CFR Part 450, including §§450.316(b)(1), 450.322(c), and 450.324(c) as in effect on the date of adoption of this rule. In addition, any such agency must specifically address in writing in all public comments that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. Any such agency shall also provide opportunity for public involvement in conformity determination for projects to the extent otherwise required by law.

(B) The opportunity for public involvement provided under this subsection shall include access to information, emissions data, analyses, models and modeling assumptions used to perform a conformity determination, and the obligation of any such agency to consider and respond to significant comments.

(C) No transportation plan, TIP, or project may be found to conform unless the determination of conformity has been subject to a public involvement process in accordance with this subsection, without regard to whether the DOT has certified any process under 23 CFR Part 450.

(f) Content of Transportation Plans.

(i) Transportation Plans Adopted After January 1, 1995 in Serious, Severe, or Extreme Ozone Nonattainment Areas and in Serious Carbon Monoxide Nonattainment Areas. The transportation plan must specifically describe the transportation system envisioned for certain future years which shall be called horizon years.

(A) The agency or organization developing the transportation plan, after consultation in accordance with Chapter 8, Section 4(e), may choose any years to be horizon years, subject to the following restrictions:

(I) Horizon years may be no more than 10 years apart.

(II) The first horizon year may be no more than 10 years from the base year used to validate the transportation demand planning model.

(III) If the attainment year is in the time span of the transportation plan, the attainment year must be a horizon year.

(IV) The last horizon year must be the last year of the transportation plan's forecast period.

(B) For these horizon years:

(I) The transportation plan shall quantify and document the demographic and employment factors influencing expected transportation demand, including land use forecasts, in accordance with implementation plan provisions and Chapter 8, Section 4(e).

(II) The highway and transit system shall be described in terms of the regionally significant additions or modifications to the existing transportation network which the transportation plan envisions to be operational in the horizon years. Additions and modifications to the highway network shall be sufficiently identified to indicate intersections with existing regionally significant facilities, and to determine their effect on route options between transportation analysis zones. Each added or modified highway segment shall also be sufficiently identified in terms of its design concept and design scope to allow modeling of travel times under various traffic volumes, consistent with the modeling methods for area-wide transportation analysis in use by the MPO. Transit facilities, equipment, and services envisioned for the future shall be identified in terms of design concept, design scope, and operating policies sufficiently to allow modeling of their transit ridership. The description of additions and modifications to the transportation network shall also be sufficiently specific to show that there is a reasonable relationship between expected land use and the envisioned transportation system; and

(III) Other future transportation policies, requirements, services, and activities, including intermodal activities, shall be described.

(ii) Moderate Areas Reclassified to Serious. Ozone or CO nonattainment areas which are reclassified from moderate to serious must meet the requirements of paragraph (i) of this section within two years from the date of reclassification.

(iii) Transportation Plans for Other Areas. Transportation plans for other areas must meet the requirements of paragraph (a) of this section at least to the extent it has been the previous practice of the MPO to prepare plans which meet those requirements. Otherwise, transportation plans must describe the transportation system envisioned for the future specifically enough to allow determination of conformity according to the criteria and procedures of Chapter 8, Section 4(i) (aa).

(iv) Savings. The requirements of this section supplement other requirements of applicable law or regulation governing the format or content of transportation plans.

(g) Relationship of Transportation Plan and TIP Conformity with the NEPA Process. The degree of specificity required in the transportation plan and the specific travel network assumed for air quality modeling do not preclude the consideration of alternatives in the NEPA process or other project development studies. Should the NEPA process result in a project with design concept and scope significantly different from that in the transportation plan or TIP, the project must meet the criteria in Chapter 8, Section 4(i) (aa) for projects not from a TIP before NEPA process completion.

(h) Fiscal Constraints for Transportation Plans and TIPS. Transportation plans and TIPs shall be fiscally constrained and meet the requirements of 23 CFR Parts 450.332(b)(11) and 450.324(e) as in effect on the date of adoption of this section in order to be found in conformity. The determination that a transportation plan or TIP is fiscally constrained shall be subject to consultation in accordance with Chapter 8, Section 4(e).

(i) Criteria and Procedures for Determining Conformity of Transportation Plans, Programs, and Projects: General.

(i) In order to be found to conform, each transportation plan, program, and FHWA/FTA project must satisfy the applicable criteria and procedures in Chapter 8, Section 4(j) (aa) as listed in Table 1 in paragraph (ii) of this section, and must comply with all applicable conformity requirements of implementation plans and of court orders for the area which pertain specifically to conformity determination requirements. The criteria for making conformity determinations differ based on the action under review (transportation plans, TIPs, and FHWA/FTA projects), the time period in which the conformity determination is made, and the relevant pollutant.

(ii) The following table indicates the criteria and procedures in Chapter 8, Section 4(j) (aa) which apply for each action in each time period.

Table 1. Conformity Criteria

DURING ALL PERIODS

Action	Criteria
Transportation Plan	j,k,l,m(ii).
TIP	j,k,l,m(iii).
Project (From a conforming plan and TIP)	j,k,l,n,o,p,q
Project (Not from a conforming plan and TIP)	j,k,l,m(iv),n,p,q

~~Table 1. Conformity Criteria (continued)~~

~~PHASE II OF THE INTERIM PERIOD~~

~~Action~~	~~Criteria~~
~~Transportation Plan~~	~~v,y~~
~~TIP~~	~~w,z~~
~~Project (From a conforming plan and TIP)~~	~~u~~
~~Project (Not from a conforming plan and TIP)~~	~~u,x,aa~~

~~TRANSITIONAL PERIOD~~

~~Action~~	~~Criteria~~
~~Transportation Plan~~	~~r,v,y~~
~~TIP~~	~~s,w,z~~
~~Project (From a conforming plan and TIP)~~	~~u~~
~~Project (Not from a conforming plan and TIP)~~	~~t,u,x,aa~~

~~CONTROL STRATEGY AND MAINTENANCE PERIODS~~

~~Action~~	~~Criteria~~
~~Transportation Plan~~	~~r~~
~~TIP~~	~~s~~
~~Project (From a conforming plan and TIP)~~	~~No additional criteria~~
~~Project (Not from a conforming plan and TIP)~~	~~t~~

(j) The conformity determination must be based on the latest planning assumptions.

(k) The conformity determination must be based on the latest emission estimation model available.

(l) The MPO must make the conformity determination according to the consultation procedures of this rule and the implementation plan revision required by 40 CFR Part 51, Subpart T.

(m) The transportation plan, TIP, or FHWA/FTA project which is not from a conforming plan and TIP must provide for the timely implementation of TCMs from the applicable implementation plan.

(n) There must be a currently conforming transportation plan and currently conforming TIP at the time of project approval.

(o) The project must come from a conforming transportation plan and program.

(p) The FHWA/FTA project must not cause or contribute to any new localized CO or PM_{10} violations or increase the frequency or severity of any existing CO or PM_{10} violations in CO and PM_{10} nonattainment and maintenance areas.

(q) The FHWA/FTA project must comply with PM_{10} control measures in the applicable implementation plan.

(r) The transportation plan must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.

(s) The TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.

(t) The project which is not from a conforming transportation plan and conforming TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.

(u) The FHWA/FTA project must eliminate or reduce the severity and number of localized CO violations in the area substantially affected by the project (in CO nonattainment areas).

(v) The transportation plan must contribute to emissions reductions in ozone and CO nonattainment areas.

(w) The TIP must contribute to emissions reductions in ozone and CO nonattainment areas.

(x) The project which is not from a conforming transportation plan and TIP must contribute to emissions reductions in ozone and CO nonattainment areas.

(y) The transportation plan must contribute to emission reductions or must not increase emissions in PM_{10} and NO_2 nonattainment areas.

(z) The TIP must contribute to emission reductions or must not increase emissions in PM_{10} and NO_2 nonattainment areas.

(aa) The project which is not from a conforming transportation plan and TIP must contribute to emission reductions or must not increase emissions in PM_{10} and NO_2 nonattainment areas.

(j) Criteria and Procedures: Latest Planning Assumptions.

(i) During all periods the conformity determination, with respect to all other applicable criteria in Chapter 8, Sections 4(k) (aa), must be based upon the most recent planning

assumptions in force at the time of the conformity determination. This criterion applies during all periods. The conformity determination must satisfy the requirements of paragraphs (ii) through (vi) of this section.

(ii) Assumptions (including, but not limited to, vehicle miles traveled per capita or per household, trip generation per household, vehicle occupancy, household size, vehicle fleet mix, vehicle ownership, and the geographic distribution of population growth) must be derived from the estimates of current and future population, employment, travel, and congestion most recently developed by the MPO or other agency authorized to make such estimates and approved by the MPO. The conformity determination must also be based on the latest assumptions about current and future background concentrations. Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved by the MPO or other agency authorized to make such estimates for the area, after consultation with the Division.

(iii) The conformity determination for each transportation plan and TIP must discuss how transit operating policies (including fares and service levels) and assumed transit ridership have changed since the previous conformity determination.

(iv) The conformity determination must include reasonable assumptions about transit service and increases in transit fares and road and bridge tolls over time.

(v) The conformity determination must use the latest existing information regarding the effectiveness of the TCMs which have already been implemented.

(vi) Key assumptions shall be specified and included in the draft documents and supporting materials used for the interagency and public consultation required by Chapter 8, Section 4(e).

(k) Criteria and Procedures: Latest Emissions Model.

(i) During all periods the conformity determination shall be based on the latest emission estimation model available. This criterion is satisfied if the most current version of the motor vehicle emissions model specified by EPA for use in the preparation or revision of implementation plans in that State or area is used for the conformity analysis. Where EMFAC is the motor vehicle emissions model used in preparing or revising the applicable implementation plan, new versions must be approved by EPA before they are used in the conformity analysis.

(ii) EPA will consult with DOT to establish a grace period following the specification of any new model.

(A) The grace period will be no less than three months and no more than 24 months after notice of availability is published in the Federal Register.

(B) The length of the grace period will depend on the degree of change

in the model and the scope of re-planning likely to be necessary by MPOs in order to assure conformity. If the grace period will be longer than three months, EPA will announce the appropriate grace period in the Federal Register.

(iii) Conformity analyses for which the emissions analysis was begun during the grace period or before the Federal Register notice of availability of the latest emission model may continue to use the previous version of the model for transportation plans and TIPs. The previous model may also be used for projects if the analysis was begun during the grace period or before the Federal Register notice of availability, provided no more than three years have passed since the draft environmental document was issued.

(l) Criteria and Procedures: Consultation. All conformity determinations shall be made according to the consultation procedures in Chapter 8, Section 4(e), and according to the public involvement procedures established by the MPO in compliance with 23 CFR Part 450. This criterion applies during all periods. Until the implementation plan revision required by 40 CFR Part 51, subpart T is approved by EPA, the conformity determination must be made according to the procedures in 40 CFR Part 51.402(a)(2) and 40 CFR Part 51.402(e). Once the implementation plan revision has been approved by EPA, this criterion is satisfied if the conformity determination is made consistent with the implementation plan's consultation requirements.

(m) Criteria and Procedures: Timely Implementation of TCMs.

(i) The transportation plan, TIP, or FHWA/FTA project which is not from a conforming plan and TIP must provide for the timely implementation of TCMs from the applicable implementation plan. This criterion applies during all periods.

(ii) For transportation plans, this criterion is satisfied if the following two conditions are met:

(A) The transportation plan, in describing the envisioned future transportation system, provides for the timely completion or implementation of all TCMs in the applicable implementation plan, including, but not limited to, those which are eligible for funding under Title 23 U.S.C. or the Federal Transit Act, consistent with schedules included in the applicable implementation plan.

(B) Nothing in the transportation plan interferes with the implementation of any TCM in the applicable implementation plan.

(iii) For TIPs, this criterion is satisfied if the following conditions are met:

(A) An examination of the specific steps and funding source(s) needed to fully implement each TCM indicates that TCMs, including, but not limited to, those which are eligible for funding under Title 23 U.S.C. or the Federal Transit Act are on or ahead of the schedule established in the applicable implementation plan, or, if such TCMs are behind the schedule established in the applicable implementation plan, the MPO and DOT have determined

that past obstacles to implementation of the TCMs have been identified and have been or are being overcome, and that all State and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding of TCMs over other projects within their control, including projects in locations outside the nonattainment or maintenance area. Maximum priority to approval or funding of TCMs includes demonstrations with respect to funding acceleration, commitment of staff or other agency resources, diligent efforts to seek approvals, and similar actions.

(B) If TCMs in the applicable implementation plan have previously been programmed for Federal funding but the funds have not been obligated and the TCMs are behind the schedule in the implementation plan, then the TIP cannot be found to conform if the funds intended for those TCMs are reallocated to projects in the TIP other than TCMs, or if there are no other TCMs in the TIP, if the funds are reallocated to projects in the TIP other than projects which are eligible for Federal funding under ISTEA's Congestion Mitigation and Air Quality Improvement Program.

(C) Nothing in the TIP may interfere with the implementation of any TCM in the applicable implementation plan.

(iv) For FHWA/FTA projects which are not from a conforming transportation plan and TIP, this criterion is satisfied if the project does not interfere with the implementation of any TCM in the applicable implementation plan.

(n) Criteria and Procedures: Currently Conforming Transportation Plan and TIP. There must be a currently conforming transportation plan and currently conforming TIP at the time of project approval. This criterion applies during all periods. It is satisfied if the current transportation plan and TIP have been found to conform to the applicable implementation plan by the MPO and DOT according to the criteria and procedures of this subpart. Only one conforming transportation plan or TIP may exist in an area at any time; conformity determinations of a previous transportation plan or TIP expire once the current plan or TIP is found to conform by DOT. The conformity determination on a transportation plan or TIP will also lapse if conformity is not determined according to the frequency requirements of Chapter 8, Section 4(d).

(o) Criteria and Procedures: Projects from a Plan and TIP.

(i) The project must come from a conforming plan and program. This criterion applies during all periods. If this criterion is not satisfied, the project must satisfy all criteria in Table 1 for a project not from a conforming transportation plan and TIP. A project is considered to be from a conforming transportation plan if it meets the requirements of paragraph (ii) of this section and from a conforming program if it meets the requirements of paragraph (iii) of this section.

(ii) A project is considered to be from a conforming transportation plan if one of the following conditions applies:

(A) For projects which are required to be identified in the transportation plan in order to satisfy §51.404, the project is specifically included in the conforming transportation plan and the project's design concept and scope have not changed significantly from those which were described in the transportation plan, or in a manner which would significantly impact use of the facility; or

(B) For projects which are not required to be specifically identified in the transportation plan, the project is identified in the conforming transportation plan, or is consistent with the policies and purpose of the transportation plan and will not interfere with other projects specifically included in the transportation plan.

(iii) A project is considered to be from a conforming program if the following conditions are met:

(A) The project is included in the conforming TIP and the design concept and scope of the project were adequate at the time of the TIP conformity determination to determine its contribution to the TIP's regional emissions and have not changed significantly from those which were described in the TIP, or in a manner which would significantly impact use of the facility; and

(B) If the TIP describes a project design concept and scope which includes project-level emissions mitigation or control measures, enforceable written commitments to implement such measures must be obtained from the project sponsor and/or operator as required by Chapter 8, Section 4(gg)(i) in order for the project to be considered from a conforming program. Any change in these mitigation or control measures that would significantly reduce their effectiveness constitutes a change in the design concept and scope of the project.

(p) Criteria and Procedures: Localized CO and PM_{10} Violations (Hotspots).

(i) The FHWA/FTA project must not cause or contribute to any new localized CO or PM_{10} violations or increase the frequency or severity of any existing CO or PM_{10} violations in CO and PM_{10} nonattainment and maintenance areas. This criterion applies during all periods. This criterion is satisfied if it is demonstrated that no new local violations will be created and the severity or number of existing violations will not be increased as a result of the project.

(ii) The demonstration must be performed according to the requirements of Chapter 8, Sections 4(e) and (ee).

(iii) For projects which are not of the type identified by Chapter 8, Section 4(ee)(i) or Chapter 8, Section 4(ee)(iv), this criterion may be satisfied if consideration of local factors clearly demonstrates that no local violations presently exist and no new local violations will be created as a result of the project. Otherwise, in CO nonattainment and maintenance areas, a quantitative demonstration must be performed according to the requirements of Chapter 8, Section 4(ee)(ii).

(q) Criteria and Procedures: Compliance with PM_{10} Control Measures. The FHWA/FTA project must comply with PM_{10} control measures in the applicable implementation plan. This criterion applies during all periods. It is satisfied if control measures (for the purpose of limiting PM_{10} emissions from the construction activities and/or normal use and operation associated with the project) contained in the applicable implementation plan are included in the final plans, specifications, and estimates for the project.

(r) Criteria and Procedures: Motor Vehicle Emissions Budget (Transportation Plan).

(i) The transportation plan must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan (or implementation plan submission). This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in Chapter 8, Section 4(jj). This criterion may be satisfied if the requirements in paragraphs (ii) and (iii) of this section are met:

(ii) A regional emissions analysis shall be performed as follows:

(A) The regional analysis shall estimate emissions of any of the following pollutants and pollutant precursors for which the area is in nonattainment or maintenance and for which the applicable implementation plan (or implementation plan submission) establishes an emissions budget:

(I) VOC as an ozone precursor;

(II) NO_x as an ozone precursor, unless the Administrator determines that additional reductions of NO_x would not contribute to attainment;

(III) CO;

(IV) PM_{10} (and its precursors VOC and/or NO_x if the applicable implementation plan or implementation plan submission identifies transportation-related precursor emissions within the nonattainment area as a significant contributor to the PM_{10} nonattainment problem or establishes a budget for such emissions); or

(V) NO_x (in NO_2 nonattainment or maintenance areas);

(B) The regional emissions analysis shall estimate emissions from the entire transportation system, including all regionally significant projects contained in the transportation plan and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the time frame of the transportation plan;

(C) The emissions analysis methodology shall meet the requirements of Chapter 8, Section 4(dd);

(D) For areas with a transportation plan that meets the content requirements of Chapter 8, Section 4(f)(i), the emissions analysis shall be performed for each horizon year. Emissions in milestone years which are between the horizon years may be determined by interpolation; and

(E) For areas with a transportation plan that does not meet the content requirements of Chapter 8, Section 4(f)(i), the emissions analysis shall be performed for any years in the time span of the transportation plan provided they are not more than ten years apart and provided the analysis is performed for the last year of the plan's forecast period. If the attainment year is in the time span of the transportation plan, the emissions analysis must also be performed for the attainment year. Emissions in milestone years which are between these analysis years may be determined by interpolation.

(iii) The regional emissions analysis shall demonstrate that for each of the applicable pollutants or pollutant precursors in paragraph (ii)(A) of this section the emissions are less than or equal to the motor vehicle emissions budget as established in the applicable implementation plan or implementation plan submission as follows:

(A) If the applicable implementation plan or implementation plans submission establishes emissions budgets for milestone years, emissions in each milestone year are less than or equal to the motor vehicle emissions budget established for that year;

(B) For nonattainment areas, emissions in the attainment year are less than or equal to the motor vehicle emissions budget established in the applicable implementation plan or implementation plan submission for that year;

(C) For nonattainment areas, emissions in each analysis or horizon year after the attainment year are less than or equal to the motor vehicle emissions budget established by the applicable implementation plan or implementation plan submission for the attainment year. If emissions budgets are established for years after the attainment year, emission in each analysis year or horizon year must be less than or equal to the motor vehicle emissions budget for that year, if any, or the motor vehicle emissions budget for the most recent budget year prior to the analysis year or horizon year; and

(D) For maintenance areas, emissions in each analysis or horizon year are less than or equal to the motor vehicle emissions budget established by the maintenance plan for that year, if any, or the emissions budget for the most recent budget year prior to the analysis or horizon year.

(s) Criteria and Procedures: Motor Vehicle Emissions Budget (TIP)

(i) The TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan (or implementation plan submission). This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in Chapter 8, Section 4(jj). This criterion may be satisfied if the requirements in paragraphs (ii) and (iii) of this section are met:

(ii) For areas with a conforming transportation plan that fully meets the content requirements of Chapter 8, Section 4(f)(i), this criterion may be satisfied without additional regional analysis if:

(A) Each program year of the TIP is consistent with the Federal funding which may be reasonably expected for that year, and required State/local matching funds and funds for State/local funding-only projects are consistent with the revenue sources expected over the same period; and

(B) The TIP is consistent with the conforming transportation plan such that the regional emissions analysis already performed for the plan applies to the TIP also. This requires a demonstration that:

(I) The TIP contains all projects which must be started in the TIP's time frame in order to achieve the highway and transit system envisioned by the transportation plan in each of its horizon years;

(II) All TIP projects which are regionally significant are part of the specific highway or transit system envisioned in the transportation plan's horizon years; and

(III) The design concept and scope of each regionally significant project in the TIP is not significantly different from that described in the transportation plan.

(C) If the requirements in paragraphs (ii)(A) and (ii)(B) of this section are not met, then:

(I) The TIP may be modified to meet those requirements; or

(II) The transportation plan must be revised so that the requirements in paragraphs (ii)(A) and (ii)(B) of this section are met. Once the revised plan has been found to conform, this criterion is met for the TIP with no additional analysis except a demonstration that the TIP meets the requirements of paragraphs (ii)(A) and (ii)(B) of this section.

(iii) For areas with a transportation plan that does not meet the content requirements of Chapter 8, Section 4(f)(i), a regional emissions analysis must meet all of the following requirements:

(A) The regional emissions analysis shall estimate emissions from the entire transportation system, including all projects contained in the proposed TIP, the transportation plan, and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the time frame of the transportation plan;

(B) The analysis methodology shall meet the requirements of Chapter 8, Section 4(dd)(iii); and

(C) The regional analysis shall satisfy the requirements of Chapter 8, Sections 4(r)(ii)(A), (r)(ii)(E), and (r)(iii).

(t) Criteria and Procedures: Motor Vehicle Emissions Budget (Project Not from a Plan and TIP).

(i) The project which is not from a conforming transportation plan and a conforming TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan (or implementation plan submission). This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in Chapter 8, Section 4(jj). It is satisfied if emissions from the implementation of the project, when considered with the emissions from the projects in the conforming transportation plan and TIP and all other regionally significant projects expected in the area, do not exceed the motor vehicle emissions budget(s) in the applicable implementation plan (or implementation plan submission).

(ii) For areas with a conforming transportation plan that meets the content requirements of Chapter 8, Section 4(f)(i):

(A) This criterion may be satisfied without additional regional analysis if the project is included in the conforming transportation plan, even if it is not specifically included in the latest conforming TIP. This requires a demonstration that:

(I) Allocating funds to the project will not delay the implementation of projects in the transportation plan or TIP which are necessary to achieve the highway and transit system envisioned by the transportation plan in each of its horizon years;

(II) The project is not regionally significant or is part of the specific highway or transit system envisioned in the transportation plan's horizon years; and

(III) The design concept and scope of the project is not significantly different from that described in the transportation plan.

(B) If the requirements in paragraph (ii)(A) of this section are not met, a regional emissions analysis must be performed as follows:

(I) The analysis methodology shall meet the requirements of Chapter 8, Section 4(ee);

(II) The analysis shall estimate emissions from the transportation system, including the proposed project and all other regionally significant projects expected in the nonattainment or maintenance area in the time frame of the transportation plan. The analysis must include emissions from all previously approved projects which were not from a transportation plan and TIP; and

(III) The emissions analysis shall meet the requirements of

~~Chapter 8, Sections 4(r)(ii)(A), (r)(ii)(D), and (r)(iii).~~

~~(iii) For areas with a transportation plan that does not meet the content requirements of Chapter 8, Section 4(f)(i), a regional emissions analysis must be performed for the project together with the conforming TIP and all other regionally significant projects expected in the nonattainment or maintenance area. This criterion may be satisfied if:~~

~~(A) The analysis methodology meets the requirements of Chapter 8, Section 4(dd)(iii);~~

~~(B) The analysis estimates emissions from the transportation system, including the proposed project, and all other regionally significant projects expected in the nonattainment or maintenance area in the time frame of the transportation plan; and~~

~~(C) The regional analysis satisfies the requirements of Chapter 8, Sections 4(r)(ii)(A), (r)(ii)(E), and (r)(iii).~~

~~(u) Criteria and Procedures: Localized CO Violations (Hot Spots) in the Interim Period.~~

~~(i) Each FHWA/FTA project must eliminate or reduce the severity and number of localized CO violations in the area substantially affected by the project (in CO nonattainment areas). This criterion applies during the interim and transitional periods only. This criterion is satisfied with respect to existing localized CO violations if it is demonstrated that existing localized CO violations will be eliminated or reduced in severity and number as a result of the project.~~

~~(ii) The demonstration must be performed according to the requirements of Chapter 8, Sections 4(e) and (ee).~~

~~(iii) For projects which are not of the type identified by Chapter 8, Section 4(ee)(i), this criterion may be satisfied if consideration of local factors clearly demonstrates that existing CO violations will be eliminated or reduced in severity and number. Otherwise, a quantitative demonstration must be performed according to the requirements of Chapter 8, Section 4(ee)(ii).~~

~~(v) Criteria and Procedures: Interim Period Reductions in Ozone and CO Areas (Transportation Plan).~~

~~(i) A transportation plan must contribute to emissions reductions in ozone and CO Nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in Chapter 8, Section 4(jj). It applies to the net effect on emissions of all projects contained in a new or revised transportation plan. This criterion may be satisfied if a regional emissions analysis is performed as described in paragraphs (ii) through (vi) of this section.~~

(ii) Determine the analysis years for which emissions are to be estimated. Analysis years shall be no more than ten years apart. The first analysis year shall be no later than the first milestone year (1995 in CO nonattainment areas and 1996 in ozone nonattainment areas). The second analysis year shall be either the attainment year for the area, or if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.

(iii) Define the 'Baseline' scenario for each of the analysis years to be the future transportation system that would result from current programs, composed of the following (except projects listed in Chapter 8, Sections 4(hh) and (ii) need not be explicitly considered):

(A) All in-place regionally significant highway and transit facilities, services and activities;

(B) All ongoing travel demand management or transportation system management activities; and

(C) Completion of all regionally significant projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition (except for hardship acquisition and protective buying); come from the first three years of the previously conforming transportation plan and/or TIP; or have completed the NEPA process. (For the first conformity determination on the transportation plan after November 24, 1993, a project may not be included in the 'Baseline' scenario if one of the following major steps has not occurred within the past three years: NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications and estimates. Such a project must be included in the 'Action' scenario, as described in paragraph (iv) of this section.)

(iv) Define the 'Action' scenario for each of the analysis years as the transportation system that will result in that year from the implementation of the proposed transportation plan, TIPs adopted under it, and other expected regionally significant projects in the nonattainment area. It will include the following (except projects listed in Chapter 8, Sections 4(hh) and (ii) need not be explicitly considered):

(A) All facilities, services, and activities in the 'Baseline' scenario;

(B) Completion of all TCMs and regionally significant projects (including facilities, services, and activities) specifically identified in the proposed transportation plan which will be operational or in effect in the analysis year, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is identified in the applicable implementation plan;

(C) All travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any Federal funding or approval, which have been fully adopted

and/or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the transportation plan;

(D) The incremental effects of any travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any Federal funding or approval, which were adopted and/or funded prior to the date of the last conformity determination on the transportation plan, but which have been modified since then to be more stringent or effective;

(E) Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP; and

(F) Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the analysis year.

(v) Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the 'Baseline' and 'Action' scenarios and determine the difference in regional VOC and NO_x emissions (unless the Administrator determines that additional reductions of NO_x would not contribute to attainment) between the two scenarios for CO nonattainment areas. The analysis must be performed for each of the analysis years according to the requirements of Chapter 8, Section 4(dd). Emissions in milestone years which are between the analysis years may be determined by interpolation.

(vi) This criterion is met if the regional VOC and NO_x emissions (for ozone nonattainment areas) and CO emissions (for CO nonattainment areas) predicted in the 'Action' scenario are less than the emissions predicted from the 'Baseline' scenario in each analysis year, and if this can reasonably be expected to be true in the periods between the first milestone year and the analysis years. The regional analysis must show that the 'Action' scenario contributes to a reduction in emissions from the 1990 emissions by any non-zero amount.

(w) Criteria and Procedures: Interim Period Reductions in Ozone and CO Areas (TIP).

(i) A TIP must contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in Chapter 8, Section 4(jj). It applies to the net effect on emissions of all projects contained in a new or revised TIP. This criterion may be satisfied if a regional emissions analysis is performed as described in paragraphs (ii) through (vi) of this section.

(ii) Determine the analysis years for which emissions are to be estimated. The first analysis year shall be no later than the first milestone year (1995 in CO nonattainment areas and 1996 in ozone nonattainment areas). The analysis years shall be no more than ten years apart. The second analysis year shall be either the attainment year for the area, or if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's

forecast period shall also be an analysis year.

(iii) Define the 'Baseline' scenario as the future transportation system that would result from current programs, composed of the following (except projects listed in Chapter 8, Sections 4(hh) and (ii) need not be explicitly considered):

(A) All in-place regionally significant highway and transit facilities, services and activities;

(B) All ongoing travel demand management or transportation system management activities; and

(C) Completion of all regionally significant projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition (except for hardship acquisition and protective buying); come from the first three years of the previously conforming TIP; or have completed the NEPA process. (For the first conformity determination on the TIP after (November 24, 1993), a project may not be included in the 'Baseline' scenario if one of the following major steps has not occurred within the past three years: NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications and estimates. Such a project must be included in the 'Action' scenario, as described in paragraph (d) of this section.)

(iv) Define the 'Action' scenario as the future transportation system that will result from the implementation of the proposed TIP and other expected regionally significant projects in the nonattainment area in the time frame of the transportation plan. It will include the following (except projects listed in Chapter 8, Sections 4(hh) and (ii) need not be explicitly considered):

(A) All facilities, services, and activities in the 'Baseline' scenario;

(B) Completion of all TCMs and regionally significant projects (including facilities, services, and activities) included in the proposed TIP, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is contained in the applicable implementation plan;

(C) All travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any Federal funding or approval, which have been fully adopted and/or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the TIP;

(D) The incremental effects of any travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any Federal funding or approval, which were adopted and/or funded prior to the date of the last conformity determination on the TIP, but which have been modified since then to be more stringent or effective;

(E) Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP; and

(F) Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the analysis year.

(v) Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the 'Baseline' and 'Action' scenarios, and determine the difference in regional VOC and NO_x emissions (unless the Administrator determines that additional reductions of NO_x would not contribute to attainment) between the two scenarios for ozone nonattainment areas and the difference in CO emissions between the two scenarios for CO nonattainment areas. The analysis must be performed for each of the analysis years according to the requirements of Chapter 8, Section 4(dd). Emissions in milestone years which are between analysis years may be determined by interpolation.

(vi) This criterion is met if the regional VOC and NO_x emissions in ozone nonattainment areas and CO emissions in CO nonattainment areas predicted in the 'Action' scenario are less than the emissions predicted from the 'Baseline' scenario in each analysis year, and if this can reasonably be expected to be true in the period between the analysis years. The regional analysis must show that the 'Action' scenario contributes to a reduction in emissions from the 1990 emissions by any non-zero amount.

(x) Criteria and Procedures: Interim Period Reductions for Ozone and CO Areas (Project Not from a Plan and TIP). A transportation project which is not from a conforming transportation plan and TIP must contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in Chapter 8, Section 4(jj). This criterion is satisfied if a regional emissions analysis is performed which meets the requirements of Chapter 8, Section 4(v) and which includes the transportation plan and project in the 'Action' scenario. If the project which is not from a conforming transportation plan and TIP is a modification of a project currently in the plan or TIP, the 'Baseline' scenario must include the project with its original design concept and scope, and the 'Action' scenario must include the project with its new design concept and scope.

(y) Criteria and Procedures: Interim Period Reductions for PM_{10} and NO_2 Areas (Transportation Plan).

(i) A transportation plan must contribute to emission reductions or must not increase emissions in PM_{10} and NO_2 nonattainment areas. This criterion applies only during the interim and transitional periods. It applies to the net effect on emissions of all projects contained in a new or revised transportation plan. This criterion may be satisfied if the requirements of either paragraph (ii) or (iii) of this section are met.

(ii) Demonstrate that implementation of the plan and all other regionally

~~significant projects expected in the nonattainment area will contribute to reductions in emissions of PM_{10} in a PM_{10} nonattainment area (and of each transportation-related precursor of PM_{10} in PM_{10} nonattainment areas if the EPA Regional Administrator or the Director of the State air agency has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM_{10} nonattainment problem and has so notified the MPO and DOT) and of NO_x in an NO_2 nonattainment area, by performing a regional emissions analysis as follows:~~

~~(A) Determine the analysis years for which emissions are to be estimated. Analysis years shall be no more than ten years apart. The first analysis year shall be no later than 1996 (for NO_2 areas) or four years and six months following the date of designation (for PM_{10} areas). The second analysis year shall be either the attainment year for the area, or if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.~~

~~(B) Define for each of the analysis years the 'Baseline' scenario, as defined in Chapter 8, Section 4(v)(iii), and the 'Action' scenario, as defined in Chapter 8, Section 4(v)(iv).~~

~~(C) Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the 'Baseline' and 'Action' scenarios and determine the difference between the two scenarios in regional PM_{10} emissions in a PM_{10} nonattainment area (and transportation-related precursors of PM_{10} in PM_{10} nonattainment areas if the EPA Regional Administrator or the Director of the State air agency has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM_{10} nonattainment problem and has so notified the MPO and DOT) and in NO_x emissions in an NO_2 nonattainment area. The analysis must be performed for each of the analysis years according to the requirements of Chapter 8, Section 4(dd). The analysis must address the periods between the analysis years and the periods between 1990, the first milestone year (if any), and the first of the analysis years. Emissions in milestone years which are between the analysis years may be determined by interpolation.~~

~~(D) Demonstrate that the regional PM_{10} emissions and PM_{10} precursor emissions, where applicable, (for PM_{10} nonattainment areas) and NO_x emissions (for NO_2 nonattainment areas) predicted in the 'Action' scenario are less than the emissions predicted from the 'Baseline' scenario in each analysis year, and that this can reasonably be expected to be true in the periods between the first milestone year (if any) and the analysis years.~~

~~(iii) Demonstrate that when the projects in the transportation plan and all other regionally significant projects expected in the nonattainment area are implemented, the transportation system's total highway and transit emissions of PM_{10} in a PM_{10} nonattainment area (and transportation-related precursors of PM_{10} in PM_{10} nonattainment areas if the EPA regional Administrator or the Director of the State air agency has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM_{10} nonattainment problem and has so notified the MPO and DOT) and of NO_x in an NO_2~~

nonattainment area will not be greater than baseline levels, by performing a regional emissions analysis as follows:

(A) Determine the baseline regional emissions of PM_{10} and PM_{10} precursors, where applicable (for PM_{10} nonattainment areas) and NO_x (for NO_2 nonattainment areas) from highway and transit sources. Baseline emissions are those estimated to have occurred during calendar year 1990, unless the implementation plan revision required by 40 CFR Part 51, subpart T defines the baseline emissions for a PM_{10} area to be those occurring in a different calendar year for which a baseline emissions inventory was developed for the purpose of developing a control strategy implementation plan.

(B) Estimate the emissions of the applicable pollutant(s) from the entire transportation system, including projects in the transportation plan and TIP and all other regionally significant projects in the nonattainment area, according to the requirements of Chapter 8, Section 4(dd). Emissions shall be estimated for analysis years which are no more than ten years apart. The first analysis year shall be no later than 1996 (for NO_2 areas) or four years and six months following the date of designation (for PM_{10} areas). The second analysis year shall be either the attainment year for the area, or if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.

(C) Demonstrate that for each analysis year the emissions estimated in paragraph (iii)(B) of this section are no greater than baseline emissions of PM_{10} and PM_{10} precursors, where applicable (for PM_{10} nonattainment areas) or NO_x (for NO_2 nonattainment areas) from highway and transit sources.

(z) Criteria and Procedures: Interim Period Reductions for PM_{10} and NO_2 Areas (TIP).

(i) A TIP must contribute to emission reductions or must not increase emissions in PM_{10} and NO_2 nonattainment areas. This criterion applies only during the interim and transitional periods. It applies to the net effect on emission of all projects contained in a new or revised TIP. This criterion may be satisfied if the requirements of either paragraph (ii) or paragraph (iii) of this section are met.

(ii) Demonstrate that implementation of the plan and TIP and all other regionally significant projects expected in the nonattainment area will contribute to reductions in emissions of PM_{10} in a PM_{10} nonattainment area (and transportation-related precursors of PM_{10} in PM_{10} nonattainment areas if the EPA Regional Administrator or the Director of the State air agency has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM_{10} nonattainment problem and has so notified the MPO and DOT) and of NO_x in an NO_2 nonattainment area, by performing a regional emissions analysis as follows:

(A) Determine the analysis years for which emissions are to be

~~estimated, according to the requirements of Chapter 8, Section 4(y)(ii)(A).~~

~~(B) Define for each of the analysis years the 'Baseline' scenario, as defined in Chapter 8, Section 4(w)(iii), and the 'Action' scenario, as defined in Chapter 8, Section 4(w)(iv).~~

~~(C) Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the 'Baseline' and 'Action' scenarios as required by Chapter 8, Section 4(y)(ii)(C), and make the demonstration required by Chapter 8, Section 4(y)(ii)(D).~~

~~(iii) Demonstrate that when the projects in the transportation plan and TIP and all other regionally significant projects expected in the area are implemented, the transportation system's total highway and transit emissions of PM_{10} in a PM_{10} nonattainment area (and transportation-related precursors of PM_{10} in PM_{10} nonattainment areas if the EPA Regional Administrator or the Director of the State air agency has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM_{10} nonattainment problem and has so notified the MPO and DOT) and of NO_x in an NO_2 nonattainment area will not be greater than baseline levels, by performing a regional emissions analysis as required by Chapter 8, Sections 4(y)(iii)(A)-(C).~~

~~(aa) Criteria and Procedures: Interim Period Reductions for PM_{10} and NO_2 Areas (Project Not from a Plan and TIP). A transportation project which is not from a conforming transportation plan and TIP must contribute to emission reductions or must not increase emissions in PM_{10} and NO_2 nonattainment areas. This criterion applies during the interim and transitional periods only. This criterion is met if a regional emissions analysis is performed which meets the requirements of Chapter 8, Section 4(y) and which includes the transportation plan and project in the 'Action' scenario. If the project which is not from a conforming transportation plan and TIP is a modification of a project currently in the transportation plan or TIP, and Chapter 8, Section 4(y)(ii) is used to demonstrate satisfaction of this criterion, the 'Baseline' scenario must include the project with its original design concept and scope, and the 'Action' scenario must include the project with its new design concept and scope.~~

~~(bb) Transition from the Interim Period to the Control Strategy Period.~~

~~(i) Areas Which Submit a Control Strategy Implementation Plan Revision After November 24, 1993.~~

~~(A) The transportation plan and TIP must be demonstrated to conform according to transitional period criteria and procedures by one year from the date the Clean Air Act requires submission of such control strategy implementation plan revision. Otherwise, the conformity status of the transportation plan and TIP will lapse, and no new project-level conformity determinations may be made.~~

~~(I) The conformity of new transportation plans and TIPs may be demonstrated according to Phase II interim period criteria and procedures for 90 days~~

~~following submission of the control strategy implementation plan revision, provided the conformity of such transportation plans and TIPs is redetermined according to transitional period criteria and procedures as required in paragraph (i)(A) of this section.~~

~~(II) Beginning 90 days after submission of the control strategy implementation plan revision, new transportation plans and TIPs shall demonstrate conformity according to transitional period criteria and procedures.~~

~~(B) If EPA disapproves the submitted control strategy implementation plan revision and so notifies the State, MPO, and DOT, which initiates the sanction process under Clean Air Act sections 179 or 110(m), the conformity status of the transportation plan and TIP shall lapse 120 days after EPA's disapproval, and no new project-level conformity determinations may be made. No new transportation plan, TIP, or project6 may be found to conform until another control strategy implementation plan revision is submitted and conformity is demonstrated according to transitional period criteria and procedures.~~

~~(C) Notwithstanding paragraph (i)(B) of this section, if EPA disapproves the submitted control strategy implementation plan revision but determines that the control strategy contained in the revision would have been considered approvable with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by Clean Air Act §110(a)(2)(A), the provisions of paragraph (i)(A) of this section shall apply for 12 months following the date of disapproval. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of disapproval unless another control strategy implementation plan revision is submitted to EPA and found to be complete.~~

~~(ii) Areas Which Have Not Submitted a Control Strategy Implementation Plan Revision.~~

~~(A) For areas whose Clean Air Act deadline for submission of the control strategy implementation plan revision is after November 24, 1993 and EPA has notified the State, MPO, and DOT of the State's failure to submit a control strategy implementation plan revision, which initiates the sanction process under Clean Air Act sections 179 or 110(m):~~

~~(I) No new transportation plans or TIPs may be found to conform beginning 120 days after the Clean Air Act deadline; and~~

~~(II) The conformity status of the transportation plan and TIP shall lapse one year after the Clean Air Act deadline, and no new project-level conformity determinations may be made.~~

~~(B) For areas whose Clean Air Act deadline for submission of the control strategy implementation plan was before November 24, 1993 and EPA has made a finding of failure to submit a control strategy implementation plan revision, which initiates the sanction process under Clean Air Act sections 179 or 110(m), the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:~~

(I) No new transportation plans or TIPs may be found to conform beginning March 24, 1994; and

(II) The conformity status of the transportation plan and TIP shall lapse November 25, 1994, and no new project-level conformity determinations may be made.

(III) Notwithstanding paragraphs (iii)(B)(I) and (II) of this section, if EPA notes in its incompleteness finding that the submittal would have been considered complete with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by Clean Air Act §110(a)(2)(A), the provisions of paragraph (iv)(A) of this section shall apply for a period of 12 months following the date of the incompleteness determination. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of the incompleteness determination unless another control strategy implementation plan revision is submitted to EPA and found to be complete.

(iv) Areas Which Submitted a Control Strategy Implementation Plan Before November 24, 1993.

(A) The transportation plan and TIP must be demonstrated to conform according to transitional period criteria and procedures by November 25, 1994. Otherwise, their conformity status will lapse, and no new project-level conformity determinations may be made.

(I) The conformity of new transportation plans and TIPs may be demonstrated according to Phase II interim period criteria and procedures until February 22, 1994, provided the conformity of such transportation plans and TIPs is redetermined according to transitional period criteria and procedures as required in paragraph (iv)(A) of this section.

(II) Beginning February 22, 1994, new transportation plans and TIPs shall demonstrate conformity according to transitional period criteria and procedures.

(B) If EPA has disapproved the most recent control strategy implementation plan submission, the conformity status of the transportation plan and TIP shall lapse March 24, 1994, and no new project-level conformity determinations may be made. No new transportation plans, TIPs, or projects may be found to conform until another control strategy implementation plan revision is submitted and conformity is demonstrated according to transitional period criteria and procedures.

(C) Notwithstanding paragraph (iv)(B) of this section, if EPA has disapproved the submitted control strategy implementation plan revision but determines that the control strategy contained in the revision would have been considered approvable with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by Clean Air Act §110(a)(2)(A), the provisions of paragraph (iv)(A) of this section shall apply for 12 months following November 24, 1993. The conformity

~~status of the transportation plan and TIP shall lapse 12 months following November 24, 1993 unless another control strategy implementation plan revision is submitted to EPA and found to be complete.~~

~~(v) Projects. If the currently conforming transportation plan and TIP have not been demonstrated to conform according to transitional period criteria and procedures, the requirements of paragraphs (v)(A) and (B) of this section must be met.~~

~~(A) Before a FHWA/FTA project which is regionally significant and increases single-occupant vehicle capacity (a new general purpose highway on a new location or adding general purpose lanes) may be found to conform, the State air agency must be consulted on how the emissions which the existing transportation plan and TIPs conformity determination estimates for the 'Action' scenario (as required by Chapter 8, Sections 4(v) (aa)) compare to the motor vehicle emissions budget in the implementation plan submission or the projected motor vehicle emissions budget in the implementation plan under development.~~

~~(B) In the event of unresolved disputes on such project-level conformity determinations, the State air agency may escalate the issue to the Governor consistent with the procedure in Chapter 8, Section 4(e), which applies for any State air agency comments on a conformity determination.~~

~~(vi) Redetermination of Conformity of the Existing Transportation Plan and TIP According to the Transitional Period Criteria and Procedures.~~

~~(A) The redetermination of the conformity of the existing transportation plan and TIP according to transitional period criteria and procedures (as required by paragraphs (i)(A) and (iv)(A) of this section) does not require new emissions analysis and does not have to satisfy the requirements of Chapter 8, Sections 4(j) and (k) if:~~

~~(I) The control strategy implementation plan revision submitted to EPA uses the MPO's modeling of the existing transportation plan and TIP for its projections of motor vehicle emissions; and~~

~~(II) The control strategy implementation plan does not include any transportation projects which are not included in the transportation plan and TIP.~~

~~(B) A redetermination of conformity as described in paragraph (vi)(A) of this section is not considered a conformity determination for the purposes of Chapter 8, Sections 4(d)(ii)(D) or (d)(iii)(D) regarding the maximum intervals between conformity determinations. Conformity must be determined according to all the applicable criteria and procedures of Chapter 8, Section 4(i) within three years of the last determination which did not rely on paragraph (vi)(A) of this section.~~

~~(vii) Ozone Nonattainment Areas.~~

(A) The requirements of paragraph (ii)(A) of this section apply if a serious or above ozone nonattainment area has not submitted the implementation plan revisions which Clean Air Act §§182(c)(2)(A) and 182(c)(2)(B) require to be submitted to EPA November 15, 1994, even if the area has submitted the implementation plan revision which Clean Air Act §182(b)(1) requires to be submitted to EPA November 15, 1993.

(B) The requirements of paragraph (ii)(A) of this section apply if a moderate ozone nonattainment area which is using photochemical dispersion modeling to demonstrate the "specific annual reductions as necessary to attain" required by Clean Air Act §182(b)(1), and which has permission from EPA to delay submission of such demonstration until November 15, 1994, does not submit such demonstration by that date. The requirements of paragraph (ii)(A) of this section apply in this case even if the area has submitted the 15% emission reduction demonstration required by Clean Air Act §182(b)(1).

(C) The requirements of paragraph (i) of this section apply when the implementation plan revisions required by Clean Air Act §§182(c)(2)(A) and 182(c)(2)(B) are submitted.

(viii) Nonattainment Areas Which Are Not Required to Demonstrate Reasonable Further Progress and Attainment. If an area listed in Chapter 8, Section 4(jj) submits a control strategy implementation plan revision, the requirements of paragraphs (i) and (v) of this section apply. Because the areas listed in Chapter 8, Section 4(jj) are not required to demonstrate reasonable further progress and attainment and therefore have no Clean Air Act deadline, the provisions of paragraph (ii) of this section do not apply to these areas at any time.

(ix) Maintenance Plans. If a control strategy implementation plan revision is not submitted to EPA but a maintenance plan required by Clean Air Act §175 is submitted to EPA, the requirements of paragraphs (i) or (iv) of this section apply, with the maintenance plan submission treated as a "control strategy implementation plan revision" for the purposes of those requirements.

(cc) Requirements for Adoption or Approval of Projects by Recipients of Funds Designated Under Title 23 U.S.C. or the Federal Transit Act. No recipient of Federal funds designated under Title 23 U.S.C. or the Federal Transit Act shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless there is a currently conforming transportation plan and TIP consistent with the requirements of Chapter 8, Section 4(n) and the requirements of one of the following paragraphs (i) through (v) are met:

(i) The project comes from a conforming plan and program consistent with the requirements of Chapter 8, Section 4(o);

(ii) The project is included in the regional emissions analysis supporting the currently conforming TIPs conformity determination, even if the project is not strictly "included" in the TIP for the purposes of MPO project selection or endorsement, and the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility;

~~(iii) During the control strategy or maintenance period, the project is consistent with the motor vehicle emissions budget(s) in the applicable implementation plan consistent with the requirements of Chapter 8, Section 4(t);~~

~~(iv) During Phase II of the interim period, the project contributes to emissions reductions or does not increase emissions consistent with the requirements of Chapter 8, Section 4(x) (in ozone and CO nonattainment areas) or Chapter 8, Section 4(aa) (in PM_{10} and NO_2 nonattainment areas); or~~

~~(v) During the transitional period, the project satisfies the requirements of both paragraphs (iii) and (iv) of this section.~~

~~(dd) Procedures for Determining Regional Transportation-Related Emissions.~~

~~(i) General Requirements.~~

~~(A) The regional emissions analysis for the transportation plan, TIP, or project not from a conforming plan and TIP shall include all regionally significant projects expected in the nonattainment or maintenance area, including FHWA/FTA projects proposed in the transportation plan and TIP and all other regionally significant projects which are disclosed to the MPO as required by Chapter 8, Section 4(e). Projects which are not regionally significant are not required to be explicitly modeled, but VMT from such projects must be estimated in accordance with reasonable professional practice. The effects of TCMs and similar projects that are not regionally significant may also be estimated in accordance with reasonable professional practice.~~

~~(B) The emissions analysis may not include for emissions reduction credit any TCMs which have been delayed beyond the scheduled date(s) until such time as implementation has been assured. If the TCM has been partially implemented and it can be demonstrated that it is providing quantifiable emission reduction benefits, the emissions analysis may include that emissions reduction credit.~~

~~(C) Emissions reduction credit from projects, programs, or activities which require a regulation in order to be implemented may not be included in the emissions analysis unless the regulation is already adopted by the enforcing jurisdiction. Adopted regulations are required for demand management strategies for reducing emissions which are not specifically identified in the applicable implementation plan, and for control programs which are external to the transportation system itself, such as tailpipe or evaporative emission standards, limits on gasoline volatility, inspection and maintenance programs, and oxygenated or reformulated gasoline or diesel fuel. A regulatory program may also be considered to be adopted if an opt-in to a Federally enforced program has been approved by EPA, if EPA has promulgated the program (if the control program is a Federal responsibility, such as tailpipe standards), or if the Clean Air Act requires the program without need for individual State action and without any discretionary authority for EPA to set its stringency, delay its effective date, or not implement the program.~~

(D) Notwithstanding paragraph (i)(C) of this section, during the transitional period, control measures or programs which are committed to in an implementation plan submission as described in Chapter 8, Sections 4(r)-(t), but which has not received final EPA action in the form of a finding of incompleteness, approval, or disapproval may be assumed for emission reduction credit for the purpose of demonstrating that the requirements of Chapter 8, Sections 4(r)-(t) are satisfied.

(E) A regional emissions analysis for the purpose of satisfying the requirements of Chapter 8, Sections 4(v)-(x) may account for the programs in paragraph (i)(D) of this section, but the same assumptions about these programs shall be used for both the 'Baseline' and 'Action' scenarios.

(ii) Serious, Severe, and Extreme Ozone Nonattainment Areas and Serious Carbon Monoxide Areas After January 1, 1995. Estimates of regional transportation-related emissions used to support conformity determinations must be made according to procedures which meet the requirements in paragraphs (ii)(A) through (E) of this section.

(A) A network-based transportation demand model or models relating travel demand and transportation system performance to land-use patterns, population demographics, employment, transportation infrastructure, and transportation policies must be used to estimate travel within the metropolitan planning area of the nonattainment area. Such a model shall possess the following attributes:

(I) The modeling methods and the functional relationships used in the model(s) shall in all respects be in accordance with acceptable professional practice, and reasonable for purposes of emission estimation;

(II) The network-based model(s) must be validated against ground counts for a base year that is not more than 10 years prior to the date of the conformity determination. Land use, population, and other inputs must be based on the best available information and appropriate to the validation base year;

(III) For peak-hour or peak-period traffic assignments, a capacity sensitive assignment methodology must be used;

(IV) Zone-to-zone travel times used to distribute trips between origin and destination pairs must be in reasonable agreement with the travel times which result from the process of assignment of trips to network links. Where use of transit currently is anticipated to be a significant factor in satisfying transportation demand, these times should also be used for modeling mode splits;

(V) Free-flow speeds on network links shall be based on empirical observations;

(VI) Peak and off-peak travel demand and travel times must be

~~provided;~~

~~(VII) Trip distribution and mode choice must be sensitive to pricing, where pricing is a significant factor, if the network model is capable of such determinations and the necessary information is available;~~

~~(VIII) The model(s) must utilize and document a logical correspondence between the assumed scenario of land development and use and the future transportation system for which emissions are being estimated. Reliance on a formal land-use model is not specifically required but is encouraged;~~

~~(IX) A dependence of trip generation on the accessibility of destinations via the transportation system (including pricing) is strongly encouraged but not specifically required, unless the network model is capable of such determinations and the necessary information is available;~~

~~(X) A dependence of regional economic and population growth on the accessibility of destinations via the transportation system is strongly encouraged but not specifically required, unless the network model is capable of such determinations and the necessary information is available; and~~

~~(XI) Consideration of emissions increases from construction-related congestion is not specifically required.~~

~~(B) Highway Performance Monitoring System (HPMS) estimates of vehicle miles traveled shall be considered the primary measure of vehicle miles traveled within the portion of the nonattainment or maintenance area and for the functional classes of roadways included in HPMS, for urban areas which are sampled on a separate urban area basis. A factor (or factors) shall be developed to reconcile and calibrate the network-based model estimates of vehicle miles traveled in the base year of its validation to the HPMS estimates for the same period, and these factors shall be applied to model estimates of future vehicle miles traveled. In this factoring process, consideration will be given to differences in the facility coverage of the HPMS and the modeled network description. Departure from these procedures is permitted with the concurrence of DOT and EPA.~~

~~(C) Reasonable methods shall be used to estimate nonattainment area vehicle travel on off-network roadways within the urban transportation planning area, and on roadways outside the urban transportation planning area.~~

~~(D) Reasonable methods in accordance with good practice must be used to estimate traffic speeds and delays in a manner that is sensitive to the estimated volume of travel on each roadway segment represented in the network model.~~

~~(E) Ambient temperatures shall be consistent with those used to establish the emissions budget in the applicable implementation plan. Factors other than temperatures, for example the fraction of travel in a hot stabilized engine mode, may be modified~~

~~after interagency consultation according to Chapter 8, Section 4(e) if the newer estimates incorporate additional or more geographically specific information or represent a logically estimated trend in such factors beyond the period considered in the applicable implementation plan.~~

~~(iii) Areas Which Are Not Serious, Severe, or Extreme Ozone Nonattainment Areas or Serious Carbon Monoxide Areas, or Before January 1, 1995.~~

~~(A) Procedures which satisfy some or all of the requirements of paragraph (i) of this section shall be used in all areas not subject to paragraph (i) of this section in which those procedures have been the previous practice of the MPO.~~

~~(B) Regional emissions may be estimated by methods which do not explicitly or comprehensively account for the influence of land use and transportation infrastructure on vehicle miles traveled and traffic speeds and congestion. Such methods must account for VMT growth by extrapolating historical VMT or projecting future VMT by considering growth in population and historical growth trends for vehicle miles traveled per person. These methods must also consider future economic activity, transit alternatives, and transportation system policies.~~

~~(iv) Projects Not from a Conforming Plan and TIP in Isolated Rural Nonattainment and Maintenance Areas. This paragraph applies to any nonattainment or maintenance area or any portion thereof which does not have a metropolitan transportation plan or TIP and whose projects are not part of the emissions analysis of any MPO's metropolitan transportation plan or TIP (because the nonattainment or maintenance area or portion thereof does not contain a metropolitan planning area or portion of a metropolitan planning area and is not part of a Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area which is or contains a nonattainment or maintenance area).~~

~~(A) Conformity demonstrations for projects in these areas may satisfy the requirements of Chapter 8, Section 4(t)(x)(aa) with one regional emissions analysis which includes all the regionally significant projects in the nonattainment or maintenance area (or portion thereof).~~

~~(B) The requirements of Chapter 8, Section 4(t) shall be satisfied according to the procedures in Chapter 8, Section 4(t)(iii), with references to the "transportation plan" taken to mean the statewide transportation plan.~~

~~(C) The requirements of Chapter 8, Sections 4(x) and (aa) which reference "transportation plan" or "TIP" shall be taken to mean those projects in the statewide transportation plan or statewide TIP which are in the nonattainment or maintenance area (or portion thereof).~~

~~(D) The requirement of Chapter 8, Section 4(cc)(ii) shall be satisfied if:~~

~~(I) The project is included in the regional emissions analysis~~

which includes all regionally significant highway and transportation projects in the nonattainment or maintenance area (or portion thereof) and supports the most recent conformity determination made according to the requirements of Chapter 8, Sections 4(t)(x) or (aa) (as modified by paragraphs (iv)(B) and (iv)(C) of this section), as appropriate for the time period and pollutant; and

(II) The project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility.

(v) PM_{10} From Construction-Related Fugitive Dust.

(A) For areas in which the implementation plan does not identify construction-related fugitive PM_{10} as a contributor to the nonattainment problem, the fugitive PM_{10} emissions associated with highway and transit project construction are not required to be considered in the regional emissions analysis.

(B) In PM_{10} nonattainment and maintenance areas with implementation plans which identify construction-related fugitive PM_{10} as a contributor to the nonattainment problem, the regional PM_{10} emissions analysis shall consider construction-related fugitive PM_{10} control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.

(ee) Procedures for Determining Localized CO and PM_{10} Concentrations (Hot-Spot Analysis).

(i) In the following cases, CO hot-spot analyses must be based on the applicable air quality models, databases, and other requirements specified in 40 CFR part 51, Appendix W ("Guideline on Air Quality Models" (Revised 1988), supplement A (1987) and supplement B (1993), EPA publication no. 450/2-78-027R), unless, after the interagency consultation process described in Chapter 8, Section 4(e) and with the approval of the EPA Regional Administrator, these models, databases, and other requirements are determined to be inappropriate:

(A) For projects in or affecting locations, areas, or categories of sites which are identified in the applicable implementation plan as sites of current violation or possible current violation;

(B) For those intersections at Level-of-Service D, E, or F, or those that will change to Level-of-Service D, E, or F because of increased traffic volumes related to a new project in the vicinity;

(C) For any project involving or affecting any of the intersections which the applicable implementation plan identifies as the top three intersections in the nonattainment or maintenance area based on the highest traffic volumes;

(D) For any project involving or affecting any of the intersections which the applicable implementation plan identifies as the top three intersections in the nonattainment or maintenance area based on the worst Level-of-Service; and

(E) Where use of the "Guideline" models is practicable and reasonable given the potential for violations.

(ii) In cases other than those described in paragraph (i) of this section, other quantitative methods may be used if they represent reasonable and common professional practice.

(iii) CO hot-spot analyses must include the entire project, and may be performed only after the major design features which will significantly impact CO concentrations have been identified. The background concentration can be estimated using the ratio of future to current traffic multiplied by the ratio of future to current emission factors.

(iv) PM_{10} hot-spot analysis must be performed for projects which are located at sites at which violations have been verified by monitoring, and at sites which have essentially identical vehicle and roadway emission and dispersion characteristics (including sites near one at which a violation has been monitored). The projects which require PM_{10} hot-spot analysis shall be determined through the interagency consultation process required in Chapter 8, Section 4(e). In PM_{10} nonattainment and maintenance areas, new or expanded bus and rail terminals and transfer points which increase the number of diesel vehicles congregating at a single location require hot-spot analysis. DOT may choose to make a categorical conformity determination on bus and rail terminals or transfer points based on appropriate modeling of various terminal sizes, configurations, and activity levels. The requirements of this paragraph for quantitative hot-spot analysis will not take effect until EPA releases modeling guidance on this subject and announces in the Federal Register that these requirements are in effect.

(v) Hot-spot analysis assumptions must be consistent with those in the regional emissions analysis for those inputs which are required for both analyses.

(vi) PM_{10} or CO mitigation or control measures shall be assumed in the hot-spot analysis only where there are written commitments from the project sponsor and/or operator to the implementation of such measures, as required by Chapter 8, Section 4(gg)(i).

(vii) CO and PM_{10} hot-spot analyses are not required to consider construction-related activities which cause temporary increases in emissions. Each site which is affected by construction-related activities shall be considered separately, using established "Guideline" methods. Temporary increases are defined as those which occur only during the construction phase and last five years or less at any individual site.

(ff) Using the Motor Vehicle Emissions Budget in the Applicable Implementation Plan (or Implementation Plan Submission).

(i) In interpreting an applicable implementation plan (or implementation plan

submission) with respect to its motor vehicle emissions budget(s), the MPO and DOT may not infer additions to the budget(s) that are not explicitly intended by the implementation plan (or submission). Unless the implementation plan explicitly quantifies the amount by which motor vehicle emissions could be higher while still allowing a demonstration of compliance with the milestone, attainment, or maintenance requirement and explicitly states an intent that some or all of this additional amount should be available to the MPO and DOT in the emission budget for conformity purposes, the MPO may not interpret the budget to be higher than the implementation plan's estimate of future emissions. This applies in particular to applicable implementation plans (or submissions) which demonstrate that after implementation of control measures in the implementation plan:

(A) Emissions from all sources will be less than the total emissions that would be consistent with a required demonstration of an emissions reduction milestone;

(B) Emissions from all sources will result in achieving attainment prior to the attainment deadline and/or ambient concentrations in the attainment deadline year will be lower than needed to demonstrate attainment; or

(C) Emissions will be lower than needed to provide for continued maintenance.

(ii) If an applicable implementation plan submitted before November 24, 1993 demonstrates that emissions from all sources will be less than the total emissions that would be consistent with attainment and quantifies that "safety margin," the State may submit a SIP revision which assigns some or all of this safety margin to highway and transit mobile sources for the purposes of conformity. Such a SIP revision, once it is endorsed by the Governor and has been subject to a public hearing, may be used for the purposes of transportation conformity before it is approved by EPA.

(iii) A conformity demonstration shall not trade emissions among budgets which the applicable implementation plan (or implementation plan submission) allocates for different pollutants or precursors, or among budgets allocated to motor vehicles and other sources, without a SIP revision or a SIP which establishes mechanisms for such trades.

(iv) If the applicable implementation plan (or implementation plan submission) estimates future emissions by geographic subarea of the nonattainment area, the MPO and DOT are not required to consider this to establish subarea budgets, unless the applicable implementation plan (or implementation plan submission) explicitly indicates an intent to create such subarea budgets for the purposes of conformity.

(v) If a nonattainment area includes more than one MPO, the SIP may establish motor vehicle emissions budgets for each MPO, or else the MPOs must collectively make a conformity determination for the entire nonattainment area.

(gg) Enforceability of Design Concept and Scope and Project-Level Mitigation and Control Measures.

(i) Prior to determining that a transportation project is in conformity, the MPO, other recipient of funds designated under Title 23 U.S.C. or the Federal Transit Act, FHWA, or FTA must obtain from the project sponsor and/or operator written commitments to implement in the construction of the project and operation of the resulting facility or service and project-level mitigation or control measures which are identified as conditions for NEPA process completion with respect to local PM_{10} or CO impacts. Before making conformity determinations written commitments must also be obtained for project-level mitigation or control measures which are conditions for making conformity determinations for a transportation plan or TIP and included in the project design concept and scope which is used in the regional emissions analysis required by Chapter 8, Sections 4(r)-(t) and Chapter 8, Sections (v)-(x) or used in the project-level hot-spot analysis required by Chapter 8, Sections 4(p) and (u).

(ii) Project sponsors voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.

(iii) The implementation plan revision required in 40 CFR Part 51, Subpart T shall provide that written commitments to mitigation measures must be obtained prior to a positive conformity determination, and that project sponsors must comply with such commitments.

(iv) During the control strategy and maintenance periods, if the MPO or project sponsor believes the mitigation or control measure is no longer necessary for conformity, the project sponsor or operator may be relieved of its obligation to implement the mitigation or control measure if it can demonstrate that the requirements of Chapter 8, Sections 4(p), (r), and (s) are satisfied without the mitigation or control measure, and so notifies the agencies involved in the interagency consultation process required under Chapter 8, Section 4(e). The MPO and DOT must confirm that the transportation plan and TIP still satisfy the requirements of Chapter 8, Sections 4(r) and (s) and that the project still satisfies the requirements of Chapter 8, Section 4(p), and therefore that the conformity determinations for the transportation plan, TIP, and project are still valid.

(hh) Exempt Projects. Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 2 are exempt from the requirement that a conformity determination be made. Such projects may proceed toward implementation even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 2 is not exempt if the MPO in consultation with other agencies (see Chapter 8, Section 4(e)), the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potentially adverse emissions impacts for any reason. States and MPOs must ensure that exempt projects do not interfere with TCM implementation.

Table 2. Exempt Projects

SAFETY

~~Railroad/highway crossing~~
~~Hazard elimination program~~
~~Safer non-Federal-aid system roads~~
~~Shoulder improvements~~
~~Increasing sight distance~~
~~Safety improvement program~~
~~Traffic control devices and operating assistance other than signalization projects~~
~~Railroad/highway crossing warning devices~~
~~Guardrails, median barriers, crash cushions~~
~~Pavement resurfacing and/or rehabilitation~~
~~Pavement marking demonstration~~
~~Emergency relief (23 U.S.C. 125)~~
~~Fencing~~
~~Skid treatments~~
~~Safety roadside rest areas~~
~~Adding medians~~
~~Truck climbing lanes outside the urbanized area~~
~~Lighting improvements~~
~~Widening narrow pavements or reconstructing bridges (no additional travel lanes)~~
~~Emergency truck pullovers~~

~~MASS TRANSIT~~

~~Operating assistance to transit agencies~~
~~Purchase of support vehicles~~
~~Rehabilitation of transit vehicles~~[1]
~~Purchase of office, shop, and operating equipment for existing facilities~~
~~Purchase of operating equipment for vehicles (e.g., radios, fareboxes, lifts, etc.)~~
~~Construction of renovation of power, signal, and communications systems~~
~~Construction of small passenger shelters and information kiosks~~
~~Reconstruction or renovation of transit buildings and structures (e.g., rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures)~~
~~Rehabilitation or reconstruction of track structures, track, and trackbed in existing rights-of-way~~
~~Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet~~[1]
~~Construction of new bus or rail storage/maintenance facilities categorically excluded in 23 CFR 771~~

~~AIR QUALITY~~

~~Continuation of ride-sharing and van-pooling promotion activities at current levels~~
~~Bicycle and pedestrian facilities~~

~~OTHER~~

~~Specific activities which do not involve or lead directly to construction, such as:~~

~~Planning and technical studies~~
~~Grants for training and research programs~~
~~Planning activities conducted pursuant to Titles 23 and 49 U.S.C.~~
~~Federal-aid systems revisions~~

~~Engineering to assess social, economic, and environmental effects of the proposed action or alternatives to that action~~
~~Noise attenuation~~
~~Advance land acquisitions (23 CFR Part 712 or 23 CFR Part 771)~~
~~Acquisition of scenic easements~~
~~Plantings, landscaping, etc.~~
~~Sign removal~~
~~Directional and informational signs~~
~~Transportation enhancement activities (except rehabilitation and operation of historic transportation buildings, structures, or facilities)~~
~~Repair of damage caused by natural disasters, civil unrest, or terrorist acts, except projects involving substantial functional, locational or capacity changes~~

~~[1]In PM_{10} nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.~~

~~(ii) Projects Exempt from Regional Emissions Analyses. Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 3 are exempt from regional emissions analysis requirements. The local effects of these projects with respect to CO or PM_{10} concentrations must be considered to determine hot-spot analysis is required prior to making a project-level conformity determination. These projects may then proceed to the project development process even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 3 is not exempt from regional emissions analysis if the MPO in consultation with other agencies (see Chapter 8, Section 4(e)), the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potential regional impacts for any reason.~~

~~Table 3. Projects Exempt from Regional Emissions Analyses~~

~~Intersection channelization projects~~
~~Intersection signalization projects at individual intersections~~
~~Interchange reconfiguration projects~~
~~Changes in vertical and horizontal alignment~~
~~Truck size and weight inspection stations~~
~~Bus terminals and transfer points~~

~~(jj) Special Provisions for Nonattainment Areas Which Are Not Required to Demonstrate Reasonable Further Progress and Attainment.~~

~~(i) Application. This section applies in the following areas:~~

~~(A) Rural transport ozone nonattainment areas;~~

~~(B) Marginal ozone areas;~~

~~(C) Submarginal ozone areas;~~

~~(D) Transitional ozone areas;~~

~~(E) Incomplete data ozone areas;~~

~~(F) Moderate CO areas with a design value of 12.7 ppm or less; and~~

~~(G) Not classified CO areas.~~

~~(ii) Default Conformity Procedures. The criteria and procedures in Chapter 8, Sections 4(v) (x) will remain in effect throughout the control strategy period for transportation plans, TIPs, and projects (not from a conforming plan and TIP) in2 lieu of the procedures in Chapter 8, Sections 4(r) (t), except as otherwise provided in paragraph (iii) of this section.~~

~~(iii) Optional Conformity Procedures. The State or MPO may voluntarily develop an attainment demonstration and corresponding motor vehicle emissions budget like those required in areas with higher nonattainment classifications. In this case, the State must submit an implementation plan revision which contains that budget and attainment demonstration. Once EPA has approved this implementation plan revision, the procedures in Chapter 8, Sections 4(r) (t) apply in lieu of the procedures in Chapter 8, Sections 4(v) (x).~~

Section 5. Ozone Nonattainment Emission Inventory Rule.

(a) Applicability.

(i) This rule applies to a facility or source operating in an ozone nonattainment area(s), as identified in 40 CFR Part 81, if:

(A) The facility or source has been granted permit approval to construct and/or operate under Chapter 6 of the Wyoming Air Quality Standards and Regulations (WAQSR); or

(B) It is an individual oil or gas facility or source; or

(C) Actual emissions from the stationary facility or source are greater than or equal to 25 tons per year of volatile organic compounds (VOCs) as defined in Chapter 3, Section 6(a) of the WAQSR, or oxides of nitrogen (NO_x).

(I) If NO_x or VOCs are emitted from a facility or source at or

above the applicability threshold identified in subsection (a)(i)(C), both air contaminants must be included in the emission inventory even if one of the air contaminants is emitted at a level below the applicability threshold.

(ii) Compliance with emission inventory requirements established under WAQSR Chapter 6, Section 3(f)(v)(G), satisfies the requirements of this rule.

(b) Reporting and Recordkeeping Requirements.

(i) As specified in the forms required in subsection (b)(v), each emission inventory shall include:

(A) Actual emissions of NO_x, VOC, and any other air contaminants as determined by the Wyoming Department of Environmental Quality Air Quality Division Administrator, in tons per year for any calendar year emission inventory, or in tons for any partial year emission inventory;

(B) The physical location at which the actual emissions occurred;

(C) The name and address of the person or entity operating or owning the facility or source; and

(D) The nature of the facility or source.

(ii) The emission inventory submittal dates are as follows:

(A) By April 30th of each year for all emissions that occurred during the previous calendar year; and

(B) No later than 90 days after the end of a partial year inventory for emissions that occurred during the partial year as determined by the Division Administrator.

(iii) After the owner or operator submits an emission inventory for all facility or source emissions that occurred during calendar year 2014, the owner or operator shall submit an emission inventory for such facility or source every year thereafter.

(iv) Each owner or operator of a facility or source shall maintain a copy of the emission inventory submitted to the Division, and records indicating how the information submitted was determined, including any calculations, data, and measurements used.

(A) Records shall be kept for a period of at least five years from the required submittal date listed in subsection (b)(ii) for each emission inventory.

(B) The owner or operator of the facility or source shall make the records required in subsection (b)(iv) available for inspection by any representative of the Division upon request.

(v) The owner or operator shall submit emission inventories using Division-prescribed hard copy or electronic formats.

(vi) All emission inventory submissions shall be certified as being true, accurate, and complete by a responsible official to the best of their knowledge. A responsible official is an individual who is responsible for the data provided in the emission inventory, and who accepts responsibility for the emission accuracy.

(c) Compliance. Compliance with WAQSR Chapter 8, Section 5, does not relieve any owner or operator of a facility or source from the responsibility to comply with any other applicable reporting requirements set forth in any federal or State law, rule or regulation, or in any permit.

Section 6. Upper Green River Basin Permit by Rule for Existing Sources.

(a) Applicability.

(i) These regulations apply to all PAD and single-well oil and gas production facilities or sources, and all compressor stations, located in the Upper Green River Basin (UGRB) ozone nonattainment area that exist as of January 1, 2014. The UGRB ozone nonattainment area is that area which was adopted by reference from 40 CFR Part 81.351, revised and published as of July 1, 2013, not including any later amendments. Copies of the Code of Federal Regulations (CFR) are available for public inspection and can be purchased from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office is available at: http://deq.wyoming.gov/. Copies of the CFR can also be purchased from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at: https://ecfr.gov.

(ii) PAD and single-well oil and gas production facilities or sources, shall comply with all applicable requirements of these regulations unless a WAQSR Chapter 6, Section 2 permit has been issued that meets or exceeds the control requirements of these regulations; and

(iii) A compressor station, as defined in Subsection (b), shall comply with the requirements of Subsection (g) of these regulations unless a WAQSR Chapter 6, Section 2 permit has been issued that meets or exceeds the Subsection (g) requirements; and

(iv) In spite of the requirements of Chapter 6, Section 2(a)(i) and (iii) of the WAQSR, a preconstruction permit under Chapter 6, Section 2 is not required for any control device (flare/enclosed combustion unit) or equipment identified in these regulations unless a facility or source is required to obtain a permit under Chapter 6, Section 4 or Section 13.

(v) A WAQSR Chapter 6, Section 2 permit will be required for the use of any alternative emission control device and/or equipment to be used in lieu of, or in combination with, a combustion device required by these regulations.

(b) Definitions.

"Composite extended hydrocarbon analysis" are averaged extended hydrocarbon compositions based on samples from at least five wells producing from the same formation and under similar conditions (± 25 psig).

"Compressor station" means any permanent combination of one or more compressors that move natural gas at increased pressure from fields, in transmission pipelines, or into storage.

"Dehydration unit" means a system that uses glycol to absorb water from produced gas before it is introduced into gas sales or collection lines.

"Extended hydrocarbon analysis" means a gas chromatograph analysis performed on pressurized hydrocarbon liquid (oil/condensate) and gas samples, and shall include speciated hydrocarbons from methane (C1) through decane (C10), and the following Hazardous Air Pollutants (HAP): benzene, toluene, ethyl-benzene, xylenes (BTEX), n-hexane, and 2-2-4-trimethylpentane.

"Facility components" consist of flanges, connectors (other than flanges), open-ended lines, pumps, valves and "other" components listed in Table 2-4 from EPA-453/R-95-017 at the site grouped by stream (gas, light oil, heavy oil, water/oil). Table 2-4 from EPA-453/R-95-017 is available online at: http://deq.wyoming.gov/aqd/ or http://www3.epa.gov/ttnchie1/efdocs/equiplks.pdf.

"Flashing emissions" means VOC emissions, including HAP components, that occur when gases are released from produced liquids (oil, condensate, produced water, or a mixture thereof) that are exposed to temperature increases or pressure drops as they are transferred from pressurized vessels to lower pressure separation vessels or to atmospheric storage tanks.

"Optical gas imaging instrument" means an instrument that makes visible, emissions that may otherwise be invisible to the naked eye.

"PAD facility" means a location where more than one well and/or associated production equipment are located, where some or all production equipment is shared by more than one well or where well streams from more than one well are routed through individual production trains at the same location.

"Separation vessels" means all gun barrels, production and test separators, production and test treaters, water knockouts, gas boots, flash separators, and drip pots.

"Single-well facility" means a facility where production equipment is associated with only one well.

"Storage tanks" means any tanks that contain oil, condensate, produced water, or some mixture thereof.

(c) Flashing Emissions at Existing PAD and Single-Well Facilities or Sources as of January 1, 2014.

(i) VOC emissions from all existing storage tanks and all existing separation vessels are subject to these regulations.

(A) For total uncontrolled VOC emissions from flashing that are greater than or equal to 4 tons per year (tpy), flashing emissions from all produced oil, condensate, water tanks, and separation vessels shall be controlled to at least 98% manufacturer-designed VOC destruction efficiency by January 1, 2017.

(B) Storage tanks that are on site for use during emergency or upset conditions are not subject to the control requirements in this Subsection.

(C) Emergency, open-top, and/or blowdown tanks shall not be used as active storage tanks but may be used for temporary storage.

(I) Emergency tanks shall only be utilized for unavoidable equipment malfunctions as defined in Chapter 1, Section 5 of the WAQSR.

(II) If emergency, open-top, and/or blowdown tanks are utilized, they must be emptied within seven calendar days after the liquid volume reaches 100 barrels, or in no event less frequently than once every 90 calendar days.

(III) All tanks subject to this Subsection must have a liquid level gauge, or equivalent device, in place by January 1, 2017.

(D) Control Removal. The removal of flashing emissions control devices will be allowed pursuant to the requirements in Subparagraph (h)(iii)(E)**,** after one year from the date of installation if uncontrolled VOC flashing emissions have declined to less than, and will remain below 4 tpy.

(ii) Calculation for Flashing Emissions.

(A) Determine the average daily condensate/oil production for the previous 12 calendar months in barrels per day (bpd).

(B) Use any generally accepted model in accordance with 40 CFR Part 60, Subpart OOOO or direct measurement of tank emissions to determine uncontrolled VOC emissions.

(C) Model input shall consist of:

(I) A site-specific analysis of liquids, or composite extended hydrocarbon analysis of liquids, taken from the pressurized, upstream separation equipment under normal operating conditions;

(II) Average daily condensate/oil production rate as determined in Subparagraph (c)(ii)(A) of these regulations;

(III) Site-specific or composite extended hydrocarbon analyses will be no older than three years from date of flashing emissions calculation including;

(1.) The average, actual equipment operational parameters, including separator temperature and pressure; and

(2.) American Petroleum Institute (API) gravity and Reid vapor pressure (RVP) of sales oil.

(d) Dehydration Units at Existing PAD and Single-Well Facilities or Sources as of January 1, 2014.

(i) VOC emissions released from all existing dehydration units are subject to these regulations.

(A) For total uncontrolled VOC emissions from all dehydration units that are greater than or equal to 4 tpy, VOC emissions from all dehydration units shall be controlled to at least 98% manufacturer-designed VOC destruction efficiency and equipped with reboiler still vent condensers by January 1, 2017.

(B) Control Removal. The removal of combustion units used to achieve the 98% manufacturer-designed VOC destruction efficiency will be allowed pursuant to the requirements in Subparagraph (h)(iii)(E), after one (1) year from the date of installation if total uncontrolled VOC emissions from all dehydration units are less than, and will remain below 4 tpy, and all dehydration units are equipped with reboiler still vent condensers.

(ii) Calculation for Dehydration Units.

(A) Determine the average daily gas production rate for the previous 12 calendar months in million cubic feet per day (MMCFD).

(B) Use the model GRI-GLYCalc, Version 4.0 or higher, and the annualized average daily production rate to determine annualized uncontrolled VOC emissions from the dehydration unit process vents. Process vents include reboiler still vents and glycol flash separators.

(C) Model input shall consist of:

(I) A site-specific wet gas analysis or composite extended hydrocarbon analysis of wet gas taken upstream of the contact tower under normal operating conditions;

(II) Average daily gas production rate as determined in Subparagraph (d)(ii)(A) of these regulations; and

(III) Site-specific or composite extended hydrocarbon analyses shall be no older than three years from date of the dehydration unit calculation including;

(1.) The average, actual equipment operational parameters, including wet gas temperature and pressure, dry gas water content, glycol flash separator temperature and pressure, stripping gas source and rate; and

(2.) The maximum lean glycol circulation rate in gallons per minute (gpm) for the glycol circulation pump in use.

(e) Existing Pneumatic Pumps at PAD and Single-Well Facilities or Sources as of January 1, 2014. VOC emissions associated with the discharge streams of all natural gas-operated pneumatic pumps shall be controlled to at least 98% manufacturer-designed VOC destruction efficiency, or the pump discharge streams shall be routed into a sales line, collection line, fuel supply line, other closed loop system, or replaced with solar, electric, or air driven pumps by January 1, 2017.

(f) Existing Pneumatic Controllers at PAD and Single-Well Facilities or Sources as of January 1, 2014. Natural gas-operated pneumatic controllers shall be low (less than 6 standard cubic feet per hour (scfh)) or zero bleed controllers or the controller discharge streams shall be routed into a sales line, collection line, fuel supply line, or other closed loop system by January 1, 2017.

(g) Fugitive Emissions.

(i) For PAD and single-well facilities or sources, and compressor stations, in existence prior to January 1, 2014, with fugitive emissions greater than or equal to 4 tpy of VOCs, including HAP components, operators shall develop and implement a Leak Detection and Repair (LDAR) Protocol by January 1, 2017.

(A) The LDAR Protocol inspection monitoring schedule shall be no less frequent than quarterly; and

(B) Shall include a leak repair schedule; and

(C) Each quarterly inspection shall consist of some combination of 40 CFR part 60, Appendix A, Method 21, an optical gas imaging instrument, other instrument-based technologies, or audio-visual-olfactory (AVO) inspections.

(D) An LDAR Protocol consisting of only AVO inspections will not satisfy the requirements of this Subsection.

(ii) Calculation for Fugitive Emissions.

(A) Fugitive emissions shall be estimated using Table 2-4 from EPA-453/R-95-017, Protocol for Equipment Leak Emission Estimates, and the owner(s) or operator(s) facility component count.

(I) PAD and single-well facility or source component counts shall be determined by actual field count, or a representative component count from the same geographical area, taken from no less than 100 wells located at a PAD or single-well facility.

(II) Compressor station component counts shall be determined by actual field count.

(III) Emission factors in the Protocol for Equipment Leak Emission Estimates are not intended to be used to represent emissions from components that are improperly designed or equipment not maintained properly.

(B) Site-specific speciated hydrocarbon emission rates can be estimated by multiplying the total hydrocarbon emission rate, estimated in Subparagraph (g)(ii)(A) above, by measured VOC and HAP weight fractions.

(h) Monitoring, Recordkeeping, and Reporting.

(i) Monitoring. The owner(s) or operator(s) of each PAD and single-well facility or source, or compressor station, shall comply with all applicable monitoring requirements as specified by this Paragraph.

(A) Operation of a combustion device used to control emissions shall be continually monitored using any device(s) that sense and record a parameter(s) that indicates whether the combustion device is functioning to achieve the 98% manufacturer-designed VOC destruction efficiency requirements as specified by these regulations.

(I) The combustion device shall be designed, constructed, operated, and maintained to be smokeless, to satisfy the requirements of Chapter 3, Section 6(b)(i) of the WAQSR.

(II) Visible emissions shall not exceed a total of five minutes during any two consecutive hours as determined by 40 CFR Part 60, Appendix A, Method 22.

(B) All emission control devices and equipment used to reduce VOC emissions at any PAD and single-well facility or source shall be operated and maintained pursuant to manufacturer specifications or equivalent, and consistent with good engineering and maintenance practices.

(C) Owner(s) or operator(s) shall conduct a quarterly site evaluation of control equipment, systems, and devices that include, but are not limited to, combustion units, reboiler overheads condensers, storage tanks, drip tanks, vent lines, connectors, fittings, valves,

relief valves, hatches, and any other appurtenance employed to, or involved with, eliminating, reducing, containing or collecting vapors and routing them to an emission control system or device.

(I) At least one of the quarterly evaluations per calendar year shall consist of 40 CFR Part 60, Appendix A, Method 21, an optical gas imaging instrument, or other instrument-based technologies.

(II) Owner(s) or operator(s) required to implement an LDAR Protocol have satisfied the requirements of Subparagraph (C) above.

(ii) Recordkeeping. The owner(s) or operator(s) of each PAD and single-well facility or source, or compressor station, shall comply with all applicable recordkeeping requirements as specified by this Paragraph. Records shall be maintained for a period of five years and made available to the Division upon request.

(A) All emission control devices and equipment are adequately designed and sized to achieve the control efficiency required by these regulations and to accommodate fluctuations in emissions.

(B) Owner(s) or operator(s) shall maintain the following records for each combustion device:

(I) Manufacturer-designed VOC destruction efficiency.

(II) Records of the parameter monitoring during active site operation under Subparagraph (h)(i)(A) including;

(1.) A description of the reason(s) for the absence of the monitored parameter;

(2.) The steps taken to return the combustion device back to the 98% manufacturer-designed VOC destruction efficiency; and

(3.) Date and duration of periods when the combustion device and/or the associated containment and collection equipment is not functioning to achieve the 98% manufacturer-designed VOC destruction efficiency.

(III) Date and duration of visible emissions from the combustion device.

(C) Owner(s) or operator(s) shall record and maintain records for fugitive emissions pursuant to Subsection (g) of these regulations. These records shall include the dates and results of all LDAR inspections performed pursuant to the LDAR Protocol for a PAD and single-well facility or source, or compressor station, including the date(s) and type of corrective action taken as a result of the required inspections.

(D) Records of the date, duration, and reason for emergency and/or blowdown tank usage, shall be maintained pursuant to Subparagraph (c)(i)(C) of these regulations.

(E) Owners or operators that utilize emergency, open-top, and/or blowdown tanks pursuant to Subsection (c) shall record and maintain monthly records for volume stored in tanks, volume removed from tanks, and the date when the removal of liquid occurred.

(iii) Reporting. The owner(s) or operator(s) of each PAD and single-well facility or source, or compressor station, shall comply with all applicable reporting requirements as specified by this Subsection.

(A) The owner(s) or operator(s) shall provide the name and location of the PAD and single-well facility or source, or compressor station, anticipated to require the installation of a combustion device, replacement of equipment, or implementation of an LDAR Protocol, if applicable, by January 1, 2016.

(B) Installation Notification of Control Device(s) and Associated Equipment (including pneumatic pumps). Owner(s) or operator(s) of each PAD and single-well facility or source subject to the requirements of these regulations shall submit a report to the Division 30 days after the end of each calendar quarter, beginning January 1, 2016, containing the following, if applicable:

(I) The number of pollution control devices or equipment installed;

(II) Pollution control installation date, type of control, and equipment controlled;

(III) Name and location of the PAD and/or single-well facility or source where controls are installed.

(C) Installation Notification of Pneumatic Controller(s). Owner(s) or operator(s) of each PAD and single-well facility or source subject to the requirements of these regulations shall submit a report to the Division 30 days after the end of each calendar quarter, beginning January 1, 2016, containing the following, if applicable:

(I) The number and type of pneumatic controllers installed and date of installation; and

(II) Name and location of the PAD and/or single-well facility or source where pneumatic controllers are installed.

(D) The final, quarterly notification of installation required under Subsections (B) and (C) above, shall be submitted no later than January 31, 2017, if applicable.

(E) Removal Notification of Control Device(s). The owner(s) or operator(s) of each PAD and single-well facility or source subject to the requirements of these regulations shall submit a demonstration to the Division for approval prior to removal of any pollution control device. This demonstration shall contain at a minimum:

(I) The average daily condensate/oil or gas production rate for the previous 12 calendar months;

(II) Emissions as determined by utilizing paragraph (I) above, and the calculation for flashing emissions in Paragraph (c)(ii), and/or the calculation for dehydration units in Paragraph (d)(ii) of these regulations;

(III) Any additional supporting data used to calculate emissions, including but not limited to, a site specific or composite extended hydrocarbon analysis no older than three years from the proposed removal date; and

(IV) Name and location of the PAD and/or single-well facility or source where controls are proposed for removal.

(F) Any PAD and single-well facility or source, or compressor station, subject to requirements of Subsection (g) of these regulations shall submit, for Division review and approval, the LDAR Protocol prior to implementation of the Protocol.

(G) All report and notification submissions shall be certified as being true, accurate, and complete by a responsible official to the best of their knowledge. A responsible official is an individual who is responsible for the information provided in the reports and notifications, and who accepts responsibility for the reports and notifications.

(H) The owner(s) or operator(s) shall submit notifications or reports as required in this Subsection to the Division electronically through https://airimpact.wyo.gov or by hard copy to the Cheyenne Office and Lander Field Office. Contact information for the Cheyenne and Lander offices is located at: http://deq.wyoming.gov/.

(i) Compliance. Compliance with Chapter 8, Section 6 of the WAQSR, does not relieve any owner(s) or operator(s) of a PAD and single-well facility or source, or compressor station, from the responsibility to comply with any other applicable requirements set forth in any federal or State law, rule or regulation, or in any permit.

Section 7. [Reserved.]

Section 8. [Reserved.]

Section 9. [Reserved.]

Section 10. Incorporation by Reference.

(a) Code of Federal Regulations (CFR). All Code of Federal Regulations (CFRs) cited in this chapter, including their Appendices, revised and published as of July 1, ~~2024~~2026, not including any later amendments, are incorporated by reference. Copies of the CFR are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: https://deq.wyoming.gov/. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at https://ecfr.gov.

Chapter 11
National Acid Rain Program

Section 1. Introduction to National Acid Rain Program.

(a) Chapter 11 sets forth requirements established in Title IV of the 1990 Clean Air Act Amendments. The national acid rain program is a program to reduce sulfur dioxide and nitrogen oxide emissions through a federally implemented, market-based approach for controlling air pollution.

Section 2. Acid Rain Program.

(a) General: The U.S. Environmental Protection Agency regulations on Acid Rain designated in Chapter 11, Section 2(b) are incorporated by reference into these regulations.

(b) Acid Rain Program Regulations: The following Acid Rain Program Regulations found in 40 CFR Parts 72 - 78, revised and published as of July 1, ~~2024~~2026, not including any later amendments, are adopted and incorporated by reference. Copies of Acid Rain Program Regulations are available for public inspection and can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: https://deq.wyoming.gov/. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214, or online at https://ecfr.gov.

40 CFR Part 72 -	Permits Program
40 CFR Part 73 -	Allowance System
40 CFR Part 74 -	Opting into the Acid Rain Program
40 CFR Part 75 -	Continuous Emission Monitoring
40 CFR Part 76 -	Acid Rain Nitrogen Oxide Emission Reduction Program
40 CFR Part 77 -	Excess Emissions
40 CFR Part 78 -	Appeal Procedures for Acid Rain

Chapter 14
Emission Trading Program Regulations

Section 1. Introduction to Emission Trading Programs.

(a) Chapter 14 establishes requirements for trading programs authorized under Wyoming Statute § 35-11-214. Section 2 implements the Western Backstop (WEB) Sulfur Dioxide Trading Program provisions in accordance with the federal Regional Haze Rule, 40 CFR Part 51.309. Section 3 establishes consistent recordkeeping and reporting requirements for stationary sources in Wyoming to determine whether sulfur dioxide emissions remain below the sulfur dioxide milestones established in the state implementation plan for regional haze. Section 4 is reserved. Section 5 incorporates by reference all Code of Federal Regulations (CFRs), including their Appendices, cited in this Chapter, unless portions of said CFRs are specifically excluded.

Section 2. Western Backstop Sulfur Dioxide Trading Program.

(a) Definitions. The following additional definitions apply to Section 2 of this chapter.

"Account Representative" means the individual who is authorized through a Certificate to represent owners and operators of the WEB source with regard to matters under the WEB Trading Program or, for a general account, who is authorized through a Certificate to represent the persons having an ownership interest in allowances in the general account with regard to matters concerning the general account.

"Act" means the federal Clean Air Act, as amended 42 U.S.C. 7401, *et seq*.

"Actual Emissions" means total annual sulfur dioxide emissions determined in accordance with Section 2(h) of this chapter or determined in accordance with Section 3 of this chapter for sources that are not subject to Section 2(h) of this chapter.

"Allocate" means to assign allowances to a WEB source in accordance with Part C1 of Section C of the Wyoming Regional Haze SIP (WYRHSIP).

"Allowance" means the limited authorization under the WEB Trading Program to emit one ton of sulfur dioxide during a specified control period or any control period thereafter subject to the terms and conditions for use of unused allowances as established by Section 2 of this chapter.

"Allowance limitation" means the tonnage of sulfur dioxide emissions authorized by the allowances available for compliance deduction for a WEB source under Section 2(k) of this chapter on the allowance transfer deadline for each control period.

"Allowance Tracking System" means the system where allowances under the WEB Trading Program are recorded, held, transferred and deducted.

"Allowance Tracking System account" means an account in the Allowance Tracking System established for purposes of recording, holding, transferring, and deducting allowances.

"Allowance transfer deadline" means the deadline established in Section 2(i)(ii) of this chapter when allowances must be submitted for recording in a WEB source's compliance account in order to demonstrate compliance for that control period.

"Best Available Retrofit Technology (BART)" means that emission reduction control device, facility, method, or system, used to achieve the best continuous emission reduction for each pollutant emitted by an existing stationary facility. The emission limitation shall be established on a case-by-case basis taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

"Certificate" means the completed and signed submission required to designate an account representative for a WEB source or an account representative for a general account.

"Compliance account" means an account established in the Allowance Tracking System under Section 2(g)(i) of this chapter for the purpose of recording allowances that a WEB source might hold to demonstrate compliance with its allowance limitation.

"Compliance certification" means a submission to the Wyoming Department of Environmental Quality (Department) by the account representative as required under Section 2(k)(ii) of this chapter to report a WEB source's compliance or noncompliance with Chapter 14, Section 2.

"Control period" means the period beginning January 1 of each year and ending on December 31 of the same year, inclusive.

"Emissions tracking database" means the central database where sulfur dioxide emissions for WEB sources as recorded and reported in accordance with Section 2 of this chapter are tracked to determine compliance with allowance limitations.

"Emission unit" means any part of a stationary source that emits or would have the potential to emit any pollutant subject to regulations under the Act.

"Existing source" means a stationary source that commenced operation before the program trigger date.

"General account" means an account established in the Allowance Tracking System under Section 2(g) of this chapter for the purpose of recording allowances held by a person that are not to be used to show compliance with an allowance limitation.

"Milestone" means the maximum level of stationary source regional sulfur dioxide emissions for each year from 2003 to 2018, established according to the procedures in Part A1 of Section C of the WYRHSIP.

"New WEB Source" means a WEB source that commenced operation on or after the program trigger date.

"New Source Set-aside" means a pool of allowances that are available for allocation to new sources in accordance with the provisions of Part C1.3 of Section C of the WYRHSIP.

"Owner or Operator" means any person who is an owner or who operates, controls or supervises a WEB source, and includes but is not limited to any holding company, utility system or plant manager.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation is enforceable by the EPA Administrator.

"Program trigger date" means the date that the Department determines that the WEB Trading Program has been triggered in accordance with the provisions of Part A3 of Section C of the WYRHSIP.

"Program trigger years" means the years shown in Part A1 of Section C of the WYRHSIP, Table 1, column 3 for the applicable milestone if the WEB Trading Program is triggered as described in Part A3 of Section C of the WYRHSIP.

"Renewable Energy Resource" means a resource that generates electricity by non-nuclear and non-fossil technologies that results in low or no air emissions. The term includes electricity generated by wind energy technologies; solar photovoltaic and solar thermal technologies; geothermal technologies; technologies based on landfill gas and biomass sources, and new low-impact hydropower that meets the Low-Impact Hydropower Institute criteria. Biomass includes agricultural, food and wood wastes. The term does not include pumped storage or biomass from municipal solid waste, black liquor, or treated wood.

"Retired source" means a WEB source that has received a retired source exemption as provided in Section 2(c)(iv) of this chapter. Any retired source resuming operations under Section 2(c)(iv) of this chapter, must submit its exemption as part of its registration materials.

"Serial number" means, when referring to allowances, the unique identification number assigned to each allowance by the TSA, in accordance with Section 2(f)(ii) of this chapter.

"Special Reserve Compliance Account" means an account established in the allowance tracking system under Section 2(g)(i) for the purpose of recording allowances that a WEB source

might hold to demonstrate compliance with its allowance limitation for emission units that are monitored for SO_2 in accordance with Section 2(h)(i)(B).

"Stationary source" means any building, structure, facility or installation that emits or may emit any air pollutant subject to regulation under the Act.

"Submit" means sent to the appropriate authority under the signature of the account representative. For purposes of determining when something is submitted, an official U.S. Postal Service postmark, or equivalent electronic time stamp, shall establish the date of submittal.

"Sulfur dioxide emitting unit" means any equipment that is located at a WEB source and that emits sulfur dioxide.

"Ton" means 2000 pounds and any fraction of a ton equaling 1000 pounds or more shall be treated as one ton and any fraction of a ton equaling less than 1000 pounds shall be treated as zero tons.

"Tracking System Administrator (TSA)" means the person designated by the Department as the administrator of the Allowance Tracking System and the emission tracking database.

"WEB source" means a stationary Western Backstop (WEB) source that meets the applicability requirements of Section 2(c) of this chapter.

"WEB Trading Program" means Section 2 of this chapter, triggered as a backstop in accordance with the provisions in Part A3 of Section C of the WYRHSIP, if necessary, to ensure that regional sulfur dioxide emissions are reduced.

"WYRHSIP" means the Wyoming Regional Haze State Implementation Plan.

(b) WEB Trading Program Trigger.

(i) Except as provided in (ii), the provisions of Section 2 of this chapter shall apply on the program trigger date that is established in accordance with the procedures in Part A3 of Section C of the WYRHSIP.

(ii) Special Penalty Provisions for 2018 Milestone, Section 2(l) of this chapter, shall apply on January 1, 2018 and shall remain effective until the provisions of Section 2(l) of this chapter have been fully implemented.

(c) WEB Trading Program Applicability.

(i) General Applicability. Section 2 of this Chapter applies to any stationary source or group of stationary sources that are located on one or more contiguous or adjacent properties and which are under the control of the same person or persons under common control, belonging to the same industrial grouping, and that are described in paragraphs (A) and (B) of

this subsection. A stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(A) All stationary sources that have actual sulfur dioxide emissions of 100 tons or more per year in the Program Trigger Years or any subsequent year. The fugitive emissions of a stationary source shall not be considered in determining whether it is subject to Section 2 of this chapter unless the source belongs to one of the following categories of stationary source:

(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 of more than 250 million British thermal units per hour heat input; or

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

(B) A new source that begins operation after the program trigger date and has the potential to emit 100 tons or more of sulfur dioxide per year.

(ii) The Department may determine on a case-by-case basis, with concurrence from the EPA Administrator, that a stationary source defined in 2(c)(i)(A) above that has not previously met the applicability requirements of (i) is not subject to Section 2 of this chapter if the stationary source had actual sulfur dioxide emissions of 100 tons or more in a single year and in each of the previous five years had actual sulfur dioxide emissions of less than 100 tons per year, and:

(A) (I) The emissions increase was due to a temporary emission increase that was caused by a sudden, infrequent failure of air pollution control equipment, or process equipment, or a failure to operate in a normal or usual manner, and

(II) The stationary source has corrected the failure of air pollution equipment, process equipment, or process by the time of the Department's determination; or

(B) The stationary source had to switch fuels or feedstocks on a temporary basis and as a result of an emergency situation or unique and unusual circumstances besides the cost of such fuels or feedstocks.

(iii) Duration of Applicability. Except as provided for in Section 2(c)(iv) of

this chapter, once a stationary source is subject to Section 2 of this chapter, it will remain subject to it every year thereafter.

(iv) Retired Source Exemption.

(A) Application. Any WEB source that is permanently retired shall apply for a retired source exemption. The WEB source may only be considered permanently retired if all sulfur dioxide emitting units at the source are permanently retired. The application shall contain the following information:

(I) Identification of the WEB source, including plant name and an appropriate identification code in a format specified by the Department.

(II) Name of Account Representative.

(III) Description of the status of the WEB source, including the date that the WEB source was permanently retired.

(IV) Signed certification that the WEB source is permanently retired and will comply with the requirements of Section 2(c)(iv) of this chapter.

(V) Verification that the WEB source has a general account where any unused allowances or future allocations will be recorded.

(B) Notice. The retired source exemption becomes effective when the Department notifies the WEB source that the retired source exemption has been granted.

(C) Responsibilities of Retired Sources.

(I) A retired source shall be exempt from Section 2(h) and Section 2(k) of this chapter, except as provided below.

(II) A retired source shall not emit any sulfur dioxide after the date the retired source exemption is issued.

(III) A WEB source shall submit sulfur dioxide emissions reports, as required by Section 2(h)(viii) of this chapter for any time period the source was operating prior to the effective date of the retired source exemption. The retired source shall be subject to the compliance provisions of Section 2(k) of this chapter, including the requirement to hold allowances in the source's compliance account to cover all sulfur dioxide emissions prior to the date the source was permanently retired.

(IV) A retired source that is still in existence but no longer emitting sulfur dioxide shall, for a period of five years from the date the records are created, retain records demonstrating the effective date of the retired source exemption for purposes of Section 2 of this chapter.

(D) Resumption of Operations.

(I) Should a retired source desire to resume operation, the retired source must submit registration materials as follows:

(1.) If the source is required to obtain a construction permit under Wyoming Air Quality Regulations and Standards (WAQSR) Chapter 6, Section 2 or an operating permit under WAQSR Chapter 6, Section 3 prior to resuming operation, then registration information as described in Section 2(e)(i) of this chapter and a copy of the retired source exemption must be submitted with the notice of intent under WAQSR Chapter 6, Section 2 or the operating permit application required under WAQSR Chapter 6, Section 3;

(2.) If the source does not meet the criteria of (1.), then registration information as described in Section 2(e)(i) of this chapter and a copy of the retired source exemption must be submitted to the Department at least 90 days prior to resumption of operation.

(II) The retired source exemption shall automatically expire on the day the retired source resumes operation.

(E) Loss of Future Allowances. A WEB source that is permanently retired and that does not apply to the Department for a retired source exemption within 90 days of the date that the source is permanently retired shall forfeit any unused and future allowances. The abandoned allowances shall be retired directly by the TSA.

(d) Account Representative for WEB Sources.

(i) Each WEB source must identify one account representative and may also identify an alternate account representative who may act on behalf of the account representative. Any representation, action, inaction or submission by the alternate account representative will be deemed to be a representation, action, inaction or submission by the account representative.

(ii) Identification and Certification of an Account Representative.

(A) The account representative and any alternate account representative shall be appointed by an agreement that makes the representations, actions, inactions or submissions of the account representative and any alternate binding on the owners and operators of the WEB source.

(B) The account representative shall submit to the Department and the TSA a signed and dated Certificate that contains the following elements:

(I) Identification of the WEB source by plant name, state and an appropriate identification code in a format specified by the Department;

(II) The name, address, e-mail (if available), telephone and facsimile number of the account representative and any alternate;

(III) A list of owners and operators of the WEB source;

(IV) Information to be part of the emission tracking system database in accordance with Part A2.1 of Section C of the WYRHSIP. The specific data elements shall be as specified by the State of Wyoming to be consistent with the data system structure, and may include basic facility information that may appear in other reports and notices submitted by the WEB source, such as county location, industrial classification codes, and similar general facility information.

(V) The following certification statement: "I certify that I was selected as the account representative or alternate account representative, as applicable, by an agreement binding on the owners and operators of the WEB source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB Trading Program on behalf of the owners and operators of the WEB source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Department regarding the WEB Trading Program."

(C) Upon receipt by the Department of the completed certificate, the account representative and any alternate account representative represents and, by his or her representations, actions, inactions, or submissions, legally binds each owner and operator of the WEB source in all matters pertaining to the WEB Trading Program. The owners and operators shall be bound by any decision or order issued by the Department regarding the WEB Trading Program.

(D) No WEB Allowance Tracking System account shall be established for the WEB source until the TSA has received a complete certificate. Once the account is established, the account representative shall make all submissions concerning the account, including the deduction or transfer of allowances.

(iii) Responsibilities.

(A) The responsibilities of the account representative include, but are not limited to, the transferring of allowances and the submission of monitoring plans, registrations, certification applications, sulfur dioxide emissions data and compliance reports as required by Section 2 of this chapter, and representing the source in all matters pertaining to the WEB Trading Program.

(B) Each submission under this program shall be signed and certified by the account representative for the WEB source. Each submission shall include the following truth and accuracy certification statement by the account representative:

(I) "I am authorized to make this submission on behalf of the owners and operators of the WEB source for which the submission is made. I certify under

penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(iv) Changing the Account Representative or Owners and Operators.

(A) Changes to the Account Representative or the alternate Account Representative.

The account representative or alternate account representative may be changed at any time by sending a complete superseding certificate to the Department and the TSA under Section 2(d)(ii) of this chapter, with the change taking effect upon receipt of such certificate by the TSA. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous account representative or alternate prior to the time and date when the TSA receives the superseding certificate shall be binding on the new account representative and the owners and operators of the WEB source.

(B) Changes in Owners and Operators.

(I) Within 30 days of any change in the owners and operators of the WEB source, including the addition of a new owner or operator, the account representative shall submit a revised certificate amending the list of owners and operators to include such change.

(II) In the event a new owner or operator of a WEB source is not included in the list of owners and operators submitted in the certificate, such new owner or operator shall be deemed to be subject to and bound by the certificate, the representations, actions, inactions, and submissions of the account representative of the WEB source, and the decisions, orders, actions, and inactions of the Department as if the new owner or operator were included in such list.

(e) Registration.

(i) Deadlines.

(A) Each source that is a WEB source on or before the program trigger date shall register by submitting the initial certificate required in Section 2(d)(ii) of this chapter to the Department no later than 180 days after the program trigger date.

(B) Any existing source that becomes a WEB source after the program trigger date shall register by submitting the initial certificate required in Section 2(d)(ii) of this chapter to the Department by September 30 of the year following the inventory year in which the source exceeded the emission threshold.

(C) Any new WEB source shall register by submitting the initial Certificate required in Section 2(d)(ii) of this chapter to the Department prior to the commencement of operation.

(ii) Integration Into Permits.

(A) Any allocation, transfer or deduction of allowance to or from the compliance account of a WEB source shall not require revision of the WEB source's operating permit under WAQSR Chapter 6, Section 3.

(B) Any WEB source that is not required to have a permit under WAQSR Chapter 6, Section 2 at any time after Chapter 14 becomes effective must at all times possess a permit that includes the requirements of Chapter 14. If it does not possess a Title V permit under Chapter 6, Section 3, it may do so by obtaining or modifying a permit under WAQSR Chapter 6, Section 2 to incorporate the requirements of Chapter 14. The source must at all times possess a permit that includes these requirements.

(f) Allowance Allocations.

(i) The TSA will record the allowances for each WEB source in the compliance account for the WEB source once the allowances are allocated by the Department under Part C1 of Section C of the WYRHSIP. If applicable, the TSA will record a portion of the sulfur dioxide allowances for a WEB source in a special reserve compliance account to account for any allowances to be held in accordance with Section 2(h)(i)(B) of this chapter.

(ii) The TSA will assign a serial number to each allowance in accordance with Part C2 of Section C of the WYRHSIP.

(iii) All allowances shall be allocated, recorded, transferred, or used as whole allowances. To determine the number of whole allowances, the number of allowances shall be rounded down for decimals less than 0.50 and rounded up for decimals of 0.50 or greater.

(iv) An allowance is not a property right, and is a limited authorization to emit one ton of sulfur dioxide valid only for the purpose of meeting the requirements of Section 2 of this chapter. No provision of the WEB Trading Program or other law should be construed to limit the authority of the Department to terminate or limit such authorization.

(v) Early Reduction Bonus Allocation. Any non-utility WEB source that installs new control technology and that reduces its permitted annual sulfur dioxide emissions to a level that is below the floor level allocation established for that source in Part C1 of Section C of the WYRHSIP or any utility that reduces its permitted annual sulfur dioxide emissions to a level that is below best available control technology may apply to the Department for an early reduction bonus allocation. The bonus allocation shall be available for reductions that occur between 2008 and the program trigger year. The application must be submitted no later than 90 days after the program trigger date. Any WEB source that applies and receives early reduction

bonus allocations must retain the records referenced below for a minimum of five years after the early reduction bonus allowance is certified in accordance with Part C1.1(a)(3) of Section C of the WYRHSIP. The application for an early reduction bonus allocation must contain the following information:

(A) Copies of all construction permits, operating permits or other enforceable documents that include annual sulfur dioxide emissions limits for the WEB source during the period the WEB source qualifies for an early reduction credit. Such permits or enforceable documents must require monitoring for sulfur dioxide emissions that meet the requirements in Section 2(h) of this chapter.

(B) Demonstration that the floor level established for the source in accordance with Part C1.1(a)(2) of Section C of the WYRHSIP for non-utilities or best available control technology for utilities was calculated using data that are consistent with monitoring methods specified in Section 2(h)(i)(A) of this chapter. If needed, the demonstration shall include a new floor level calculation that is consistent with the monitoring methodology in Section 2(h) of this chapter.

(vi) Request for allowances for new WEB sources or modified WEB Sources.

(A) A new WEB source may apply to the Department for an allocation from the new source set-aside, as outlined in Part C1.3 of Section C of the WYRHSIP.

(I) A new WEB source is eligible for an annual floor allocation equal to the lower of the permitted annual sulfur dioxide emission limit for that source, or sulfur dioxide annual emissions calculated based on a level of control equivalent to best available control technology (BACT) and assuming 100 percent utilization of the WEB source, beginning with the first full calendar year of operation.

(B) An existing WEB source that has increased production capacity through a new construction permit issued under WAQSR Chapter 6, Section 2 may apply to the Department for an allocation from the new source set-aside, as outlined in Part C1.3 of Section C of the WYRHSIP. An existing WEB source is eligible for an annual allocation equal to:

(I) The permitted annual sulfur dioxide emission limit for a new unit; or

(II) The permitted annual sulfur dioxide emission increase for the WEB source due to the replacement of an existing unit with a new unit or the modification of an existing unit that increased production capacity of the WEB source.

(C) A source that has received a retired source exemption under Chapter 14, Section 2(c)(iv) is not eligible for an allocation from the new source set-aside.

(D) The application for an allocation from the new source set-aside must contain the following:

(I) For existing WEB sources under Section 2(f)(vi)(B)(II) of this chapter, documentation of the production capacity of the source before and after the new permit;

(II) For new WEB sources or a new unit under Section 2(f)(vi)(B)(I), documentation of the actual date of the commencement of operation and a copy of the permit issued under Chapter 6, Section 2.

(g) Establishment of Accounts.

(i) Allowance Tracking System Accounts. All WEB sources are required to open a compliance account. In addition, if a WEB source conducts monitoring under Section 2(h)(i)(B) of this chapter, the WEB source shall open a special reserve compliance account for allowances associated with units monitored under those provisions. The WEB source and account representative shall have no rights to transfer allowances in or out of such special reserve compliance account. The State of Wyoming shall allocate allowances to the account in accordance with Section 2(h)(i)(B)(V) of this chapter and all such allowances for each control period shall be retired each year for compliance in accordance with Section 2(k) of this chapter. Any person may open a general account for holding and transferring allowances. To open either type of account, an application that contains the following information shall be submitted:

(A) The name, mailing address, e-mail address, telephone number and facsimile number of the account representative. For a compliance account, include a copy of the certificate for the account representative and any alternate as required in Section 2(d)(ii)(B) of this chapter. For a general account, include the Certificate for the account representative and any alternate as required in (iii)(B).

(B) The WEB source or organization name;

(C) The type of account to be opened; and

(D) A signed certification of truth and accuracy by the account representative according to Section 2(d)(iii)(B) of this chapter for compliance accounts and for general accounts, certification of truth and accuracy by the account representative according to (iv).

(ii) Account Representative for General Accounts. For a general account, one account representative must be identified and an alternate account representative may be identified and may act on behalf of the account representative. Any representation, action, inaction or submission by the alternate account representative will be deemed to be a representation, action, inaction or submission by the account representative.

(iii) Identification and Certification of an Account Representative for General Accounts.

(A) The account representative shall be appointed by an agreement that makes the representations, actions, inactions or submissions of the account representative binding on all persons who have an ownership interest with respect to allowances held in the general account.

(B) The account representative shall submit to the Department and the TSA a signed and dated certificate that contains the following elements:

(I) The name, address, email (if available), telephone and facsimile number of the account representative and any alternate;

(II) The organization name;

(III) The following certification statement:

"I certify that I was selected as the account representative or alternate account representative, as applicable, by an agreement binding on all persons who have an ownership interest in allowances in the general account with regard to matters concerning the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB Trading Program on behalf of said persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions."

(C) Upon receipt by the Department of the complete certificate, the account representative represents and, by his or her representations, actions, inactions, or submissions, legally binds each person who has an ownership interest in allowances held in the general account with regard in all matters concerning the general account. Such persons shall be bound by any decision or order issued by the Department.

(D) No WEB Allowance Tracking System general account shall be established until the TSA has received a complete certificate. Once the account is established, the account representative shall make all submissions concerning the account, including the deduction or transfer of allowances.

(iv) Requirements and Responsibilities. Each submission for the general account shall be signed and certified by the account representative for the general account. Each submission shall include the following truth and accuracy certification statement by the account representative:

(A) "I am authorized to make this submission on behalf of all persons who have an ownership interest in allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(v) Changing the Account Representative. The account representative or alternate account representative may be changed at any time by sending a complete superseding certificate to the Department and the TSA under (iii)(B), with the change taking effect upon receipt of such certificate by the Department. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous account representative or alternate prior to the time and date when the Department receives the superseding certificate shall be binding on the new account representative and all persons having ownership interest with respect to allowances held in the general account.

(vi) Changes to the Account. Any change to the information required in the application for an existing account under (i) shall require a revision of the application.

(h) Monitoring, Recordkeeping and Reporting.

(i) General Requirements on Monitoring Methods.

(A) For each sulfur dioxide emitting unit at a WEB source the WEB source shall comply with the following, as applicable, to monitor and record sulfur dioxide mass emissions:

(I) If a unit is subject to 40 CFR Part 75 under a requirement separate from the WEB Trading Program, the unit shall meet the requirements contained in Part 75 with respect to monitoring, recording and reporting sulfur dioxide mass emissions.

(II) If a unit is not subject to 40 CFR Part 75 under a requirement separate from the WEB Trading Program, a unit shall use one of the following monitoring methods, as applicable:

(1.) A continuous emission monitoring system (CEMS) for sulfur dioxide and flow that complies with all applicable monitoring provisions in 40 CFR Part 75;

(2.) If the unit is a gas- or oil-fired combustion device, the excepted monitoring methodology in Appendix D to 40 CFR Part 75, or, if applicable, the low mass emissions (LME) provisions (with respect to sulfur dioxide mass emissions only) in 40 CFR Part 75.19;

(3.) One of the optional WEB protocols, if applicable, in Appendix A to Chapter 14; or

(4.) A petition for site-specific monitoring that the source submits for approval by the State of Wyoming and approval by the U.S. Environmental Protection Agency in accordance with Section 2(h)(ix) of this chapter (relating to petitions).

(III) A permanently retired unit shall not be required to monitor

under this Section if such unit was permanently retired and had no emissions for the entire period and the account representative certifies in accordance with Section 2(k)(ii) of this chapter that these conditions were met. In the event that a permanently retired unit recommences operation, the WEB source shall meet the requirements of this Section 2(h) in the same manner as if the unit was a new unit.

(B) Notwithstanding paragraph (A) of this section, the WEB source with a unit that meets one of the conditions of paragraph (B)(I) may submit a request to the Department to have the provisions of this paragraph (B) apply to that unit.

(I) Any of the following units may implement this paragraph (B):

(1.) Any smelting operation where all of the emissions from the operation are not ducted to a stack;

(2.) Any flare, except to the extent such flares are used as a fuel gas combustion device at a petroleum refinery; or

(3.) Any other type of unit without add-on sulfur dioxide control equipment if the unit belongs to one of the following source categories: cement kilns, pulp and paper recovery furnaces, lime kilns, or glass manufacturing.

(II) For each unit covered by this paragraph (B), the account representative shall submit a notice to request that this paragraph (B) apply to one or more sulfur dioxide emitting units at a WEB source. The notice shall be submitted in accordance with the compliance dates specified in Section 2(h)(vi)(A) of this chapter, and shall include the following information in a format specified by the State of Wyoming with such additional, related information as may be requested:

(1.) A list of all units at the WEB source that identifies which of the units are to be covered by this paragraph (B); and

(2.) An identification of any such units that are permanently retired.

(III) For each new unit at an existing WEB source for which the WEB source seeks to comply with this paragraph (B) and for which the account representative applies for an allocation under the new source set-aside provisions of Section 2(f)(vi) of this chapter, the account representative shall submit a modified notice under paragraph (B)(II) that includes such new sulfur dioxide emitting unit(s). The modified request shall be submitted in accordance with the compliance dates in Section 2(h)(vi)(A) of this chapter, but no later than the date on which a request is submitted under Section 2(f)(vi) of this chapter for allocations from the set-aside.

(IV) The account representative for a WEB source shall submit

an annual emissions statement for each unit under this paragraph (B) in accordance with Section 2(h)(viii) of this chapter. The WEB source shall maintain operating records sufficient to estimate annual emissions in a manner consistent with emission inventory submitted by the source for calendar year 1998. In addition, if the estimated emissions from all such units at the WEB source are greater than the allowances for the current control year held in the special reserve compliance account for the WEB source, the account representative shall report the excess amount as part of the annual report for the WEB source under Section 2(k) of this chapter and be required to use other allowances in the standard compliance account for the WEB source to account for such emissions, in accordance with Section 2(k) of this chapter.

(V) Section 2(h) of this chapter shall not apply to units covered by this paragraph except where otherwise noted.

(VI) A WEB source may opt to modify the monitoring for a sulfur dioxide emitting unit to use monitoring under Section 2(h)(i)(A) of this chapter, but any such monitoring change must take effect on January 1 of the next compliance year. In addition, the account representative must submit an initial monitoring plan at least 180 days prior to the date on which the new monitoring will take effect and a detailed monitoring plan in accordance with Section 2(h)(ii) of this chapter. The account representative shall also submit a revised notice under paragraph (B)(II) at the same time that the initial monitoring plan is submitted.

(C) For any monitoring that the WEB source uses under this section (including paragraph (B)), the WEB source (and, as applicable, the account representative) shall implement, certify, and use such monitoring in accordance with this section, and record and report the data from such monitoring as required in this section. In addition, the WEB source (and, as applicable, the account representative) may not:

(I) Except for an alternative approved by the EPA Administrator for a WEB source that implements monitoring under Section 2(h)(i)(A)(I) of this chapter, use an alternative monitoring system, alternative reference method or another alternative for the required monitoring method without having obtained prior written approval in accordance with Section 2(h)(ix) of this chapter (relating to petitions);

(II) Operate a sulfur dioxide emitting unit so as to discharge, or allow to be discharged, sulfur dioxide emissions to the atmosphere without accounting for these emissions in accordance with the applicable provisions of this section;

(III) Disrupt the approved monitoring method or any portion thereof, and thereby avoid monitoring and recording sulfur dioxide mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing or maintenance is performed in accordance with the applicable provisions of this section; or

(IV) Retire or permanently discontinue use of an approved monitoring method, except under one of the following circumstances:

(1.) During a period when the unit is exempt from the requirements of this Section, including retirement of a unit as addressed in Section 2(h)(i)(A)(III);

(2.) The WEB source is monitoring emissions from the unit with another certified monitoring method approved under this Section for use at the unit that provides data for the same parameter as the retired or discontinued monitoring method; or

(3.) The account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with this section, and the WEB source recertifies thereafter a replacement monitoring system in accordance with the applicable provisions of this section.

(ii) Monitoring Plan.

(A) General Provisions. A WEB source with a sulfur dioxide emitting unit that uses a monitoring method under Section 2(h)(i)(A)(II) of this chapter shall meet the following requirements:

(I) Prepare and submit to the State of Wyoming an initial monitoring plan for each monitoring method that the WEB source uses to comply with this section. In accordance with paragraph 2(h)(ii)(C) of this chapter, the plan shall contain sufficient information on the units involved, the applicable method, and the use of data derived from that method to demonstrate that all unit sulfur dioxide emissions are monitored and reported. The plan shall be submitted in accordance with the compliance deadlines specified in Section 2(h)(vi) of this chapter.

(II) Prepare, maintain and submit to the State of Wyoming a detailed monitoring plan prior to the first day of certification testing in accordance with the compliance deadline specified in Section 2(h)(vi) of this chapter. The plan will contain the applicable information required by Section 2(h)(ii)(D) of this chapter. The State of Wyoming may require that the monitoring plan (or portions thereof) be submitted electronically. The State of Wyoming also may require that the plan be submitted on an ongoing basis in electronic format as part of the quarterly report submitted under Section 2(h)(viii)(A) of this chapter or resubmitted separately after any change is made to the plan in and;

(III) Whenever the WEB source makes a replacement, modification, or change in one of the systems or methodologies provided for in Section 2(h)(i)(A)(II) of this chapter, including a change in the automated data acquisition and handling system or in the flue gas handling system, that affects information reported in the monitoring plan (e.g., a change to serial number for a component of a monitoring system), then the WEB source shall update the monitoring plan in accordance with the compliance deadline specified in Section 2(h)(vi) of this chapter.

(B) A WEB source with a sulfur dioxide emitting unit that uses a method under Section 2(h)(i)(A)(I) of this chapter (a unit subject to 40 CFR Part 75 under a

program other than this WEB Trading Program) shall meet the requirements of Section 2(h)(ii)(A)-(F) by preparing, maintaining and submitting a monitoring plan in accordance with the requirements of 40 CFR Part 75. If requested, the WEB source also shall submit the entire monitoring plan to the State of Wyoming.

(C) Initial Monitoring Plan. The account representative shall submit an initial monitoring plan for each sulfur dioxide emitting unit (or group of units sharing a common methodology) that, except as otherwise specified in an applicable provision in Appendix A of this chapter, contains the following information:

(I) For all sulfur dioxide emitting units:

(1.) Plant name and location;

(2.) Plant and unit identification numbers assigned by the State of Wyoming;

(3.) Type of unit (or units for a group of units using a common monitoring methodology);

(4.) Identification of all stacks or pipes associated with the monitoring plan;

(5.) Types of fuel(s) fired (or sulfur containing process materials used in the sulfur dioxide emitting unit), and the fuel classification of the unit if combusting more than one type of fuel and using a 40 CFR Part 75 methodology;

(6.) Type(s) of emissions controls for sulfur dioxide installed or to be installed, including specifications of whether such controls are pre-combustion, post-combustion, or integral to the combustion process;

(7.) Maximum hourly heat input capacity, or process throughput capacity, if applicable;

(8.) Identification of all units using a common stack; and

(9.) Indicator of whether any stack identified in the plan is a bypass stack.

(II) For each unit and parameter required to be monitored, identification of monitoring methodology information, consisting of monitoring methodology, monitor locations, substitute data approach for the methodology, and general identification of quality assurance procedures. If the proposed methodology is a site-specific methodology submitted pursuant to Section 2(h)(i)(A)(II)(4.) of this chapter, the description under this paragraph shall describe fully all aspects of the monitoring equipment, installation locations,

operating characteristics, certification testing, ongoing quality assurance and maintenance procedures, and substitute data procedures.

(III) If the WEB source intends to petition for a change to any specific monitoring requirement otherwise required under this section, such petition may be submitted as part of the initial monitoring plan.

(IV) The State of Wyoming may issue a notice of approval or disapproval of the initial monitoring plan based on the compliance of the proposed methodology with the requirements for monitoring in this section.

(D) Detailed Monitoring Plan. The account representative shall submit a detailed monitoring plan that, except as otherwise specified in an applicable provision in Appendix A of this chapter, shall contain the following information:

(I) Identification and description of each monitoring component (including each monitor and its identifiable components, such as analyzer or probe) in a CEMS (e.g., sulfur dioxide pollutant concentration monitor, flow monitor, moisture monitor), a 40 CFR Part 75, Appendix D monitoring system (e.g., fuel flowmeter, data acquisition and handling system), or a protocol in Appendix A of this chapter, including:

(1.) Manufacturer, model number and serial number;

(2.) Component or system identification code assigned by the facility to each identifiable monitoring component, such as the analyzer or probe;

(3.) Designation of the component type and method of sample acquisition or operation (e.g., in situ pollutant concentration monitor or thermal flow monitor);

(4.) Designation of the system as a primary or backup system;

(5.) First and last dates the system reported data;

(6.) Status of the monitoring component; and

(7.) Parameter monitored.

(II) Identification and description of all major hardware and software components of the automated data acquisition and handling system, including:

(1.) Hardware components that perform emission calculations or store data for quarterly reporting purposes (provide the manufacturer and model number); and

(2.) Software components (provide the identification of the provider and model or version number).

(III) Explicit formulas for each measured emissions parameter, using component or system identification codes for the monitoring system used to measure the parameter that links the system observations with the reported concentrations and mass emissions. The formulas must contain all constants and factors required to derive mass emissions from component or system code observations and an indication of whether the formula is being added, corrected, deleted, or is unchanged. The WEB source with a low mass emissions unit for which the WEB source is using the optional low mass emissions excepted methodology in Section 75.19(c) of 40 CFR Part 75 is not required to report such formulas.

(IV) Inside cross-sectional area (ft^2) at flow monitoring location (for units with flow monitors only).

(V) If using CEMS for sulfur dioxide and flow, for each parameter monitored: scale, maximum potential concentration (and method of calculation), maximum expected concentration (if applicable) (and method of calculation), maximum potential flow rate (and method of calculations), span value, full-scale range, daily calibration units of measure, span effective date and hour, span inactivation date and hour, indication of whether dual spans are required, default high range value, flow rate span, and flow rate span value and full scale value (in standard cubic feet per hour) for each unit or stack using sulfur dioxide or flow component monitors.

(VI) If the monitoring system or excepted methodology provides for use of a constant, assumed, or default value for a parameter under specific circumstances, then include the following information for each value of such parameter:

(1.) Identification of the parameter;

(2.) Default, maximum, minimum, or constant value, and units of measure for the value;

(3.) Purpose of the value;

(4.) Indicator of use during controlled or uncontrolled hours;

(5.) Types of fuel;

(6.) Source of the value;

(7.) Value effective date and hour;

(8.) Date and hour value is no longer effective (if applicable); and

(9.) For units using the excepted methodology under section 75.19 of 40 CFR Part 75, the applicable sulfur dioxide emission factor.

(VII) Unless otherwise specified in Section 6.5.2.1 of Appendix A to 40 CFR Part 75, for each unit or common stack on which hardware CEMS are installed:

(1.) The upper and lower boundaries of the range of operation (as defined in Section 6.5.2.1 of Appendix A to 40 CFR Part 75), or thousand pounds per hour (lb/hr) of steam, or feet per second (ft/sec) (as applicable);

(2.) The load or operating level(s) designated as normal in Section 6.5.2.1 of Appendix A to 40 CFR Part 75, or thousands of lb/hr of steam, or ft/sec (as applicable);

(3.) The two load or operating levels (i.e., low, mid, or high) identified in Section 6.5.2.1 of Appendix A to 40 CFR Part 75 as the most frequently used;

(4.) The date of the data analysis used to determine the normal load (or operating) level(s) and the two most frequently-used load (or operating) levels; and

(5.) Activation and deactivation dates when the normal load or operating level(s) change and are updated.

(VIII) For each unit that is complying with 40 CFR Part 75 for which the optional fuel flow-to-load test in Section 2.1.7 of Appendix D to 40 CFR Part 75 is used:

(1.) The upper and lower boundaries of the range of operation (as defined in Section 6.5.2.1 of Appendix A to 40 CFR Part 75), expressed in thousands of lb/hr of steam;

(2.) The load level designated as normal, pursuant to Section 6.5.2.1 of Appendix A to 40 CFR Part 75, expressed in thousands of lb/hr of steam; and

(3.) The date of the load analysis used to determine the normal load level.

(IX) Information related to quality assurance testing, including (as applicable): identification of the test strategy; protocol for the relative accuracy test audit; other relevant test information; calibration gas levels (percent of span) for the calibration error test and linearity check; calculations for determining maximum potential concentration, maximum expected concentration (if applicable), maximum potential flow rate, and span;

(X) If applicable, apportionment strategies under sections 75.10

through 75.18 of 40 CFR Part 75.

(XI) Description of site locations for each monitoring component in a monitoring system, including schematic diagrams and engineering drawings and any other documentation that demonstrates each monitor location meets the appropriate siting criteria. For units monitored by a continuous emission monitoring system, diagrams shall include:

(1.) A schematic diagram identifying entire gas handling system from unit to stack for all units, using identification numbers for units, monitor components, and stacks corresponding to the identification numbers provided in the initial monitoring plan and paragraphs (D)(I) and (III). The schematic diagram must depict the height of any monitor locations. Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common stack.

(2.) Stack and duct engineering diagrams showing the dimensions and locations of fans, turning vanes, air preheaters, monitor components, probes, reference method sampling ports, and other equipment that affects the monitoring system location, performance, or quality control checks.

(XII) A data flow diagram denoting the complete information handling path from output signals of CEMS components to final reports.

(E) In addition to supplying the information in paragraphs (C) and (D) above, the WEB source with a sulfur dioxide emitting unit using either of the methodologies in paragraph (h)(i)(A)(II)(2.) of this section shall include the following information in its monitoring plan for the specific situations described:

(I) For each gas-fired or oil-fired sulfur dioxide emitting unit for which the WEB source uses the optional protocol in Appendix D to 40 CFR Part 75 for sulfur dioxide mass emissions, the WEB source shall include the following information in the monitoring plan:

(1.) Parameter monitored;

(2.) Type of fuel measured, maximum fuel flow rate, units of measure, and basis of maximum fuel flow rate (i.e., upper range value or unit maximum) for each fuel flowmeter;

(3.) Test method used to check the accuracy of each fuel flowmeter;

(4.) Submission status of the data;

(5.) Monitoring system identification code;

(6.) The method used to demonstrate that the unit qualifies for monthly gross calorific value (GCV) sampling or for daily or annual fuel sampling for sulfur content, as applicable;

(7.) A schematic diagram identifying the relationship between the unit, all fuel supply lines, the fuel flowmeter(s), and the stack(s). The schematic diagram must depict the installation location of each fuel flowmeter and the fuel sampling location(s). Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common pipe;

(8.) For units using the optional default sulfur dioxide emission rate for "pipeline natural gas" or "natural gas" in Appendix D to 40 CFR Part 75, the information on the sulfur content of the gaseous fuel used to demonstrate compliance with either section 2.3.1.4 or 2.3.2.4 of appendix D to 40 CFR Part 75;

(9.) For units using the 720 hour test under Section 2.3.6 of Appendix D to 40 CFR Part 75 to determine the required sulfur sampling requirements, report the procedures and results of the test; and

(10.) For units using the 720 hour test under Section 2.3.5 of Appendix D to 40 CFR Part 75 to determine the appropriate fuel GCV sampling frequency, report the procedures used and the results of the test.

(II) For each sulfur dioxide emitting unit for which the WEB source uses the low mass emission excepted methodology of Section 75.19 to 40 CFR Part 75, the WEB source shall include the following information in the monitoring plan that accompanies the initial certification application:

(1.) The results of the analysis performed to qualify as a low mass emissions unit under Section 75.19(c) to 40 CFR Part 75. This report will include either the previous three years actual or projected emissions. The following items should be included:

a. Current calendar year of application;

b. Type of qualification;

c. Years one, two, and three;

d. Annual measured, estimated or projected sulfur dioxide mass emissions for years one, two, and three; and

e. Annual operating hours for years one, two, and three.

(2.) A schematic diagram identifying the relationship

between the unit, all fuel supply lines and tanks, any fuel flowmeter(s), and the stack(s). Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common pipe;

(3.) For units which use the long-term fuel flow methodology under Section 75.19(c)(3) to 40 CFR Part 75, a diagram of the fuel flow to each unit or group of units and a detailed description of the procedures used to determine the long-term fuel flow for a unit or group of units for each fuel combusted by the unit or group of units;

(4.) A statement that the unit burns only gaseous fuel(s) or fuel oil and a list of the fuels that are burned or a statement that the unit is projected to burn only gaseous fuel(s) or fuel oil and a list of the fuels that are projected to be burned;

(5.) A statement that the unit meets the applicability requirements in Sections 75.19(a) and (b) to 40 CFR Part 75 with respect to sulfur dioxide emissions; and

(6.) Any unit historical actual, estimated and projected sulfur dioxide emissions data and calculated sulfur dioxide emissions data demonstrating that the unit qualifies as a low mass emissions unit under sections 75.19(a) and (b) to 40 CFR Part 75.

(III) For each gas-fired unit the WEB source shall include the following in the monitoring plan: current calendar year, fuel usage data as specified in the definition of gas-fired in Section 72.2 of 40 CFR Part 72, and an indication of whether the data are actual or projected data.

(F) The specific elements of a monitoring plan under this Section 2(h)(ii) shall not be part of an operating permit for a WEB source issued in accordance with Title V of the Act, and modifications to the elements of the plan shall not require a permit modification.

(iii) Certification and Recertification.

(A) All monitoring systems are subject to initial certification and recertification testing as specified in 40 CFR Part 75 or Appendix A to Chapter 14, as applicable. Certification or recertification of a monitoring system by the U.S. Environmental Protection Agency for a WEB source that is subject to 40 CFR Part 75 under a requirement separate from this Rule shall constitute certification under the WEB Trading Program.

(B) The WEB source with a sulfur dioxide emitting unit not otherwise subject to 40 CFR Part 75 that monitors sulfur dioxide mass emissions in accordance with 40 CFR Part 75 to satisfy the requirements of this Section shall perform all of the tests required by that regulation and shall submit the following:

(I) A test notice, not later than 21 days before the certification testing of the monitoring system, provided that the State of Wyoming may establish additional

requirements for adjusting test dates after this notice as part of the approval of the initial monitoring plan under Section 2(h)(ii)(C) of this chapter; and

(II) An initial certification application within 45 days after testing is complete.

(C) A monitoring system will be considered provisionally certified while the application is pending, and the system shall be deemed certified if the State of Wyoming does not approve or disapprove the system within six months after the date on which the application is submitted.

(D) Whenever an audit of any monitoring certified under this Rule, and a review of the initial certification or recertification application, reveal that any system or component should not have been certified or recertified because it did not meet a particular performance specification or other requirement of Chapter 14, both at the time of the initial certification or recertification application submission and at the time of the audit, the State of Wyoming will issue a notice of disapproval of the certification status of such system or component. For the purposes of this paragraph, an audit shall be either a field audit of the facility or an audit of any information submitted to the State of Wyoming regarding the facility. By issuing the notice of disapproval, the certification status is revoked prospectively, and the data measured and recorded shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the WEB source completes subsequently approved initial certification or recertification tests in accordance with the procedures in this Section 2(h)(iii) of this chapter. The WEB source shall apply the substitute data procedures in Section 2(h)(v)(B) of this chapter to replace, prospectively, all of the invalid, non-quality-assured data for each disapproved system or component.

(iv) Ongoing Quality Assurance and Quality Control.

The WEB source shall satisfy the applicable quality assurance and quality control requirements of 40 CFR Part 75 or, if the WEB source is subject to a WEB protocol in Appendix A of this chapter, the applicable quality assurance and quality control requirements in Appendix A of this chapter on and after the date that certification testing commences.

(v) Substitute Data Procedures.

(A) For any period after certification testing is complete in which quality assured, valid data are not being recorded by a monitoring system certified and operating in accordance with Chapter 14, missing or invalid data shall be replaced with substitute data in accordance with 40 CFR Part 75 or, if the WEB source is subject to a WEB protocol in Appendix A of this chapter, with substitute data in accordance with Appendix A.

(B) For a sulfur dioxide emitting unit that does not have a certified (or provisionally certified) monitoring system in place as of the beginning of the first control period for which the unit is subject to the WEB Trading Program, the WEB source shall:

(I) If the WEB source will use a CEMS to comply with this Section, substitute the maximum potential concentration of sulfur dioxide for the unit and the maximum potential flow rate, as determined in accordance with 40 CFR Part 75. The procedures for conditional data validation under Section 75.20(b)(3) may be used for any monitoring system under Chapter 14 that uses these 40 CFR Part 75 procedures, as applicable;

(II) If the WEB source will use the 40 CFR Part 75 Appendix D methodology, substitute the maximum potential sulfur content, density or gross calorific value for the fuel and the maximum potential fuel flow rate, in accordance with Section 2.4 of Appendix D to 40 CFR Part 75;

(III) If the WEB source will use the 40 CFR Part 75 methodology for low mass emissions units, substitute the sulfur dioxide emission factor required for the unit as specified in 40 CFR Part 75.19 and the maximum rated hourly heat input, as defined in 40 CFR Part 72.2; or

(IV) If using a protocol in Appendix A to Chapter 14, follow the procedures in the applicable protocol.

(vi) Compliance Deadlines.

(A) The initial monitoring plan shall be submitted by the following dates:

(I) For each source that is a WEB source on or before the program trigger date, the monitoring plan shall be submitted 180 days after such program trigger date.

(II) For any existing source that becomes a WEB source after the program trigger date, the monitoring plan shall be submitted by September 30 of the year following the inventory year in which the source exceeded the emissions threshold.

(III) For any new WEB source, the monitoring plan shall be included with the permit application for a WAQSR Chapter 6, Section 2 permit.

(B) A detailed monitoring plan under Section 2(h)(ii)(B) of this chapter shall be submitted no later than 45 days prior to commencing certification testing in accordance with the following paragraph (C). Modifications to monitoring plans shall be submitted within 90 days of implementing revised monitoring plans.

(C) Emission monitoring systems shall be installed, operational and shall have met all of the certification testing requirements of this Section 2(h) (including any referenced in Appendix A) by the following dates:

(I) For each source that is a WEB source on or before the

program trigger date, two years prior to the start of the first control period as described in Section 2(k) of this chapter.

(II) For any existing source that becomes a WEB source after the program trigger date, one year after the due date for the monitoring plan under Section 2(h)(vi)(A)(II) of this chapter.

(III) For any new WEB source (or any new unit at a WEB source under paragraphs (C)(I) or (C)(2)), the earlier of 90 unit operating days or 180 calendar days after the date the new source commences operation.

(D) The WEB source shall submit test notices and certification applications in accordance with the deadlines set forth in Section 2(h)(iv)(B).

(E) For each applicable control period, the WEB source shall submit each quarterly report under Section 2(h)(viii) of this chapter by no later than 30 days after the end of each calendar quarter and shall submit the annual report under Section 2(h)(viii) of this chapter no later than 60 days after the end of each calendar year.

(vii) Recordkeeping.

(A) The WEB source shall keep copies of all reports, registration materials, compliance certifications, sulfur dioxide emissions data, quality assurance data, and other submissions under Chapter 14 for a period of five years. In addition, the WEB source shall keep a copy of all Certificates for the duration of this program. Unless otherwise requested by the WEB source and approved by the State of Wyoming, the copies shall be kept on site.

(B) The WEB source shall keep records of all operating hours, quality assurance activities, fuel sampling measurements, hourly averages for sulfur dioxide, stack flow, fuel flow, or other continuous measurements, as applicable, and any other applicable data elements specified in this section or in Appendix A to Chapter 14. The WEB source shall maintain the applicable records specified in 40 CFR Part 75 for any sulfur dioxide emitting unit that uses a Part 75 monitoring method to meet the requirements of this section.

(viii) Reporting.

(A) Quarterly Reports. For each sulfur dioxide emitting unit, the account representative shall submit a quarterly report within 30 days after the end of each calendar quarter. The report shall be in a format specified by the State of Wyoming to include hourly and quality assurance activity information and shall be submitted in a manner compatible with the emissions tracking database designed for the WEB Trading Program. If the WEB source submits a quarterly report under 40 CFR Part 75 to the EPA Administrator, no additional report under this paragraph (A) shall be required. The State of Wyoming will require that a copy of that report (or a separate statement of quarterly and cumulative annual sulfur dioxide mass emissions) be submitted separately to the State of Wyoming.

(B) Annual Report. Based on the quarterly reports, each WEB source shall submit an annual statement of total annual sulfur dioxide emissions for all sulfur dioxide emitting units at the source. The annual report shall identify total emissions for all units monitored in accordance with Section 2(h)(i)(A) of this chapter and the total emissions for all units with emissions estimated in accordance with Section 2(h)(i)(B) of this chapter. The annual report shall be submitted within 60 days after the end of a control period.

(C) If the State of Wyoming so directs, any monitoring plan, report, certification, recertification, or emissions data required to be submitted under this Section shall be submitted to the TSA.

(D) The State of Wyoming may review and reject any report submitted under this Section 2(h)(viii) of this chapter that contains errors or fails to satisfy the requirements of this section, and the account representative shall resubmit the report to correct any deficiencies.

(ix) Petitions.

(A) A WEB source may petition for an alternative to any requirement specified in Section 2(h)(i)(A)(II) of this chapter. The petition shall require approval of the State of Wyoming and the EPA Administrator. Any petition submitted under this paragraph shall include sufficient information for the evaluation of the petition, including, at a minimum, the following information:

(I) Identification of the WEB source and applicable sulfur dioxide emitting unit(s);

(II) A detailed explanation of why the proposed alternative is being suggested in lieu of the requirement;

(III) A description and diagram of any equipment and procedures used in the proposed alternative, if applicable;

(IV) A demonstration that the proposed alternative is consistent with the purposes of the requirement for which the alternative is proposed, is consistent with the purposes of Chapter 14 and that any adverse effect of approving such alternative will be *de minimis*; and

(V) Any other relevant information that the State of Wyoming may require.

(x) Consistency of Identifying Information.

For any monitoring plans, reports, or other information submitted under Section 2(h) of this chapter, the WEB source shall ensure that, where applicable, identifying information is consistent with the identifying information provided in the most recent certificate for the WEB

source submitted under Section 2(d) of this chapter.

(i) Allowance Transfers.

(i) Procedure. To transfer allowances, the account representative shall submit the following information to the TSA:

(A) The transfer account number(s) identifying the transferor account;

(B) The transfer account number(s) identifying the transferee account;

(C) The serial number of each allowance to be transferred; and

(D) The transferor's account representative's name and signature and date of submission.

(ii) Allowance Transfer Deadline. The allowance transfer deadline is midnight Pacific Standard Time on March 1 of each year (or if this date is not a business day, midnight of the first business day thereafter) following the end of the control period. By this time, the transfer of the allowances into the WEB source's compliance account must be correctly submitted to the TSA in order to demonstrate compliance under Section 2(k) of this chapter for that control period.

(iii) Retirement of Allowances. To permanently retire allowances, the account representative shall submit the following information to the TSA:

(A) The transfer account number(s) identifying the transferor account;

(B) The serial number of each allowance to be retired; and

(C) The transferor's account representative's name and signature and date of submission accompanied by a signed statement acknowledging that each retired allowance is no longer available for future transfers from or to any account.

(j) Use of Allowances from a Previous Year.

(i) Any allowance that is held in a compliance account or general account will remain in such an account unless and until the allowance is deducted in conjunction with the compliance process, or transferred to another account.

(ii) In order to demonstrate compliance under Section 2(k)(i) of this chapter for a control period, WEB sources shall only use allowances allocated for that current control period or any previous year. Because all allowances held in a special reserve compliance account for a WEB source that monitors certain units in accordance with Section 2(h)(i)(B) of this chapter will be deducted for compliance for each control period, no banking of such allowances for use in a subsequent year is permitted by Chapter 14.

(iii) If flow control procedures for the current control period have been triggered as outlined in Part C4.2 of Section C of the WYRHSIP, then the use of allowances that were allocated for any previous year will be limited as follows:

(A) The number of allowances that are held in each compliance account and general account as of the allowance transfer deadline for the immediately previous year and that were allocated for any previous year will be determined.

(B) The number determined in (A) will be multiplied by the flow control ratio established in accordance with Part C4.2(b)(1) of Section C of the WYRHSIP to determine the number of allowances that were allocated for a previous year that can be used without restriction for the current control period.

(C) Allowances that were allocated for a previous year in excess of the number determined in (B) may also be used for the current control period. If such allowances are used to make a deduction, two allowances must be deducted for each deduction of one allowance required under Section 2(k) of this chapter.

(iv) Special provisions for the year 2018. After compliance with the 2017 allowance limitation has been determined in accordance with Section 2(k)(i) of this chapter, allowances allocated for any year prior to 2018 shall not be used for determining compliance with the 2018 allowance limitation or any future allowance limitation.

(k) Compliance.

(i) Compliance with Allowance Limitations.

(A) The WEB source must hold allowances, in accordance with Section 2(k)(i)(B) and (C) below and Section 2(j) of this chapter, as of the allowance transfer deadline in the WEB source's compliance account (together with any current control year allowances held in the WEB source's special reserve compliance account under Section 2(h)(i)(B) of this chapter) in an amount not less than the total sulfur dioxide emissions for the control period from the WEB source, as determined under the monitoring and reporting requirements of Section 2(h) of this chapter.

(I) For each source that is a WEB source on or before the program trigger date, the first control period is the calendar year that is six (6) years following the calendar year for which sulfur dioxide emissions exceeded the milestone in accordance with procedures in Part A3 of Section C of the WYRHSIP.

(II) For any existing source that becomes a WEB source after the program trigger date, the first control period is the calendar year that is four (4) years following the inventory year in which the source exceeded the sulfur dioxide emissions threshold.

(III) For any new WEB source after the program trigger date the first control period is the first full calendar year that the source is in operation.

(IV) If the WEB Trading Program is triggered in accordance with the 2013 review procedures in Part A4 of Section C of the WYRHSIP, the first control period for each source that is a WEB source on or before the program trigger date is the year 2018.

(B) Allowance transfer deadline. An allowance may only be deducted from the WEB source's compliance account if:

(I) The allowance was allocated for the current control period or meets the requirements in Section 2(j) of this chapter for use of allowances from a previous control period, and

(II) The allowance was held in the WEB source's compliance account as of the allowance transfer deadline for the current control period, or was transferred into the compliance account by an allowance transfer correctly submitted for recording by the allowance transfer deadline for the current control period.

(C) Compliance with allowance limitations shall be determined as follows:

(I) The total annual sulfur dioxide emissions for all sulfur dioxide emitting units at the source that are monitored under Section 2(h)(i)(B) of this chapter, as reported by the source in Section 2(h)(viii)(B) or (D) of this chapter, and recorded in the emissions tracking database shall be compared to the allowances held in the source's special reserve compliance account as of the allowance transfer deadline for the current control period, adjusted in accordance with Section 2(j) of this chapter. If the emissions are equal to or less than the allowances in such account, all such allowances shall be retired to satisfy the obligation to hold allowances for such emissions. If the total emissions from such units exceed the allowances in such special reserve account, the WEB source shall account for such excess emissions in the following paragraph (II).

(II) The total annual sulfur dioxide emissions for all sulfur dioxide emitting units at the source that are monitored under Section 2(h)(i)(A) of this chapter, as reported by the source in Section 2(h)(viii)(B) or (D) of this chapter, and recorded in the emissions tracking database, together with any excess emissions as calculated in the preceding paragraph (I), shall be compared to the allowances held in the source's compliance account as of the allowance transfer deadline for the current control period, adjusted in accordance with Section 2(j) of this chapter.

(III) If the comparison in Section 2(k)(i)(C)(II) of this chapter results in emissions that exceed the allowances held in the source's compliance account, the source has exceeded its allowance limitation and the excess emissions are subject to the allowance deduction penalty in Section 2(k)(iii) of this chapter.

(D) Other than allowances in a special reserve compliance account for units monitored under Section 2(h)(i)(B) of this chapter, to the extent consistent with Section 2(j) of this chapter, allowances shall be deducted for a WEB source for compliance with the allowance limitation as directed by the WEB source's account representative. Deduction of any other allowances as necessary for compliance with the allowance limitation shall be on a first-in, first-out accounting basis in the order of the date and time of their recording in the WEB source's compliance account, beginning with the allowances allocated to the WEB source and continuing with the allowances transferred to the WEB source's compliance account from another compliance account or general account. The allowances held in a special reserve compliance account pursuant to Section 2(h)(i)(B) of this chapter shall be deducted as specified in paragraph (C)(I) of this Section 2(k) of this chapter.

(ii) Certification of Compliance.

(A) For each control period in which a WEB source is subject to the allowance limitation, the account representative of the source shall submit to the Department a compliance certification report for the source.

(B) The compliance certification report shall be submitted no later than the allowance transfer deadline of each control period, and shall contain the following:

(I) Identification of each WEB source;

(II) At the account representative's option, the serial numbers of the allowances that are to be deducted from a source's compliance account for compliance with the allowance limitation; and

(III) The compliance certification report according to subpart (C) of this section.

(C) In the compliance certification report, the account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the WEB source in compliance with the WEB Trading Program, whether the WEB source for which the compliance certification is submitted was operated during the control period covered by the report in compliance with the requirements of the WEB Trading Program applicable to the source including:

(I) Whether the WEB source operated in compliance with the sulfur dioxide allowance limitation;

(II) Whether sulfur dioxide emissions data has been submitted to the Department in accordance with Section 2(h)(viii) of this chapter and other applicable guidance, for review, revision as necessary, and finalization for forwarding to the sulfur dioxide Allowance Tracking System for recording;

(III) Whether the monitoring plan that governs the WEB source has been maintained to reflect the actual operation and monitoring of the source, and contains all information necessary to attribute sulfur dioxide emissions to the source, in accordance with Section 2(h)(i) of this chapter;

(IV) Whether all the sulfur dioxide emissions from the WEB source if applicable, were monitored or accounted for either through the applicable monitoring or through application of the appropriate missing data procedures;

(V) If applicable, whether any sulfur dioxide emitting unit for which the WEB source is not required to monitor in accordance with Section 2(h)(i)(A)(III) of this chapter remained permanently retired and had no emissions for the entire applicable period; and

(VI) Whether there were any changes in the method of operating or monitoring the WEB source that required monitor recertification. If there were any such changes, the report must specify the nature, reason, and date of the change, the method to determine compliance status subsequent to the change, and specifically, the method to determine sulfur dioxide emissions.

(iii) Penalties for any WEB source exceeding its allowance limitations.

(A) Allowance deduction penalty.

(I) If emissions from a WEB source exceed the allowance limitation for a control period, as determined in accordance with Section 2(k)(i) of this chapter, the source's allowances held in its compliance account will be reduced by an amount equal to three times the source's tons of excess emissions. If the compliance account does not have sufficient allowances allocated for that control period, the required number of allowances will be deducted from the WEB source's compliance account regardless of the control period for which they were allocated, once allowances are recorded in the account.

(II) Any allowance deduction required under Section 2(k)(i)(C) of this chapter shall not affect the liability of the owners and operators of the WEB source for any fine, penalty or assessment or their obligation to comply with any other remedy, for the same violation, as ordered under the Act, implementing regulations or Wyoming Statute § 35-11-901. Accordingly, a violation can be assessed each day of the control period for each ton of sulfur dioxide emissions in excess of its allowance limitation, or for each other violation of Section 2 of this chapter.

(iv) Liability.

(A) WEB Source liability for non-compliance. Separate and regardless of any allowance deduction penalty, a WEB source that violates any requirement of Chapter 14 is subject to civil and criminal penalties under Wyoming Statute § 35-11-901. Each day of the control period is a separate violation, and each ton of sulfur dioxide emissions in excess of a

source's allowance limitation is a separate violation.

(B) General liability.

(I) Any provision of the WEB Trading Program that applies to a source or an account representative shall apply also to the owners and operators of such source.

(II) Any person who violates any requirement or prohibition of the WEB Trading Program will be subject to enforcement pursuant to Wyoming Statute § 35-11-901.

(III) Any person who knowingly makes a false material statement in any record, submission, or report under this WEB Trading Program shall be subject to criminal enforcement pursuant to Wyoming Statute § 35-11-901.

(l) Special Penalty Provisions for the 2018 Milestone.

(i) If the WEB Trading Program is triggered as outlined in Part A3 of Section C of the WYRHSIP, and the first control period will not occur until after the year 2018, the following provisions shall apply for the 2018 emissions year.

(A) All WEB sources shall register, and open a compliance account within 180 days after the program trigger date, in accordance with Section 2(e)(i) and Section 2(g) of this chapter.

(B) The TSA will record the allowances for the 2018 control period for each WEB source in the source's compliance account once the Department allocates the 2018 allowances under Part A4.4 of Section C of the WYRHSIP.

(C) The allowance transfer deadline is midnight Pacific Standard Time on May 31, 2021 (or if this date is not a business day, midnight of the first business day thereafter). WEB sources may transfer allowances as provided in Section 2(i)(i) of this chapter until the allowance transfer deadline.

(D) A WEB source must hold allowances allocated for 2018, including those transferred into the compliance account by an allowance transfer correctly submitted by the allowance transfer deadline, in an amount not less than the WEB source's total sulfur dioxide emissions for 2018. Emissions are determined using the pre-trigger monitoring provisions in Part A2.1 of Section C of the WYRHSIP, and Chapter 14, Section 3.

(E) In accordance with Section 2(j)(iv) and 2(l)(i)(D) of this chapter, Wyoming shall seek at least the minimum financial penalty of $5,000 per ton of SO_2 emissions in excess of the WEB source's allowance limitation.

(I) Any source may resolve its excess emissions violation by agreeing to a streamline settlement approach where the source pays a penalty of $5,000 per ton

or partial ton of excess emissions, and payment is received within 90 calendar days after the issuance of a notice of violation.

(II) Any source that does not resolve its excess emissions violation in accordance with the streamlined settlement approach in Section 2(l)(i)(E)(I) of this chapter will be subject to civil enforcement action, in which the Department shall seek a financial penalty for the excess emissions based on the State's statutory maximum civil penalties.

(F) Each ton of SO_2 emissions in excess of a source's allowance limitation is a separate violation and each day of a control period is a separate violation.

(ii) The provisions in Section 2(l) of Chapter 14 shall continue to apply for each year after the 2018 emission year until:

(A) The first control period under the WEB trading program under Section 2(k)(i)(A)(I)of this chapter; or

(B) The Department determines, in accordance with Part A3 of Section C of the WYRHSIP, that the 2018 sulfur dioxide milestone has been met.

(iii) Special penalty provisions for the 2018 milestone for 2019 control period and each control period thereafter as provided under Section 2(l)(ii) of this chapter include the following:

(A) For the 2019 control period, the allowance transfer deadline is midnight Pacific Standard Time on May 31, 2021 (or if this date is not a business day, midnight of the first business day thereafter). WEB sources may transfer allowances as provided in Section 2(i)(i) of this chapter until the allowance transfer deadline.

(B) A WEB source must hold allowances allocated for the 2019 control period, including those transferred into the compliance account by an allowance transfer correctly submitted by the allowance transfer deadline, in an amount not less than the WEB source's total SO_2 emissions for the 2019 control period. Emissions are determined using the pre-trigger monitoring provisions in Part A2.1 of Section C of the WYRHSIP, and Chapter 14, Section 3.

(C) In accordance with Section 2(j)(iv) and 2(i)(i)(D), Wyoming shall seek at least the minimum financial penalty of $5,000 per ton of SO_2 emissions in excess of the WEB source's allowance limitation.

(I) Any source may resolve its excess emissions violation by agreeing to a streamline settlement approach where the source pays a penalty of $5,000 per ton or partial ton of excess emissions, and payment is received within 90 calendar days after the issuance of a notice of violation.

(II) Any source that does not resolve its excess emissions

violation in accordance with the streamlined settlement approach in Section 2(l)(i)(E)(I) of this chapter will be subject to civil enforcement action, in which the Department shall seek a financial penalty for the excess emissions based on the State's statutory maximum civil penalties.

(D) Each ton of SO_2 emissions in excess of a source's allowance limitation is a separate violation and each day of a control period is a separate violation.

(E) For each control period after 2019 that the special penalty is assessed, the dates and deadlines in Section 2(l)(iii)(A)-(D) of this chapter above will be adjusted forward by one year.

(m) Integration Into Permits.

Any WEB source that is not subject to WAQSR Chapter 6, Section 3 at any time after Chapter 14 becomes effective must obtain a permit under WAQSR Chapter 6, Section 2 or modify an existing permit issued under WAQSR Chapter 6, Section 2 that incorporates the requirements of Section 2 of this chapter.

Section 3. Sulfur Dioxide Milestone Inventory.

(a) Applicability.

(i) Section 3 of this chapter applies to all stationary sources with actual emissions of 100 tons per year or more of sulfur dioxide in calendar year 2000 or any subsequent year.

(ii) Except as provided in (iii), any source that meets the criteria of (i) that emits less than 100 tons per year in any subsequent year shall remain subject to the requirements of Section 3 of this chapter until 2018 or until the first control period under the Western Backstop Sulfur Dioxide Trading Program as established in Section 2 of this chapter, whichever is earlier.

(iii) A stationary source that meets the requirements of (i) that has permanently ceased operation is exempt from the requirements of Chapter 14.

(b) Annual Sulfur Dioxide Emission Report.

(i) Except as provided in (ii), each source subject to Chapter 14 shall report sulfur dioxide emissions by April 15th of each calendar year, in accordance with the schedule cited in Section 3(b)(iii) of this chapter, below.

(ii) Each source subject to Chapter 14 that is also subject to 40 CFR Part 75 reporting requirements, shall submit a summary report of annual sulfur dioxide emissions that were reported to the Environmental Protection Agency under 40 CFR Part 75.

(iii) Each source subject to Chapter 14 shall report emissions for the year 2003

by April 15, 2004, and annually thereafter. The inventory shall be submitted in the format specified by the Wyoming Department of Environmental Quality – Air Quality Division (Division).

(iv) For the reports cited in paragraphs (i) and (ii) of this section, each source subject to Chapter 14 shall document the emissions monitoring/estimation methodology used to calculate their sulfur dioxide emissions, and demonstrate that the selected methodology is acceptable under the inventory program.

(v) For the reports cited in paragraphs (i) and (ii) above, each source subject to Chapter 14 shall include emissions from startup, shut down, and upset conditions in the annual total inventory.

(vi) For the reports cited in paragraphs (i) and (ii) above, each source subject to Chapter 14 shall use 40 CFR Part 75 methodology for reporting emissions for all sources subject to the federal acid rain program.

(vii) For the reports cited in paragraphs (i) and (ii) above, each source subject to Chapter 14 shall maintain all records used in the calculation of the emissions, including but not limited to the following:

(A) amount of fuel consumed;

(B) percent sulfur content of fuel and how the content was determined;

(C) quantity of product produced;

(D) emissions monitoring data;

(E) operating data; and

(F) how the emissions are calculated

(viii) For the reports cited in (i) and (ii) of this section, each source subject to Chapter 14 shall maintain records of any physical changes to facility operations or equipment, or any other changes (e.g., raw material or feed) that may affect the emissions projections.

(ix) For the reports cited in paragraphs (i) and (ii) above, each source subject to Chapter 14 shall retain records for a minimum of ten years from the date of establishment, or if the record was the basis for an adjustment to the milestone, 5 years after the date of an implementation plan revision, whichever is longer.

(c) Changes in Emission Measurement Techniques.

(i) Each source subject to this Rule that uses a different emission monitoring or calculation method than was used to report their sulfur dioxide emissions in 2006 under

Chapter 14, Section 3 shall adjust their reported emissions to be comparable to the emission monitoring or calculation method that was used in 2006. The calculations that are used to make this adjustment shall be included with the annual emission report under Section 3(b) of this chapter.

(d) Notwithstanding any other provision of Chapter 14, Basin Electric Power Cooperative's Laramie River Station shall report its annual sulfur dioxide emissions as follows: for Laramie River Station Unit 1, Basin Electric Power Cooperative shall report its sulfur dioxide emissions based on an annual average emission rate of 0.159 lb/MMBtu multiplied by the actual annual heat input; for Laramie River Station Unit 2, Basin Electric Power Cooperative shall report its annual sulfur dioxide emissions based on an annual emission rate 0.162 lb/MMBtu multiplied by the actual annual heat input. Heat rate shall be calculated as required in Chapter 14 and 40 CFR Part 75. Annual sulfur dioxide emissions for Laramie River Station Unit 3 shall be reported as otherwise provided in Chapter 14, Section 3(b).

(i) Basin Electric Power Cooperative shall report sulfur dioxide emissions as calculated per Section 3(d) of this chapter as of the year that Basin Electric Power Cooperative commences operation of Selective Catalytic Reduction at Laramie River Station Unit 1 consistent with the notification provision found at WAQSR Chapter 6 Section 2(i)(ii).

(e) The Division shall use the annual sulfur dioxide emissions reported by Basin Electric Power Cooperative in Section 3(d) for all purposes under this chapter.

Section 4. [Reserved].

Section 5. Incorporation by Reference.

(a) Code of Federal Regulations (CFR). All Code of Federal Regulations (CFRs), including their Appendices, cited in this Chapter, revised and published as of July 1, ~~2024~~2026, not including any later amendments, unless portions of said CFRs are specifically excluded in citation, are incorporated by reference. Copies of the CFR are available for public inspection and copies can be obtained at cost from the Department of Environmental Quality, Air Quality Division, Cheyenne Office. Contact information for the Cheyenne Office can be obtained at: http://deq.wyoming.gov/. Copies of the CFR can also be obtained at cost from Government Institutes, 15200 NBN Way, Building B, Blue Ridge Summit, PA 17214 or online at https://ecfr.gov.

APPENDIX A: WEB CHAPTER 14, SECTION 2 MONITORING PROTOCOLS

Protocol WEB-1: SO_2 Monitoring of Fuel Gas Combustion Devices

Section 1. Applicability.

(a) The provisions of this protocol are applicable to fuel gas combustion devices at petroleum refineries.

(b) Fuel gas combustion devices include boilers, process heaters, and flares used to burn fuel gas generated at a petroleum refinery.

(c) Fuel gas means any gas which is generated and combusted at a petroleum refinery. Fuel gas does not include: (1) natural gas, unless combined with other gases generated at a petroleum refinery, (2) gases generated by a catalytic cracking unit catalyst regenerator, (3) gases generated by fluid coking burners, (4) gases combusted to produce sulfur or sulfuric acid, or (5) process upset gases generated due to startup, shutdown, or malfunctions.

Section 2. Monitoring Requirements.

(a) Except as provided in paragraphs (ii) and (iii) of this Section 2, fuel gas combustion devices shall use a continuous fuel gas monitoring system (CFGMS) to determine the total sulfur content (reported as H_2S) of the fuel gas mixture prior to combustion, and continuous fuel flow meters to determine the amount of fuel gas burned.

(i) Fuel gas combustion devices having a common source of fuel gas may be monitored for sulfur content at one location, if monitoring at that location is representative of the sulfur content of the fuel gas being burned in any fuel gas combustion device.

(ii) The CFGMS shall meet the performance requirements in Performance Specification 2 in Appendix B to 40 CFR Part 60, and the following:

(A) Continuously monitor and record the concentration by volume of total sulfur compounds in the gaseous fuel reported as ppmv H_2S.

(B) Have the span value set so that the majority of readings fall between 10 and 95 percent of the range.

(C) Record negative values of zero drift.

(D) Calibration drift shall be 5.0 percent of the span.

(E) Methods 15A, 16, or approved alternatives for total sulfur, are the reference methods for the relative accuracy test. The relative accuracy test shall include a bias test in accordance with Section 4, paragraph (c) of this protocol.

(iii) All continuous fuel flow meters shall comply with the applicable provisions of Appendix D to 40 CFR Part 75.

(iv) The hourly mass SO_2 emissions shall be calculated using the following equation:

$$E = (C_S)(Q_f)(K)$$

where: E = SO_2 emissions in lbs/hr
C_S = Sulfur content of the fuel gas as H_2S(ppmv)
Q_f = Fuel gas flow rate (scfh)
K = 1.660 x 10^{-7} (lb/scf)/ppmv

(b) In place of a CFGMS in paragraph (a) of this Section 2, fuel gas combustion devices having a common source of fuel gas may be monitored with an SO_2 CEMS and flow CEMS at only one location, if the CEMS monitoring at that location is representative of the SO_2 emission rate (lb SO_2/scf fuel gas burned) of all applicable fuel gas combustion devices. Continuous fuel flow meters shall be used in accordance with paragraph (b), and the fuel gas combustion device monitored by a CEMS shall have separate fuel metering.

(i) Each CEMS for SO_2 and flow shall comply with the operating requirements, performance specifications, and quality assurance requirements of 40 CFR Part 75.

(ii) All continuous fuel flow meters shall comply with the applicable provisions of Appendix D to 40 CFR Part 75.

(iii) The SO_2 mass emissions for all the fuel gas combustion devices monitored by this approach shall be determined by the ratio of the amount of fuel gas burned by the CEMS-monitored fuel gas combustion device to the total fuel gas burned by all applicable fuel gas combustion devices using the following equation:

$$E_t = (E_m)(Q_t)/(Q_m)$$

where: E_t = Total SO_2 emissions in lbs/hr from applicable fuel gas combustion devices.
E_m = SO_2 emissions in lbs/hr from the CEMS-monitored fuel gas combustion device.
Q_t = Fuel gas flow rate (scfh) from applicable fuel gas combustion devices.
Q_m = Fuel gas flow rate (scfh) from the CEMS-monitored fuel gas combustion device.

(c) In place of a CFGMS in paragraph (a) of this section, fuel gas combustion devices having a common source of fuel gas may be monitored with an SO_2 - diluent CEMS at only one location, if the CEMS monitoring at that location is representative of the SO_2 emission rate (lb SO_2/mmBtu) of all applicable fuel gas combustion devices. If this option is selected, the owner or operator shall conduct fuel gas sampling and analysis for gross calorific value (GCV), and shall use continuous fuel flow metering in accordance with paragraph (a) of Section 2 in this

appendix, with separate fuel metering for the CEMS-monitored fuel gas combustion device.

(i) Each SO_2-diluent CEMS shall comply with the applicable provisions for SO_2 monitors and diluent monitors in 40 CFR Part 75, and shall use the procedures in Section 3 of Appendix F to Part 75 for determining SO_2 emission rate (lb/mmBtu) by substituting the term SO_2 for NO_x in that section.

(ii) All continuous fuel flow meters and fuel gas sampling and analysis for GCV to determine the heat input rate from the fuel gas shall comply with the applicable provisions of Appendix D to 40 CFR Part 75.

(iii) The SO_2 mass emissions for all the fuel gas combustion devices monitored by this approach shall be determined by the ratio of the fuel gas heat input to the CEMS-monitored fuel gas combustion device to the total fuel gas heat input to all applicable fuel gas combustion devices using the following equation:

$$E_t = (E_m)(H_t)/(H_m)$$

where: E_t = Total SO_2 emissions in lbs/hr from applicable fuel gas combustion devices.
E_m = SO_2 emissions in lb/mmBtu from the CEMS - monitored fuel gas combustion device.
H_t = Fuel gas heat input (mmBtu/hr) from applicable fuel gas combustion devices.
H_m = Fuel gas heat input (mmBtu/hr) from the CEMS - monitored fuel gas combustion device.

Section 3. Certification/Recertification Requirements.

(a) All monitoring systems are subject to initial certification and recertification testing as follows:

(i) The owner or operator shall comply with the initial testing and calibration requirements in Performance Specification 2 in Appendix B of 40 CFR Part 60 and paragraph (a)(ii) of Section 2 of this protocol for each CFGMS.

(ii) Each CEMS for SO_2 and flow or each SO_2-diluent CEMS shall comply with the testing and calibration requirements specified in 40 CFR Part 75, Section 75.20 and Appendices A and B of the CFR, except that each SO_2-diluent CEMS shall meet the relative accuracy requirements for a NO_x-diluent CEMS (lb/mmBtu).

(iii) A continuous fuel flow meter shall comply with the testing and calibration requirements in 40 CFR Part 75, Appendix D.

Section 4. Quality Assurance/Quality Control Requirements.

(a) A quality assurance/quality control (QA/QC) plan shall be developed and implemented for each CEMS for SO_2 and flow or the SO_2-diluent CEMS in compliance with

Appendix B of 40 CFR Part 75.

(b) A QA/QC plan shall be developed and implemented for each continuous fuel flow meter and fuel sampling and analysis in compliance with Appendix B of 40 CFR Part 75.

(c) A QA/QC plan shall be developed and implemented for each CFGMS in compliance with sections 1 and 1.1 of Appendix B of 40 CFR Part 75, and the following:

(i) Perform a daily calibration error test of each CFGMS at two gas concentrations, one low level and one high level. Calculate the calibration error as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the error is greater than 5.0 percent of the span value.

(ii) In addition to the daily calibration error test, an additional calibration error test shall be performed whenever a daily calibration error test is failed, whenever a monitoring system is returned to service following repairs or corrective actions that may affect the monitor measurements, or after making manual calibration adjustments.

(iii) Perform a linearity test once every operating quarter. Calculate the linearity as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the linearity error is greater than 5.0 percent of a reference value, and the absolute value of the difference between average monitor response values and a reference value is greater than 5.0 ppm.

(iv) Perform a relative accuracy test audit once every four operating quarters. Calculate the relative accuracy as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the relative accuracy is greater than 20.0percent of the mean value of the reference method measurements.

(v) Using the results of the relative accuracy test audit, conduct a bias test in accordance with Appendix A to 40 CFR Part 75, and calculate and apply a bias adjustment factor if required.

Section 5. Missing Data Procedures.

(a) For any period in which valid data are not being recorded by an SO_2 CEMS or flow CEMS specified in this section, missing or invalid data shall be replaced with substitute data in accordance with the requirements in Subpart D of 40 CFR Part 75.

(b) For any period in which valid data are not being recorded by an SO_2-diluent CEMS specified in this section, missing or invalid data shall be replaced with substitute data on a rate basis (lb/mmBtu) in accordance with the requirements for SO_2 monitors in Subpart D of 40 CFR Part 75.

(c) For any period in which valid data are not being recorded by a continuous fuel flow meter or for fuel gas GCV sampling and analysis specified in this section, missing or

invalid data shall be replaced with substitute data in accordance with missing data requirements in Appendix D to 40 CFR Part 75.

(d) For any period in which valid data are not being recorded by the CFGMS specified in this section, hourly missing or invalid data shall be replaced with substitute data in accordance with the missing data requirements for units performing hourly gaseous fuel sulfur sampling in Section 2.4. of Appendix D to 40 CFR Part 75.

Section 6. Monitoring Plan and Reporting Requirements.

(a) In addition to the general monitoring plan and reporting requirements of Section 2(h) of Chapter 14, the owner or operator shall meet the following additional requirements:

(i) The monitoring plan shall identify each group of units that are monitored by a single monitoring system under this Protocol WEB-1, and the plan shall designate an identifier for the group of units for emissions reporting purposes. For purpose of submitting emissions reports, no apportionment of emissions to the individual units within the group is required.

(ii) If the provisions of paragraphs (b) or (c) of Section 2 of this protocol are used, provide documentation and an explanation to demonstrate that the SO_2 emission rate from the monitored unit is representative of the rate from non-monitored units.

Protocol WEB-2: Predictive Flow Monitoring Systems for Kilns with Positive Pressure Fabric Filter

Section 1. Applicability.

(a) The provisions of this protocol are applicable to cement kilns or lime kilns that are (1) controlled by a positive pressure fabric filter, and (2) have operating conditions upstream of the fabric filter that the WEB source documents would reasonably prevent reliable flow monitor measurements.

Section 2. Monitoring Requirements.

(a) A cement or lime kiln with a positive pressure fabric filter shall use a predictive flow monitoring system (PFMS) to determine the hourly kiln exhaust gas flow.

(b) A PFMS is the total equipment necessary for the determination of exhaust gas flow using process or control device operating parameter measurements and a conversion equation, a graph, or computer program to produce results in cubic feet per hour.

(c) The PFMS shall meet the following performance specifications:

(i) The PFMS must allow for the automatic or manual determination of failed monitors. At a minimum a daily determination must be performed.

(ii) The PFMS shall have provisions to check the calibration error of each parameter that is individually measured. The owner or operator shall propose appropriate performance specifications in the initial monitoring plan for all parameters used in the PFMS comparable to the degree of accuracy required for other monitoring systems used to comply with this Rule. The parameters shall be tested at two levels, low: 0 to 20 percent of full scale, and high: 50 to 100 percent of full scale. The reference value need not be certified.

(iii) The relative accuracy of the PFMS must be $\leq$ 10.0 percent of the reference method average value, and include a bias test in accordance with paragraph (a)(iii) of Section 3 of this protocol.

Section 3. Certification Requirements.

(a) The PFMS is subject to initial certification testing as follows:

(i) Demonstrate the ability of the PFMS to identify automatically or manually a failed monitor.

(ii) Provide evidence of calibration testing of all monitoring equipment. Any tests conducted within the previous 12 months of operation that are consistent with the QA/QC plan for the PFMS are acceptable for initial certification purposes.

(iii) Perform an initial relative accuracy test over the normal range of operating conditions of the kiln. Using the results of the relative accuracy test audit, conduct a bias test in accordance with Appendix A to 40 CFR Part 75, and calculate and apply a bias adjustment factor if required.

Section 4. Quality Assurance/Quality Control Requirements.

(a) A QA/QC plan shall be developed and implemented for each PFMS in compliance with sections 1 and 1.1 of Appendix B of 40 CFR Part 75, and the following:

(i) Perform a daily monitor failure check.

(ii) Perform calibration tests of all monitors for each parameter included in the PFMS. At a minimum, calibrations shall be conducted prior to each relative accuracy test audit.

(iii) Perform a relative accuracy test audit and accompanying bias test once every four operating quarters. Calculate the relative accuracy (and bias adjustment factor) as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the flow relative accuracy is greater than 10.0 percent of the mean value of the reference method.

Section 5. Missing Data.

(a) For any period in which valid data are not being recorded by the PFMS specified

in this section, hourly missing or invalid data shall be replaced with substitute data in accordance with the flow monitor missing data requirements for non-load based units in Subpart D of 40 CFR Part 75.

Section 6. Monitoring Plan Requirements.

(a) In addition to the general monitoring plan requirements of Section 2(h) of Chapter 14, the owner or operator shall meet the following additional requirements:

(i) The monitoring plan shall document the reasons why stack flow measurements upstream of the fabric filter are unlikely to provide reliable flow measurements over time.

(ii) The initial monitoring plan shall explain the relationship of the proposed parameters and stack flow, and discuss other parameters considered and the reasons for not using those parameters in the PFMS. The State of Wyoming may require that the subsequent monitoring plan include additional explanation and documentation for the reasonableness of the proposed PFMS.