

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121 AND 127]

Nonattainment New Source Review

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

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ACTUAL EMISSIONS--FOR PURPOSES OF 25 Pa. CODE CHAPTER 127, SUBCHAPTER E (RELATING TO NEW SOURCE REVIEW), THE ACTUAL RATE OF EMISSIONS OF A REGULATED NSR POLLUTANT FROM AN EMISSIONS UNIT SHALL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING PARAGRAPHS OF THIS DEFINITION. THIS DEFINITION SHALL NOT APPLY FOR CALCULATING WHETHER A SIGNIFICANT EMISSIONS INCREASE HAS OCCURRED, OR FOR ESTABLISHING A PAL UNDER § 127.218 (RELATING TO PALs). INSTEAD, THE DEFINITION OF THE TERMS PROJECTED ACTUAL EMISSIONS AND BASELINE ACTUAL EMISSIONS SHALL APPLY FOR THOSE PURPOSES. THIS DEFINITION SHALL NOT BE USED TO CALCULATE A BASELINE EMISSIONS RATE UNDER § 127.207(4) (RELATING TO ERC GENERATION AND CREATION).

(i) ACTUAL EMISSIONS AS OF A PARTICULAR DATE MUST EQUAL THE AVERAGE RATE, IN TPY, AT WHICH THE UNIT ACTUALLY EMITTED THE REGULATED NSR POLLUTANT DURING THE CONSECUTIVE 24-MONTH PERIOD WHICH IMMEDIATELY PRECEDED THE PARTICULAR DATE AND WHICH IS REPRESENTATIVE OF NORMAL SOURCE OPERATIONS. THE DEPARTMENT WILL AUTHORIZE 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) FOR AN EMISSIONS UNIT THAT HAS NOT BEGUN NORMAL OPERATIONS ON THE PARTICULAR DATE, ACTUAL EMISSIONS EQUAL THE POTENTIAL TO EMIT OF THE UNIT ON THAT DATE.

ACTUAL PAL FOR A MAJOR FACILITY--A PAL BASED ON THE BASELINE ACTUAL EMISSIONS OF ALL EMISSIONS UNITS AT A MAJOR FACILITY THAT EMIT OR HAVE THE POTENTIAL TO EMIT THE PAL POLLUTANT.

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AIR CONTAMINATION SOURCE--ANY PLACE, FACILITY OR EQUIPMENT, STATIONARY OR MOBILE, AT, FROM OR BY REASON OF WHICH THERE IS EMITTED INTO THE OUTDOOR ATMOSPHERE ANY AIR CONTAMINANT.

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ALLOWABLE EMISSIONS--THE EMISSIONS RATE OF A FACILITY CALCULATED USING THE MAXIMUM RATED CAPACITY OF THE FACILITY UNLESS THE FACILITY IS SUBJECT TO FEDERALLY ENFORCEABLE LIMITS WHICH RESTRICT THE OPERATING RATE, OR HOURS OF OPERATION, OR BOTH, AND THE MOST STRINGENT OF THE FOLLOWING:

(i) THE APPLICABLE STANDARDS SET FORTH IN 40 CFR PART 60 (RELATING TO STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES) OR 40 CFR PART 61 (RELATING TO NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS).

(ii) AN APPLICABLE SIP EMISSIONS LIMITATION, INCLUDING THOSE WITH A FUTURE COMPLIANCE DATE.

(iii) THE EMISSIONS RATE SPECIFIED UNDER A REQUIREMENT OR CONDITION IN A PLAN APPROVAL OR OPERATING PERMIT THAT IS FEDERALLY ENFORCEABLE OR ENFORCEABLE AS A PRACTICAL MATTER, INCLUDING THOSE WITH A FUTURE COMPLIANCE DATE.

(iv) FOR PURPOSES OF THE PAL REQUIREMENTS IN § 127.218, THE ALLOWABLE EMISSIONS SHALL BE CALCULATED CONSIDERING THE

EMISSION LIMITATIONS THAT ARE ENFORCEABLE AS A PRACTICAL MATTER ON THE EMISSIONS UNIT'S POTENTIAL TO EMIT.

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~~[BACT--Best Available Control Technology--An emissions limitation based on the maximum degree of reduction for each pollutant subject to regulation under the Clean Air Act emitted from or which results from a major emitting facility which the permitting authority, on a case-by-case basis, taking into account energy, environmental and economic impacts and other costs, determines is achievable for the facility through application of production processes and available methods, systems and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each pollutant. Application of BACT may not result in emissions of a pollutant which will exceed the emissions allowed by an applicable standard established under section 111 or 112 of the Clean Air Act (42 U.S.C.A. §§ 7411 and 7412). Emissions from a source utilizing clean fuels, or another means, to comply with BACT may not be allowed to increase above levels that would have been required under BACT as it existed prior to enactment of the Clean Air Act Amendments of 1990.]~~

BACT--BEST AVAILABLE CONTROL TECHNOLOGY--AN EMISSIONS LIMITATION (INCLUDING A VISIBLE EMISSIONS STANDARD) BASED ON THE MAXIMUM DEGREE OF REDUCTION FOR EACH REGULATED NSR POLLUTANT WHICH WOULD BE EMITTED FROM ANY PROPOSED MAJOR FACILITY OR MAJOR MODIFICATION WHICH THE DEPARTMENT, ON A CASE-BY-CASE BASIS, TAKING INTO ACCOUNT ENERGY, ENVIRONMENTAL AND ECONOMIC IMPACTS AND OTHER COSTS, DETERMINES IS ACHIEVABLE FOR THE FACILITY OR MODIFICATION THROUGH APPLICATION OF PRODUCTION PROCESSES OR AVAILABLE METHODS, SYSTEMS AND TECHNIQUES, INCLUDING FUEL CLEANING OR TREATMENT OR INNOVATIVE FUEL COMBUSTION TECHNIQUES FOR CONTROL OF THE POLLUTANT. IN NO EVENT SHALL APPLICATION OF BEST AVAILABLE CONTROL TECHNOLOGY RESULT IN EMISSIONS OF A POLLUTANT WHICH WOULD EXCEED THE EMISSIONS ALLOWED BY ANY APPLICABLE STANDARD UNDER 40 CFR PART 60 OR 61. IF THE DEPARTMENT DETERMINES THAT TECHNOLOGICAL OR ECONOMIC LIMITATIONS ON THE APPLICATION OF MEASUREMENT METHODOLOGY TO A PARTICULAR EMISSIONS UNIT WOULD MAKE THE IMPOSITION OF AN EMISSIONS STANDARD INFEASIBLE, A DESIGN, EQUIPMENT, WORK PRACTICE, OPERATIONAL STANDARD, OR COMBINATION THEREOF, MAY BE PRESCRIBED INSTEAD TO SATISFY THE REQUIREMENT FOR THE APPLICATION OF BACT. THE STANDARD SHALL, TO THE DEGREE POSSIBLE, SET FORTH THE EMISSIONS REDUCTION ACHIEVABLE BY IMPLEMENTATION OF THE DESIGN, EQUIPMENT, WORK PRACTICE OR OPERATION, AND SHALL PROVIDE FOR COMPLIANCE BY MEANS WHICH ACHIEVE EQUIVALENT RESULTS.

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BASELINE ACTUAL EMISSIONS--THE RATE OF EMISSIONS, IN TPY, OF A REGULATED NSR POLLUTANT, AS DETERMINED IN ACCORDANCE WITH § 127.203a(a)(4) (RELATING TO APPLICABILITY DETERMINATION).

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BEGIN ACTUAL CONSTRUCTION--INITIATION OF PHYSICAL ONSITE CONSTRUCTION ACTIVITIES ON AN EMISSIONS UNIT OR A FACILITY WHICH ARE OF A PERMANENT NATURE. THESE ACTIVITIES INCLUDE INSTALLATION OF BUILDING SUPPORTS AND FOUNDATIONS, LAYING OF UNDERGROUND PIPE WORK AND CONSTRUCTION OF PERMANENT STORAGE STRUCTURES. WITH RESPECT TO A CHANGE IN METHOD OF OPERATING, THIS TERM REFERS TO THOSE ONSITE ACTIVITIES OTHER THAN PREPARATORY ACTIVITIES WHICH MARK THE INITIATION OF THE CHANGE.

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CEMS--CONTINUOUS EMISSIONS MONITORING SYSTEM-- FOR PURPOSES OF 25 Pa. CODE CHAPTER 127, SUBCHAPTER E (RELATING TO NEW SOURCE REVIEW), ALL OF THE EQUIPMENT THAT MAY BE REQUIRED TO MEET THE DATA ACQUISITION AND AVAILABILITY REQUIREMENTS OF SUBCHAPTER E TO SAMPLE, CONDITION, ANALYZE AND PROVIDE A RECORD OF EMISSIONS ON A CONTINUOUS BASIS.

CERMS--CONTINUOUS EMISSIONS RATE MONITORING SYSTEM-- FOR PURPOSES OF 25 Pa. CODE CHAPTER 127, SUBCHAPTER E (RELATING TO NEW SOURCE REVIEW), THE TOTAL EQUIPMENT REQUIRED FOR THE DETERMINATION AND RECORDING OF THE POLLUTANT MASS EMISSIONS RATE, IN TERMS OF MASS PER UNIT OF TIME.

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CPMS--CONTINUOUS PARAMETER MONITORING SYSTEM--FOR PURPOSES OF 25 Pa. CODE CHAPTER 127, SUBCHAPTER E (RELATING TO NEW SOURCE REVIEW), ALL OF THE EQUIPMENT NECESSARY TO MEET THE DATA ACQUISITION AND AVAILABILITY REQUIREMENTS TO MONITOR PROCESS AND CONTROL DEVICE OPERATIONAL PARAMETERS (FOR EXAMPLE, CONTROL DEVICE SECONDARY VOLTAGES AND ELECTRIC CURRENTS), AND OTHER INFORMATION (FOR EXAMPLE, GAS FLOW RATE, O₂ OR CO₂ CONCENTRATIONS), AND TO RECORD AVERAGE OPERATIONAL PARAMETER VALUES ON A CONTINUOUS BASIS.

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COMMENCE--AS APPLIED TO THE CONSTRUCTION, MODIFICATION, OR INSTALLATION OF AN AIR CONTAMINATION SOURCE OR FACILITY,

THE OWNER OR OPERATOR HAS ALL NECESSARY APPROVALS INCLUDING PLAN APPROVALS OR PERMITS AND HAS EITHER:

(i) BEGUN, OR CAUSED TO BEGIN, A CONTINUOUS PROGRAM OF ACTUAL ONSITE CONSTRUCTION OF THE FACILITY, TO BE COMPLETED WITHIN A REASONABLE TIME.

(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 ACTUAL CONSTRUCTION OF THE SOURCE TO BE COMPLETED WITHIN A REASONABLE TIME.

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[*Creation*--The process of generating usable and tradable ERCs to be used to offset emissions. This process includes the following steps: application, documentation, quantification, verification and entry in the registry.]

CREATION--THE PROCESS OF GENERATING USABLE AND TRADABLE ERCS TO BE USED TO OFFSET EMISSIONS. THIS PROCESS INCLUDES THE FOLLOWING ELEMENTS:

- (i) APPLICATION.**
- (ii) DOCUMENTATION.**
- (iii) QUANTIFICATION.**
- (iv) VERIFICATION.**
- (v) ENTRY INTO THE REGISTRY.**

CREDITABLE EMISSIONS DECREASE--EMISSION CHANGES AT AN EXISTING MAJOR FACILITY AS DETERMINED IN ACCORDANCE WITH THE REQUIREMENTS OF § 127.203a(a)(3).

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DEACTIVATION--CESSATION OF THE EMISSIONS OF AN AIR POLLUTANT FROM AIR CONTAMINATION SOURCE, EMISSIONS UNIT OR FACILITY.

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[*De minimis emission increase*--An increase in actual or potential emissions which is below the threshold limits specified in § 127.203 (relating to facilities subject to special permit requirements).]

DE MINIMIS EMISSIONS INCREASE--FOR PURPOSES OF 25 Pa. CODE CHAPTER 127, SUBCHAPTER E (RELATING TO NEW SOURCE REVIEW), AN INCREASE IN EMISSIONS CALCULATED IN ACCORDANCE WITH THE REQUIREMENTS OF § 127.203a(a)(1)(i) WHICH IS LESS THAN THE EMISSIONS RATE THAT IS SIGNIFICANT AS DEFINED IN THIS SECTION.

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ELECTRIC UTILITY STEAM GENERATING UNIT--FOR PURPOSES OF THE NSR REQUIREMENTS IN 25 Pa. CODE CHAPTER 127, SUBCHAPTER E (RELATING TO NEW SOURCE REVIEW), A 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 A UTILITY POWER DISTRIBUTION SYSTEM FOR SALE. 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.

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EMISSIONS UNIT--FOR PURPOSES OF 25 Pa. CODE CHAPTER 127, SUBCHAPTER E (RELATING TO NEW SOURCE REVIEW), A PART OF A FACILITY THAT EMITS OR HAS THE POTENTIAL TO EMIT A REGULATED NSR POLLUTANT INCLUDING AN ELECTRIC UTILITY STEAM GENERATING UNIT AS DEFINED IN THIS SECTION. FOR THE PURPOSES OF NSR REQUIREMENTS, THERE ARE TWO TYPES OF EMISSIONS UNITS:

(i) A NEW EMISSIONS UNIT, WHICH IS OR WILL BE NEWLY CONSTRUCTED AND WHICH HAS EXISTED FOR LESS THAN 2 YEARS FROM THE DATE THE EMISSIONS UNIT FIRST OPERATED.

(ii) AN EXISTING EMISSIONS UNIT IS AN 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.

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~~[Extreme ozone nonattainment area—A region with an ozone design value of 0.280 ppm and greater as designated by the Administrator of the EPA. A designation is based on data from the 3-year period of 1987—1989 and may not be changed until the region demonstrates attainment of the NAAQS in section 181 of the Clean Air Act (42 U.S.C.A. § 7511).]~~

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FEDERALLY ENFORCEABLE--ALL LIMITATIONS AND CONDITIONS WHICH ARE ENFORCEABLE BY THE EPA, INCLUDING:

(i) THOSE REQUIREMENTS DEVELOPED UNDER 40 CFR PARTS 60 AND 61 (RELATING TO STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES; AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS).

(ii) THOSE REQUIREMENTS WITHIN AN APPLICABLE SIP.

(iii) PLAN APPROVAL OR OPERATING PERMIT REQUIREMENTS ESTABLISHED UNDER 40 CFR 52.21 (RELATING TO PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY) OR UNDER REGULATIONS APPROVED UNDER 40 CFR PART 51, SUBPART I (RELATING TO REVIEW OF NEW SOURCES AND MODIFICATIONS), INCLUDING PLAN APPROVALS OR OPERATING PERMITS ISSUED UNDER AN EPA-APPROVED PROGRAM THAT IS INCORPORATED INTO THE SIP AND EXPRESSLY REQUIRES ADHERENCE TO A PERMIT ISSUED UNDER THE PROGRAM.

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FUGITIVE EMISSIONS-- FOR PURPOSES OF 25 Pa. CODE CHAPTER 127, (RELATING TO CONSTRUCTION, MODIFICATION, REACTIVATION AND OPERATATION OF SOURCES), THOSE EMISSIONS WHICH COULD NOT REASONABLY PASS THROUGH A STACK, CHIMNEY, VENT OR OTHER FUNCTIONALLY EQUIVALENT OPENING.

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[*Generation*--An action taken by a source or facility that results in the actual reduction of emissions.]

GENERATION--WITH RESPECT TO ERCs, AN ACTION TAKEN BY AN OWNER OR OPERATOR OF AN AIR CONTAMINATION SOURCE, EMISSIONS UNIT OR FACILITY THAT RESULTS IN THE ACTUAL REDUCTION OF EMISSIONS.

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MAJOR EMISSIONS UNIT— FOR PURPOSES OF 25 Pa. CODE § 127.218, (RELATING TO PALs), AN 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 FACILITY THRESHOLD AS DEFINED IN THIS SECTION FOR THE PAL POLLUTANT.

[Major facility--A facility which has the potential to emit a pollutant equal to or greater than an applicable annual emissions rate in § 127.203.]

MAJOR FACILITY--

(i) A FACILITY WHICH EMITS OR HAS THE POTENTIAL TO EMIT ONE HUNDRED TPY OR MORE OF A REGULATED NSR POLLUTANT, EXCEPT THAT LOWER EMISSIONS THRESHOLDS APPLY AS FOLLOWS:

(A) FIFTY TPY OF VOCs IN A SERIOUS NONATTAINMENT AREA FOR OZONE.

(B) FIFTY TPY OF VOCs IN AN AREA WITHIN AN OZONE TRANSPORT REGION EXCEPT FOR A SEVERE OR EXTREME NONATTAINMENT AREA FOR OZONE.

(C) TWENTY-FIVE TPY OF VOCs IN A SEVERE NONATTAINMENT AREA FOR OZONE.

(D) TEN TPY OF VOCs IN AN EXTREME NONATTAINMENT AREA FOR OZONE.

(E) SEVENTY TPY OF PM-10 IN A SERIOUS NONATTAINMENT AREA FOR PM-10.

(F) FIFTY TPY OF CO IN A SERIOUS NONATTAINMENT AREA FOR CO.

(ii) FOR THE PURPOSES OF APPLYING THE REQUIREMENTS OF SUBCHAPTER E TO THE OWNER OR OPERATOR OF A FACILITY LOCATED IN AN OZONE NONATTAINMENT AREA OR IN AN OZONE TRANSPORT REGION WHICH EMITS OR HAS THE POTENTIAL TO EMIT NO_x, AS FOLLOWS:

(A) ONE HUNDRED TPY OR MORE OF NO_x IN AN OZONE NONATTAINMENT AREA CLASSIFIED AS MARGINAL, BASIC OR MODERATE.

(B) ONE HUNDRED TPY OR MORE OF NO_x IN AN OZONE NONATTAINMENT AREA CLASSIFIED AS A TRANSITIONAL, SUBMARGINAL, OR INCOMPLETE OR NO DATA AREA, WHEN THE AREA IS LOCATED IN AN OZONE TRANSPORT REGION.

(C) ONE HUNDRED TPY OR MORE OF NO_x IN AN AREA DESIGNATED UNDER SECTION 107(D) OF THE CLEAN AIR ACT (42 U.S.C.A. § 7407(D)) AS ATTAINMENT OR UNCLASSIFIABLE FOR OZONE THAT IS LOCATED IN AN OZONE TRANSPORT REGION.

(D) FIFTY TPY OR MORE OF NO_x IN A SERIOUS NONATTAINMENT AREA FOR OZONE.

(E) TWENTY-FIVE TPY OR MORE OF NO_x IN A SEVERE NONATTAINMENT AREA FOR OZONE.

(F) TEN TPY OR MORE OF NO_x IN AN EXTREME NONATTAINMENT AREA FOR OZONE.

(iii) A PHYSICAL CHANGE THAT OCCURS AT A FACILITY WHICH DOES NOT EXCEED THE MAJOR FACILITY THRESHOLDS SPECIFIED IN SUBCHAPTER E IS CONSIDERED A MAJOR FACILITY IF THE CHANGE CONSTITUTES A MAJOR FACILITY BY ITSELF.

(iv) A FACILITY WHICH IS MAJOR FOR VOCs OR NO_x IS CONSIDERED MAJOR FOR OZONE.

(v) NOTWITHSTANDING THE PROVISIONS UNDER CLAUSES (i) and (ii), A FACILITY WHICH EMITS OR HAS THE POTENTIAL TO EMIT 25 TPY OR MORE OF NO_x OR VOC AND IS LOCATED IN BUCKS, CHESTER, DELAWARE, MONTGOMERY OR PHILADELPHIA COUNTIES.

[Major modification--

(i) A physical change or change in the method of operation of a major facility that would result in an increase in emissions equal to or exceeding an emission rate threshold or significance level specified in § 127.203.

(ii) A net emissions increase that is significant for VOCs or NO_x will be considered significant for ozone.

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

(A) Routine maintenance, repair and replacement.

(B) The use of an alternative fuel or raw material by reason of any order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (15 U.S.C.A. § 79(a) and (b)) (or any superseding legislation) or by reason of a natural gas curtailment plan under the Federal Power Act (16 U.S.C.A. §§ 792--825r).

(C) The use of an alternative fuel by reason of an order or rule under section 125 of the Clean Air Act (42 U.S.C.A. § 7425).

(D) The use of an alternative fuel or raw material by a stationary source which meets one of the following conditions:

- (I) The source was capable of accommodating before January 6, 1975, unless the change would be prohibited under an operating permit condition.
- (II) The source is approved to use under an operating permit.
- (E) An increase in the hours of operation or in the production rate, authorized under the conditions of an operating permit.
- (F) Any change in ownership at a stationary source.
- (G) The addition, replacement or use of a pollution control project at an existing source, unless the Department determines that the addition, replacement or use renders the source less environmentally beneficial, or except when the following apply:
- (I) The Department has reason to believe that the pollution control project would result in a significant net increase in representative actual annual emission of any criteria pollutant, VOC or NO_x over levels used for that facility in the most recent air quality impact analysis in the area conducted for the purpose of Title I of the Clean Air Act, if any (42 U.S.C.A. §§ 7401--7515).
- (II) The Department determines that the increase will cause or contribute to a violation of any National ambient air quality standard or PSD increment, or visibility limitation.
- (H) The installation, operation, cessation or removal of a temporary clean coal technology demonstration project, if the project complies with the following:
- (I) The SIP.
- (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, if the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the source. This exemption applies on a pollutant-by-pollutant basis.
- (J) The reactivation of a very clean coal-fired electric utility system generating source.]

MAJOR MODIFICATION--

(i) A PHYSICAL CHANGE IN OR CHANGE IN THE METHOD OF OPERATION OF A MAJOR FACILITY THAT WOULD RESULT IN THE FOLLOWING:

(A) A SIGNIFICANT EMISSIONS INCREASE OF A REGULATED NSR POLLUTANT.

(B) A SIGNIFICANT NET EMISSIONS INCREASE OF THAT POLLUTANT FROM THE MAJOR FACILITY.

(ii) A PROPOSED DE MINIMIS INCREASE THAT WOULD RESULT IN A NET EMISSIONS INCREASE AS DETERMINED UNDER SUBCHAPTER E THAT MEETS OR EXCEEDS THE APPLICABLE EMISSIONS RATE THAT IS SIGNIFICANT.

(iii) A SIGNIFICANT EMISSIONS INCREASE FROM AN EMISSIONS UNIT OR A NET EMISSIONS INCREASE AT A MAJOR FACILITY THAT IS SIGNIFICANT FOR VOCS OR NO_x IS CONSIDERED SIGNIFICANT FOR OZONE.

(iv) A PHYSICAL CHANGE IN OR CHANGE IN THE METHOD OF OPERATION OF A MAJOR FACILITY DOES NOT INCLUDE:

(A) ROUTINE MAINTENANCE, REPAIR AND REPLACEMENT.

(B) THE USE OF AN ALTERNATIVE FUEL OR RAW MATERIAL BY REASON OF AN ORDER UNDER SECTION 2(a) AND (b) OF THE ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT OF 1974 (ESECA) (15 U.S.C.A. § 79(a) AND (b)) (OR SUPERSEDING LEGISLATION) OR BY REASON OF A NATURAL GAS CURTAILMENT PLAN UNDER THE FEDERAL POWER ACT (16 U.S.C.A. §§ 792--825r).

(C) THE USE OF AN ALTERNATIVE FUEL BY REASON OF AN ORDER OR RULE UNDER SECTION 125 OF THE CLEAN AIR ACT (42 U.S.C.A. § 7425).

(D) THE USE OF AN ALTERNATIVE FUEL AT A STEAM GENERATING UNIT TO THE EXTENT THAT THE FUEL IS GENERATED FROM MUNICIPAL SOLID WASTE.

(E) THE USE OF AN ALTERNATIVE FUEL OR RAW MATERIAL BY A FACILITY WHICH MEETS ONE OF THE FOLLOWING CONDITIONS:

(I) THE FACILITY WAS CAPABLE OF ACCOMMODATING THE FUEL BEFORE JANUARY 6, 1975, UNLESS THE CHANGE WOULD BE PROHIBITED UNDER A FEDERALLY ENFORCEABLE OPERATING PERMIT CONDITION.

(II) THE FACILITY IS APPROVED TO USE THE FUEL OR MATERIAL UNDER A FEDERALLY ENFORCEABLE OPERATING PERMIT.

(F) AN INCREASE IN THE HOURS OF OPERATION OR IN THE PRODUCTION RATE, UNLESS THE CHANGE IS PROHIBITED UNDER A CONDITION OF A FEDERALLY ENFORCEABLE PLAN APPROVAL OR AN OPERATING PERMIT.

(G) A CHANGE IN OWNERSHIP OF A FACILITY.

(v) THE TERM DOES NOT APPLY TO A PARTICULAR REGULATED NSR POLLUTANT WHEN THE MAJOR FACILITY IS COMPLYING WITH THE REQUIREMENTS UNDER § 127.218 (RELATING TO PALs). INSTEAD, THE DEFINITION OF PAL MAJOR MODIFICATION APPLIES.

Major NO_x emitting facility--A facility which emits or has the potential to emit NO_x from the processes located at the site or on contiguous properties under the common control of the same person at a rate greater than one of the following:

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(v) ~~[25 tpy or more of NO_x]~~ TWENTY-FIVE TONS PER YEAR and is located in Bucks, Chester, Delaware, Montgomery or Philadelphia County.

Major VOC emitting facility--A facility which emits or has the potential to emit VOCs from processes located at the site or on contiguous properties under the common control of the same person at a rate greater than one of the following:

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(iv) ~~[25 tpy or more of VOC]~~ TWENTY-FIVE TONS PER YEAR and is located in Bucks, Chester, Delaware, Montgomery or Philadelphia County.

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~~[Marginal ozone nonattainment area—A region with an ozone design value greater than or equal to 0.121 but less than 0.138 ppm as designated by the Administrator of the EPA. A designation is based on data from the 3-year period of 1987—1989 and may not be changed until the region demonstrates attainment of the NAAQS except in accordance with section 181 of the Clean Air Act.]~~

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~~[Moderate ozone nonattainment area—A region with an ozone design value greater than or equal to 0.138 but less than 0.160 ppm as designated by the Administrator of the EPA. A designation is based on data from the 3-year period of 1987—1989 and may not be changed until the region demonstrates attainment of the NAAQS except in accordance with section 181 of the Clean Air Act.]~~

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NECESSARY PRECONSTRUCTION APPROVALS OR PERMITS--THOSE PERMITS OR APPROVALS REQUIRED UNDER THE CLEAN AIR ACT OR THE ACT AND REGULATIONS ADOPTED UNDER THE ACTS, WHICH ARE PART OF THE APPLICABLE SIP.

NET EMISSIONS INCREASE--EMISSION CHANGES AT AN EXISTING MAJOR FACILITY AS DETERMINED IN ACCORDANCE WITH THE REQUIREMENTS OF § 127.203a(a)(1).

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PAL--PLANTWIDE APPLICABILITY LIMIT--AN EMISSIONS LIMIT EXPRESSED IN TPY, FOR A POLLUTANT AT A MAJOR FACILITY, THAT IS ENFORCEABLE AS A PRACTICAL MATTER AND ESTABLISHED FACILITY-WIDE IN ACCORDANCE WITH § 127.218.

PAL EFFECTIVE DATE--THE DATE OF ISSUANCE OF THE PAL PERMIT. THE PAL EFFECTIVE DATE FOR AN INCREASED PAL IS THE DATE AN EMISSIONS UNIT WHICH IS PART OF THE PAL MAJOR MODIFICATION BECOMES OPERATIONAL AND BEGINS TO EMIT THE PAL POLLUTANT.

PAL EFFECTIVE PERIOD--THE PERIOD BEGINNING WITH THE PAL EFFECTIVE DATE AND ENDING 10 YEARS LATER.

PAL MAJOR MODIFICATION--NOTWITHSTANDING THE DEFINITIONS UNDER THIS SECTION FOR MAJOR MODIFICATION AND NET EMISSIONS INCREASE, A PHYSICAL CHANGE IN OR CHANGE IN THE METHOD OF OPERATION OF THE FACILITY THAT CAUSES THE FACILITY TO EMIT THE PAL POLLUTANT AT A LEVEL EQUAL TO OR GREATER THAN THE PAL.

PAL PERMIT--THE PLAN APPROVAL, OPERATING PERMIT OR TITLE V PERMIT ISSUED BY THE DEPARTMENT THAT ESTABLISHES A PAL FOR A MAJOR FACILITY.

PAL POLLUTANT--THE POLLUTANT FOR WHICH A PAL IS ESTABLISHED FOR A MAJOR FACILITY.

PEMS--PREDICTIVE EMISSIONS MONITORING SYSTEM-- FOR PURPOSES OF 25 Pa. CODE CHAPTER 127, SUBCHAPTER E (RELATING TO NEW SOURCE REVIEW), ALL OF THE EQUIPMENT NECESSARY TO MONITOR PROCESS AND CONTROL DEVICE OPERATIONAL PARAMETERS INCLUDING CONTROL DEVICE SECONDARY VOLTAGES AND ELECTRIC CURRENTS, OTHER INFORMATION INCLUDING GAS FLOW RATE, O₂ OR CO₂ CONCENTRATIONS, AND CALCULATE AND RECORD THE MASS EMISSIONS RATE IN TERMS OF MASS PER UNIT TIME, LIKE LB/HR, ON A CONTINUOUS BASIS.

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~~[PM-10 precursor—Particulate matter with any effective aerodynamic diameter which may result in the formation of PM-10.]~~

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PROJECT--A PHYSICAL CHANGE IN OR CHANGE IN THE METHOD OF OPERATION OF AN EXISTING FACILITY, INCLUDING A NEW EMISSIONS UNIT.

PROJECTED ACTUAL EMISSIONS--THE MAXIMUM ANNUAL RATE IN TPY AT WHICH AN EXISTING EMISSIONS UNIT IS PROJECTED TO EMIT A REGULATED NSR POLLUTANT, AS DETERMINED IN ACCORDANCE WITH THE REQUIREMENTS OF § 127.203a(a)(5).

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REGULATED NSR POLLUTANT--

(i) NO_x OR VOCs.

(ii) A POLLUTANT FOR WHICH EPA HAS PROMULGATED A NAAQS.

(iii) A POLLUTANT THAT IS A CONSTITUENT OR PRECURSOR OF A POLLUTANT LISTED UNDER SUBPARAGRAPH (i) OR (ii), IF THE CONSTITUENT OR PRECURSOR POLLUTANT MAY ONLY BE REGULATED UNDER NSR AS PART OF REGULATION OF THE POLLUTANT LISTED UNDER SUBPARAGRAPH (i) OR (ii).

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REPLACEMENT UNIT--AN EMISSIONS UNIT FOR WHICH ALL THE CRITERIA LISTED IN SUBPARAGRAPHS (i) THROUGH (iv) OF 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 IF THE FIXED CAPITAL COST OF THE NEW COMPONENTS EXCEEDS 50% OF THE FIXED CAPITAL COST THAT WOULD BE REQUIRED TO CONSTRUCT A COMPARABLE, ENTIRELY NEW EMISSIONS UNIT, 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 UNIT DOES NOT ALTER THE BASIC DESIGN PARAMETERS OF THE PROCESS UNIT.

(iv) THE REPLACED EMISSIONS UNIT IS PERMANENTLY REMOVED FROM THE MAJOR FACILITY, 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.

* * * * *

[*Secondary emissions*--Emissions which occur as a result of the construction or operation of a major stationary source or major modification of a major stationary source, but do not come from the major stationary source or facility or major modification itself. The secondary emissions shall be specific, well defined, quantifiable and impact the same general area as the stationary source or modification which causes secondary emissions. The term includes emissions from an offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. The term does not include emissions which come directly from a mobile source regulated under Title II of the Clean Air Act (42 U.S.C.A. §§ 7521--7589).]

* * * * *

SECONDARY EMISSIONS--

(i) EMISSIONS WHICH OCCUR AS A RESULT OF THE CONSTRUCTION OR OPERATION OF A MAJOR FACILITY OR MAJOR MODIFICATION OF A MAJOR FACILITY, BUT DO NOT COME FROM THE MAJOR FACILITY OR MAJOR MODIFICATION ITSELF. THE SECONDARY EMISSIONS MUST BE SPECIFIC, WELL DEFINED, QUANTIFIABLE AND IMPACT THE SAME GENERAL AREA AS THE FACILITY OR MODIFICATION WHICH CAUSES THE SECONDARY EMISSIONS.

(ii) THE TERM INCLUDES EMISSIONS FROM AN OFFSITE SUPPORT FACILITY WHICH WOULD NOT BE CONSTRUCTED OR INCREASE ITS EMISSIONS EXCEPT AS A RESULT OF THE CONSTRUCTION OR OPERATION OF THE MAJOR FACILITY OR MAJOR MODIFICATION.

(iii) THE TERM DOES NOT INCLUDE EMISSIONS WHICH COME DIRECTLY FROM A MOBILE SOURCE REGULATED UNDER TITLE II OF THE CLEAN AIR ACT (42 U.S.C.A. §§ 7521--7589).

* * * * *

~~[Serious ozone nonattainment area—A region with an ozone design value greater than or equal to 0.160 but less than 0.180 ppm as designated by the Administrator of the EPA. A designation is based on data from the 3-year period of 1987—1989 and may not be changed until the region demonstrates attainment of the NAAQS except in accordance with section 181 of the Clean Air Act.]~~

~~[Severe ozone nonattainment area—A region with an ozone design value greater than or equal to 0.180 but less than 0.280 ppm as designated by the Administrator of the EPA. A designation is based on data from the 3-year period of 1987—1989 and may not be changed until the region demonstrates attainment of the NAAQS except in accordance with section 181 of the Clean Air Act.]~~

SIGNIFICANT--

(i) IN REFERENCE TO A NET EMISSIONS INCREASE OR THE POTENTIAL OF A FACILITY TO EMIT ONE OF THE FOLLOWING POLLUTANTS AT A RATE OF EMISSIONS THAT WOULD EQUAL OR EXCEED THE FOLLOWING EMISSIONS RATES EXCEPT AS SPECIFIED IN SUBPARAGRAPHS (ii)-(v):

<u>POLLUTANT</u>	<u>EMISSIONS RATE</u>
<u>CARBON MONOXIDE (CO):</u>	<u>100 TPY</u>
<u>NITROGEN OXIDES (NO_x):</u>	<u>40 TPY</u>
<u>SULFUR OXIDES (SO_x):</u>	<u>40 TPY</u>
<u>OZONE:</u>	<u>40 TPY OF VOCs OR NO_x</u>
<u>LEAD:</u>	<u>0.6 TPY</u>
<u>PM-10:</u>	<u>15 TPY</u>

(ii) THE EMISSIONS RATE THAT IS SIGNIFICANT FOR VOCs IN A SERIOUS OR SEVERE OZONE NONATTAINMENT AREA IS 25 TPY.

(iii) FOR PURPOSES OF APPLYING THE REQUIREMENTS OF 25 Pa. CODE CHAPTER 127, SUBCHAPTER E (RELATING TO NEW SOURCE REVIEW) TO THE OWNER OR OPERATOR OF MODIFICATIONS AT A MAJOR FACILITY LOCATED IN AN OZONE NONATTAINMENT AREA OR IN AN OZONE TRANSPORT REGION THAT EMITS OR HAS THE POTENTIAL TO EMIT NO_x, THE EMISSIONS RATE THAT IS SIGNIFICANT AND OTHER REQUIREMENTS FOR VOCs IN SUBPARAGRAPHS (i) AND (ii) SHALL APPLY TO NO_x EMISSIONS.

(iv) THE EMISSIONS RATE THAT IS SIGNIFICANT FOR CO IN A SERIOUS NONATTAINMENT AREA IS 50 TPY IF THE EPA HAS

DETERMINED THAT THE AFFECTED FACILITY CONTRIBUTES SIGNIFICANTLY TO CO LEVELS IN THAT AREA.

(v) THE EMISSIONS RATE THAT IS SIGNIFICANT FOR VOCs IN AN EXTREME NONATTAINMENT AREA FOR OZONE IS ANY AMOUNT ABOVE ZERO.

SIGNIFICANT EMISSIONS INCREASE-- FOR A REGULATED NSR POLLUTANT, AN INCREASE IN EMISSIONS THAT IS SIGNIFICANT AS DEFINED IN THIS SECTION FOR THAT POLLUTANT.

SIGNIFICANT EMISSIONS UNIT--FOR PURPOSES OF THE PAL REQUIREMENTS IN 25 Pa. CODE § 127.218 (RELATING TO PALs), 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 EMISSIONS RATE THAT IS SIGNIFICANT AS DEFINED IN THIS SECTION OR IN THE CLEAN AIR ACT FOR THAT PAL POLLUTANT, WHICHEVER IS LOWER, BUT LESS THAN THE AMOUNT THAT WOULD QUALIFY THE UNIT AS A MAJOR FACILITY AS DEFINED IN THIS SECTION.

SIGNIFICANT NET EMISSIONS INCREASE--FOR A REGULATED NSR POLLUTANT, A NET EMISSIONS INCREASE THAT IS SIGNIFICANT AS DEFINED IN THIS SECTION.

* * * * *

SMALL EMISSIONS UNIT--FOR PURPOSES OF THE PAL REQUIREMENTS IN 25 Pa. CODE § 127.218 (RELATING TO PALs), AN EMISSIONS UNIT THAT EMITS OR HAS THE POTENTIAL TO EMIT THE PAL POLLUTANT IN AN AMOUNT LESS THAN THE EMISSIONS RATE THAT IS SIGNIFICANT FOR THAT PAL POLLUTANT AS DEFINED IN THIS SECTION OR IN THE CLEAN AIR ACT, WHICHEVER IS LOWER.

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CHAPTER 127. CONSTRUCTION, MODIFICATION, REACTIVATION AND OPERATION OF SOURCES

Subchapter B. PLAN APPROVAL REQUIREMENTS

§ 127.13. Extensions

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(b) If the construction, modification, or installation is not commenced within 18 months of the issuance of the plan approval or if there is more than an 18-month lapse in construction, modification, or installation, a new plan approval application that meets the

requirements of this subchapter and Subchapters D and E (relating to prevention of significant deterioration of air quality; and new source review) shall be submitted. **THE DEPARTMENT MAY EXTEND THE 18-MONTH PERIOD UPON A SATISFACTORY SHOWING THAT AN EXTENSION IS JUSTIFIED.**

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Subchapter E. NEW SOURCE REVIEW

§ 127.201. General requirements.

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(c) The new source review requirements of this subchapter also apply to a facility located in an attainment area for ozone and within an ozone transport region that emits or has the potential to emit at least 50 ~~[tons per year]~~**TPY** of VOC or 100 ~~[tons per year]~~**TPY** of NO_x. A facility within either an unclassifiable/attainment area for ozone or within a marginal or incomplete data nonattainment area for ozone **or within a basic nonattainment area for ozone** and located within an ozone transport region will be considered a major **[stationary]** facility and shall be subject to the requirements applicable to a major **[stationary]** facility located in a moderate nonattainment area.

(d) The NSR requirements of this subchapter apply to an owner or operator of a facility at which a net emissions increase that is significant would occur as determined in accordance with § 127.203a (relating to applicability determination). If an emissions increase meets or exceeds the applicable emissions rate that is significant as defined in § ~~[127.201a]~~121.1 (relating to definitions), the facility is subject to the permitting requirements under § 127.205 (relating to special permit requirements). An emissions increase subject to this subchapter must also be offset through the use of ERCs at the offset ratios specified in § 127.210 (relating to offset ratios). The generation, use, transfer and registration requirements for ERCs are listed in §§ 127.206--127.209.

(e) In the event of an inconsistency between this rule and any other rule promulgated by the Department, the inconsistency must be resolved by the application of the more stringent provision, term, condition, method or rule.

(f) A facility located in Bucks, Chester, Delaware, Montgomery or Philadelphia Counties that emits or has the potential to emit at least 25 tpy of VOC or NO_x will be considered a major facility and shall be subject to the requirements applicable to a major facility located in a severe nonattainment area for ozone.

[§ 127.201a. Definitions.

—The definitions in section 3 of the act (35 P. S. § 4003) and Chapter 121 (relating to general provisions) apply to this subchapter unless otherwise indicated. In

addition, the following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

—*Actual emissions*—The actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with the following:

—(i)—Actual emissions as of a particular date must equal the average rate, in tons per year, at which the unit actually emitted the pollutant during the consecutive 2-year period which immediately precedes the particular date and which is representative of normal source operations. The Department will allow the use of a different time period upon a written 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)—For an emissions unit that has not begun normal operations on the particular date, actual emissions equal the potential to emit of the unit on that date.

—*Actual PAL for a major facility*—A PAL based on the baseline actual emissions of all emissions units at a major facility that emit or have the potential to emit the PAL pollutant.

—*Allowable emissions*—The emissions rate of a source calculated using the maximum rated capacity of the source unless the source is subject to Federally enforceable limits which restrict the operating rate, or hours of operation, or both, and the most stringent of the following:

—(i)—The applicable standards set forth in 40 CFR Part 60 or Part 61 (relating to standards of performance for new stationary sources; and National emission standards for hazardous air pollutants).

—(ii)—An applicable SIP emissions limitation, including those with a future compliance date.

—(iii)—The emissions rate specified under a requirement or permit condition that is Federally enforceable or enforceable as a practical matter, including those with a future compliance date.

—*Baseline actual emissions*—The rate of emissions, in tpy, of a regulated NSR pollutant, as determined in accordance with § 127.203a(a)(5) (relating to applicability determination).

—*Begin actual construction*—Initiation of physical onsite construction activities on an emissions unit which are of a permanent nature. These activities include installation of building supports and foundations, laying of underground pipe work and construction of permanent storage structures. With respect to a change in method of operating, this term refers to those onsite activities other than preparatory activities which mark the initiation of the change.

~~— ***CEMS—Continuous emissions monitoring system***—All of the equipment that may be required to meet the data acquisition and availability requirements of this subchapter, to sample, condition, analyze and provide a record of emissions on a continuous basis.~~

~~— ***CERMS—Continuous emissions rate monitoring system***—The total equipment required for the determination and recording of the pollutant mass emissions rate, in terms of mass per unit of time.~~

~~— ***CPMS—Continuous parameter monitoring system***—All of the equipment necessary to meet the data acquisition and availability requirements to monitor process and control device operational parameters including control device secondary voltages and electric currents, other information like gas flow rate and O₂ or CO₂ concentrations, and to record average operational parameter values on a continuous basis.~~

~~— ***Calendar year emissions***—The rate of emissions of an NSR pollutant, in tpy, from an emissions unit during a calendar year.~~

~~— ***Commence construction***—The owner or operator of a major facility has all necessary approvals or permits including plan approval and has either:~~

~~— (i) ***Begun, or caused to begin, a continuous program of actual onsite construction of the source, to be completed within a reasonable time.***~~

~~— (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 actual construction of the source to be completed within a reasonable time.***~~

~~— ***Creation***—The process of generating usable and tradable ERCs to be used to offset emissions. This process includes the following elements:~~

~~— (i) ***Application.***~~

~~— (ii) ***Documentation.***~~

~~— (iii) ***Quantification.***~~

~~— (iv) ***Verification.***~~

~~— (v) ***Entry into the registry.***~~

~~— ***Deactivation***—Cessation of the emissions of an air pollutant from a unit or facility.~~

~~— *De minimis emissions increase*—An increase in actual emissions or potential to emit which is less than the emissions rate that is significant as specified in this section.~~

~~— *Electric utility steam generating unit*—A 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 a utility power distribution system for sale. 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.~~

~~— *Emissions unit*—A part of a facility that emits or has the potential to emit a regulated NSR pollutant including an electric utility steam generating unit as defined in this section. For purposes of this subchapter, there are two types of emissions units:~~

~~— (i) —A new emissions unit, which is or will be newly constructed and which has existed for less than 2 years from the date the emissions unit first operated. An emissions unit which is constructed or installed for the purpose of replacing an existing unit, or an emissions unit which is relocated from another facility for the purpose of replacing an existing unit, is considered a new emissions unit at the time of replacement and until 2 years from the date the new unit commenced operation.~~

~~— (ii) —An existing emissions unit which is not a new emissions unit.~~

~~— *Federally enforceable*—All limitations and conditions which are legally enforceable by the EPA, including:~~

~~— (i) —Those requirements developed under 40 CFR Parts 60 and 61.~~

~~— (ii) —Those requirements within an applicable SIP.~~

~~— (iii) —Permit requirements established under 40 CFR 52.21 (relating to prevention of significant deterioration of air quality) or under regulations approved under 40 CFR Part 51, Subpart I (relating to review of new sources and modifications), including operating permits issued under an EPA-approved program that is incorporated into the SIP and expressly requires adherence to a permit issued under the program.~~

~~— (iv) —Permit requirements not designated as "State-only" in a Federal operating permit.~~

~~— *Fugitive emissions*—Those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.~~

~~— *Generation*—With respect to emission reduction credits, an action taken by an owner or operator of a source or facility that results in the actual reduction of emissions.~~

~~— *Major facility*—~~

~~— (i) —The term includes the following:~~

~~— (A) —A facility which emits or has the potential to emit 100 tons per year or more of any regulated NSR pollutant subject to regulation under the Clean Air Act, except that lower emissions thresholds apply as follows:~~

~~— (I) —Fifty tons per year of VOCs in a serious nonattainment area for ozone.~~

~~— (II) —Fifty tons per year of VOCs in an area within an ozone transport region except for a severe or extreme nonattainment area for ozone.~~

~~— (III) —Twenty-five tons per year of VOCs in a severe nonattainment area for ozone.~~

~~— (IV) —Ten tons per year of VOCs in an extreme nonattainment area for ozone.~~

~~— (V) —Seventy tons per year of PM-10 or, where applicable, 70 tons per year of a specific PM-10 precursor, in a serious nonattainment area for PM-10.~~

~~— (VI) —Fifty tons per year of CO in a serious nonattainment area for CO.~~

~~— (B) —For the purposes of applying the requirements of this subchapter to the owner or operator of a facility which emits or has the potential to emit NO_x located in an ozone nonattainment area or in an ozone transport region, as follows:~~

~~— (I) —One hundred tons per year or more of NO_x in an ozone nonattainment area classified as marginal, basic or moderate.~~

~~— (II) —One hundred tons per year or more of NO_x in an ozone nonattainment area classified as a transitional, submarginal, or incomplete or no data area, when the area is located in an ozone transport region.~~

~~— (III) —One hundred tons per year or more of NO_x in an area designated under section 107(d) of the Clean Air Act (42 U.S.C.A. § 7407(d)) as attainment or unclassifiable for ozone that is located in an ozone transport region.~~

~~— (IV) —Fifty tons per year or more of NO_x in a serious nonattainment area for ozone.~~

~~— (V) —Twenty-five tons per year or more of NO_x in a severe nonattainment area for ozone.~~

~~—(VI)— Ten tons per year or more of NO_x in an extreme nonattainment area for ozone.~~

~~—(C)— A physical change that occurs at a facility which does not exceed the major facility thresholds specified in this subchapter is considered a major facility, if the change constitutes a major facility by itself.~~

~~—(ii)— A facility which is major for VOCs or NO_x is considered major for ozone.~~

~~—(iii)— A facility which emits, or has the potential to emit, 25 tpy or more of NO_x or VOC and is located in Bucks, Chester, Delaware, Montgomery or Philadelphia Counties.~~

~~—Major modification—~~

~~—(i)— A physical change at or change in the method of operation of a major facility that results in:~~

~~—(A)— An increase in emissions of a regulated NSR pollutant equal to or exceeding the emissions rate that is significant as specified in this section.~~

~~—(B)— A significant net emissions increase of that pollutant from the major facility.~~

~~—(ii)— A significant emissions increase from an emissions unit or net emissions increase at a major facility that is significant for VOCs or NO_x is considered significant for ozone.~~

~~—(iii)— A physical change at or change in the method of operation of a major facility does not include:~~

~~—(A)— Routine maintenance, repair and replacement.~~

~~—(B)— The use of an alternative fuel or raw material by reason of an order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (15 U.S.C.A. § 79(a) and (b)) (or superseding legislation) or by reason of a natural gas curtailment plan under the Federal Power Act (16 U.S.C.A. §§ 792--825r).~~

~~—(C)— The use of an alternative fuel by reason of an order or rule under section 125 of the Clean Air Act (42 U.S.C.A. § 7425).~~

~~—(D)— The use of an alternative fuel or raw material by a facility which meets one of the following conditions:~~

~~—(I)— The source was capable of accommodating the fuel before January 6, 1975, unless the change would be prohibited under a Federally-enforceable operating permit condition.~~

~~—(H)—The source is approved to use the fuel or material under a Federally enforceable operating permit.~~

~~—(E)—An increase in the hours of operation or in the production rate, unless the change is prohibited under a condition of a Federally enforceable plan approval or an operating permit.~~

~~—(F)—A change in ownership at a facility.~~

~~—(iv)—The term does not apply to a particular regulated NSR pollutant when the major facility is complying with the requirements under § 127.218 (relating to PALs). Instead, the definition of PAL major modification applies.~~

~~—Necessary preconstruction approvals or permits—Those permits or approvals required under the Clean Air Act or the act and its regulations, which are part of the applicable SIP.~~

~~—Net emissions increase—Emission changes at an existing major facility that result from a physical change or change in the method of operation as determined in accordance with § 127.203a(a)(4).~~

~~—PAL—Plantwide applicability limit—An emissions limit expressed in tpy, for a pollutant at a major facility, that is legally enforceable and established source wide in accordance with § 127.218.~~

~~—PAL effective date—The date of issuance of the PAL permit. The PAL effective date for an increased PAL is the date an emissions unit which is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.~~

~~—PAL effective period—The period beginning with the PAL effective date and ending 10 years later.~~

~~—PAL major emissions unit—An 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 facility threshold for the PAL pollutant.~~

~~—PAL major modification—Notwithstanding the definitions for major modification and net emissions increase under this section, a physical change at or change in the method of operation of the PAL facility that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.~~

~~—PAL permit—The major or minor plan approval, the state operating permit or the Title V permit issued by the Department that establishes a PAL for a major facility.~~

~~—PAL pollutant—The pollutant for which a PAL is established at a major facility.~~

~~— *PEMS—Predictive emissions monitoring system*—All of the equipment necessary to monitor parameters including control device secondary voltages and electric currents, other information including gas flow rate and O₂ or CO₂ concentrations, and calculate and record the mass emissions rate in terms of mass per unit time, like lb/hr, on a continuous basis.~~

~~— *Project*—Physical change in or change in the method of operation of an existing facility, including a new emission unit.~~

~~— *Projected actual emissions*—The emission rates at which an existing emissions unit is projected to emit a regulated NSR pollutant, determined in accordance with § 127.203a(a)(6).~~

~~— *Regulated NSR pollutant*—~~

~~(i) *NO_x or VOCs.*~~

~~(ii) *A pollutant for which a NAAQS has been promulgated.*~~

~~(iii) *A pollutant that is a constituent or precursor of a pollutant listed under subparagraph (i) or (ii), if the constituent or precursor pollutant may only be regulated under NSR as part of regulation of the pollutant listed under subparagraph (i) or (ii).*~~

~~— *Secondary emissions*—~~

~~(i) *Emissions which occur as a result of the construction or operation of a major facility or major modification of a major facility, but do not come from the major facility or major modification itself. The secondary emissions must be specific, well defined, quantifiable and impact the same general area as the facility or modification which causes the secondary emissions.*~~

~~(ii) *The term includes emissions from an offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major facility or major modification.*~~

~~(iii) *The term does not include emissions which come directly from a mobile source regulated under Title II of the Clean Air Act (42 U.S.C.A. §§ 7521–7589).*~~

~~— *Significant*—~~

~~(i) *A net emissions increase or the potential of a facility to emit one of the following pollutants at a rate of emissions that would equal or exceed the following emissions rates except as specified in subparagraphs (ii)–(v):*~~

~~— *Pollutant Emissions Rate*~~

~~— *Carbon monoxide (CO): 100 tpy*~~

~~— Nitrogen oxides (NO_x): 40 tpy or 100 lbs/hr or 1,000 lbs/day, whichever is more restrictive~~

~~— Sulfur oxides (SO_x): 40 tpy~~

~~— Ozone: 40 tpy of VOCs or 100 lbs/hr or 1,000 lbs/day, whichever is more restrictive~~

~~— Lead: 0.6 tpy~~

~~— PM10 or PM10 precursor: 15 tpy~~

~~— PM 2.5 or PM 2.5 precursor: 15 tpy~~

~~— (ii) The emissions rate that is significant for VOCs in a serious or severe ozone nonattainment area is 25 tpy or 100 lbs/hr or 1,000 lbs/day, whichever is more restrictive.~~

~~— (iii) For the purposes of applying the requirements of this subchapter to the owner or operator of modifications at major facilities located in an ozone nonattainment area or in an ozone transport region that emit or have the potential to emit NO_x, the emissions rate that is significant and other requirements for VOCs in subparagraphs (i) and (ii) apply to NO_x emissions.~~

~~— (iv) The emissions rate that is significant for CO in a serious nonattainment area is 50 tpy if the EPA has determined that the affected facility contributes significantly to CO levels in that area.~~

~~— (v) The emissions rate that is significant for VOCs in an extreme nonattainment area for ozone is any amount above zero.~~

~~— *Significant emissions unit*—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 emissions rate that is significant as defined in this section or in the Clean Air Act for that PAL pollutant, whichever is lower, but less than the amount that would qualify the unit as a major facility as defined in this section.~~

~~— *Significant net emissions increase*—For a regulated NSR pollutant, a net emissions increase that is significant.~~

~~— *Small emissions unit*—An emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the emissions rate that is significant for that PAL pollutant as defined in this section or in the Clean Air Act, whichever is lower.~~

~~[§ 127.201b.]§ 127.201a. Measurements, abbreviations and acronyms.~~

Measurements, abbreviations and acronyms used in this subchapter are defined as follows:

BAT--Best available technology

BACT--Best available control technology

CEMS—Continuous[-] emissions monitoring system

CERMS--Continuous emissions rate monitoring system

CPMS--Continuous parametric monitoring system

[CO₂—Carbon dioxide]

CO--Carbon monoxide

ERC--Emission reduction credit

[Hg—Mercury]

[KWH—Kilowatt hour (based on electric generation)]

LAER--Lowest achievable emission rate

MACT--Maximum achievable control technology

NSPS--New source performance standard

NSR--New source review

PEMS--Predictive emissions monitoring system

lb--Pounds

µg/m³--Micrograms per cubic meter

mg/m³--Milligrams per cubic meter

NO_x--Nitrogen oxides

O₂--Oxygen

PAL--Plantwide Applicability Limit

PM--Particulate matter

RACT--Reasonably available control technology

SO_x--Sulfur oxides

tpy--Tons per year

VOC--Volatile organic compound

§ 127.202. Effective date.

(a) The special permit requirements in this subchapter apply to **an owner or operator of** a facility [~~submitting a complete plan approval application to~~]**TO WHICH A PLAN APPROVAL WILL BE ISSUED BY** the Department after _____ [January 15, 1994][*Editor's Note: The blank refers to the date of publication of the proposal*].

(b) For SO_x, [~~particulate matter,~~]**PM-10,** [~~PM-10 precursors,~~]**PM-10** [~~PM-2.5 precursors,~~]**PM-2.5,** lead and CO, this subchapter applies until a given nonattainment area is redesignated as an unclassifiable or attainment area. After a redesignation, special permit conditions remain effective until the Department approves a permit modification request and modifies the permit.

§ 127.203. Facilities subject to special permit requirements.

(a) This subchapter applies to a facility with the potential to emit 100 tons per year or more of one of the following pollutants and meeting the requirements for that pollutant:

(1) For PM-10, PM-10 precursors and particulate matter, either a new facility, or a modification to an existing facility including the addition of a new source at an existing facility, which when aggregated with the other emissions increases determined in accordance with § 127.211 (relating to applicability determination) results in an increase in the potential to emit PM-10, PM-10 precursors or particulate matter that would yield 15 tons per year of PM-10 or 25 tons per year of particulate matter, or 1,000 pounds per day, or 100 pounds per hour of PM-10 or particulate matter, or more, whichever is more restrictive, and which new facility or modification is located in one of the following:

(i) A nonattainment area.

(ii) An attainment or unclassifiable area which impacts a part of a nonattainment area in excess of the following significance levels:

Averaging Period Significance Levels

Annual	1.00 µg/m ³
24-hour	5.00 µg/m ³

(2) For sulfur oxides, either a new facility, or a modification to an existing facility including the addition of a new source at an existing facility, which when aggregated with the other emissions increases determined in accordance with § 127.211 results in an increase in the potential to emit of 40 tons per year, or 1,000 pounds per day, or 100 pounds per hour of SO_x, or more, whichever is more restrictive, and which new facility or modification is located in one of the following:

(i) A nonattainment area.

(ii) An attainment or unclassifiable area which impacts a nonattainment area in excess of the following significance levels:

Averaging Period Significance Levels

Annual	1.00 µg/m³
24-hour	5.00 µg/m³
3-hour	25.00 µg/m³

(3) For carbon monoxide, either a new facility, or a modification to an existing facility, including the addition of a new source at an existing facility which, when aggregated with the other emissions increases determined in accordance with § 127.211, results in an increase in the potential to emit of 50 tons per year, 1,000 pounds per day or 100 pounds per hour of CO, or more, whichever is more restrictive, and which new facility or modification is located in one of the following:

(i) A nonattainment area.

(ii) An attainment or unclassifiable area which impacts a nonattainment area in excess of the following significance levels:

Averaging Period Significance Levels

8-hour	0.5 mg/m³
1-hour	2.0 mg/m³

(4) For lead, either a new facility, or a modification to an existing facility including the addition of a new source at an existing facility, which when aggregated with the other emissions increases determined in accordance with § 127.211, results in an increase in the potential to emit of 0.6 tons per year, 10 pounds per day or 1 pound per hour of lead, or more, whichever is more restrictive, and which new facility or modification is located in one of the following:

(i) A nonattainment area.

(ii) An attainment or unclassifiable area which impacts a nonattainment area in excess of the following significance level:

Averaging Period Significance Level

24-hour 0.1 µg/m³

(b) This subchapter applies to a VOC or NO_x facility located in or having an impact on one of the following areas and meeting the applicable requirements:

(1) For an area either classified at 40 CFR 81.339 (relating to Pennsylvania) as a moderate nonattainment area for ozone, or an area included in an ozone transport region established under section 184 of the Clean Air Act (42 U.S.C.A. § 7511c), which is either classified as a marginal or incomplete data nonattainment area for ozone or designated as an unclassifiable/attainment area for ozone, this subchapter applies to the following:

(i) A new facility with the potential to emit 100 tons or more per year of NO_x or 50 tons or more per year of VOCs.

(ii) A modification to an existing facility with the potential to emit 100 tons or more per year of NO_x or 50 tons or more per year of VOCs, or a new source at an existing facility resulting in an increase in the potential to emit either VOC or NO_x which, when aggregated with the other emissions increases determined in accordance with § 127.211, results in an increase of 40 tons per year, 1,000 pounds per day or 100 pounds per hour of VOC or NO_x, or more, whichever is more restrictive.

(2) For an area classified at 40 CFR 81.339 as a serious nonattainment area for ozone, this subchapter applies to the following:

(i) A new facility with the potential to emit 50 tons or more per year of NO_x or VOCs.

(ii) A modification to an existing facility with the potential to emit 50 tons or more per year of VOC or NO_x, or a new source at an existing facility resulting in an increase in the potential to emit either VOC or NO_x which, when aggregated with the other emissions increases determined in accordance with subsection (c)(1), results in an increase of 25 tons per year, 1,000 pounds per day or 100 pounds per hour of VOC or NO_x, or more, whichever is more restrictive.

(3) For an area classified at 40 CFR 81.339 as a severe nonattainment area for ozone, this subchapter applies to the following:

(i) A new facility with the potential to emit 25 tons or more per year of NO_x or VOCs.

(ii) A modification to an existing facility with the potential to emit 25 tons or more per year of NO_x or VOC, or a new source at an existing facility resulting in an increase in the potential to emit either VOC or NO_x which, when aggregated with the other emissions increases determined in accordance with subsection (c)(1),

results in an increase of 25 tons per year or 1,000 pounds per day or 100 pounds per hour of VOC or NO_x, or more, whichever is more restrictive.

(c) Special rules for modifications to VOC or NO_x facilities located in serious and severe nonattainment areas for ozone are as follows:

(1) The applicability requirements in § 127.211 apply except as provided by this subsection. A modification to an existing facility with the potential to emit 25 tons per year or more which results in an increase in the potential to emit VOC or NO_x may not be considered a de minimis increase. The requirements of this subchapter apply if the increase in potential to emit, when aggregated with the other net emission increases in potential to emit occurring over a consecutive 5-calendar-year period exceeds 25 tons per year or 1,000 pounds per day or 100 pounds per hour, whichever is more restrictive. The consecutive 5-calendar-year period for an increase that is not considered de minimis shall include the calendar year of the modification or addition which results in the emissions increase, and may not extend beyond either January 1, 1991, or the design year of the most recent attainment demonstration, whichever is later.

(2) For a facility with the potential to emit less than 100 tons per year of VOC or NO_x, when a modification results in an increase--other than a de minimis increase--in emissions of VOC or NO_x from a discrete operation, unit or other pollutant emitting activity at the facility, the increase shall be considered a modification unless the owner or operator elects to offset the increase by a greater reduction in emissions of VOC or NO_x from other operations, units or activities within the facility at an internal offset ratio of at least 1.3 to 1. If the owner or operator does not elect to offset at the required ratio, the change shall be considered a modification, but in the case of the modification, the BACT requirement shall be substituted for LAER. The facility shall comply with the applicable EPA requirements and shall also satisfy the Best Available Technology (BAT) requirement.

(3) For a facility with the potential to emit 100 tons per year or more of VOC or NO_x, when a modification at the facility results in an increase--other than a de minimis increase--in emissions of VOC or NO_x from a discrete operation, unit or other pollutant emitting activity at the facility, the increase shall be considered a modification unless the owner or operator elects to offset the increase by a greater reduction in emissions of VOC or NO_x from other operations, units or activities within the facility at an internal offset ratio of at least 1.3 to 1. If the owner or operator elects to offset at the required ratio, the LAER requirement does not apply. The facility shall comply with the applicable EPA requirements and shall also satisfy the BAT requirement.]

(a) This subchapter applies to the construction of a new major facility or modification at an existing major facility located in a nonattainment area, AN OZONE TRANSPORT REGION or ~~located in~~ an attainment or unclassifiable area which impacts a nonattainment area in excess of the following significance levels:

<u>Pollutant</u>	<u>Averaging time</u>				
	<u>Annual</u>	<u>24 (hours)</u>	<u>8 (hours)</u>	<u>3 (hours)</u>	<u>1 (hours)</u>
SO ₂	1.0 µg/m ³	5 µg/m ³	-	25 µg/m ³	-
PM ₁₀	1.0 µg/m ³	5 µg/m ³	-	-	-
CO	-	-	0.5 mg/m ³	-	2 mg/m ³
Lead	-	0.1 µg/m ³	-	-	-

(b) The following provisions apply to an owner or operator of a facility located in Bucks, Chester, Delaware, Montgomery or Philadelphia counties or an area classified as a serious or severe ozone nonattainment area:

(1) The applicability requirements in § 127.203a (relating to applicability determination) apply except as provided by this subsection. The requirements of this subchapter apply if the aggregated emissions DETERMINED ACCORDING TO SUBPARAGRAPH (i) OR (ii) OF THIS SUBSECTION exceed 25 tpy [or 1,000 pounds per day or 100 pounds per hour] of NO_x or VOCs[, whichever is more restrictive, as follows]:

(i) The PROPOSED increaseS AND DECREASES in emissions[, when] ARE aggregated with the other increaseS in net emissions occurring over a consecutive 5 calendar-year period, which includes the calendar year of the modification or addition which results in the emissions increase.

(ii) The PROPOSED increases and decreases in emissions [when] ARE aggregated with other increases and decreases [since January 1, 1991, or 15] WHICH OCCURRED WITHIN 10 years prior to the date of submission of A complete plan approval application[, whichever is later]. IF THE AGGREGATED EMISSIONS INCREASE CALCULATED USING THIS SUBPARAGRAPH MEETS OR EXCEEDS THE EMISSIONS RATE THAT IS SIGNIFICANT, ONLY THE EMISSIONS OFFSET REQUIREMENTS IN § 127.205(3) (RELATING TO SPECIAL PERMIT REQUIREMENTS) APPLY TO THE AGGREGATED EMISSIONS.

(2) An increase in emissions of VOCs or NO_x, other than a de minimis emission increase, from a discrete operation, unit or other pollutant emitting activity at a facility with a potential to emit of less than 100 tpy of VOCs or NO_x is considered a modification unless the owner or operator elects to offset the increase by a greater reduction in emissions of VOCs or NO_x from other operations, units or activities within the facility at an internal offset ratio of at least 1.3 to 1. If the owner or operator does not elect to offset at the required ratio, the increase is considered a modification and the BACT requirement is substituted for LAER. The owner or operator of the facility shall comply with all applicable requirements including the BAT requirement.

(3) An increase in emissions of VOCs or NO_x, other than a de minimis emission increase, from a discrete operation, unit or other pollutant emitting

activity at a facility with a potential to emit of 100 tpy or more is considered a modification unless the owner or operator elects to offset the increase by a greater reduction in emissions of VOCs or NO_x from other operations, units or activities within the facility at an internal offset ratio of at least 1.3 to 1. If the owner or operator elects to offset at the required ratio, the LAER requirement does not apply. The owner or operator of the facility shall comply with the applicable requirements including the BAT requirement.

(c) The NSR requirements of this subchapter apply to an owner or operator of:

(1) A facility at which the net emissions increase as determined under this subchapter meets or exceeds the applicable emissions rate that is significant. A decrease in a facility's emissions will not qualify as a decrease for purposes of this subchapter unless the [emission reduction credit] ERC provisions in § 127.207(1) and (3)--(7) (relating to ERC generation and creation) are met.

(2) A MAJOR facility SUBJECT TO THIS SUBCHAPTER which was deactivated for a period in excess of 1 year and is not in compliance with the reactivation requirements of § 127.215 (relating to reactivation).

(d) The requirements of this subchapter which apply to VOC emissions from major facilities and major modifications apply to NO_x emissions from major facilities and major modifications in an ozone transport region or an ozone nonattainment area classified as marginal, basic, moderate, serious, severe or extreme, except in areas which the EPA has determined that additional reductions of NO_x will not produce net air quality benefits.

(e) The following provisions apply to an owner or operator of a major facility subject to this subchapter:

(1) Approval to construct or modify an air contamination source or facility does not relieve an owner or operator of the responsibility to comply fully with applicable provisions of the SIP and other requirements under local, State or Federal law.

(2) If a particular source or modification becomes a major facility or major modification solely by virtue of a relaxation in an enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification to emit a pollutant including a restriction on hours of operation, the requirements of this subchapter also apply to the source or modification as though construction had not yet commenced on the source or modification.

[(f) The requirements of this subchapter which apply to PM-10 emissions from major facilities and major modifications also apply to PM-10 precursor emissions from major facilities and major modifications, except if the EPA has determined that these sources do not contribute significantly to PM-10 levels which exceed the PM-10 ambient standards in the area.

~~—(g) The requirements of this subchapter which apply to PM-2.5 emissions from major facilities and major modifications also apply to PM-2.5 precursor emissions from major facilities and major modifications, except if the EPA or the Department has determined that these sources do not contribute significantly to PM-2.5 levels which exceed the PM-2.5 ambient standards in the area.~~

~~[(h)](f) The NSR requirements of this subchapter do not apply to an owner or operator of a major facility at which:~~

~~(1) A physical change or change in the method of operation still maintains its total facility-wide emissions below the PAL, meets the requirements in § 127.218 (relating to PALs) and complies with the PAL permit.~~

~~(2) A project results in a net emissions increase which does not meet or exceed the applicable emissions rate that is significant.~~

~~(3) A proposed de minimis increase results in a net emissions increase [since January 1, 1991, or 15]CALCULATED USING EMISSIONS INCREASES AND DECREASES WHICH OCCURRED WITHIN 10 years prior to the date of submission of a complete plan approval application[, whichever is later], which does not meet or exceed the emissions rate that is significant.~~

~~(4) [A-e]Construction of a new facility or a project at an existing major facility located in an attainment or unclassifiable area[, which] does not impact a nonattainment area for THE applicable pollutant in excess of the significance level specified IN § 127.203a.~~

§ 127.203a. Applicability determination.

~~(a) The Department will conduct an applicability determination during its review of a plan approval application for the construction of a new major facility or modification at an existing major facility under the following provisions:~~

~~(1) [As part of the plan approval application, the owner or operator of the facility shall calculate in accordance with the provisions under paragraphs (2) and (3) whether a net emissions increase that is significant as defined in § 127.201a (relating to definitions) will occur. The procedures for calculating whether a net emissions increase that is significant will occur at the major facility are contained in paragraph (4). If the project causes a net emissions increase that is significant, the project is a major modification for the regulated NSR pollutant.~~

~~(2) A net emissions increase of a regulated NSR pollutant for projects that involve existing emissions units is the sum of the differences between the projected actual emissions and the baseline actual emissions, as specified in paragraphs (5) and (6), for each existing emissions unit.~~

~~— (3) — A net emissions increase of a regulated NSR pollutant for projects that involve construction of new emissions units is the sum of the potentials to emit from each new emissions unit.~~

~~— (4) — The following procedures apply in determining the net emissions increase:~~

~~— (i) — For a regulated NSR pollutant emitted by a major facility, 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 major facility as calculated under paragraph (6).~~

~~— (B) — Other increases and decreases in emissions at the major facility that are contemporaneous with the project and are otherwise creditable. Baseline actual emissions for calculating increases and decreases are determined as specified under paragraph (5).~~

~~— (ii) — For a proposed increase which equals or exceeds the emissions rate that is significant, an increase or decrease in emissions is contemporaneous with the increase from the project only if it occurs between the date 5 years before construction on the project commences and the date that construction on the project is complete.~~

~~— (iii) — For a proposed de minimis increase, an increase or decrease in emissions is contemporaneous with the increase from the project only if it occurs after January 1, 1991, or 15 years prior to the date of the Department's receipt of a complete plan approval application, whichever is later.~~

~~— (iv) — For a proposed de minimis increase in which the net emissions increase since January 1, 1991, or 15 years prior to the date of the Department's receipt of a complete plan approval application meets or exceeds the emissions rate that is significant, the emissions offset requirements in § 127.205(3) (relating to special permit requirements) apply only to the net emissions increase.~~

~~— (v) — For PM-2.5 and PM-2.5 precursors, an increase or decrease in emissions is contemporaneous with the increase from the project only if it occurs after April 5, 2005.~~

~~— (vi) — An increase or decrease in emissions is creditable as related to the applicability determination only if the Department has not relied on it in issuing a permit for the facility under this subchapter, for which permit is in effect when the increase in emissions from the project occurs.~~

~~— (vii) — An increase in emissions is creditable to the extent that the new level of emissions exceeds the old level of emissions for the contemporaneous change.~~

~~— (viii) — A decrease in emissions is creditable if the following conditions are met:~~

~~—(A)—The emissions reduction credit provisions in § 127.207(1) and (3)–(7) (relating to ERC generation and creation) have been complied with, and the decrease is Federally enforceable by the time construction begins on the project.~~

~~—(B)—The emissions decrease is such that when compared with the proposed emissions increase there is no significant change in the character of the emissions, including seasonal emission patterns, stack heights or hourly emission rates. A significant change in the character of the emissions means a change resulting in an increase in emissions equal to or greater than an emissions rate that is significant as specified under § 127.201a or an impact in excess of the significance levels as specified in § 127.203a.~~

~~—(C)—The emissions decrease represents approximately the same qualitative significance for public health and welfare as attributed to the proposed increase. This requirement is satisfied if the emissions rate that is significant is not exceeded.~~

AS PART OF THE PLAN APPROVAL APPLICATION, THE OWNER OR OPERATOR OF THE FACILITY SHALL CALCULATE WHETHER A SIGNIFICANT EMISSIONS INCREASE AND A SIGNIFICANT NET EMISSIONS INCREASE WILL OCCUR AS A RESULT OF A PHYSICAL CHANGE OR CHANGE IN THE METHOD OF OPERATION. THE OWNER OR OPERATOR OF THE FACILITY WILL USE THE PROCEDURES IN PARAGRAPH (i) TO CALCULATE THE EMISSIONS INCREASE IN A REGULATED NSR POLLUTANT DUE TO THE PROJECT, AND THE PROCEDURES IN PARAGRAPH (ii) TO CALCULATE THE NET EMISSIONS INCREASE IN A REGULATED NSR POLLUTANT. A PROJECT IS A MAJOR MODIFICATION FOR A REGULATED NSR POLLUTANT IF IT CAUSES TWO TYPES OF EMISSIONS INCREASES—A SIGNIFICANT EMISSIONS INCREASE AND A SIGNIFICANT NET EMISSIONS INCREASE. IF THE PROJECT CAUSES A SIGNIFICANT EMISSIONS INCREASE, THEN THE PROJECT IS A MAJOR MODIFICATION IF IT ALSO RESULTS IN A SIGNIFICANT NET EMISSIONS INCREASE.

(i) THE EMISSIONS INCREASE IN A REGULATED NSR POLLUTANT DUE TO THE PROJECT WILL BE THE SUM OF THE FOLLOWING:

(A) FOR EXISTING EMISSIONS UNITS, AN EMISSIONS INCREASE OF A REGULATED NSR POLLUTANT IS THE DIFFERENCE BETWEEN THE PROJECTED ACTUAL EMISSIONS AND THE BASELINE ACTUAL EMISSIONS FOR EACH UNIT, AS DETERMINED IN PARAGRAPHS (4) AND (5). EXCLUDE, IN CALCULATING AN INCREASE IN EMISSIONS THAT RESULTS FROM THE PARTICULAR PROJECT, THAT PORTION OF THE UNIT'S EMISSIONS FOLLOWING COMPLETION OF THE PROJECT THAT EXISTING UNITS COULD HAVE ACCOMMODATED DURING THE CONSECUTIVE 24-MONTH PERIOD USED TO ESTABLISH THE BASELINE ACTUAL EMISSIONS AND THAT IS ALSO UNRELATED TO THE PARTICULAR PROJECT, INCLUDING ALL INCREASED UTILIZATION DUE TO PRODUCT DEMAND GROWTH AS SPECIFIED IN CLAUSE 5(i)(C).

(B) FOR NEW EMISSIONS UNITS, THE EMISSIONS INCREASE OF A REGULATED NSR POLLUTANT WILL BE THE POTENTIAL TO EMIT FROM EACH NEW EMISSIONS UNIT.

(ii) THE NET EMISSIONS INCREASE FOR A REGULATED NSR POLLUTANT EMITTED BY A MAJOR FACILITY WILL BE THE AMOUNT BY WHICH THE SUM OF THE FOLLOWING EXCEEDS ZERO:

(A) THE INCREASE IN EMISSIONS FROM A PHYSICAL CHANGE OR CHANGE IN THE METHOD OF OPERATION AT A MAJOR FACILITY AS CALCULATED UNDER SUBPARAGRAPH (i).

(B) OTHER INCREASES AND DECREASES IN ACTUAL EMISSIONS AT THE MAJOR FACILITY THAT ARE CONTEMPORANEOUS WITH THE PROJECT AND ARE OTHERWISE CREDITABLE.

(I) AN INCREASE OR DECREASE IN ACTUAL EMISSIONS IS CONTEMPORANEOUS WITH THE INCREASE FROM THE PARTICULAR CHANGE ONLY IF IT OCCURS BETWEEN THE DATE 5 YEARS BEFORE CONSTRUCTION ON THE PROJECT COMMENCES AND THE DATE THAT CONSTRUCTION ON THE PROJECT IS COMPLETED.

(II) BASELINE ACTUAL EMISSIONS FOR CALCULATING INCREASES ARE DETERMINED AS SPECIFIED UNDER PARAGRAPH (4), EXCEPT THAT CLAUSE (4)(i)(D) SHALL NOT APPLY.

(2) AS PART OF THE PLAN APPROVAL APPLICATION FOR A PROPOSED DE MINIMIS EMISSION INCREASE, THE OWNER OR OPERATOR OF THE FACILITY SHALL USE SUBPARAGRAPHS (i) AND (ii) TO CALCULATE THE NET EMISSIONS INCREASE. FOR A PROPOSED DE MINIMIS INCREASE IN WHICH THE NET EMISSIONS INCREASE CALCULATED USING PARAGRAPHS (i) AND (ii) MEETS OR EXCEEDS THE EMISSIONS RATE THAT IS SIGNIFICANT, ONLY THE EMISSIONS OFFSET REQUIREMENTS IN § 127.205(3) (RELATING TO SPECIAL PERMIT REQUIREMENTS) APPLY TO THE NET EMISSIONS INCREASE.

(i) THE NET EMISSIONS INCREASE IS THE SUM OF THE PROPOSED DE MINIMIS INCREASE DUE TO THE PROJECT AND THE PREVIOUSLY DETERMINED INCREASES IN POTENTIAL EMISSIONS OR ACTUAL EMISSIONS AND DECREASES IN ACTUAL EMISSIONS THAT ARE CONTEMPORANEOUS WITH THE PROJECT.

(ii) AN INCREASE OR DECREASE IS CONTEMPORANEOUS IF IT OCCURRED WITHIN 10 YEARS PRIOR TO THE DATE OF THE DEPARTMENT'S RECEIPT OF A COMPLETE PLAN APPROVAL APPLICATION.

(3) AN INCREASE OR A DECREASE IS CREDITABLE FOR APPLICABILITY DETERMINATION PURPOSES IF IT MEETS THE FOLLOWING CONDITIONS:

(i) THE DEPARTMENT HAS NOT RELIED ON IT IN ISSUING A PERMIT FOR THE FACILITY UNDER THIS SUBCHAPTER, FOR WHICH THE PERMIT IS IN EFFECT WHEN THE INCREASE IN EMISSIONS FROM THE PROJECT OCCURS.

(ii) THE INCREASE IS CREDITABLE TO THE EXTENT THAT THE NEW LEVEL OF EMISSIONS EXCEEDS THE OLD LEVEL OF EMISSIONS.

(iii) AN ACTUAL EMISSIONS DECREASE IS CREDITABLE IF THE FOLLOWING CONDITIONS ARE MET:

(A) THE ERC PROVISIONS IN § 127.207(1) AND (3)--(7) (RELATING TO ERC GENERATION AND CREATION) HAVE BEEN COMPLIED WITH, AND THE DECREASE IN EMISSIONS IS FEDERALLY ENFORCEABLE BY THE TIME CONSTRUCTION BEGINS ON THE PROJECT. THE PLAN APPROVAL FOR THE PROJECT WILL CONTAIN A PROVISION SPECIFYING THAT THE EMISSIONS DECREASE IS FEDERALLY ENFORCEABLE ON OR BEFORE THE CONSTRUCTION DATE.

(B) THE EMISSIONS DECREASE IS SUCH THAT WHEN COMPARED WITH THE PROPOSED EMISSIONS INCREASE THERE IS NO SIGNIFICANT CHANGE IN THE CHARACTER OF THE EMISSIONS, INCLUDING SEASONAL EMISSION PATTERNS, STACK HEIGHTS OR HOURLY EMISSION RATES.

(C) THE EMISSIONS DECREASE REPRESENTS APPROXIMATELY THE SAME QUALITATIVE SIGNIFICANCE FOR PUBLIC HEALTH AND WELFARE AS ATTRIBUTED TO THE PROPOSED INCREASE. THIS REQUIREMENT IS SATISFIED IF THE EMISSIONS RATE THAT IS SIGNIFICANT IS NOT EXCEEDED.

(D) An emissions decrease or an ERC generated at the facility may be used as a creditable decrease in a net emissions increase. THE USE OF THE ERCs IN APPLICABILITY DETERMINATIONS FOR NETTING PURPOSES IS LIMITED TO THE PERIOD SPECIFIED IN SUBSECTION (a)(1)(ii) AND (a)(2). A portion of an ERC generated at another facility, acquired by trade and incorporated in a plan approval for use at the facility, is not creditable as an emissions decrease.

(iv) AN ACTUAL OR POTENTIAL EMISSIONS INCREASE THAT RESULTS FROM A PHYSICAL CHANGE IN A FACILITY OCCURS WHEN THE EMISSIONS UNIT ON WHICH CONSTRUCTION OCCURRED BECOMES OPERATIONAL AND BEGINS TO EMIT A PARTICULAR POLLUTANT. A REPLACEMENT UNIT THAT REQUIRES SHAKEDOWN

BECOMES OPERATIONAL ONLY AFTER A REASONABLE SHAKEDOWN PERIOD, NOT TO EXCEED 180 DAYS.

(5)(4) The following procedures apply in determining the baseline actual emissions FOR AN EXISTING EMISSIONS UNIT:

(i) For an existing emissions unit, BASELINE ACTUAL EMISSIONS ARE the average rate, in tpy, at which the unit emitted the regulated NSR pollutant during [the 2]A consecutive [calendar years] 24-MONTH PERIOD SELECTED BY THE OWNER OR THE OPERATOR WITHIN THE FIVE-YEAR PERIOD immediately prior to the [year]DATE a complete plan approval application is received by the Department. The Department may [allow]APPROVE the use of a different consecutive [2-year]24-MONTH period within the last [5]10 years upon a WRITTEN determination that it is more representative of normal [operations] SOURCE OPERATION.

(A) The average rate includes fugitive emissions to the extent quantifiable and [authorized] emissions associated with startups and shutdowns; the average rate does not include excess emissions including emissions associated with upsets or malfunctions.

(B) The average rate is adjusted downward to exclude noncompliant emissions that occurred while the source was operating above an emissions limitation that was legally enforceable during the consecutive [2-year]24-MONTH period.

(C) The average rate is adjusted downward to exclude emissions that would have exceeded an emissions limitation with which the facility must currently comply, had the facility been required to comply with the limitations during the consecutive [2-year]24-MONTH period. The baseline actual emissions is based on the emissions limitation in this subchapter or a permit limitation or other more stringent emissions limitation required by the Clean Air Act or the act, whichever is more restrictive.

(D) [When]FOR A REGULATED NSR POLLUTANT, WHEN a project involves multiple emissions units| or multiple regulated NSR pollutants, or both|, [one]THE SAME consecutive [2-year]24-MONTH period must be used to determine the baseline actual emissions for| all pollutants and for all| the emissions units [affected by the project]BEING CHANGED. THE SAME CONSECUTIVE 24-MONTH PERIOD SHALL BE USED FOR ALL REGULATED NSR POLLUTANTS UNLESS THE OWNER OR OPERATOR DEMONSTRATES, IN WRITING, TO THE DEPARTMENT THAT A DIFFERENT CONSECUTIVE 24-MONTH PERIOD IS MORE APPROPRIATE AND THE DEPARTMENT APPROVES, IN WRITING, THE DIFFERENT CONSECUTIVE 24-MONTH PERIOD FOR A REGULATED NSR POLLUTANT OR POLLUTANTS.

(E) The average rate is not based on a consecutive [2-year]24-MONTH period for which there is inadequate information for:

(I) Determining annual emissions, in tpy.

(II) Adjusting this amount if required by clause (B) or clause (C).

(F) The average rate is not greater than the emissions previously [reported] SUBMITTED TO THE DEPARTMENT in the required emissions statement and for which applicable emission fees have been paid.

(ii) For a new emissions unit, the baseline actual emissions equal zero AND THEREAFTER, FOR ALL OTHER PURPOSES, SHALL EQUAL THE UNIT'S POTENTIAL TO EMIT.

(iii) The baseline actual emissions is determined by measurement, calculations or estimations in the order of the following preferences:

(A) Monitoring systems including:

(I) CEMS data interpolated to annual emissions using flow meters and conversion factors.

(II) PEMS approved, in writing, by the Department.

(B) Other measurements and calculations including:

(I) Stack measurement which generates emission estimates using stack test derived emission factors and throughput.

(II) A mass balance equation which includes the following elements:

(-a-) The amount of materials used per unit of time, determined through measurements [in the process] OF PARAMETERS REPRESENTING PROCESS CONDITIONS.

(-b-) The emissions per unit mass of material used, determined using mass balance techniques.

(-c-) The annual emissions, calculated using emissions per unit mass of material and amount of material used per unit of time.

(C) Emission factors, including generally recognized and accepted emission factors by EPA, such as USEPA "Compilation of Air Pollutant Emission Factors" (AP-42) or other emission factors accepted by the Department.

(D) Other calculations and measurements as approved by the Department.

[~~(6)~~](5) PROJECTED ACTUAL EMISSIONS IS THE MAXIMUM ANNUAL RATE, IN TPY, AT WHICH AN EXISTING EMISSIONS UNIT IS PROJECTED TO EMIT A REGULATED NSR POLLUTANT IN ANY ONE OF THE FIVE YEARS (12 MONTH PERIOD) FOLLOWING THE DATE THE UNIT RESUMES REGULAR OPERATION AFTER THE PROJECT, OR IN ANY ONE OF THE 10

YEARS FOLLOWING THAT DATE, IF THE PROJECT INVOLVES INCREASING THE EMISSIONS UNIT'S DESIGN CAPACITY OR ITS POTENTIAL TO EMIT OF 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 FACILITY. The following procedures apply in determining the projected actual emissions of a regulated NSR pollutant for an emissions unit, before beginning actual construction on the project:

(i) The owner or operator of the major facility shall:

(A) 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, and the company's filings with the State or Federal regulatory authorities.

(B) Include fugitive emissions to the extent quantifiable, and emissions associated with startups^[5] and shutdowns.

(C) Exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following completion of the project that existing units could have accommodated during the consecutive [2-year]24-MONTH period used to establish the baseline actual emissions and that is also unrelated to the particular project, including any increased utilization due to product demand growth.

(ii) In lieu of using the method set out in subparagraph (i), the owner or operator of the major facility may elect to use the emissions unit's potential to emit, in tpy.

(iii) If the projected actual emissions FOR A REGULATED NSR POLLUTANT are in excess of the baseline actual emissions, THE FOLLOWING APPLY: [they must be incorporated into the required plan approval or the operating permit as an emission limit. The emission limit shall be the sum of the following:

— (A) — Baseline actual emissions.

— (B) — The portion of the unit's emissions following completion of the project that existing units could have accommodated considering any process constraints in place during the consecutive 2-year period used to establish the baseline actual emissions and that is also unrelated to the particular project, including any increased utilization due to product demand growth.

— (C) — Any emissions increase that results from the particular project.

— (7) — The following procedures apply for demonstrating compliance with the emission limit established under paragraph (6)(i):

(A) THE PROJECTED ACTUAL EMISSIONS FOR THE REGULATED NSR POLLUTANT MUST BE INCORPORATED INTO THE REQUIRED PLAN APPROVAL OR THE OPERATING PERMIT AS AN EMISSION LIMIT.

(i)(B) The owner or operator shall monitor the emissions of ~~any~~THE regulated NSR pollutant ~~[that could increase as a result of the project and that is emitted by any emissions units identified for the project,]~~FOR WHICH A LIMIT IS ESTABLISHED IN PARAGRAPH 5(III)(A) and calculate and maintain a record of ~~[these annual]~~emissions, in tpy on a calendar year basis, for 5 years following resumption of regular operations after the change, or for 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 the emissions unit.

(ii)(C) The owner or operator shall record sufficient information to identify for all emission units in the approved project their total actual annual emissions and their actual annual emissions increase due to the project.

(iii)(D) The owner or operator shall submit a report to the Department, within 60 days after the end of each calendar year, which contains the emissions data required by ~~[subparagraph (i) and (ii)]~~CLAUSES (B) AND (C). This report must also contain a demonstration of how these emissions were determined if the determination was not by direct measurement with a Department-certified CEMS system.

(b) An owner or operator of a major facility with a PAL for a regulated NSR pollutant shall comply with the requirements under § 127.218 (relating to PALs).

§ 127.204. Emissions subject to this subchapter.

(a) In determining whether a ~~[facility]~~**PROJECT** exceeds the ~~[emissions rates]~~ **emission rate that is significant** or ~~the~~ significance levels specified in § 127.203 (relating to facilities subject to special permit requirements), the potential ~~[emissions]~~ **to emit**, actual emissions and actual emissions increase shall be determined by aggregating the emissions or emissions increases from ~~[the facilities on]~~contiguous or adjacent properties under the common control of a person or entity. This includes emissions resulting from the following: flue emissions, stack and additional fugitive emissions, material transfer, use of parking lots and paved and unpaved roads on the facility property, storage piles and other emission generating activities resulting from operation of the new or modified facility.

(b) Secondary emissions ~~[need]~~ **must** not be considered in determining whether a facility meets the requirements of ~~[§ 127.203]~~ **this subchapter**. If a facility is subject to ~~[§ 127.203]~~ **this subchapter** on the basis of the direct emissions from the facility, the conditions of § 127.205 (relating to special permit requirements) shall also be met for secondary emissions.

§ 127.205. Special permit requirements.

The Department will not issue a plan approval, or an operating permit, or allow continued operations under an existing permit or plan approval unless the applicant demonstrates that the following special requirements are met:

(1) A new or modified facility subject to this subchapter shall comply with LAER, **except as provided in § 127.203a(a)(4)(ii)(B)(2) (relating to applicability determination). [In cases where] When** a facility is composed of several sources, only sources which are new or which are modified shall be required to implement LAER. **In addition, LAER applies to the proposed modification which results in an increase in emissions and to subsequent or previous modifications which result in emissions increases that are directly related to and normally included in the project associated with the proposed modification and which occurred within the contemporaneous period of the proposed emissions increase.**

* * * * *

(2) Each facility located within this Commonwealth which meets **[or exceeds the threshold limits contained in § 127.203 (relating to facilities subject to special permit requirements)] the requirements of and is subject to this subchapter**, which is owned or operated by the applicant, or by an entity controlling, controlled by or under common control with the applicant, and which is subject to emissions **[limitation] limitations** shall be in compliance, or on a schedule for compliance approved by the Department in a plan approval or permit, with the applicable emissions limitation and standards contained in this article. A responsible official of the applicant shall certify as to the facilities' compliance in writing on a form provided by the Department.

(3) Each modification to a facility which meets the requirements of and is subject to **[§ 127.203] this subchapter** shall offset, in accordance with §§ **127.203, 127.203a and 127.210 [and 127.211]** (relating to **FACILITIES SUBJECT TO SPECIAL PERMIT REQUIREMENTS; applicability determination; and** offset ratios[; and **applicability determination]**), the total of the net increase **[in potential to emit]. Emissions offsets shall be required for the entire net emissions increase which occurred over the contemporaneous period except to the extent that emissions offsets or other reductions were previously applied against emissions increases in an earlier applicability determination.**

(4) Each new facility which meets the requirements of and is subject to **[§ 127.203] this subchapter** shall offset the potential to emit of that facility with ERCs in accordance with § 127.210.

(5) For a new or modified facility **[with potential emissions exceeding significance levels or otherwise meeting the requirements of § 127.203] which meets the requirements of and is subject to this subchapter**, an analysis shall be conducted of alternative sites, sizes, production processes and environmental control techniques for the proposed facility, which demonstrates that the benefits of the proposed facility

significantly outweigh the environmental and social costs imposed within this Commonwealth as a result of its location, construction or modification.

* * * * *

(7) THE DEPARTMENT MAY DETERMINE THAT THE BEST AVAILABLE TECHNOLOGY REQUIREMENTS OF THIS CHAPTER ARE EQUIVALENT TO BACT OR LAER.

§ 127.206. ERC general requirements.

(a) Emissions reductions or ERCs banked prior to January 1, 1991, may not be used as ERCs for emission offsets or netting purposes. **[ERCs generated prior to January 1, 1991, which meet the requirements of this subchapter for ERCs and are approved by the Department may be used in applicability determinations conducted in accordance with § 127.211 (relating to applicability determination) for netting purposes, if the ERCs are treated as new source growth and offset at the applicable ratio specified in § 127.210 (relating to offset ratios).]**

* * * * *

(d) The Department may issue a plan approval for the construction of a new or modified facility which satisfies the offset requirements specified in § 127.205(3) and (4) (relating to special permit requirements) under the following conditions:

* * * * *

(2) The owner or operator of the proposed new or modified facility may not commence operation or increase emissions until the required emissions reductions are certified and registered ~~[as ERCs]~~ by the Department.

(e) ERCs generated by the overcontrol of emissions by an existing facility will not expire for use as offsets. The use of these ERCs in applicability determinations for netting purposes is limited to the period specified in **[§ 127.211] § 127.203a(a)~~(4)~~(1) (relating to applicability determination).**

(f) ERCs generated by the curtailment or shutdown of a facility which are not included in a plan approval and used as offsets will expire for use as offsets 10 years after the date the facility ceased emitting the ERC generating emissions. The use of these ERCs in applicability determinations for netting purposes is limited to the period specified in **[§ 127.211] § 127.203a(a)~~(4)~~(1).**

* * * * *

(i) ERCs may not be used to achieve compliance with RACT, MACT, BAT, NSPS, BACT, LAER or other emissions limitations required by the Clean Air Act or the act.

(j) ERCs may not be entered into the ERC registry until the emissions reduction generating the ERCs has been certified by the Department in accordance with the criteria for ERC generation and creation contained in § 127.207 (relating to ERC generation and creation)[, **with the following qualifications:**].

[(i) ERCs may not be generated for emissions in excess of those previously identified in required emission statements and for which applicable emission fees have been paid.

(ii) Emissions reduction at a facility occurring after January 1, 1991, but prior to January 15, 1994 may be used to generate ERCs, if a complete ERC registry application is submitted to the Department by May 16, 1994.]

* * * * *

(l) ERCs may not be traded to facilities under different ownership until the emissions reduction generating the ERCs is made Federally enforceable. **[A facility which is not subject to Title V permit requirements under the Clean Air Act will require EPA approval in the form of a SIP revision which incorporates the required permit modification reflecting the reduced emissions limitation of the generating facility.]**

* * * * *

(n) ERCs transferred from one facility to another may not be transferred to a third party, **[except as provided in subsection (h)] unless the transfer of the ERCs is processed by the Department through the ERC registry system.**

* * * * *

(q) ERCs may not be generated for emissions in excess of those previously identified in required emission statements and for which applicable emission fees have been paid.

(r) EMISSION REDUCTIONS OCCURRING AT A FACILITY AFTER JANUARY 1, 2002, BUT PRIOR TO _____ [EDITOR'S NOTE: THE BLANK REFERS TO THE DATE OF PUBLICATION OF THE PROPOSAL] MAY BE USED TO GENERATE ERCs IN ACCORDANCE WITH THIS SUBCHAPTER, IF A COMPLETE ERC REGISTRY APPLICATION IS SUBMITTED TO THE DEPARTMENT BY _____ [EDITOR'S NOTE: THE BLANK REFERS TO THE DATE 12 MONTHS AFTER PUBLICATION OF THE PROPOSAL].

§ 127.207. CREDITABLE EMISSIONS DECREASE OR ERC generation and creation.

A CREDITABLE EMISSIONS DECREASE OR ERC generation and creation may occur under the following conditions:

(1) ~~[ERCs]~~ **A CREDITABLE EMISSIONS DECREASE OR ERC** ~~[shall]~~ **must** be surplus, permanent, quantified and Federally enforceable as follows:

(i) *Surplus.* ~~[ERCs]~~ **A CREDITABLE EMISSIONS DECREASE OR ERC** shall be included in the current emission inventory, and may not be required by or be used to meet past or current SIP, attainment demonstration, RFP, emissions limitation or compliance plans. ~~[Emission]~~ **Emissions** reductions necessary to meet NSPS, LAER, RACT, ~~[Best Available Technology (BAT)]~~ **BAT**, BACT, **allowance-based programs** and permit or plan approval emissions limitations or ~~[another]~~ **other** emissions limitations required by the Clean Air Act or the act may not be used to generate ERCs **OR A CREDITABLE EMISSIONS DECREASE.**

(ii) *Permanent.* ~~[ERCs]~~ **A CREDITABLE EMISSIONS DECREASE OR ERC** generated from emissions reductions which are Federally enforceable through an operating permit or a revision to the SIP and assured for the life of the corresponding increase, whether unlimited or limited in duration, are considered permanent. Emissions limitations and other restrictions imposed on a permit as a result of **A CREDITABLE EMISSIONS DECREASE OR ERC** generation shall be carried over into each successive permit issued to that facility. MERCs and other ERCs generated pursuant to an approved economic incentive program shall be permanent within the time frame specified by the program.

(iii) *Quantified.* ~~[ERCs]~~ **A CREDITABLE EMISSIONS DECREASE OR ERC** shall be quantified in a credible, workable and replicable method consistent with procedures promulgated by the Department and the EPA.

(iv) *Enforceable.* ~~[ERCs]~~ **A CREDITABLE EMISSIONS DECREASE OR ERC** shall be Federally enforceable **emissions reductions**, regulated by Federal or SIP emissions ~~[limitation]~~ **limitations**, such as a limit on potential to emit in the permit, and be generated from a plan approval, economic incentive program or permit limitation.

(2) ~~[For facilities subject to this subchapter,]~~ **EXCEPT AS PROVIDED IN § 127.206(r) (RELATING TO ERC GENERAL REQUIREMENTS)**, an ERC registry application shall be submitted to the Department within 1 year of the initiation of an emissions reduction used to generate ERCs. **THE ERC REGISTRY APPLICATION DEADLINE MAY BE EXTENDED TO 2 YEARS FROM THE INITIATION OF AN EMISSIONS REDUCTION USED TO GENERATE ERCs IF THE OWNER OR OPERATOR OF THE SOURCE OR FACILITY EITHER SUBMITS TO THE DEPARTMENT A MAINTENANCE PLAN IN ACCORDANCE WITH § 127.11a (RELATING TO REACTIVATION OF SOURCES) OF SUBCHAPTER B (RELATING TO PLAN APPROVAL REQUIREMENTS), OR A WRITTEN NOTICE WITHIN 1 YEAR OF DEACTIVATION OF THE SOURCE OR FACILITY TO REQUEST PRESERVATION OF THE EMISSIONS IN THE INVENTORY.** ~~[Facilities or sources not subject to this subchapter shall submit a registry application and receive Department approval prior to the occurrence of an emissions reduction.]~~

* * * * *

(4) In establishing the baseline used to calculate ~~ERCs~~ A CREDITABLE EMISSIONS DECREASE OR ERC, the Department will consider emission characteristics and operating conditions which include, at a minimum, the emission rate, capacity utilization, hours of operations and seasonal emission rate variations, in accordance with the following:

(i) The baseline emissions rate will be determined as follows:

(A) The average actual emissions or allowable emissions, whichever is lower, shall be calculated over the 2 calendar years immediately preceding the emissions reduction which generates the ~~ERCs~~ CREDITABLE EMISSIONS DECREASE OR ERC.

* * * * *

(5) Acceptable emissions reduction techniques, which an applicant may use to generate ERCs, are limited to the following:

* * * * *

(vi) ~~[For facilities or sources not subject to this subchapter]~~ NOTWITHSTANDING THE REQUIREMENTS IN § 127.207(2), a MERC program, AIRPORT EMISSION REDUCTION CREDITS PROGRAM or another Economic Incentive Program which meets the requirements of this subchapter and which is approved by the EPA as a SIP revision.

(A) The program ~~{shall}~~ [must] comply with the following requirements:

* * * * *

(IV) ERCs shall be surplus to emissions reductions achieved under other Federal and State regulations relied upon in an applicable attainment plan or demonstration or credited in an RFP or milestone demonstration.

* * * * *

(7) The reduced emissions limitation of the new or modified permit of the source or facility generating the CREDITABLE EMISSIONS DECREASE OR ERC shall be continuously verified by Department, local air pollution control agency or other State approved compliance monitoring and reporting programs. Onsite inspections will be made to verify shutdowns. If equipment has not been dismantled or removed, the owner or operator shall on an annual basis certify in writing to the Department the continuance of the shutdown.

§ 127.208. ERC use and transfer requirements.

The use and transfer of ERCs shall meet the following conditions:

* * * * *

(2) The transferee shall secure approval to use the offsetting ERCs through a plan approval or an operating permit, which indicates the [Department] Department's approval of the ERC transfer and use. Upon the issuance of a plan approval or an operating permit, the ERCs are no longer subject to expiration under § 127.206(f) (relating to ERC general requirements) except as specified in § 127.206(g).

* * * * *

(9) [For a VOC or NO_x facility, the use and transfer of ERCs shall comply with the following:

(i) For the purpose of emissions offset transfers at VOC or NO_x facilities, the areas included within an ozone transport region established under section 184 of the Clean Air Act (42 U.S.C.A. § 7511c), which are designated in 40 CFR 81.339 (relating to Pennsylvania) as attainment [areas], nonattainment or unclassifiable areas for ozone, shall be treated as a single nonattainment area.

[(ii) A] (10) An owner or operator of a facility shall acquire ERCs for use as offsets from an ERC generating facility located within the same nonattainment area.

[(iii) An exception to the requirement of subparagraph (ii) may be granted to allow the acquisition of ERCs from a facility located outside the nonattainment area, but within either 2 days transport upwind or within 200 kilometers of the using facility, if the ERCs are obtained from another nonattainment area with an equal or higher classification and if the emissions from the other nonattainment area contribute to an NAAQS violation in the nonattainment area of the proposed facility. The facility shall demonstrate to the Department's satisfaction that the ERC generating facilities located in the nonattainment area were investigated and no suitable ERCs were available, and that the ERCs meet the 2-day transport upwind requirement.]

(11) AN OWNER OR OPERATOR OF A FACILITY SHALL ACQUIRE ERCs FOR USE AS OFFSETS FROM AN ERC GENERATING FACILITY LOCATED WITHIN THE SAME NONATTAINMENT AREA, EXCEPT THAT THE DEPARTMENT MAY ALLOW THE OWNER OR OPERATOR TO OBTAIN ERCs GENERATED IN ANOTHER NONATTAINMENT AREA IF THE FOLLOWING EXIST:

(A) THE OTHER AREA HAS AN EQUAL OR HIGHER NONATTAINMENT CLASSIFICATION THAN THE AREA IN WHICH THE FACILITY IS LOCATED.

(B) EMISSIONS FROM THE OTHER AREA CONTRIBUTE TO A VIOLATION OF THE NATIONAL AMBIENT AIR QUALITY STANDARD IN THE NONATTAINMENT AREA IN WHICH THE FACILITY IS LOCATED.

(12) AN OWNER OR OPERATOR OF A FACILITY THAT IS SUBJECT TO ALLOWANCE-BASED PROGRAMS IN THIS ARTICLE MAY GENERATE,

CREATE, TRANSFER AND USE ERCs IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBCHAPTER AND APPLICABLE PROVISIONS IN CHAPTER 145 (RELATING TO INTERSTATE POLLUTION TRANSPORT REDUCTION).

§ 127.209. ERC registry system.

* * * * *

(c) As part of the new source review process, the Department will provide the EPA and the public with notice of A plan approval [~~applications~~] **OR OPERATING PERMIT** proposing to use ERCs.

(d) The Department will process each ERC registry application, permit modification and plan approval application, including those involving netting transactions, [~~which contain a change in allowable emission rates,~~] through the registry system to verify the information and to ensure that the requirements of §[-]§ 127.206—127.208 (relating to ERC general requirements; ERC generation and creation; and ERC use and transfer requirements) have been met, including the requirement that the required reductions have been made and certified before registry entries or changes are made.

(e) Registry operations and procedures are as follows:

(1) The registry will list the ERCs, and the Department will publish **revisions to** the list of registered ERCs available for trading purposes in the *Pennsylvania Bulletin* on a quarterly basis.

* * * * *

(4) Upon issuance of a plan approval **OR OPERATING PERMIT** allowing the use of ERCs entered in the registry, the following registry transactions will occur:

* * * * *

(ii) The registry will indicate the effective date, the quantity of [~~used~~] ERCs **used**, the originating generator and the ERC creation date, which is the date of actual or anticipated emissions reduction by the ERC generating facility.

§ 127.210. Offset ratios.

The emission offset ratios for ERC transactions subject to the requirements of this subchapter [~~shall~~] **must** be in an amount equal to or greater than the ratios specified in the following table:

Required Emission Reductions From Existing Sources	
	Flue Emissions Fugitive Emissions
[Particulate Matter] [PM-2.5,] PM-10 and SO _x	1.3:1 5:1

[Primary Nonattainment Areas	1.3:1	5:1]
[Secondary Nonattainment Areas	1.1:1	3:1]

* * * * *

§ 127.211. [Applicability determination] **(Reserved)**.

[(a) An applicability determination will establish whether:

(1) A modification which results in an emissions rate increase or the emission of pollutants not previously emitted at an existing major facility for particulate matter, PM-10 precursors, PM-10, SO_x, CO or lead emissions, located in or impacting a nonattainment area for these criteria pollutants, is a major modification under § 127.203 (relating to facilities subject to special permit requirements) and is subject to the new source review requirements of this subchapter.

(2) A modification which results in an emissions rate increase or the emission of pollutants not previously emitted at an existing major facility of VOC or NO_x emissions, located in or impacting a moderate nonattainment area for ozone, or an area included within an ozone transport region and designated as either a marginal or incomplete data nonattainment area or as an unclassifiable/attainment area for ozone, is a major modification under § 127.203 and is subject to the new source review requirements of this subchapter.

(3) A modification which results in an emissions rate increase or the emission of pollutants not previously emitted at an existing major facility of VOC or NO_x emissions, located in or impacting a serious or severe nonattainment area for ozone is a major modification under § 127.203 and is subject to the new source review requirements of this subchapter, except as modified by the requirements in § 127.203(c).

(b) The Department will conduct an applicability determination during its review of a plan approval application for a proposed modification which results in an increase in allowable emissions to determine the amount of the net increase in accordance with the following:

(1) For a proposed de minimis increase the proposed increase will be summed with those emission increases and decreases occurring after January 1, 1991.

(2) For a proposed increase which equals or exceeds an emissions rate threshold or significance level specified in § 127.203, the proposed increase will be summed with those emissions increases and decreases that occurred within the contemporaneous period which begins 5 years before commencement of construction of the proposed modification and ends with the date that the emission increase from the modification occurs. Notwithstanding the requirement to begin the contemporaneous period 5 years before construction, the period may not begin

prior to January 1, 1991, or the design year of the most recent attainment demonstration, whichever is later.

(3) The following procedures will apply in determining the amount of emissions increases and decreases to be summed:

(i) If a facility's maximum allowable emissions rate has not been established, the rate will be calculated for purposes of the applicability determination.

(ii) The increase in potential to emit for each proposed modification or new source will be used to set an allowable emissions rate for the modified or new facility. The allowable rate increase will be treated as an increase in the maximum allowable emissions rate for the facility.

(iii) Other increases and decreases in allowable emission rates at a facility which occur within the applicable time period are creditable in accordance with the following:

(A) Increases in the allowable rates shall be factored into the facility maximum allowable emissions rate.

(B) A decrease in an allowable emissions rate is not creditable unless the following conditions are met:

(I) The emissions reduction credit provisions in § 127.207(1) and (3)--(7) (relating to ERC generation and creation) have been complied with, and the decrease is Federally enforceable by the time that actual construction begins on the modification. The plan approval for the modification will contain a provision specifying that the emissions decrease is Federally enforceable on or before the date of commencement of construction. The facility owner or operator shall certify in writing that the reductions were not relied on for a previous applicability determination or to generate ERCs.

(II) The emissions decrease is such that when compared with the proposed increase there is no significant change in the character of emissions, including seasonal emission patterns, stack heights or hourly emission rates. A significant change in the character of emissions means a change resulting in an increase in emissions equal to or greater than an emissions rate threshold or an impact in excess of a significance level as specified in § 127.203. For VOC and NO_x during the ozone season, the portion of the annual emissions rate threshold specified in § 127.203 which as a percentage occurs during the ozone season may not be exceeded.

(III) The emission decrease represents approximately the same qualitative significance for public health and welfare as attributed to the proposed increase. This requirement is satisfied if the emission rate thresholds and significance levels contained in § 127.203 are not exceeded.

(C) An emissions reduction or an ERC generated at the facility may be used as a creditable decrease in an applicability determination. A portion of an ERC generated at another facility, acquired by trade and incorporated in a plan approval for use at the facility will not be credited as an emissions decrease in an applicability determination.

(D) ERCs which the facility has generated and registered are not creditable as reductions in an applicability determination unless the ERCs are withdrawn from the registry.

(E) A creditable emissions decrease which occurred prior to January 1, 1991, or the design year of the most recent attainment demonstration, whichever is later, and within the contemporaneous period of the proposed increase will be treated as new source growth and discounted in accordance with the applicable nonattainment area ratio in § 127.210 (relating to offset ratios).

(iv) An emissions increase that results from a physical change at a facility occurs when the unit on which construction occurred becomes operational and begins to emit a criteria pollutant. A replacement unit that is allowed a shakedown period becomes operational at the end of the approved shakedown period, which may not exceed 180 days.

(c) The new source review requirements of this subchapter apply to:

(1) A facility at which the proposed emissions increase and the net increase in the facility maximum allowable emissions rate as determined under subsection (b) meet or exceed the applicable threshold limits in § 127.203. A decrease in a facility maximum allowable emissions rate will not qualify as a decrease for purposes of this section when a facility petitions for a decrease in its maximum allowable emissions rate through a permit restriction unless the conditions of subsection (b)(3)(iii) are met.

(2) A facility which was deactivated for a period in excess of 1 year and is not in compliance with the reactivation requirements of § 127.215 (relating to reactivation).

(3) A source which has netted out of new source review by applying emissions reduction or ERCs generated by another source at the facility, if the emissions reduction or ERC generating source subsequently increases its allowable emissions unless the facility generates sufficient additional emissions reductions or ERCs equal to the proposed increase at the ERC generating source.

(d) For a proposed emissions increase that is subject to the new source requirements under subsection (c), the requirements of § 127.205 (relating to special permit requirements) are applicable in the following manner:

(1) Emissions offsets shall be required for the entire net emissions increase which occurred over the contemporaneous period except to the extent that offsets or

other reductions were previously applied against increases in an earlier applicability determination.

(2) LAER applies to the proposed modification which results in an increase in emissions, and to subsequent or previous modifications which result in emissions increases that are directly related to and normally included in the project associated with the proposed modification and which occurred within the contemporaneous period of the proposed emissions increase.

(e) For a proposed de minimis increase in which the net emissions increase since January 1, 1991, meets or exceeds the threshold limits in § 127.203, only the emissions offset requirements in § 127.205(3) apply to the net emissions increase.

(f) The new source review requirements of this subchapter do not apply to:

(1) A facility at which a proposed major modification results in a net increase in the maximum allowable emission rate as determined under subsection (b) which does not meet or exceed the applicable threshold limits in § 127.203.

(2) A facility at which a proposed de minimis increase results in a net emissions increase since January 1, 1991, which as determined under subsection (b) does not meet or exceed the applicable threshold limits in § 127.203.]

§ 127.212. Portable facilities.

(a) [A] An owner or operator of a portable SO_x, [particulate matter,] [~~PM-10~~] [~~precursor~~] [~~precursors,~~] PM-10, [~~PM-2.5 precursors, PM-2.5,~~] lead or CO facility subject to this subchapter which will be relocated within 6 months of the commencement of operation to a location within an attainment area which does not have an impact on a nonattainment area at or above the significance levels contained in § 127.203 (relating to facilities subject to special permit requirements) shall be exempt from this subchapter. [A] An owner or operator of a facility which subsequently returns to a location where it is subject to this subchapter shall comply with this subchapter.

(b) [A] An owner or operator of a portable VOC or NO_x facility subject to this subchapter which will be relocated outside of this Commonwealth within 6 months of the commencement of operation shall be exempt from this subchapter. [A] An owner or operator of a facility which subsequently returns to a location in this Commonwealth where it is subject to this subchapter shall comply with this subchapter.

§ 127.213. Construction and demolition.

* * * * *

(b) Emissions from construction and demolition activities may not be considered under [§ 127.203 (relating to facilities subject to special permit requirements)] § 127.203a (relating to applicability determination).

§ 127.214. [Exemptions] (Reserved).

[The special permit requirements of this subchapter may be waived for modifications to an existing facility through a plan approval application which demonstrates to the satisfaction of the Department that:

(1) The capital expenditure is being made with the primary purpose of achieving compliance with a new, more stringent regulation than was previously applicable, and will bring the facility into compliance with the new regulation.

(2) The maximum allowable emissions from the facility itself or a discrete operation, unit or other pollutant emitting activity at the facility will not increase.]

[§ 127.214a. Special provisions for advanced clean coal generation technology.

— (a) — This section applies to an owner or operator of a project that uses advanced clean coal generation technology in a new electric utility steam generating unit or to retrofit or repower an existing electric utility steam generation unit.

— (b) — As used in this section, the term "advanced clean coal generation technology" means an electric utility steam generating unit uses an advanced clean coal generation technology if the following conditions are met:

— (1) — The unit either:

— (i) — Uses integrated gasification combined cycle technology.

— (ii) — Has a design net heat rate of no more than 8530 Btu/KWH (at least 40% efficiency).

— (2) — The vendor warrants that the unit is designed, at a minimum, to meet the following performance requirements:

<u>Pollutants</u>	<u>Emission Rate</u>	<u>Averaging Period</u>
<u>SO_x</u>	<u>99% removal</u>	<u>30 days rolling average</u>
<u>NO_x</u>	<u>0.5 lbs/MWH</u>	<u>30 days rolling average</u>
<u>CO</u>	<u>0.32 lbs/MWH</u>	<u>24 hour rolling average</u>
<u>PM-10</u>	<u>0.06 lbs/MWH</u>	<u>Average of three — one hour stack tests</u>
<u>VOC</u>	<u>0.01 lbs/MWH</u>	<u>Average of three — one hour stack tests</u>
<u>CO₂</u>	<u>1.76 lbs/KWH</u>	<u>12 month rolling — average</u>

Hg 95% removal 12-month rolling average

~~— (c) — An owner or operator of a new, retrofitted or repowered electric utility steam generation unit that qualifies as advanced clean coal generation technology with a net emissions increase from the facility which meets or exceeds the applicable emissions rate that is significant shall be subject to this subchapter.~~

~~— (d) — The qualifying electric utility steam generation unit will be deemed to meet the LAER control technology requirements of § 127.205 (relating to special permit requirements) unless the Department determines that the performance requirements specified in subsection (b) are less stringent than LAER.~~

~~— (e) — The owner or operator of an electric utility steam generation unit meeting the requirements of this section shall offset the net emissions increase of a regulated NSR pollutant in accordance with the offset ratios specified in § 127.210 (relating to offset ratios).~~

~~— (f) — The Department will expedite the processing of a plan approval application for an electric steam generating unit that qualifies under this section.~~

§ 127.215. Reactivation.

(a) A facility which has been out of operation or production for 1 year or more during the term of its operating permit may be reactivated within the term of its operating permit and will not be considered a new facility subject to this subchapter if the following conditions are satisfied:

(1) The permittee shall within 1 year of the deactivation submit **in writing** to the Department and implement a maintenance plan which includes the measures to be taken, including maintenance, upkeep, repair or rehabilitation procedures, which will enable the facility to be reactivated in accordance with the terms of the permit.

(2) The permittee shall submit a reactivation plan at least 30 days prior to the proposed date of reactivation. The reactivation plan ~~{shall}~~ **must** include sufficient measures to ensure that the facility will be reactivated in compliance with the permit requirements. The permittee may submit a reactivation plan to the Department at any time during the term of its operating permit. The reactivation plan may also be submitted to and approved **in writing** by the Department as part of the plan approval or permit application process.

(3) The permittee shall **[submit a notice to] notify** the Department **in writing** within 1 year of deactivation requesting preservation of the emissions in the inventory and indicating the intent to reactivate the facility.

(4) The permittee shall comply with the terms and conditions of the **[maintenance]** **[following]:**

(i) Maintenance plan while the facility is deactivated[, and shall comply with the terms and conditions of the reactivation].

(ii) Reactivation plan and the operating permit upon reactivation.

* * * * *

(b) The Department will approve or disapprove **in writing** the complete reactivation plan within 30 days of plan submission, unless additional time is required based on the size or complexity of the facility.

(c) For a facility which is deactivated in accordance with subsection (a), ERCs may be created only if an ERC registry application is filed within **12** years of deactivation.

§ 127.217. Clean Air Act Titles III--V applicability.

Compliance with this subchapter does not relieve a source or facility from complying with Titles III--V of the Clean Air Act (42 U.S.C.A. §§ 7601--7627; 7641, 7642, 7651--7651o; and 7661--7661f) **applicable requirements of the act or regulations adopted under the act.**

§ 127.218. PALs.

(a) The following provisions govern an actual PAL for a major facility.

(1) The Department may approve the use of an actual PAL for any existing major facility if the PAL meets the requirements in this subsection AND SUBSECTIONS (b) through ~~subsection~~(n).

(2) The Department will not permit an actual PAL for VOC or NO_x for a major facility located in an extreme ozone nonattainment area.

(3) A physical change in or change in the method of operation of a major facility that maintains its total facility-wide emissions below the PAL level, meets the requirements in this subsection AND SUBSECTIONS (b) through ~~subsection~~(n) and complies with the PAL permit is not:

(i) A major modification for the PAL pollutant.

(ii) Subject to this subchapter.

(iii) Subject to § 127.203(e)(2) (relating to facilities subject to special permitting requirements).

(4) An owner or operator of a major facility shall continue to comply with applicable Federal or State requirements, emissions limitations and work practice requirements that were established prior to the PAL effective date.

(b) The owner or operator of a major facility shall submit the following information to the Department as part of the PAL application:

(1) A list of the emissions units at the facility designated as small, significant or major based on their potential to emit. The list must indicate which Federal or State applicable requirements, emissions limitations or work practices apply to each unit.

(2) Calculations and supporting documentation for the baseline actual emissions, which include emissions associated with operation of the unit, startups and shutdowns.

(3) The calculation procedures that the owner or operator of the major facility 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 subsection (m)(1).

(c) The Department may establish a PAL if the following requirements are met:

(1) The PAL [~~must~~]SHALL impose an annual emissions limitation in tpy for the entire major facility. For each month during the PAL effective period after the first 12 months of establishing a PAL, the owner or operator of the major facility shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months, expressed as a 12-month rolling [~~average~~]TOTAL, is less than the PAL. For each month during the first 11 months from the PAL effective date, the owner or operator of the major facility 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 [~~must~~]SHALL be established in a PAL permit that meets the public participation requirements in subsection [~~(d)~~](e).

(3) The PAL permit [~~must~~]SHALL contain all the requirements of subsection (g).

(4) The PAL [~~must~~]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 facility.

(5) Each PAL [~~must~~]SHALL regulate emissions of only one pollutant.

(6) Each PAL [~~must~~]SHALL have a PAL effective period of 10 years.

(7) The owner or operator of a major facility issued a PAL permit shall comply with the monitoring, recordkeeping and reporting requirements provided in subsections (m)--(o) for each emissions unit under the PAL through the PAL effective period.

(d) At no time during or after the PAL effective period are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of offsets under this subchapter unless the level of the PAL is reduced by the amount of the emissions reductions and the reductions would be creditable in the absence of the PAL.

(e) A PAL for an existing major facility must be established or modified in accordance with the public notice procedures set forth under §§ 127.44, 127.424 and 127.521 (relating to public notice; public notice; and additional public participation provisions).

(f) Setting the 10-year actual PAL level must comply with the following:

(1) The actual PAL level for a major facility must be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the facility plus an amount equal to the applicable emissions rate that is significant for the PAL pollutant or under the Clean Air Act, whichever is lower.

(2) When establishing the actual PAL level, for a PAL pollutant, one consecutive ~~[2-year]~~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.

(3) Emissions associated with units that were permanently shut down after this ~~[2-year]~~24-MONTH period must be subtracted from the PAL level.

~~(4) [Emissions from units on which actual construction began after the 2-year period must be added to the PAL level in an amount equal to the actual emissions of the units.]~~FOR NEWLY CONSTRUCTED EMISSION UNITS, WHICH DO NOT INCLUDE MODIFICATIONS TO EXISTING UNITS, ON WHICH ACTUAL CONSTRUCTION BEGAN AFTER THE 24-MONTH PERIOD, INSTEAD OF ADDING THE BASELINE ACTUAL EMISSIONS AS SPECIFIED IN THIS PARAGRAPH, THE EMISSIONS MUST BE ADDED TO THE PAL LEVEL IN AN AMOUNT EQUAL TO THE POTENTIAL TO EMIT OF THE EMISSION UNITS.

(5) The Department will specify a reduced PAL level in tpy in the PAL permit to become effective on the future compliance date of any applicable Federal or State regulatory requirement that the Department is aware of prior to issuance of the PAL permit.

(g) At a minimum, the PAL permit [~~must~~]**SHALL** contain the following information:

(1) The PAL pollutant and the applicable facility-wide emissions limitation in tpy.

(2) The effective date and the expiration date.

(3) A requirement that if the owner or operator of a major facility applies to renew a PAL in accordance with subsection ~~(f)~~(k) before the end of the PAL effective period, the PAL permit does not expire at the end of the PAL effective period. The PAL permit remains in effect until the Department issues a revised PAL permit.

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

(5) A requirement that, upon expiration of the PAL permit, the owner or operator of a major facility is subject to the requirements of subsection (i).

(6) The calculation procedures that the owner or operator of a major facility 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 subsection (n)(1).

(7) A requirement that the owner or operator of a major facility shall monitor all emissions units in accordance with subsection (m).

(8) A requirement that the owner or operator shall retain the records required under subsection (n) AND THAT THEY BE RETRIEVABLE onsite.

(9) A requirement that the owner or operator shall submit the reports required under subsection (o) by the required deadlines.

(10) A requirement that the emissions from a new source **THAT REQUIRES A PLAN APPROVAL** [~~must~~]**SHALL** be the minimum attainable through the use of [~~BAT~~] **BEST AVAILABLE TECHNOLOGY. A PHYSICAL CHANGE OR CHANGE IN METHOD OF OPERATION AT AN EXISTING EMISSIONS UNIT SHALL NOT BE SUBJECT TO BEST AVAILABLE TECHNOLOGY REQUIREMENTS OF THIS CHAPTER UNLESS THE EMISSIONS UNIT IS MODIFIED SO THAT THE FIXED CAPITAL COST OF NEW COMPONENTS EXCEEDS 50% OF THE FIXED CAPITAL COST THAT WOULD BE REQUIRED TO CONSTRUCT A COMPARABLE ENTIRELY NEW EMISSIONS UNIT.**

(11) Other requirements the Department deems necessary to implement and enforce the PAL.

- (h) The Department will specify a PAL effective period of 10 years.
- (i) The following requirements apply to reopening of the PAL permit:
- (1) During the PAL effective period, the Department will reopen the PAL permit to:
- (i) Correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL.
- (ii) Reduce the PAL if the owner or operator of the major facility creates creditable emissions reductions for use as offsets under § 127.207 (relating to ERC generation or creation).
- (iii) Revise the PAL to reflect an increase in the PAL as provided under subsection (l).
- (2) The Department may reopen the PAL permit to reduce the PAL:
- (i) To reflect newly applicable Federal requirements with compliance dates after the PAL effective date.
- (ii) Consistent with a requirement that is enforceable as a practical matter and that the [State]DEPARTMENT may impose on the major facility consistent with all applicable requirements.
- (iii) If the Department determines that a reduction is necessary to avoid causing or contributing to:
- (A) A NAAQS or PSD increment violation.
- (B) An adverse impact on an air quality related value that has been identified for a Federal Class I area by a Federal land manager and for which information is available to the general public.
- (3) Except for the permit reopening paragraph (1)(i) for the correction of typographical/calculation errors that do not increase the PAL level, other reopening shall be carried out in accordance with the public participation requirements of subsection (e).
- (i) A PAL permit which is not renewed in accordance with the procedures in subsection (k) expires at the end of the PAL effective period and the following requirements apply:
- (1) The owner or operator of each emissions unit or each group of emissions units that existed under the PAL shall comply with an allowable emissions limitation under a revised permit established according to the following procedures:

(i) Within the time frame specified for PAL permit renewals in subsection (k)(2), the owner or operator of the major facility shall submit a proposed allowable emissions limitation for each emissions unit, or each group of emissions units if this distribution OF ALLOWABLE EMISSIONS is more appropriate as [decided] DETERMINED by the Department, by distributing the PAL allowable emissions for the major facility among each of the emissions units that existed under the PAL permit. If the PAL permit has not been adjusted for an applicable requirement that became effective during the PAL effective period, as required under subsection (k)(5), this distribution is made as if the PAL permit has been adjusted.

(ii) The Department will decide whether and how to distribute the PAL allowable emissions and issue a revised PAL permit incorporating allowable limits for each emissions unit or each group of emissions units.

(2) The owner or operator of each emissions unit or group of emissions units shall comply with the allowable emissions limitation on a 12-month rolling basis. The Department may approve the use of emissions monitoring systems other than CEMS, CERMS, PEMS or CPMS to demonstrate compliance with the allowable emissions limitation.

(3) Until the Department issues the revised PAL permit incorporating the allowable limits for each emissions unit or group of emissions units required under paragraph (1)(i), the owner or operator of the facility shall continue to comply with a facility-wide, multi-unit emissions cap equivalent to the level of the PAL emissions limitation.

(4) A physical change or change in the method of operation at the major facility is subject to this subchapter if the change meets the definition of major modification.

(5) The owner or operator of the major facility shall continue to comply with any State or Federal applicable requirements including BAT, BACT, RACT or NSPS that may have applied either during the PAL effective period or prior to the PAL effective period except for those emissions limitations that had been established under § 127.203(e)(2), but were eliminated by the PAL in accordance with the provisions in subsection (a)(3)(iii).

(k) The following requirements apply to renewal of a PAL:

(1) The Department will follow the procedures specified in subsection (e) in approving a request to renew a PAL permit for a major facility, and will provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment in accordance with the APPLICABLE public notice requirements in §§ 127.44, 127.424 AND 127.521. During the public review, a person may propose a PAL level for the major facility for consideration by the Department.

(2) An owner or operator of a major facility shall submit a timely application to the Department to request renewal of a PAL permit. A timely application is one that is submitted at least 6 months, prior to, but not earlier than 18 months prior to the date of permit expiration. If the owner or operator of a major facility submits a complete application to renew the PAL permit within this time period, then the PAL continues to be effective until the revised permit with the renewed PAL is issued.

(3) The application to renew a PAL permit must contain the following information:

(i) The information required in subsection (b)(1)--(3).

(ii) A proposed PAL level.

(iii) The sum of the potentials to emit of the emissions units under the PAL.

(iv) Other information the owner or operator wishes the Department to consider in determining the appropriate level at which to renew the PAL.

(4) The Department will consider the options in subparagraphs (i) and (ii) in determining whether and how to adjust the PAL. In no case may the adjustment fail to comply with subparagraphs (iii) and (iv).

(i) If the emissions level calculated in accordance with subsection (f) is equal to or greater than 80% of the PAL level, the Department may renew the PAL at the same level without considering the factors set forth in subparagraph (ii).

(ii) The Department may set the PAL at a level that it determines to be more representative of the facility'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 facility's voluntary emissions reductions or other factors specifically identified by the Department in its written rationale.

(iii) If the potential to emit of the major facility is less than the PAL, the Department will adjust the PAL to a level no greater than the potential to emit of the facility.

(iv) The Department will not approve a renewed PAL level higher than the current PAL unless the major facility has complied with subsection (l).

(5) If the compliance date for a State or Federal requirement that applies to the facility occurs during the PAL effective period and the Department has not already adjusted for this requirement, the PAL must be adjusted at the time of the PAL permit renewal or Title V permit renewal, whichever occurs first.

(l) The following requirements apply to increasing a PAL during the PAL effective period:

(1) The Department may increase a PAL emissions limitation during the PAL effective period if the owner or operator of the major facility complies with the following:

(i) The owner or operator of the major facility shall submit a complete application to request an increase in the PAL limit for a PAL major modification. The application must identify the emissions units contributing to the increase in emissions that cause the major facility's emissions to equal or exceed its PAL.

(ii) The owner or operator of the major facility shall demonstrate that the sum of the baseline actual emissions of the small emissions units ASSUMING APPLICATION OF BEST AVAILABLE TECHNOLOGY, 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 units exceeds the PAL. The level of control that would result from BEST AVAILABLE TECHNOLOGY OR BACT equivalent controls on each SMALL EMISSIONS UNIT, significant EMISSIONS UNIT or major emissions unit must be determined by conducting a new BEST AVAILABLE TECHNOLOGY OR BACT analysis at the time the application is submitted unless the emissions unit is currently required to comply with a BEST AVAILABLE TECHNOLOGY, BACT or LAER requirement that was established within the preceding 10 years. In this case, the assumed control level for that emissions unit is equal to the level of BEST AVAILABLE TECHNOLOGY, BACT or LAER with which that emissions unit must currently comply.

(iii) The owner or operator of the major facility shall obtain a major NSR permit for all emissions units identified in subparagraph (i), regardless of the magnitude of the emissions increase resulting from them. The owner or operator of these emissions units shall comply with the applicable emissions requirements of this subchapter, even if the units are subject to a PAL or continue to be subject to a PAL.

(iv) The PAL permit must require that the increased PAL level 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.

(2) The Department will 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 determined in accordance with paragraph (1)(ii), plus the sum of the baseline actual emissions of the small emissions units.

(3) The PAL permit must be revised to reflect the increased PAL level under the public notice requirements of subsection (e).

(m) The following monitoring requirements apply to an owner or operator subject to a PAL:

(1) Each PAL permit must contain enforceable requirements for the monitoring system to accurately determine plantwide emissions of the PAL pollutant in terms of mass per unit of time.

(2) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements in paragraph (5) and must be approved in writing by the Department.

(3) The owner or operator of the facility may also use an alternative monitoring approach that meets the requirements of paragraph (1), if approved in writing by the Department.

(4) Failure to use a monitoring system that meets the requirements of this section renders the PAL permit invalid.

(5) The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (6)--(12):

(i) Mass balance calculations for activities using coatings or solvents.

(ii) CEMS.

(iii) CPMS or PEMS.

(iv) Emission factors.

(6) An owner or operator of a major facility using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

(i) 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.

(ii) 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.

(iii) If the vendor of a material or fuel used in or at the emissions unit publishes a range of pollutant content from the material, the owner or operator shall use the highest value of the range to calculate the PAL pollutant emissions unless the Department determines, in writing, that there is site-specific data or a site-specific monitoring program to support another content within the range.

(7) An owner or operator of a major facility using a CEMS to monitor PAL pollutant emissions shall meet the following requirements:

(i) The CEMS must comply with applicable Performance Specifications found in 40 CFR Part 60, Appendix B (relating to performance specifications).

(ii) The CEMS must sample, analyze and record data at least every 15 minutes while the emissions unit is operating.

(8) An owner or operator of a major facility using a CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

(i) The CPMS or PEMS must be calibrated based on current site-specific data demonstrating a correlation between the monitored parameters and the PAL pollutant emissions across the range of operation of the emissions unit.

(ii) Each CPMS or PEMS must sample, analyze and record data at least every 15 minutes or other less frequent interval approved in writing by the Department, while the emissions unit is operating.

(9) An owner or operator of a major facility using emission factors to monitor PAL pollutant emissions shall:

(i) Adjust the emission factors to account for the degree of uncertainty or limitations in the development of the factors.

(ii) Operate the emissions unit within the designated range of use for the emission factor, if applicable.

(iii) Conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the Department determines, in writing, that testing is not required.

(10) An owner or operator of a facility shall record and report maximum potential emissions without considering enforceable emissions limitations or operational restrictions for an emissions unit during a period of time that there is no monitoring data, unless another method for determining emissions during these periods is specified in the PAL permit.

(11) If an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameters and the PAL pollutant emissions rate at the operating points of the emissions unit, the Department will, at the time of permit issuance, either:

(i) Establish default values for determining compliance with the PAL permit based on the highest potential emissions reasonably estimated at the operating points.

(ii) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameters and the PAL pollutant emissions is a violation of the PAL permit.

(12) Data used to establish the PAL must be revalidated through performance testing or other scientifically valid means approved in writing by the Department. This testing must occur at least once every 5 years after issuance of the PAL permit.

(n) The following requirements apply to recordkeeping:

(1) The PAL permit must require an owner or operator to retain a copy of all records necessary to determine compliance with a requirement of this section and of the PAL, including a determination of the 12-month rolling total emissions for each emissions unit, for 5 years.

(2) The PAL permit must require an owner or operator to retain a copy of the following records for the duration of the PAL effective period and 5 years after the PAL permit expires:

(i) A copy of the PAL permit application and applications for revisions to the PAL permit.

(ii) Each annual certification of compliance required under Title V of the Clean Air Act (42 U.S.C.A. §§ 7661--7661f) and regulations adopted under the act and the data relied on in certifying the compliance.

(o) The following requirements apply to reporting and notification:

(1) The owner or operator of a major facility shall submit semiannual monitoring reports and prompt deviation reports to the Department in accordance with the Title V operating permit requirements of Chapter 127, Subchapters F and G (relating to operating permit requirements; and Title V operating permits).

(2) The semiannual reports must:

(i) Be submitted to the Department within 30 days of the end of each reporting period.

(ii) Contain the following information:

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

(B) Total annual emissions in tpy based on a 12-month rolling total for each month in the reporting period recorded in compliance with subsection (n)(1).

(C) Data relied upon, including the quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions.

(D) A list of the emissions units modified or added to the major facility during the preceding 6-month period.

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

(F) A notification of a shutdown of a 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, 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 the method included in the permit under subsection (m)(10).

(G) A ~~[compliance certification]~~STATEMENT signed by a responsible official of the company that owns or operates the facility CERTIFYING THE TRUTH, ACCURACY AND COMPLETENESS OF THE INFORMATION PROVIDED IN THE REPORT. ~~[In addition to the certification requirements of this section, the certification must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.]~~

(3) The reports of deviations and exceedances of the PAL requirements, including periods in which no monitoring is available, must:

(i) Be submitted to the Department promptly. A report submitted under Subchapter G (relating to Title V operation permits) satisfies this reporting requirement.

(ii) Contain the following information:

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

(B) The PAL requirement that experienced the deviation or that was exceeded.

(C) Emissions resulting from the deviation or the exceedance.

(D) A ~~[compliance certification]~~STATEMENT signed by a responsible official of the company that owns or operates the facility CERTIFYING THE TRUTH, ACCURACY AND COMPLETENESS OF THE INFORMATION PROVIDED IN THE REPORT. ~~[In addition to the certification requirements of this section, the certification must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.]~~

(4) The owner or operator of a major facility shall submit to the Department the results of any revalidation test or method within 3 months after completion of the test or method.

(p) The Department may modify or supersede any PAL which was established prior to the date of approval of the PAL provisions by the EPA as a revision to the SIP.