

## SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

### PART 1. GENERAL PROVISIONS

#### 252:100-8-1.1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this section, terms used in this Subchapter retain the meaning accorded them under the applicable requirements of the Act.

**"A stack in existence"** means for purposes of OAC 252:100-8-1.5 that the owner or operator had:

- (A) begun, or caused to begin, a continuous program of physical on-site construction of the stack; or
- (B) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

~~"Act" means the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq.~~

~~"Actual emissions" means, except for Parts 7 and 9 of this Subchapter, the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in OAC 252:100-5-2.1(d).~~

~~"Administrator" means the Administrator of the United States Environmental Protection Agency (EPA) or the Administrator's designee.~~

~~"Allowable emissions" means, for purposes of Parts 7 and 9 of this Subchapter, the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:~~

- ~~(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;~~
- ~~(B) the applicable State rule allowable emissions; or,~~
- ~~(C) the emissions rate specified as an enforceable permit condition.~~

**"Begin actual construction"** means:

~~(A) for purposes of Parts 7 and 9 of this Subchapter, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures.~~

~~With respect to a change in method of operation this term refers to those on site activities, other than preparatory activities, which mark the initiation of the change.~~

~~(B) for purposes of Part 5 of this Subchapter, that the owner or operator has begun the construction or installation of the emitting equipment on a pad or in the final location at the facility.~~

~~"Best available control technology" or "BACT" means the control technology to be applied for a major source or modification is the best that is available as determined by the Director on a case by case basis taking into account energy, environmental, and economic impacts and other costs of alternate control systems.~~

~~"Building, structure, facility, or installation" means, for purposes of Parts 7 and 9 of this Subchapter, all of the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two digit code), as described in the Standard Industrial Classification manual, 1972, as amended by the 1977 Supplement.~~

~~"Commence" for purposes of Parts 7 and 9 of this Subchapter means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:~~

~~(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,~~

~~(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.~~

~~"Construction" means, for purposes of Parts 7 and 9 of this Subchapter, any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.~~

~~"Dispersion technique" means for purposes of OAC 252:100-8-1.5 any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric~~

conditions or ambient concentrations of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

(A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.

(B) The merging of exhaust gas streams where:

(i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;

(ii) after July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation; or

(iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.

(C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

**"Emission limitations and emission standards"** means for purposes of OAC 252:100-8-1.5 requirements that limit the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements that limit the

level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction.

~~"Emissions unit" means, for purposes of Parts 7 and 9 of this Subchapter, any part of a source which emits or would have the potential to emit any pollutant subject to regulation.~~

~~"EPA" means the United States Environmental Protection Agency.~~

~~"Fugitive emissions" means, for purposes of Parts 7 and 9 of this Subchapter, those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.~~

~~"National Emission Standards for Hazardous Air Pollutants" or "NESHAP" means those standards found in 40 CFR Parts 61 and 63.~~

~~"Necessary preconstruction approvals or permits" means, for purposes of Parts 7 and 9 of this Subchapter, those permits or approvals required under all applicable air quality control laws and rules.~~

~~"New Source Performance Standards" or "NSPS" means those standards found in 40 CFR Part 60.~~

~~"Part 70 permit" means (unless the context suggests otherwise) any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.~~

~~"Part 70 program" means a program approved by the Administrator under 40 CFR Part 70.~~

~~"Part 70 source" means any source subject to the permitting requirements of Part 5 of this Subchapter, as provided in OAC 252:100-8-3(a) and (b).~~

~~"Potential to emit" means, for purposes of Parts 7 and 9 of this Subchapter, the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.~~

~~"Secondary emissions" means, for purposes of Parts 7 and 9 of this Subchapter, emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or~~

~~modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:~~

- ~~(A) emissions from trains coming to or from the new or modified stationary source; and,~~
- ~~(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification.~~

"Stack" means for purposes of OAC 252:100-8-1.5 any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct but not including flares.

~~"Stationary source" means, for purposes of Parts 7 and 9 of this Subchapter, any building, structure, facility or installation which emits or may emit any air pollutant subject to OAC 252:100.~~

## PART 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS

### 252:100-8-30. Applicability

#### (a) General applicability.

~~(1) The new source requirements of this Part, in addition to the requirements of Parts 1, 3, and 5 of this Subchapter, shall apply to the construction of all any new major stationary sources source and or major modifications modification, as specified in 252:100-8-31 through 252:100-8-33 or any project at an existing major stationary source in an area designated as attainment or unclassifiable under sections 107(d)(1)(A)(ii) or (iii) of the Act. Sources subject to this Part are also subject to the operating permit provisions contained in Part 5 of 252:100-8.~~

~~(2) The requirements of OAC 252:100-8-34 through 252:100-8-36.2 apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this Part otherwise provides.~~

~~(3) No new major stationary source or major modification to which the requirements of OAC 252:100-8-34 through OAC 252:100-8-36.2(b) apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements.~~

~~(4) The requirements of OAC 252:100-8, Parts 1, 3, and 5 also apply to the construction of all new major stationary sources and major modifications.~~

#### (b) Major modification.

~~(1) Major modification applicability determination.~~

(A) Except as otherwise provided in OAC 252:100-8-30(c) and (d), and consistent with the definition of "major modification", a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases:

(i) a significant emissions increase and

(ii) a significant net emissions increase.

(B) The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

**(2) Calculating significant emissions increase and significant net emissions increase before beginning actual construction.**

The procedure for calculating whether a significant emissions increase will occur depends upon the type of emissions units being modified, according to OAC 252:100-8-30(b)(3) through (6). This is the first step in determining if a proposed modification would be considered a major modification. The procedure for calculating whether a significant net emissions increase will occur at the major stationary source is contained in the definition of "net emissions increase". This is the second step in the process of determining if a proposed modification is a major modification. Both steps occur prior to the beginning of actual construction. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

**(3) Actual-to-projected-actual applicability test for projects that only involve existing emissions units.**

A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions for each existing emissions unit, equals or exceeds the amount that is significant for that pollutant.

**(4) Actual-to-potential test for projects that only involve construction of a new emissions unit(s).**

A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the amount that is significant for that pollutant.

**(5) Emission test for projects that involve Clean Units.**

For a project that will be constructed and operated at a Clean

Unit without causing the emissions unit to lose its Clean Unit designation, no emissions increase is deemed to occur.

(6) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in OAC 252:100-8-30(b)(3) through (5) as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the amount that is significant for that pollutant. For example, if a project involves both an existing emissions unit and a Clean Unit, the projected increase is determined by summing the values determined using the method specified in OAC 252:100-8-30(b)(3) for the existing unit and determined using the method specified in 252:100-8-30(b)(5) for the Clean Unit.

(c) Plantwide applicability limitation (PAL). Major stationary sources seeking to obtain or maintain a PAL shall comply with the requirements under OAC 252:100-8-40.

(d) Pollution control project (PCP). An owner or operator undertaking a PCP shall comply with the requirements under OAC 252:100-8-39.

#### **252:100-8-31. Definitions**

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise+.

"Actual emission" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with ~~the following~~ paragraphs (A) through (C) of this definition except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under OAC 252:100-8-40. Instead, the definition of "projected actual emissions" and "baseline actual emissions" shall apply for those purposes+.

(A) In general, actual emissions as of a particular date shall equal the average rate in ~~tons per year~~ tpy at which the unit actually emitted the pollutant during a ~~two-year~~ consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The ~~reviewing authority~~ Director ~~may~~ shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. ~~—Actual emissions~~

~~may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.~~

(B) The ~~reviewing authority~~ Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit ~~which~~ that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

**"Adverse impact on visibility"** means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the DEQ on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with:

(A) times of visitor use of the Federal Class I area; and

(B) the frequency and timing of natural conditions that reduce visibility.

**"Allowable emissions"** means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;

(B) the applicable State rule allowable emissions; or,

(C) the emissions rate specified as an enforceable permit condition.

**"Baseline actual emissions"** means the rate of emissions, in tpy, of a regulated NSR pollutant, as determined in accordance with paragraphs (A) through (C) of this definition.

(A) For any existing emissions unit, baseline actual emissions means the average rate, in tpy, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding the date that a complete permit application is received by the Director for a permit required under OAC 252:100-8. The Director shall allow the use of a different time period, not to exceed 10 years immediately preceding the date that a complete application is received by the Division, upon a determination that it is more representative of normal source operation. The same 24-month period shall be used for all pollutants.

(i) The average rate shall include fugitive emissions to the extent quantifiable, and any authorized emissions associated with start-ups and shutdowns; the average rate

shall not include excess emissions or emissions associated with upsets or malfunctions.

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

(iii) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all pollutants and for all the emissions units affected by the project.

(iv) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tpy, and for adjusting this amount if required by (A)(ii) of this definition.

(B) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

(C) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing emissions units in accordance with the procedures contained in paragraph (A) of this definition and for a new emissions unit in accordance with the procedures contained in paragraph (B) of this definition.

**"Baseline area"** means any interstate areas (and every part thereof) designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1  $\mu\text{g}/\text{m}^3$  (annual average) of the pollutant for which the minor source baseline date is established.

(A) Area redesignations under section 107(d)(1)(D) or (E) of the Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(i) establishes a minor source baseline date; or

(ii) is subject to 40 CFR 52.21 or OAC 252:100-8, Part 7, and would be constructed in the same State as the State proposing the redesignation.

(B) Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that such baseline area shall not remain in effect if the Director rescinds the corresponding minor source baseline date in accordance with paragraph (D) of the definition of "baseline date".

**"Baseline concentration"** means that ambient concentration level ~~which that~~ exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition;

(ii) the allowable emissions of major stationary sources ~~which that~~ commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major source on which construction commenced after the major source baseline date; and,

(ii) actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

**"Baseline date"** ~~means:~~

(A) ~~for major sources,~~ Major source baseline date means:

(i) in the case of particulate matter and sulfur dioxide, January 6, 1975, and,

(ii) in the case of nitrogen dioxide, February 8, 1988; ~~and,~~

(B) ~~for minor sources,~~ Minor source baseline date means the earliest date after the trigger date on which a major stationary source or major modification ~~(subject to 40 CFR 52.21 or OAC 252:100-8, Part 7)~~ submits a complete application. The trigger date is:

(i) in the case of particulate matter and sulfur dioxide, August 7, 1977, and

(ii) in the case of nitrogen ~~oxides~~ dioxide, February 8, 1988.

(C) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(i) the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(i)(D) or (E) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 or under OAC 252:100-8, Part 7; and

(ii) in the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(D) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that the Director may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Director, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM-10 emissions.

**"Begin actual construction"** means in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature.

(A) Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures.

(B) With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

**"Best available control technology"** or **"BACT"** means 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 stationary source or major modification which the Director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR parts 60 and 61. If the Director 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. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design,

equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

"Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology", up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the EPA. The Federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

"Clean Unit" means any emissions unit that has been issued a major NSR permit that requires compliance with BACT or LAER, is complying with such BACT/LAER requirements, and qualifies as a Clean Unit pursuant to OAC 252:100-8-38; or any emissions unit that has been designated by the Director as a Clean Unit, based on the criteria in 252:100-8-38(b)(3)(B)(i) through (iv).

"Commence" means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

~~"Complete" means, in reference to an application for a permit, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.~~

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in actual emissions.

"Continuous emissions monitoring system" or "CEMS" means all of the equipment that may be required to meet the data acquisition and availability requirements to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

"Continuous emissions rate monitoring system" or "CERMS" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

"Continuous parameter monitoring system" or "CPMS" means 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, O<sub>2</sub>, or CO<sub>2</sub> concentrations), and to record average operational parameter value(s) on a continuous basis.

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

"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an EUSGU. There are two types of emissions units as described in paragraphs (A) and (B) of this definition.

(A) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

(B) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (A) of this definition. A replacement unit is an existing unit.

"~~Federal land manager~~ Land Manager" means with respect to any lands in the United States, the Secretary of the department with authority over the ~~Federal Class I area~~ or his representative such lands.

"High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable

reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

"Low terrain" means any area other than high terrain.

~~"Major modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant subject to regulation.~~

(A) Any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source is a major modification.

(Ai) Any net significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds VOC shall be considered significant for ozone.

(Bii) A physical change or change in the method of operation shall not include:

~~(i) routine maintenance, repair and replacement;~~

~~(ii) use of an alternate alternative fuel or raw material by reason of any order under Sections sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;~~

~~(iii) use of an alternate alternative fuel by reason of an order or rule under Section section 125 of the Federal Clean Air Act;~~

~~(iv) use of an alternate alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;~~

~~(v) Use use of an alternate alternative fuel or raw material by a stationary source which-~~

~~(i) the source was capable of accommodating before January 6, 1975, (unless such change would be prohibited under any federally enforceable permit limitation which was established after January 6, 1975) or~~

~~(ii) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7 or 252:100-8;~~

~~(vi) An an increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit limitation condition which was established after January 6, 1975;~~

~~(vii) Any any change in source ownership;~~

(VIII) the addition, replacement, or use of a PCP at an existing emissions unit meeting the requirements of OAC

252:100-8-39 if the replacement control technology provides more effective emission control than that of the replaced control technology;

(IX) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided the project complies with OAC 252:100 and other requirements necessary to attain and maintain the NAAQS during the project and after it is terminated;

(X) the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant (on a pollutant-by-pollutant basis) emitted by the unit; or

(XI) the reactivation of a very clean coal-fired EUSGU.

(B) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under OAC 252:100-8-40 for a PAL for that pollutant. Instead, the definition at 40 CFR 51.166(w)(2)(viii) shall apply.

~~"Major stationary source" means any source which meets any of the following conditions:~~

(A) A major stationary source is:

(Ai) Any ~~any~~ of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 ~~tons per year tpy~~ or more of a regulated NSR pollutant ~~subject to regulation:~~

~~(i)~~ (I) carbon black plants (furnace process),

~~(ii)~~ (II) charcoal production plants,

~~(iii)~~ (III) chemical process plants,

~~(iv)~~ (IV) coal cleaning plants (with thermal dryers),

~~(v)~~ (V) coke oven batteries,

~~(vi)~~ (VI) fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input,

~~(vii)~~ (VII) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,

~~(viii)~~ (VIII) fuel conversion plants,

~~(ix)~~ (IX) glass fiber processing plants,

~~(x)~~ (X) hydrofluoric, sulfuric or nitric acid plants,

~~(xi)~~ (XI) iron and steel mill plants,

~~(xii)~~ (XII) kraft pulp mills,

~~(xiii)~~ (XIII) lime plants,

~~(xiv)~~ (XIV) municipal incinerators capable of charging more than 50 tons of refuse per day,

~~(xv)~~ (XV) petroleum refineries,

~~(xvi)~~ (XVI) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,

- (~~xvii~~XVII) phosphate rock processing ~~plant~~ plants,
- (~~xviii~~XVIII) portland cement plants,
- (~~xix~~XIX) primary aluminum ore reduction plants,
- (~~xx~~XX) primary copper smelters,
- (~~xxi~~XXI) primary lead smelters,
- (~~xxii~~XXII) primary zinc smelters,
- (~~xxiii~~XXIII) secondary metal production plants,
- (~~xxiv~~XXIV) sintering plants,
- (~~xxv~~XXV) sulfur recovery plants, or
- (~~xxvi~~XXVI) taconite ore processing plants.

(Bii) ~~Any~~ any other stationary source not on the list in (A)(i) of this definition which emits, or has the potential to emit, 250 ~~tons per year tpy~~ or more of ~~any a regulated NSR pollutant subject to regulation;~~

(Ciii) ~~Any~~ any physical change that would occur at a stationary source not otherwise qualifying as a major source under (A)(i) and ~~(B) (ii)~~ of this definition if the change would constitute a major stationary source by itself.

(~~DB~~) A major source that is major for ~~volatile organic compounds~~ VOC shall be considered major for ozone.

(C) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Part whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(i) the stationary sources listed in (A)(i) of this definition;

(ii) any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

**"Natural conditions"** mean naturally occurring phenomena against which any changes in visibility are measured in terms of visual range, contrast or coloration.

**"Necessary preconstruction approvals or permits"** mean those permits or approvals required under all applicable air quality control laws and rules.

**"Net emissions increase"** ~~means:~~

(A) Net emissions increase means, with respect to any regulated NSR pollutant emitted by a major stationary source, The ~~the~~ amount by which the sum of the following exceeds zero:

(i) any ~~the~~ increase in ~~actual~~ emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to OAC 252:100-8-30(b); and,

(ii) any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under (A)(ii) of this definition shall be determined as provided in the definition of "baseline actual emissions", except that (A)(iii) of that definition shall not apply.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if: ~~the Executive Director has not relied on it in issuing a permit under OAC 252:100-8, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.~~

(i) it is contemporaneous; and

(ii) the Director has not relied on it in issuing a permit for the source under OAC 252:100-8, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs; and

(iii) the increase or decrease in emissions did not occur at a Clean Unit, except as provided in OAC 252:100-8-38(b)(10).

(D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides ~~which that~~ occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(F) A decrease in actual emissions is creditable only to the extent that it meets all the conditions in (F)(i) through (iv) of this definition+.

(i) It is creditable if the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions+.

(ii) It is creditable if it is enforceable as a practical matter at and after the time that actual construction on the particular change begins+.

(iii) It is creditable if it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(iv) It is creditable if the decrease in actual emissions did not result from the installation of add-on control

technology or application of pollution prevention practices that were relied on in designating an emissions unit as a Clean Unit under 40 CFR 52.21(y) or under OAC 252:100-8-38 or 252:100-8-56. That is, once an emissions unit has been designated as a Clean Unit, the owner or operator cannot later use the emissions reduction from the air pollution control measures that the Clean Unit designation is based on in calculating the net emissions increase for another emissions unit (i.e., must not use that reduction in a "netting analysis" for another emissions unit). However, any new emissions reductions that were not relied upon in a PCP excluded pursuant to OAC 252:100-8-39 or for the Clean Unit designation are creditable to the extent they meet the requirements in 252:100-8-39(f)(4) for the PCP and 252:100-8-38(b)(10) for a Clean Unit.

(G) An increase that results from a physical change at a source occurs when the ~~emission~~ emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. ~~Any replacement~~ unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(H) Paragraph (A) of the definition of "actual emissions" shall not apply for determining creditable increases and decreases.

"Pollution control project" or "PCP" means any activity, set of work practices or project (including pollution prevention) undertaken at an existing emissions unit that reduces emissions of air pollutants from such unit. Such qualifying activities or projects can include the replacement or upgrade of an existing emissions control technology with a more effective unit. Other changes that may occur at the source are not considered part of the PCP if they are not necessary to reduce emissions through the PCP. Projects listed in paragraphs (A) through (F) of this definition carry the rebuttable presumption during the permitting process that they are environmentally beneficial pursuant to OAC 252:100-8-39(c)(1) and the Director has the authority to rebut such presumption and determine that the project is not environmentally beneficial and the project does not qualify as a PCP. Projects not listed in these paragraphs may qualify for a case-specific PCP exclusion pursuant to the requirements of OAC 252:100-8-39(c) and (e).

(A) Conventional or advanced flue gas desulfurization or sorbent injection for control of SO<sub>2</sub>.

(B) Electrostatic precipitators, baghouses, high efficiency multiclones, or scrubbers for control of particulate matter or other pollutants.

(C) Flue gas recirculation, low-NO<sub>x</sub> burners or combustors, selective non-catalytic reduction, selective catalytic

reduction, low emission combustion (for IC engines), and oxidation/absorption catalyst for control of NO<sub>x</sub>.

(D) Regenerative thermal oxidizers, catalytic oxidizers, condensers, thermal incinerators, hydrocarbon combustion flares, biofiltration, absorbers and adsorbers, and floating roofs for storage vessels for control of VOC or HAP. For the purpose of PCP procedural requirements, "hydrocarbon combustion flare" means either a flare used to comply with an applicable NSPS or MACT standard (including uses of flares during start-up, shutdown, or malfunction permitted under such a standard), or a flare that serves to control emissions of waste streams comprised predominately of hydrocarbons and containing no more than 230 mg/dscm hydrogen sulfide.

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

(i) switching from a heavier grade of fuel oil to a lighter fuel oil, or any grade of oil to 0.05% sulfur diesel (i.e., from a higher sulfur content #2 fuel or from #6 fuel, to CA 0.05% sulfur #2 diesel);

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

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

(iv) switching from coal to #2 fuel oil (0.5% maximum sulfur content); and

(v) switching from high sulfur coal to low sulfur coal (maximum 1.2% sulfur content).

(F) Activities or projects undertaken to accommodate switching from the use of one ozone depleting substance (ODS) to the use of a substance with a lower or zero ozone depletion potential (ODP), including changes to equipment needed to accommodate the activity or project, that meet the requirements of (F)(i) and (ii) of this definition.

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

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

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

(II) Calculate the replaced ODP-weighted amount by multiplying the baseline actual usage (using the

annualized average of any 24 consecutive months of usage within the past 10 years) by the ODP of the replaced ODS. (III) Calculate the projected ODP-weighted amount by multiplying the projected annual usage of the new substance by its ODP.

(IV) If the value calculated in (F)(ii)(II) of this definition is more than the value calculated in (F)(ii)(III) of this definition, then the projected use of the new substance is lower, on an ODP-weighted basis, than the baseline usage of the replaced ODS.

**"Pollution prevention"** means any activity that through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants (including fugitive emissions) and other pollutants to the environment prior to recycling, treatment, or disposal; it does not mean recycling (other than certain "in-process recycling" practices), energy recovery, treatment, or disposal.

**"Potential to emit"** means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

**"Predictive emissions monitoring system" or "PEMS"** means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O<sub>2</sub>, or CO<sub>2</sub> concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

**"Prevention of Significant Deterioration (PSD) program"** means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of 40 CFR 51.166, or the program in 40 CFR 52.21. Any permit issued under such a program is a major NSR permit.

**"Project"** means a physical change in, or change in method of operation of, an existing major stationary source.

**"Projected actual emissions"**

(A) Projected actual emissions means 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 5 years (12-month period) following the date the unit resumes regular

operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant.

(B) In determining the projected actual emissions under paragraph (A) of this definition (before beginning actual construction), the owner or operator of the major stationary source:

(i) shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans under the approved plan; and

(ii) shall include fugitive emissions to the extent quantifiable and emissions associated with start-ups, shutdowns, and malfunctions; and

(iii) shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,

(iv) in lieu of using the method set out in (B)(i) through (iii) of this definition, may elect to use the emissions unit's potential to emit, in tpy.

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

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

(B) was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;

(C) is equipped with low-NO<sub>x</sub> burners prior to the time of commencement of operations following reactivation; and

(D) is otherwise in compliance with the requirements of the Act.

**"Regulated NSR pollutant"**

(A) A regulated NSR pollutant is:

(i) any pollutant for which a NAAQS has been promulgated and any constituents or precursors for such pollutants identified by the Administrator (e.g., VOC are precursors for ozone);

(ii) any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) any Class I or II substance subject to a standard promulgated under or established by title VI of the Act; or

(iv) any pollutant that otherwise is subject to regulation under the Act.

(B) Regulated NSR pollutant does not include:

(i) any or all HAP either listed in section 112 of the Act or added to the list pursuant to section 112(b)(2) of the Act, which have not been delisted pursuant to section 112(b)(3) of the Act, unless the listed HAP is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act; or

(ii) any pollutant that is regulated only under 112(r) of the Act.

"Replacement unit" means an emissions unit for which all the criteria listed in paragraphs (A) through (C) of this definition are met. No creditable emission reduction shall be generated from shutting down the existing emissions unit that is replaced.

(A) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

(B) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(C) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operating by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

**"Repowering"**

(A) Repowering shall mean the replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other

technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(B) Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

(C) The Director shall give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under section 409 of the Act.

**"Significant"~~means:~~**

(A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, significant means a rate of emissions that would equal or exceed any of the following rates:

- (i) carbon monoxide: ~~100 tons per year (tpy)~~ tpy,
- (ii) nitrogen oxides: 40 tpy,
- (iii) sulfur dioxide: 40 tpy,
- (iv) particulate matter: 25 tpy of particulate matter emissions or 15 tpy of PM-10 emissions,
- (v) ozone: 40 tpy of ~~volatile organic compounds~~ VOC,
- (vi) lead: 0.6 tpy,
- ~~(vii) asbestos: 0.007 tpy,~~
- ~~(viii) beryllium: 0.0004 tpy,~~
- ~~(ix) mercury: 0.1 tpy,~~
- ~~(x) vinyl chloride: 1 tpy,~~
- ~~(xvii) fluorides: 3 tpy,~~
- ~~(xviii) sulfuric acid mist: 7 tpy,~~
- ~~(xix) hydrogen sulfide (H<sub>2</sub>S): 10 tpy,~~
- ~~(xx) total reduced sulfur (including H<sub>2</sub>S): 10 tpy, ~~and~~~~
- ~~(xxi) reduced sulfur compounds (including H<sub>2</sub>S): 10 tpy, ,~~
- (xii) municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.5 x 10<sup>-6</sup> tpy,
- (xiii) municipal waste combustor metals (measured as particulate matter): 15 tpy,
- (xiv) municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 40 tpy,
- (xv) municipal solid waste landfill emissions (measured as nonmethane organic compounds): 50 tpy.

(B) Notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 6 miles of a Class

I area, and have an impact on such area equal to or greater than 1 µg/m<sup>3</sup> (24-hour average).

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

"Significant net emissions increase" means a significant emissions increase and a net increase.

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

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Oklahoma Air Pollution Control Rules and other requirements necessary to attain and/or maintain the NAAQS during and after the project is terminated.

"Visibility impairment" means any humanly perceptible reduction in visibility (visual range, contrast, and coloration) from that which would have existed under natural conditions.

#### **252:100-8-32. Source applicability determination [REVOKED]**

~~Proposed new sources and source modifications to which this Part is applicable are determined by size, geographical location and type of emitted pollutants.~~

~~(1) **Size.**~~

~~(A) Permit review will apply to sources and modifications that emit any regulated pollutant in major amounts. These quantities are specified in the definitions for major stationary source, major modification, potential to emit, net emissions increase, significant and other associated definitions in 252:100-8-31, 252:100-8-1.1, and 252:100-1.~~

~~(B) When a source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation established after August 7, 1980, on the capacity of the source or modification to emit a pollutant, such as a restriction on hours of operation, then the requirements of 252:100-8, Parts 1, 3, 5, and 7 shall apply to that source or modification as though construction had not yet commenced on it.~~

~~(2) **Location.**~~

~~(A) Sources and modifications which are major in size and proposed for construction in an area which has been designated as attainment or unclassified for any applicable ambient air standard are subject to the PSD requirements.~~

~~(B) Those sources and modifications locating in an attainment or unclassified area but impacting on a nonattainment area may also be subject to the requirements~~

~~for major sources affecting nonattainment areas in 252:100-8, Part 9.~~

**252:100-8-32.1. Ambient air increments and ceilings**

(a) Ambient air increments. Increases in pollutant concentration over the baseline concentration in Class I, II, or III areas shall be limited to those listed in OAC 252:100-3-4 regarding significant deterioration increments.

(b) Ambient air ceilings. No concentration of a pollutant shall exceed whichever of the following concentrations is lowest for the pollutant for a period of exposure:

- (1) the concentration allowed under the secondary NAAQS, or
- (2) the concentration permitted under the primary NAAQS.

**252:100-8-32.2. Exclusion from increment consumption**

(a) The following cases are excluded from increment consumption.

(1) Concentrations from an increase in emissions from any stationary source converting from the use of petroleum products, natural gas, or both by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act shall be excluded.

(A) Such exclusion is limited to five years after the effective date of the order or plan whichever is applicable.

(B) If both an order and a plan are applicable, the exclusion shall not apply more than five years after the later of the effective dates.

(2) Emissions of particulate matter from construction or other temporary emission-related activities of new or modified sources shall be excluded.

(3) A temporary increase of sulfur dioxide, particulate matter, or nitrogen oxides from any stationary source by order or authorized variance shall be excluded. For purposes of this exclusion any such order or variance shall:

(A) specify the time over which the temporary emissions increase would occur (not to exceed 2 years in duration unless a longer time is approved by the Director);

(B) specify that the exclusion is not renewable;

(C) allow no emissions increase from a stationary source which would impact a Class I area or an area where an applicable increment is known to be violated or cause or contribute to the violation of a NAAQS; and

(D) require limitations to be in effect by the end of the time period specified in such order or variance, which would ensure that the emissions levels from the stationary source

affected would not exceed those levels occurring from such source before the order or variance was issued.

### **252:100-8-32.3. Stack heights**

(a) Emission limitation of any air pollutant under this Part shall not be affected in any manner by:

(1) stack height of any source that exceeds good engineering practice, or

(2) any other dispersion technique.

(b) OAC 252:100-8-32.3(a)(1) and (2) shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

### **252:100-8-33. Exemptions**

(a) Exemptions from ~~PSD~~ the requirements of OAC 252:100-8-34 through 252:100-8-36.2. ~~PSD requirements do not apply to a particular source or modification if:~~

(1) The requirements of OAC 252:100-8-34 through 252:100-8-36.2 do not apply to a particular major stationary source or major modification if the source or modification is:

~~(1A) It is a nonprofit health or educational institution;~~  
~~or~~

~~(2B) The source is major by virtue of only if fugitive emissions, to the extent quantifiable, are included in calculating the potential to emit and such source is not a source other than:~~

~~— (A) One one of the categories listed in ~~(A)(i) through (xxvi) paragraph (C) under of the definition of "Major stationary source" in OAC 252:100-8-31;~~ or~~

~~— (B) A stationary source category which, as of August 7, 1980, is being regulated by NSPS or NESHAP.~~

~~(3C) The source or modification is a portable stationary source which has previously received a permit under the PSD requirements contained in OAC 252:100-8-34 through 252:100-8-36.2 and proposes to relocate to a temporary new location from which its emissions would not impact a Class I area or an area where an applicable increment is known to be violated.~~

(2) The requirements in OAC 252:100-8-34 through 252:100-8-36.2 do not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that the source or modification is located in an area designated as nonattainment for that pollutant under section 107 of the Act.

(b) Exemption from air quality impact ~~evaluation~~ analyses in OAC 252:100-8-35(a) and (c) and 252:100-8-35.2.

(1) The requirements of OAC 252:100-8-35(a) and (c) and 252:100-8-35.2 are not applicable with respect to a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a modification, ~~with respect to a particular pollutant,~~ would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(2) The requirements of OAC 252:100-8-35(a) and (c) and 252:100-8-35.2 as they relate to any PSD increment for a Class II area ~~do are not applicable apply~~ to the emissions, with respect to a particular pollutant, to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant, from the modification after the application of BACT, would be less than 50 ~~tons per year tpy~~.

(c) **Exemption from monitoring air quality analysis requirements in OAC 252:100-8-35(c).**

(1) The monitoring requirements of OAC 252:100-8-35(c) regarding air quality analysis are not applicable for a particular pollutant if the emission increase of the pollutant from a ~~new proposed major stationary~~ source or the net emissions increase of the pollutant from a major modification would cause, in any area, air quality impacts less than the following ~~listed amounts, or are pollutant concentrations that are not on the list.:~~

(A) Carbon monoxide - 575  $\mu\text{g}/\text{m}^3$ , 8-hour average,

(B) Nitrogen dioxide - 14  $\mu\text{g}/\text{m}^3$ , annual average,

(C) Particulate matter - 10  $\mu\text{g}/\text{m}^3$ , TSP or PM-10, 24-hour average, ~~or 10  $\mu\text{g}/\text{m}^3$  PM-10, 24-hour average,~~

(D) Sulfur dioxide - 13  $\mu\text{g}/\text{m}^3$ , 24-hour average,

(E) Ozone ~~-- see (N) below~~ no de minimis air quality level is provided for ozone, however any net increase of 100 tpy or more of VOC subject to PSD would require an ambient impact analysis, including the gathering of ambient air quality data,

(F) Lead - 0.1  $\mu\text{g}/\text{m}^3$ , 24-hour 3-month average,

~~(G) Mercury - 0.25  $\mu\text{g}/\text{m}^3$ , 24-hour average,~~

~~(H) Beryllium - 0.001  $\mu\text{g}/\text{m}^3$ , 24-hour average,~~

~~(IG) Fluorides - 0.25  $\mu\text{g}/\text{m}^3$ , 24-hour average,~~

~~(J) Vinyl chloride - 15  $\mu\text{g}/\text{m}^3$ , 24-hour average,~~

~~(KH) Total reduced sulfur - 10  $\mu\text{g}/\text{m}^3$ , 1-hour average,~~

~~(LI) Hydrogen sulfide - 0.2  $\mu\text{g}/\text{m}^3$ , 1-hour average, or~~

~~(MJ) Reduced sulfur compounds - 10  $\mu\text{g}/\text{m}^3$ , 1-hour average,~~  
or

~~(N) No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required~~

~~to perform an ambient impact analysis, including the gathering of ambient air quality data.~~

~~(2) The pollutant is not listed in preceding OAC 252:100-8-33(c)(1).~~

~~(2) The requirements for air quality monitoring in OAC 252:100-8-35(b), (c) and (d)(2) shall not apply to a source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted before June 8, 1981 and the Director subsequently determined that the application was complete except for OAC 252:100-8-35(b), (c) and (d)(2). Instead, the requirements in 40 CFR 52.21(m)(2) as in effect on June 19, 1978, shall apply to such source or modification.~~

~~(3) The requirements for air quality monitoring in OAC 252:100-8-35(b), (c), and (d)(2) shall not apply to a source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted before June 8, 1981 and the Director subsequently determined that the application as submitted was complete, except for the requirements in OAC 252:100-8-35(b), (c) and (d)(2).~~

~~(4) The Director shall determine if the requirements for air quality monitoring of PM 10 in OAC 252:100-8-35(a) through (c) and OAC 252:100-8-35(d)(2) may be waived for a source or modification when an application for a permit was submitted on or before June 1, 1988 and the Director subsequently determined that the application, except for the requirements for monitoring particulate matter under OAC 252:100-8-35(a) through (c) and OAC 252:100-8-35(d)(2), was complete before that date.~~

~~(5) The requirements for air quality monitoring of PM 10 in OAC 252:100-8-35(b), (c), (d)(2) and (d)(6) shall apply to a source or modification if an application for a permit was submitted after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions of OAC 252:100-8-33(b)(1), except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC 252:100-8-35(b)(1) and OAC 252:100-8-35(c) shall have been gathered over that shorter period.~~

**(d) Exemption from monitoring requirements in OAC 252:100-8-35(c)(1)(B) and (D).**

(1) The requirements for air quality monitoring in OAC 252:100-8-35(c)(1)(B) and (D) shall not apply to a particular

source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted on or before June 8, 1981, and the Director subsequently determined that the application was complete except for the requirements in OAC 252:100-8-35(c)(1)(B) and (D). Instead, the requirements in 40 CFR 52.21(m)(2) as in effect on June 19, 1978, shall apply to any such source or modification.

(2) The requirements for air quality monitoring in OAC 252:100-8-35(c)(1)(B) and (D) shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted on or before June 8, 1981, and the Director subsequently determined that the application as submitted was complete, except for the requirements in OAC 252:100-8-35(c)(1)(B) and (D).

(e) **Exemption from the preapplication analysis required by OAC 252:100-8-35(c)(1)(A), (B), and (D).**

(1) The Director shall determine if the requirements for air quality monitoring of PM-10 in OAC 252:100-8-35(c)(1)(A), (B), and (D) may be waived for a particular source or modification when an application for a PSD permit was submitted on or before June 1, 1988, and the Director subsequently determined that the application, except for the requirements for monitoring particulate matter under OAC 252:100-8-35(c)(1)(A), (B), and (D), was complete before that date.

(2) The requirements for air quality monitoring of PM-10 in OAC 252:100-8-35(c)(1)(B)(i), 252:100-8-35(c)(1)(D), and 252:100-8-35(c)(3) shall apply to a particular source or modification if an application for a permit was submitted after June 1, 1988, and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988, to the date the application becomes otherwise complete in accordance with the provisions of OAC 252:100-8-35(c)(1)(C), except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC 252:100-8-35(c)(1)(B)(ii) shall have been gathered over that shorter period.

(~~f~~) **Exemption from BACT requirements and monitoring air quality analyses requirements.** If a complete permit application for a source or modification was submitted before August 7, 1980, the requirements for BACT in OAC 252:100-8-34 and the requirements for ~~monitoring air quality analyses~~ in ~~OAC 252:100-8-35(a) through (c) and OAC 252:100-8-35(d)(2) through (4)~~ 252:100-8-35(c)(1) are not applicable to a particular stationary source or modification that was subject to 40 CFR 52.21 as in effect on

June 19, 1978. Instead, the federal requirements at 40 CFR 52.21 (j) and (n) as in effect on June 19, 1978, are applicable to any such source or modification.

~~(e) **Exemption of modifications.** As specified in the applicable definitions of OAC 252:100-8-31, 252:100-8-1.1, and 252:100-1, the requirements of OAC 252:100-8, Part 7 for PSD and OAC 252:100-8, Part 9 for nonattainment areas are not applicable to a modification if the existing source was not major on August 7, 1980 unless the proposed addition to that existing minor source is major in its own right.~~

~~(f) **Exemption from impact analyses OAC 252:100-8-35(a)(2).** The permitting requirements of OAC 252:100-8-35 and OAC 252:100-8-36 OAC 252:100-8-35(a)(2) do not apply to a stationary source or modification with respect to any maximum allowable increase PSD increment for nitrogen oxides if the owner or operator of the source or modification submitted a completed—complete application for a permit before February 8, 1988.~~

~~(g) **Exemption from increment consumption.** Excluded from increment consumption are the following cases:~~

~~(1) Concentrations from an increase in emissions from any source converting from the use of petroleum products, natural gas, or both by reason of any order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act. Such exclusion is limited to five years after the effective date of the order or plan.~~

~~(2) Emissions of particulate matter from construction or other temporary emission-related activities of new or modified sources.~~

~~(3) A temporary increase of sulfur dioxide, particulate matter, or nitrogen oxides by order or authorized variance from any source.~~

**252:100-8-34. Best available control technology Control technology review**

~~(a) **Requirement to comply with rules and regulations.** A major stationary source or major modification shall meet each applicable emissions limitation under the Air Quality Rules and each applicable emission standard and standard of performance under 40 CFR parts 60 and 61.~~

~~(b) **Requirement to apply best available control technology (BACT).**~~

~~(a1) A new major stationary source must demonstrate that the control technology to be applied is the best that is available (i.e., BACT as defined herein shall apply BACT for each~~

regulated NSR pollutant that it would have the potential to emit in significant amounts).

~~(b2)~~ A major modification ~~must demonstrate that the control technology to be applied is the best that is available shall apply BACT~~ for each regulated NSR pollutant for which it would be a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

~~(c) The determination of best available control technology shall be made on a case by case basis taking into account costs and energy, environmental and economic impacts.~~

~~(d3)~~ For phased construction projects, the determination of ~~best available control technology BACT~~ shall be reviewed and modified at the discretion of the ~~Executive~~ Director at a reasonable time, but no later than 18 months prior to commencement of construction of each independent phase of the project. At such time the owner or operator may be required to demonstrate the adequacy of any previous determination of ~~best available control technology BACT~~.

#### **252:100-8-35. Air quality impact evaluation**

##### **(a) Source impact analysis (impact on NAAQS and PSD increment).**

The owner or operator of the proposed source or modification shall demonstrate that, as of the source's start-up date, allowable emissions increase from that source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions) would not cause or contribute to any increase in ambient concentrations that would exceed:

- (1) any NAAQS in any air quality control region; or
- (2) the remaining available PSD increment for the specified air contaminants as determined by the Director.

##### **(b) Air quality models.**

(1) All estimates of ambient concentrations required under this Part shall be based on the applicable air quality models, data bases, and other requirements specified in appendix W of 40 CFR 51 (Guideline on Air Quality Models).

(2) Where an air quality model specified in appendix W of 40 CFR 51 (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model substituted, as approved by the Director. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis.

##### **(c) Air quality analysis.**

**(1) Preapplication analysis.**

~~(aA) Application contents~~ **Ambient air quality analysis.**

Any application for a permit under this Part shall contain, as the ~~Executive~~ Director determines appropriate, an ~~evaluation~~ analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

- ~~(1i)~~ for a new source, each regulated pollutant that it would have the potential to emit in a significant amount;
- ~~(2ii)~~ for a major modification, each regulated pollutant for which it would result in a significant net emissions increase.

**(B) Monitoring requirements.**

(i) Non-NAAQS pollutants. For any such pollutant for which no NAAQS exists, the analysis shall contain such air quality monitoring data as the Director determines is necessary to assess the ambient air quality for that pollutant in that area.

(ii) NAAQS pollutants. For visibility and any pollutant, other than VOC, for which a NAAQS does exist, the analysis shall contain continuous air quality monitoring data gathered to determine if emissions of that pollutant would cause or contribute to a violation of the NAAQS or any PSD increment.

~~(b) Continuous monitoring data.~~ For visibility and any pollutant, other than volatile organic compounds, for which an ambient air quality standard exists, the evaluation shall contain continuous air quality monitoring data gathered to determine whether emissions of that pollutant would cause or contribute to a violation of the applicable ambient air quality standard. For any such pollutant for which a standard does not exist, the monitoring data required shall be that which the Executive Director determines is necessary to assess the ambient air quality for that pollutant in that area. (Amended 7-9-87, effective 8-10-87)

~~(c) Increment consumption.~~ The evaluation shall demonstrate that, as of the source's start-up date, the increase in emissions from that source, in conjunction with all other applicable emissions increases or reductions of that source, will not cause or contribute to any increase in ambient concentrations exceeding the remaining available PSD increment for the specified air contaminants as determined by the Executive Director.

~~(d) Monitoring.~~

~~(1C)~~ **Monitoring method.** With respect to any requirements for air quality monitoring of PM-10 under ~~252:100-8-~~

~~33(c)(4) and 252:100-8-33(c)(5)~~ OAC 252:100-8-33(e)(1) and (2), the owner or operator of the source or modification shall use a monitoring method approved by the ~~Executive~~ Director and shall estimate the ambient concentrations of PM-10 using the data collected by such approved monitoring method in accordance with estimating procedures approved by the ~~Executive~~ Director.

~~(2D)~~ **Monitoring period.** In general, The—the required continuous air monitoring data shall have been gathered ~~for a time over a~~ period of ~~up to~~ one year and shall represent the year preceding submission of the application. Ambient monitoring data—collected for a time gathered over a period shorter than one year (but no less than four months) or for a time period other than immediately preceding the application, may be acceptable if such data are determined by the ~~Executive~~ Director to be within the time period that maximum pollutant concentrations would occur, and to be complete and adequate for determining whether the source or modification will cause or contribute to a violation of any applicable ~~ambient air quality standard~~ NAAQS or consume more than the remaining available PSD increment.

~~(3E)~~ **Monitoring period exceptions.**

~~(Ai)~~ Exceptions for applications that became effective between June 8, 1981, and February 9, 1982. For any application which ~~becomes~~ became complete except ~~as to~~ for the monitoring requirements of ~~252:100-8-35(b) through 252:100-8-35(e) and 252:100-8-35(d)(2)~~ OAC 252:100-8-35(c)(1)(B)(ii) and 252:100-8-35(c)(1)(D), between June 8, 1981, and February 9, 1982, the data that ~~252:100-8-35(b) and 252:100-8-35(e) require~~ 252:100-8-35(c)(1)(B)(ii) requires shall have been gathered over the period from February 9, 1981, to the date the application becomes otherwise complete, except that:

~~(iI)~~ If the source or modification would have been major for that pollutant under 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over the period required by those regulations.

~~(iiII)~~ If the ~~Executive~~ Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period, not to be less than four months, the data that ~~252:100-8-35(b) and 252:100-8-35(e)~~ OAC 252:100-8-35(c)(1)(B)(ii) require—requires shall have been gathered over that shorter period.

(~~iii~~III) If the monitoring data would relate exclusively to ozone and would not have been required under 40 CFR 52.21 as in effect on June 19, 1978, the ~~Executive~~ Director may waive the otherwise applicable requirements of ~~252:100-8-35(d)(3)(A)~~ OAC 252:100-8-35(c)(1)(E)(i) to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

(Bii) Monitoring period exception for PM-10. For any application that ~~becomes~~ became complete, except ~~as to~~ for the requirements of ~~252:100-8-35(b), (c) and (d)(2)~~ OAC 252:100-8-35(c)(1)(B)(ii) and 252:100-8-35(c)(1)(D) pertaining to monitoring of PM-10, after December 1, 1988, and no later than August 1, 1989, the data that ~~252:100-8-35(b) and (c)~~ 252:100-8-35(c)(1)(B)(ii) require requires shall have been gathered over at least the period from August 1, 1988, to the date the application becomes otherwise complete, except that if the ~~Executive~~ Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not ~~to be~~ less than 4 months), the data that ~~252:100-8-35(b) and (c)~~ 252:100-8-35(e) 252:100-8-35(c)(1)(B)(ii) require requires shall have been gathered over that shorter period.

(4F) Ozone post-approval monitoring. The ~~application for~~ owner or operator of a proposed major stationary source or major modification of ~~volatile organic compounds~~ VOC which who satisfies all conditions of OAC 252:100-8-54 may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under ~~252:100-8-35~~ OAC 252:100-8-35(c)(1).

(5) Post-construction monitoring. The ~~applicant for a~~ permit for owner or operator of a new major stationary source or major modification shall conduct, after construction, such ambient monitoring and visibility monitoring as the ~~Executive~~ Director determines is necessary to determine the effect its emissions may have, or are having, on air quality in any area. (~~Amended 7-9-87, effective 8-10-87~~)

(6) ~~Monitoring system operation~~ Operation of monitoring stations. The operation of monitoring stations for any air quality monitoring required under this Part ~~7 of this~~ Subchapter shall meet the requirements of 40 CFR 58 Appendix B.

~~(c) Air quality models.~~

~~(1) Any air quality dispersion modeling that is required under Part 7 of this Subchapter for estimates of ambient~~

~~concentrations shall be based on the applicable air quality models, data bases and other requirements specified in the Guidelines on Air Quality Models, OAQPS 1.2-080, U.S. Environmental Protection Agency, April, 1978 and subsequent revisions.~~

~~(2) Where an air quality impact model specified in the Guidelines on Air Quality Models is inappropriate, the model may be modified or another model substituted, as approved by the Executive Director. Methods like those outlined in the Workbook for the Comparison of Air Quality Models, U.S. Environmental Protection Agency, April, 1977 and subsequent revisions, can be used to determine the comparability of air quality models.~~

~~(f) **Growth analysis.** Upon request of the Executive Director the permit application shall provide information on the nature and extent of any or all general commercial, residential, industrial and other growth which has occurred since August 7, 1977 in the area the source or modification would affect. The permit application shall also contain an analysis of the air quality impact projected for the area as a result of general commercial, residential and other growth associated with the source or modification.~~

~~(g) **Visibility and other impacts analysis.** The permit application shall provide an analysis of the impairment to visibility, soils and vegetation as a result of the source or modification. The Executive Director may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the Executive Director deems necessary and appropriate. (Amended 7-9-87, effective 8-10-87)~~

#### **252:100-8-35.1. Source information**

~~(a) The permit application for a proposed new major stationary source or major modification subject to this Part shall contain the construction permit application content requirements in OAC 252:100-8-4.~~

~~(b) In addition to the requirements of OAC 252:100-8-35.1(a), the owner or operator of a proposed new major stationary source or major modification subject to this Part shall supply the following information in the permit application.~~

~~(1) The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under this Part.~~

~~(2) The permit application shall contain a detailed description of the system of continuous emission reduction planned for the source or modification, emission estimates,~~

and any other information necessary to determine that BACT as applicable would be applied.

(3) Upon request of the Director, the owner or operator shall also provide information on:

(A) the air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

(B) the air quality impacts and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.

#### **252:100-8-35.2. Additional impact analyses**

(a) **Growth analysis.** The permit application shall provide an analysis of the projected air quality impact and impairment to visibility, soils, and vegetation as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification.

(b) **Visibility monitoring.** The Director may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the Director deems necessary and appropriate.

#### **252:100-8-36. Source impacting Class I areas**

(a) ~~Permits issuance~~ **Class I area variance.** Permits may be issued at variance to the limitations imposed on a Class I area in compliance with the procedures and limitations established in State and Federal Clean Air Acts.

(b) ~~Impact analysis required~~ **Notice to Federal Land Managers.**

(1) ~~The permit application for a proposed new source or modification will contain an analysis on the impairment of visibility and an assessment of any anticipated adverse impacts on soils and vegetation in the vicinity of the source resulting from construction of the source. The Executive Director shall notify~~ provide written notice to the appropriate Federal Land Manager of the receipt of any ~~such analysis~~ permit application for a proposed major stationary source or major modification, emissions from which may affect a Class I area and include a complete copy of the permit application. Any analysis performed by the Land Manager shall be considered by the Executive Director provided that the analysis is filed with the DEQ within 30 days of receipt of the application by the Land Manager. Where the Executive Director finds that such an analysis does not demonstrate to the satisfaction of the Executive Director that an adverse impact on visibility will result in the Federal Class I area,

~~the Executive Director will, in any notice of public hearing on the permit application, either explain his decision or give notice as to where the explanation can be obtained. Further, upon presentation of good and sufficient information by a Federal Land Manager, the Executive Director may deny the issuance of a permit for a source, emissions from which will adversely impact areas heretofore or hereafter categorized as Class I areas even though the emissions would not cause the increment for such Class I areas to be exceeded.~~

~~(2) The permit application will contain an analysis on the impairment of visibility and an assessment of any anticipated adverse impacts on soils and vegetation in the vicinity of the source resulting from construction of the source.~~

~~(c) **Visibility analysis.** Any analysis performed by the Federal Land Manager shall be considered by the Director provided that the analysis is filed with the DEQ within 30 days of receipt of the application by the Federal Land Manager. Where the Director finds that such an analysis does not demonstrate to the satisfaction of the Director that an adverse impact on visibility will result in the Federal Class I area, the Director will, in any notice of public hearing on the permit application, either explain the decision or give notice as to where the explanation can be obtained.~~

~~(d) **Permit denial.** Upon presentation of good and sufficient information by a Federal Land Manager, the Director may deny the issuance of a permit for a source, if the emissions will adversely impact areas categorized as Class I areas even though the emissions would not cause the increment for such Class I areas to be exceeded.~~

#### **252:100-8-36.1. Public participation**

~~See OAC 252:4-7 and O.S. §§ 27A-2-24-303 and 27A-2-14-304(B) & (C).~~

#### **252:100-8-36.2. Source obligation**

~~(a) **Obtaining and complying with preconstruction permits.** Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this Part or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this Part who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.~~

~~(b) **Consequences of relaxation of permit requirements.** When a source or modification becomes major solely by virtue of a relaxation in any enforceable permit limitation established after August 7, 1980, on the capacity of the source or~~

modification to emit a pollutant, such as a restriction on hours of operation, then the requirements of OAC 252:100-8, Parts 1, 3, 5, and 7 and OAC 252:100-8-34 through 252:100-8-37 shall apply to that source or modification as though construction had not yet commenced on it.

(c) Requirements when using projected actual emissions. The following specific provisions apply to projects at existing emissions units at a major stationary source (other than projects at a Clean Unit or at a source with a PAL) when there is a reasonable possibility that a project that is not part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in (B)(i) through (iii) of the definition of "projected actual emissions" for calculating projected actual emissions.

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

(A) A description of the project;

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

(C) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under (B)(iii) of the definition of "projected actual emissions" and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(2) If the emissions unit is an existing EUSGU, before beginning actual construction, the owner or operator shall provide a copy of the information set out in OAC 252:100-8-36.2(c)(1) to the Director. Nothing in OAC 252:100-8-36.2(c)(2) shall be construed to require the owner or operator of such a unit to obtain any determination from the Director before beginning actual construction.

(3) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in OAC 252:100-8-36.2(c)(1)(B); and calculate and maintain a record of the annual emissions, in tpy on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if

the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.

(4) If the unit is an existing EUSGU, the owner or operator shall submit a report to the Director within 60 days after the end of each year during which records must be generated under OAC 252:100-8-36.2(c)(3) setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(5) If the unit is an existing unit other than an EUSGU, the owner or operator shall submit a report to the Director if the annual emissions, in tpy, from the project identified in OAC 252:100-8-36.2(c)(1), exceed the baseline actual emissions (as documented and maintained pursuant to 252:100-8-36.2(c)(1)(C)) by an amount that is significant for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to OAC 252:100-8-36.2(c)(1)(C). Such report shall be submitted to the Director within 60 days after the end of such year. The report shall contain the following:

(A) The name, address and telephone number of the major stationary source;

(B) The annual emissions as calculated pursuant to OAC 252:100-8-36.2(c)(3)); and

(C) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

(6) The owner or operator of the source shall make the information required to be documented and maintained pursuant to OAC 252:100-8-36.2(c) available for review upon request for inspection by the Director or the general public.

(7) The requirements of OAC 252:100-8-34 through 252:100-8-36.2 shall apply as if construction has not yet commenced at any time that a project is determined to be a major modification based on any credible evidence, including but not limited to emissions data produced after the project is completed. In any such case, the owner or operator may be subject to enforcement for failure to obtain a PSD permit prior to beginning actual construction.

(8) If an owner or operator materially fails to comply with the provisions of OAC 252:100-8-36.2(c), then the calendar year emissions are presumed to equal the source's potential to emit.

#### **252:100-8-37. Innovative control technology**

(a) An applicant for a permit for a proposed major stationary source or major modification may request the ~~Executive~~ Director in writing to approve a system of innovative control technology.

(b) The ~~Executive~~ Director may determine that the innovative control technology is permissible if:

(1) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function.

(2) The applicant agrees to achieve a level of continuous emissions reductions equivalent to that which would have been required for ~~best available control technology~~ BACT under ~~252:100-8-34~~ OAC 252:100-8-34(b)(1) by a date specified by the ~~Executive~~ Director. Such date shall not be later than 4 years from the time of start-up or 7 years from permit issuance.

(3) The source or modification would meet the requirements equivalent to those in ~~Parts 1 and 5 of this Subchapter and~~ 252:100-8-36 OAC 252:100-8-34 and 252:100-8-35(a) based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the ~~Executive~~ Director.

(4) The source or modification would not, before the date specified, cause or contribute to any violation of the applicable ~~ambient air standards~~ NAAQS, or impact any Class I area or area where an applicable increment is known to be violated.

(5) All other applicable requirements including those for public ~~review~~ participation have been met.

(6) The provisions of OAC 252:100-8-36 (relating to Class I areas) have been satisfied with respect to all periods during the life of the source or modification.

(c) The ~~Executive~~ Director shall withdraw approval to employ a system of innovative control technology made under OAC 252:100-8-37, if:

(1) The proposed system fails by the specified date to achieve the required continuous reduction rate; or,

(2) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare or safety; or,

(3) The ~~Executive~~ Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare or safety.

(d) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with OAC 252:100-8-37(c), the Director may allow the source or modification ~~may be allowed~~ up to an additional 3 years to meet the requirement for application of ~~best available control~~

~~technology~~ BACT through the use of a demonstrated system of control.

**252:100-8-38. Clean Unit provisions**

**(a) Option to use Clean Unit Test.** An owner or operator of a major stationary source has the option of using the Clean Unit Test in OAC 252:100-8-38(b) to determine whether emissions increases at a Clean Unit are part of a project that is a major modification according to the provisions in OAC 252:100-8-38(b)(1) through (11).

**(b) Clean Unit Test.**

**(1) Applicability.** The provisions of OAC 252:100-8-38 apply to any emissions unit for which the Director has issued a major NSR permit within the last 10 years (BACT emissions unit) and to any emissions unit which is achieving a level of emissions control comparable to BACT (comparable-BACT emissions unit) as determined by the Director in accordance with this Part.

**(2) General provisions for Clean Units.** The provisions in OAC 252:100-8-38(b)(2)(A) through (D) apply to a Clean Unit.

**(A)** Any project for which the owner or operator begins actual construction after the effective date of the Clean Unit designation (as determined in accordance with OAC 252:100-8-38(b)(5) and before the expiration date (as determined in accordance with OAC 252:100-8-38(b)(6)(A), (B), and (C) as applicable) will be considered to have occurred while the emissions unit was a Clean Unit.

**(B)** If a project at a Clean Unit does not cause the need for a change in the emission limitations or work practice requirements in the permit for the unit that were adopted in conjunction with BACT or that have been determined (pursuant to OAC 252:100-8-38(b)(4)) to be comparable to BACT and the project would not alter any physical or operational characteristics that formed the basis for the BACT determination or the basis for BACT comparability as specified in OAC 252:100-8-38(b)(8)(D), the emissions unit remains a Clean Unit.

**(C)** If a project causes the need for a change in the emission limitations or work practice requirements in the permit for the unit that were adopted in conjunction with BACT or that were determined to be comparable to BACT (pursuant to OAC 252:100-8-38(b)(4)), or the project would alter any physical or operational characteristics that formed the basis for the BACT determination or the comparable-BACT determination as specified in OAC 252:100-8-38(b)(8)(D), then the emissions unit loses its designation as a Clean Unit upon issuance of the necessary

permit revisions (unless the unit re-qualifies as a Clean Unit pursuant to 252:100-8-38(b)(3)(A)(iii) or 252:100-8-38(b)(3)(B)(iv)). If the owner or operator begins actual construction on the project without first applying to revise the emissions unit's permit, the Clean Unit designation ends immediately prior to the time when actual construction begins.

(D) A project that causes an emissions unit to lose its designation as a Clean Unit is subject to the applicability requirements of OAC 252:100-8-30(b)(1) through (4) and 252:100-8-30(b)(6) as if the emissions unit is not a Clean Unit.

**(3) Qualifying or re-qualifying to use the Clean Unit Applicability Test.**

(A) **BACT emissions units.** An emissions unit automatically qualifies as a Clean Unit when the unit meets the criteria in OAC 252:100-8-38(b)(3)(A)(i) and (ii). After the original Clean Unit designation expires in accordance with OAC 252:100-8-38(b)(6)(A) or is lost pursuant to 252:100-8-38(b)(2)(C), such emissions unit may re-qualify as a Clean Unit under either 252:100-8-38(b)(3)(A)(iii), or 252:100-8-38(b)(3)(B)(iv). To re-qualify as a Clean Unit under 252:100-8-38(b)(3)(A)(iii), the emissions unit must obtain a new major NSR permit issued through Part 7 of OAC 252:100-8 and meet all the criteria in OAC 252:100-8-38(b)(3)(A)(iii). The Clean Unit designation applies individually for each pollutant emitted by the emissions unit.

(i) **Permitting requirement.** The emissions unit must have received a major NSR permit within the last 10 years. The owner or operator must maintain and be able to provide information that would demonstrate that this permitting requirement is met.

(ii) **Qualifying air pollution control technologies.** Air pollutant emissions from the emissions unit must be reduced through the use of air pollution control technology (which includes pollution prevention or work practices) that meets both the following requirements in OAC 252:100-8-38(b)(3)(A)(ii)(I) and (II).

(I) The control technology achieves the BACT or LAER level of emissions reductions as determined through issuance of a major NSR permit within the past 10 years. However, the emissions unit is not eligible for the Clean Unit designation if the BACT determination resulted in no requirement to reduce

emissions below the level of a standard, uncontrolled, new emissions unit of the same type.

(II) The owner or operator made an investment to install the control technology. For the purpose of this determination, an investment includes expenses to research the application of a pollution prevention technique to the emissions unit or expenses to apply a pollution prevention technique to an emissions unit.

(iii) **Re-qualifying for the Clean Unit designation.** The emissions unit must obtain a new major NSR permit that requires compliance with the current-day BACT (or LAER), and the emissions unit must meet the requirements in OAC 252:100-8-38(b)(3)(A)(i) and (ii)

(B) **Comparable-BACT units.** An emissions unit qualifies as a Clean Unit when the unit meets the criteria in OAC 252:100-8-38(b)(3)(B)(i) through (iii). After the original Clean Unit designation expires in accordance with OAC 252:100-8-38(b)(6)(B) and (C) or is lost pursuant to OAC 252:100-8-38(b)(2)(C), such emissions unit may re-qualify as a Clean Unit under either 252:100-8-38(b)(3)(A)(iii) or 252:100-8-38(b)(3)(B)(iv). To re-qualify as a Clean Unit under OAC 252:100-8-38(b)(3)(B)(iv), the emissions unit must obtain a new permit issued pursuant to the requirements in OAC 252:100-8-38(b)(7) and (8) and meet all the criteria in 252:100-8-38(b)(3)(B)(iv). The Director will make a separate Clean Unit designation for each pollutant emitted by the emissions unit for which the emissions unit qualifies as a Clean Unit.

(i) **Qualifying air pollution control technologies.** Air pollutant emissions from the emissions unit must be reduced through the use of air pollution control technology (which includes pollution prevention or work practices) that meets both the following requirements in OAC 252:100-8-38(b)(3)(B)(i)(I) and (II).

(I) The owner or operator has demonstrated that the emissions unit's control technology is comparable to BACT according to the requirements of OAC 252:100-8-38(b)(4). However, the emissions unit is not eligible for a Clean Unit designation if its emissions are not reduced below the level of a standard, uncontrolled emissions unit of the same type (e.g., if the BACT determinations to which it is compared have resulted in a determination that no control measures are required).

(II) The owner or operator made an investment to install the control technology. For the purpose of

this determination, an investment includes expenses to research the application of a pollution prevention technique to the emissions unit or to retool the unit to apply a pollution prevention technique.

(ii) **Impact of emissions from the unit.** The Director must determine that the allowable emissions from the emissions unit will not cause or contribute to a violation of any NAAQS or PSD increment, or adversely impact an air quality related value (such as visibility) that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.

(iii) **Date of installation.** An emissions unit may qualify as a Clean Unit even if the control technology, on which the Clean Unit designation is based, was installed before June 15, 2006. However, for such emissions units, the owner or operator must apply for the Clean Unit designation within 2 years after June 15, 2006. For technologies installed after the plan requirements become effective, the owner or operator must apply for the Clean Unit designation at the time the control technology is installed.

(iv) **Re-qualifying as a Clean Unit.** The emissions unit must obtain a new permit (pursuant to requirements in OAC 252:100-8-38(b)(7) and (8)) that demonstrates that the emissions unit's control technology is achieving a level of emission control comparable to current-day BACT, and the emissions unit must meet the requirements in OAC 252:100-8-38(b)(3)(B)(i)(I) and 252:100-8-38(b)(3)(B)(ii).

(4) **Demonstrating control effectiveness comparable to BACT.** The owner or operator may demonstrate that the emissions unit's control technology is comparable to BACT for purposes of OAC 252:100-8-38(b)(3)(B)(i) according to either 252:100-8-38(b)(4)(A) or (B). OAC 252:100-8-38(b)(4)(C) specifies the time for making this comparison.

(A) **Comparison to previous BACT and LAER determinations.** The Administrator maintains an on-line data base of previous determinations of RACT, BACT, and LAER in the RACT/BACT/LAER Clearinghouse (RBLC). The comparable-BACT emissions unit's control technology is presumed to be comparable to BACT if it achieves an emission limitation that is equal to or better than the average of the emission limitations achieved by all the sources for which a BACT or LAER determination has been made within the preceding 5 years and entered into the RBLC, and for which it is

technically feasible to apply the BACT or LAER control technology to the emissions unit. The Director shall also compare this presumption to any additional BACT or LAER determinations of which he or she is aware, and shall consider any information on achieved-in-practice pollution control technologies provided during the public comment period, to determine whether any presumptive determination that the control technology is comparable to BACT is correct.

**(B) The substantially-as-effective test.** The owner or operator may demonstrate that the emissions unit's control technology is substantially as effective as BACT. In addition, any other person may present evidence related to whether the control technology is substantially as effective as BACT during the public participation process required under OAC 252:100-8-38(b)(7). The Director shall consider such evidence on a case-by-case basis and determine whether the emissions unit's air pollution control technology is substantially as effective as BACT.

**(C) Time of comparison.**

**(i) Emissions units with control technologies that are installed before June 15, 2006.** The owner or operator of an emissions unit whose control technology is installed before June 15, 2006, may, at his or her option, either demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to the BACT requirements that applied at the time the control technology was installed, or demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to current-day BACT requirements. The expiration date of the Clean Unit designation will depend on which option the owner or operator uses, as specified in OAC 252:100-8-38(b)(6)(B) and (C).

**(ii) Emissions units with control technologies that are installed after June 15, 2006.** The owner or operator must demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to current-day BACT requirements.

**(5) Effective date of the Clean Unit designation.** The effective date of an emissions unit's Clean Unit designation (that is, the date on which the owner or operator may begin to use the Clean Unit Test to determine whether a project at the emissions unit is a major modification) is determined according to the applicable OAC 252:100-8-38(b)(5)(A) or (B) for BACT emissions units. For comparable-BACT emissions units

the effective date is the date that the permit required by OAC 252:100-8-38(b)(7) is issued or the date that the emissions unit's air pollution control technology is placed into service, whichever is later.

(A) Original Clean Unit designation, and emissions units that re-qualify as Clean Units by implementing a new control technology to meet current-day BACT. For BACT emissions units, the effective date is the date the emissions unit's air pollution control technology is placed into service, or 3 years after the issuance date of the major NSR permit, whichever is earlier, but no sooner than June 15, 2006.

(B) Emissions units that re-qualify for the Clean Unit designation using an existing control technology. For BACT emissions units, the effective date is the date the new, major NSR permit is issued.

(6) Clean Unit expiration.

(A) BACT emissions units. An emissions unit's Clean Unit designation expires (that is, the date on which the owner or operator may no longer use the Clean Unit Test to determine whether a project affecting the emissions unit is, or is part of, a major modification) according to the applicable OAC 252:100-8-38(b)(6)(A)(i) or 252:100-8-38(b)(6)(A)(ii) and (C).

(i) Original Clean Unit designation, and emissions units that re-qualify by implementing new control technology to meet current-day BACT. For any emissions unit that automatically qualifies as a Clean Unit under OAC 252:100-8-38(b)(3)(A)(i) and (ii) or re-qualifies by implementing new control technology to meet current day BACT under OAC 252:100-8-38(b)(3)(A)(iii), the Clean Unit designation expires 10 years after the effective date, or the date the equipment went into service, whichever is earlier.

(ii) Emissions units that re-qualify for the Clean Unit designation using an existing control technology. For any emissions unit that re-qualifies as a Clean Unit under OAC 252:100-8-38(b)(3)(A)(iii) using an existing control technology, the Clean Unit designation expires 10 years after the effective date.

(B) Comparable-BACT emissions units. If the owner or operator demonstrates that the emission limitation achieved by the emissions unit's control technology is comparable to the BACT requirements that applied at the time the control technology was installed, then the Clean Unit designation expires 10 years from the date that the control technology

was installed. For all other emissions units, the Clean Unit designation expires 10 years from the effective date of the Clean Unit designation, as determined according to OAC 252:100-8-38(b)(5).

(C) **Failure to comply with Clean Unit provisions.** For all emissions units, the Clean Unit designation expires any time the owner or operator fails to comply with the provisions for maintaining the Clean Unit designation in OAC 252:100-8-38(b)(9).

(7) **Procedures for designating comparable-BACT emissions units as Clean Units.** The Director shall designate a comparable-BACT emissions unit a Clean Unit only by issuing a permit under OAC 252:100-8, including requirements for public notice of the proposed Clean Unit designation and opportunity for public comment. Such permit must also meet the requirements in OAC 252:100-8-38(b)(8).

(8) **Required permit content for a Clean Unit.** After the effective date of the Clean Unit designation for the BACT emissions units, and in accordance with the provisions of Part 5 of OAC 252:100-8, but no later than when the Part 70 permit is renewed, the Part 70 permit for the major stationary source must include the following terms and conditions related to the Clean Unit in OAC 252:100-8-38(b)(8)(A) through (F). The permit required by OAC 252:100-8-38(b)(7) for comparable-BACT emissions units shall include the terms and conditions set forth in OAC 252:100-8-38(b)(8)(A) through (F). Such terms and conditions shall be incorporated into the major stationary source's Part 70 permit in accordance with the provisions of Part 5 of OAC 252:100-8, but no later than when the Part 70 permit is renewed.

(A) **Clean Unit statement.** A statement indicating that the emissions unit qualifies as a Clean Unit and identifying the pollutant(s) for which the Clean Unit designation applies must be included in the permit.

(B) **The effective date of the Clean Unit designation.** The permit must include the effective date of the Clean Unit designation. If the effective date of the Clean Unit designation is not known (e.g., because the air pollution control technology is not yet in service) when the Clean Unit designation is initially recorded in the Part 70 permit for BACT emissions units or when the Director issues the permit required in OAC 252:100-8-38(b)(7) and (8) for comparable-BACT emissions units, the permit must describe the event that will determine the effective date (e.g., the date the control technology is placed into service). Once the effective date is determined, the owner or operator

must notify the Director of the exact date. This specific effective date must be added to the source's Part 70 permit at the first opportunity, such as a modification, revision, renewal or reopening of the Part 70 permit for any reason, whichever comes first, but in no case later than the next renewal.

(C) **The expiration date of the Clean Unit designation.** The permit must include the expiration date of the Clean Unit designation. If the expiration date of the Clean Unit designation is not known (e.g., because the air pollution control technology is not yet in service) when the Clean Unit designation is initially recorded into the Part 70 permit for BACT emissions units or when the Director issues the permit for comparable-BACT emissions unit pursuant to OAC 252:100-8-38(b)(7) and (8), then the permit must describe the event that will determine the expiration date (e.g., the date the control technology is placed into service). Once the expiration date is determined, the owner or operator must notify the Director of the exact date. The expiration date must be added to the source's Part 70 permit at the first opportunity, such as a modification, revision, renewal, or reopening of the Part 70 permit for any reason, whichever comes first, but in no case later than the next renewal.

(D) **BACT limitations.** The permit must include all emission limitations and work practice requirements adopted in conjunction with BACT (for BACT emissions units) or adopted in conjunction with emissions limitations necessary to assure that control technology continues to achieve an emission limitation comparable to BACT (for comparable-BACT emissions units), and any physical or operational characteristics that formed the basis for the BACT determination or comparable BACT determination (e.g., possibly the emissions unit's capacity or throughput).

(E) **Monitoring, recordkeeping, and reporting requirements.** The permit must contain monitoring, recordkeeping, and reporting requirements as necessary to demonstrate that the emissions unit continues to meet the criteria for maintaining the Clean Unit designation. (See OAC 252:100-8-38(b)(9).)

(F) **Duty to maintain Clean Unit designation.** Terms reflecting the owner or operator's duties to maintain the Clean Unit designation and the consequences of failing to do so, as presented in OAC 252:100-8-38(b)(9), must be included in the permit.

(9) **Maintaining the Clean Unit designation.** To maintain the Clean Unit designation, the owner or operator must conform to all the restrictions listed in OAC 252:100-8-38(b)(9)(A) through (D). OAC 252:100-8-38(b)(9) applies independently to each pollutant for which the emissions unit has the Clean Unit designation. That is, failing to conform to the restrictions for one pollutant affects the Clean Unit designation only for that pollutant.

(A) For BACT emissions units, the Clean Unit must comply with the emission limitation(s) and/or work practice requirements adopted in conjunction with the BACT that is recorded in the major NSR permit, and subsequently reflected in the Part 70 permit. For comparable-BACT emissions units, the Clean Unit must comply with the emission limitation(s) and/or work practice requirements adopted to ensure that the control technology continues to achieve emission control comparable to BACT.

(B) The owner or operator may not make a physical change in or change in the method of operation of the Clean Unit (e.g., possibly the emissions unit's capacity or throughput) that causes the emissions unit to function in a manner that is inconsistent with the physical or operational characteristics that formed the basis for the BACT determination or that formed the basis for the comparable-BACT determination.

(C) The Clean Unit must comply with any terms and conditions in the Part 70 permit related to the unit's Clean Unit designation.

(D) The Clean Unit must continue to control emissions using the specific air pollution control technology that was the basis for its Clean Unit designation. If the emissions unit or control technology is replaced, then the Clean Unit designation ends.

(10) **Netting at Clean Units.** Emissions changes that occur at a Clean Unit must not be included in calculating a significant net emissions increase (that is, must not be used in a "netting analysis"), unless such use occurs before the effective date of the Clean Unit designation for BACT emissions units or June 15, 2006, for comparable-BACT emissions units, or after the Clean Unit designation expires; or, unless the emissions unit reduces emissions below the level that qualified the unit as a Clean Unit. However, if the Clean Unit reduces emissions below the level that qualified the unit as a Clean Unit, then the owner or operator may generate a credit for the difference between the level that qualified the unit as a Clean Unit and the new emission

limitation if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions must also be federally enforceable. For purposes of determining creditable net emissions increases and decreases, the reductions must also be enforceable as a practical matter.

(11) **Effect of redesignation on the Clean Unit designation.** If a Clean Unit is located in an area that is redesignated to nonattainment, then within six months after such nonattainment designation, the Clean Unit status expires unless the owner or operator demonstrates to the satisfaction of the permitting authority that the Clean Unit meets a LAER level of control. Thereafter, the unit may not be re-qualified as a Clean Unit unless the unit is determined to meet LAER in accordance with OAC 252:100-8-54.

### 252:100-8-39. PCP exclusion procedural requirements

(a) **Provisions for PCP.** PCP may be approved according to the provisions in OAC 252:100-8-39(b)(1) through 252:100-8-39(f).

#### (b) **Preconstruction permit application requirement.**

(1) Before actual construction of a PCP begins, the owner or operator must submit a permit application. The project must meet the requirements in OAC 252:100-8-39(c), and the permit application must contain the information required in OAC 252:100-8-39(d).

(2) For projects listed in paragraphs (A) through (F) of the definition of "PCP", once the owner or operator has submitted the application, he or she may proceed with the project at his or her own risk. If the Director does not approve the application for a PCP, the project shall be considered a major modification, and the owner or operator may be subject to enforcement for failure to obtain a PSD permit prior to beginning actual construction.

(3) All other projects require approval of the Director prior to construction consistent with the requirements in OAC 252:100-8-39(e).

(c) **PCP requirements.** Any project that relies on the PCP exclusion must meet the requirements in OAC 252:100-8-39(c)(1) and (2).

(1) **Environmentally beneficial analysis.** The environmental benefit from the emissions reductions of pollutants regulated under the Act must outweigh the environmental detriment of emissions increases in pollutants regulated under the Act.

(2) **Air quality analysis.** The emissions increases from the project will not cause or contribute to a violation of any NAAQS or PSD increment, or adversely impact an air quality related value (such as visibility) that has been identified

for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.

(d) Content of the permit application. In the permit application sent to the Director, the owner or operator must include, at a minimum, the information listed in OAC 252:100-8-39(d)(1) through (5).

(1) A description of the project.

(2) The potential emissions increases and decreases of any pollutant regulated under the Act and the projected emissions increases and decreases (using methodology in OAC 252:100-8-30(b)) that will result from the project, and a copy of the environmentally beneficial analysis required by OAC 252:100-8-39(c)(1).

(3) A description of monitoring and recordkeeping, and all other methods, to be used on an ongoing basis to demonstrate that the project is environmentally beneficial. Methods should be sufficient to meet the requirements in 40 CFR parts 70 and 71.

(4) A certification that the project will be designed and operated in a manner that is consistent with proper industry and engineering practices, in a manner that is consistent with the environmentally beneficial analysis and air quality analysis required by OAC 252:100-8-39(c)(1) and (2), with information submitted in the permit application, and in such a way as to minimize, within the physical configuration and operational standards usually associated with the emissions control device or strategy, emissions of collateral pollutants.

(5) Demonstration that the PCP will not have an adverse air quality impact (e.g., modeling, screening level modeling results, or a statement that the collateral emissions increase is included within the parameters used in the most recent modeling exercise) as required by OAC 252:100-8-39(c)(2). An air quality impact analysis is not required for any pollutant that will not experience a significant emissions increase as a result of the project.

(6) The applicant must demonstrate to the Director's satisfaction that the project is environmentally beneficial as provided in OAC 252:100-8-39(c)(1). A statement that a technology from paragraphs (A) through (F) of the definition of "PCP" is being used shall be presumed to satisfy this requirement, though the Director has the authority to rebut such presumption and determine that the project is not environmentally beneficial and the project does not qualify as a PCP.

**(e) Permit process for unlisted projects.** Before an owner or operator may begin actual construction of a PCP project that is not listed in paragraphs (A) through (F) of the definition of "PCP", the project must be approved by the Director and included in a permit issued pursuant to OAC 252:4. This includes the requirement that the Director provide the public with notice of the proposed approval, with access to the environmentally beneficial analysis and the air quality analysis, and provide at least a 30-day period for the public and the Administrator to submit comments. The Director must address all material comments received by the end of the comment period before taking final action on the permit.

**(f) Operational requirements.** Upon installation of the PCP, the owner or operator must comply with the requirements of OAC 252:100-8-39(f)(1) through (4).

(1) **General duty.** The owner or operator must operate the PCP in a manner consistent with proper industry and engineering practices, in a manner that is consistent with the environmentally beneficial analysis and air quality analysis required by OAC 252:100-8-39(c)(1) and (2), with information submitted in the permit application required by OAC 252:100-8-39(d), and in such a way as to minimize, within the physical configuration and operational standards usually associated with the emissions control device or strategy, emissions of collateral pollutants.

(2) **Recordkeeping.** The owner or operator must maintain copies on-site of the environmentally beneficial analysis, the air quality impacts analysis, and monitoring and other emission records to prove that the PCP operated consistent with the general duty requirements in OAC 252:100-8-39(f)(1).

(3) **Permit requirements.** The owner or operator must comply with any provisions in the permit related to use and approval of the PCP exclusion.

(4) **Generation of emission reduction credits.** Emission reductions created by a PCP shall not be included in calculating a significant net emissions increase unless the emissions unit further reduces emissions after qualifying for the PCP exclusion (e.g., taking an operational restriction on the hours of operation). The owner or operator may generate a credit for the difference between the level of reduction which was used to qualify for the PCP exclusion and the new emissions limit if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions must also be federally enforceable. For purposes of determining creditable net emissions increases and

decreases, the reductions must also be enforceable as a practical matter.

**252:100-8-40. Actuals PAL**

(a) Incorporation by reference. 40 CFR 51.166(w), Actuals PALs, is hereby incorporated by reference, as it exists on December 31, 2002, and does not include any subsequent amendments or editions to the referenced material.

(b) Inclusion of CFR citations and definitions. When a provision of Title 40 of the Code of Federal Regulations (40 CFR) is incorporated by reference, all citations contained therein are also incorporated by reference.

(c) Inconsistencies or duplications. In the event that there are inconsistencies or duplications in the requirements of those provisions incorporated by reference in OAC 252:100-4-5 and the regulations in this Chapter, the provisions incorporated by reference shall prevail, except where the regulations in this Chapter are more stringent.

(d) Terminology related to 40 CFR 51.166(w). For purposes of interfacing with 40 CFR, the following terms apply.

(1) "Baseline actual emissions" is synonymous with the definition of "baseline actual emissions" in OAC 252:100-8-31.

(2) "EPA" is synonymous with Department of Environmental Quality (DEQ).

(3) "Major modification" is synonymous with the definition of "major modification" in OAC 252:100-8-31.

(4) "Net emissions increase" is synonymous with the definition of "net emissions increase" in OAC 252:100-8-51.

(5) "Pollution control project (PCP)" is synonymous with the definition of "pollution control project" or "PCP" in OAC 252:100-8-31.

(6) "Projected actual emissions" is synonymous with the definition of "projected actual emissions" in OAC 252:100-8-31.

(7) "Reviewing authority" is synonymous with "Director".

(8) "State implementation plan" is synonymous with OAC 252:100.

(9) "Volatile organic compound (VOC)" is synonymous with the definition of "volatile organic compound" or "VOC" in OAC 252:100-1-3.

**252:100-8-41. Severability**

If any provision of this Part, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Part, or the application of such provision to

persons or circumstances other than those as to which it is held  
invalid, shall not be affected thereby.