WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STANDARDS AND REGULATIONS
CHAPTER 6
PERMITTING REQUIREMENTS

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Section 1. Introduction to permitting requirements.

(a) Chapter 6 establishes permitting requirements for all sources constructing and/or operating in the State of Wyoming. Section 2 covers general air quality permitting requirements for construction and modification as well as minor source permits to operate. Section 3 is the state operating permit program required under Title V of the Clean Air Act. Section 4 is the prevention of significant deterioration (PSD) program. Section 5 covers permitting requirements for major sources of hazardous air pollutants for which a MACT (maximum achievable control technology) standard has been established under section 112 of the Clean Air Act. Section 6 covers permitting requirements for major sources of hazardous air pollutants for which a MACT standard has not been established under section 112 of the Clean Air Act. Section 7 establishes the terms under which clean air resource allocations expire.

Section 2. Permit requirements for construction, modification, and operation.

(a) ***(i)*** Any person who plans to construct any new facility or source, modify any existing facility or source, or to engage in the use of which may cause the issuance of or an increase in the issuance of air contaminants into the air of this state shall obtain a construction permit from the State of Wyoming, Department of Environmental Quality before any actual work is begun on the facility.

(ii) Any facility or source required to obtain a permit for construction or modification under this section must, if subject to the provisions of Chapter 6, Section 3 of these regulations, submit an application to the Division for a Chapter 6, Section 3 operating permit within twelve (12) months of commencing operation.

(iii) Facilities or sources not subject to the provisions of Chapter 6, Section 3 of these regulations shall obtain a Chapter 6, Section 2 operating permit from the Department, pursuant to this section, for operation after a 120-day start-up period.

(iv) A permit to operate is also required for the operation of an existing portable source in each new location. However, a permit to construct is required for each new location that is a new source or facility and for each new or modified portable source or facility.

(v) ***Permit Fees:*** Persons applying for a permit under this section, or waiver from permit requirements under Chapter 6, Section 2(k)(viii), shall pay a fee to cover the Department's cost of reviewing and acting on permit applications in accordance with paragraph (o) of this section.

(vi) Facilities or sources subject to the provisions of Chapter 6, Section 5 or Chapter 6, Section 6 shall submit the permit application as required by Chapter 6, Section 5(a)(iii) or by Chapter 6, Section 6(h)(iv) as part of the permit application submitted in accordance with Chapter 6, Section 2(b)(i).

(b) ***(i)*** The owner of the facility or the operator of the facility authorized to act for the owner is responsible for applying for and obtaining a permit to construct and/or operate. The application shall be made on forms provided by the Division of Air Quality and each application shall be accompanied by site information, plans descriptions, specifications, and drawings showing the design of the source, the nature and amount of the emissions, and the manner in which it will be operated and controlled. A detailed schedule for the construction or modification of the facility shall be included. A separate application is required for each source. Any additional information, plans, specifications, evidence, or documentation that the Administrator of the Division of Air Quality may require shall be furnished upon request. The applicant shall conduct such continuous Ambient Air Quality monitoring analyses as may be determined by the Administrator to be necessary in order to assure that adequate data are available for purposes of establishing existing concentration levels of all affected pollutants. As a guideline, such data should be gathered continuously over a period of one calendar year preceding the date of application. Upon petition of the applicant, the Administrator will review the proposed monitoring programs and advise the applicant if such is approvable or modifications are required.

(ii) For portable sources or facilities, the Division may authorize the owner or operator to utilize a "self issuance" operating permit system for new locations which are not new sources or facilities. For purposes of this paragraph, a new source or facility is a source or facility for which operation or construction commenced after May 29, 1974, and for which a permit has not previously been issued.

The Division shall provide to authorized owners or operators of portable sources, forms upon which the self-issued permits are to be recorded. The owner or operator shall, at a minimum provide, as appropriate the permit number previously issued to the portable source or facility, the new location for which the permit is issued, the duration of operation of the new location, the production rate at the new location and the production at the new location in addition to any other information that the Administrator may require. Such permit shall be executed and a copy provided to the Air Quality Division prior to operation at the new location.

All conditions previously issued for the operation of the portable facility continue as applicable conditions for operation at subsequent locations.

(c) No approval to construct or modify shall be granted unless the applicant shows, to the satisfaction of the Administrator of the Division of Air Quality that:

(i) The proposed facility will comply with all rules and regulations of the

Wyoming Department of Environmental Quality, Division of Air Quality, and with the intent of the Wyoming Environmental Quality Act.

(ii) The proposed facility will not prevent the attainment or maintenance of any ambient air quality standard.

(A) A facility will be considered to cause or contribute to a violation of an ambient air quality standard if the projected impact of emissions from the facility exceed the following significance levels at any locality that does not or would not meet the applicable standard:

POLLUTANT	AVERAGING TIME (HOURS)				
	ANNUAL ($\mu g/m^3$)	**24 ($\mu g/m^3$)**	**8 (mg/m^3)**	**3 ($\mu g/m^3$)**	**1 (mg/m^3)**
SO_2	1.0	5	---	25	---
PM_{10}	1.0	5	---	---	---
NO_x	1.0	---	---	---	---
CO	---	---	0.5	---	2

(B) Notwithstanding the provisions of Chapter 6, Section 2(c)(ii)(A) above, no facility with the potential to emit 100 tons per year or more of PM_{10} (including sources of fugitive dust) shall be allowed to construct within the City of Sheridan designated PM_{10} nonattainment area until such time as the area is redesignated to an attainment area for PM_{10} ambient standards in accordance with section 107 of the Clean Air Act. In addition, no existing facility with the potential to emit 100 TPY or more of PM_{10} within the Sheridan designated PM_{10} nonattainment area shall be allowed to modify operations to increase potential PM_{10} emissions by 15 tons per year or more (including sources of fugitive dust), until such time as the area is redesignated by EPA as an attainment area for PM_{10} ambient standards. For the purpose of this paragraph, "potential to emit" shall have the same meaning as in Chapter 6, Section 4.

(iii) The proposed facility will not cause significant deterioration of existing ambient air quality in the Region as defined by any Wyoming standard or regulation that might address significant deterioration.

(iv) The proposed facility will be located in accordance with p roper land use planning as determined by the appropriate state or local agency charged with such responsibility.

(v) The proposed facility will utilize the Best Available Control Technology with consideration of the technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from the facility. For large mining operations, specific measures normally required and to be considered include but are not limited to:

(A) The paving of access roads;

(B) The treating of major haul roads with a suitable dust suppressant;

(C) The treatment of temporary haul roads;

(D) The use of silos, trough barns, or similar enclosed containers for the storage of large volumes of material awaiting load out and shipment;

(E) The treatment of active work areas; and

(F) The treatment of temporary ore stockpiles.

(vi) The proposed facility will have provisions for measuring the emissions of significant air contaminants as determined by the Administrator of the Division of Air Quality.

(vii) The proposed facility will achieve the performance specified in the application for the permit to construct or modify.

(viii) The proposed facility will not emit any air pollutant in amounts which will (i) prevent attainment or maintenance by any other state of any such national primary or secondary Ambient Air Quality Standard or (ii) interfere with measures required by the Federal Clean Air Act to be included in the applicable Implementation Plan for any other state to prevent significant deterioration of air quality or to protect visibility.

(d) In meeting the requirements of Chapter 6, Section 2(c) above pertaining to compliance with an applicable Ambient Air Quality Standard or increment, the degree of emission limitation required shall not be affected by (a) so much of the stack height of any source as exceeds good engineering practice stack height or (b) any other dispersion technique.

(i) For purposes of this requirement, "good engineering practice stack height" means the height equal to or less than:

(A) 30 meters as measured from the ground-level elevation at the base of the stack, or

(B) H + 1.5L where H is the height of nearby structure(s) measured from the ground level elevation at the base of the stack and L is the lesser dimension (height or width) of, the source, or nearby structure, provided that the Administrator may require the use of a field study or fluid model to verify good engineering practice stack height for the source, or

(C) Such other height as is demonstrated by a fluid model or a field study approved by the Administrator, which ensures that emissions from a stack do not result in excessive concentrations in the immediate vicinity of the source as a result of atmospheric downwash, eddies, or wakes which may be created by the source, nearby structures or nearby terrain features.

(ii) For purposes of this requirement, "dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

(A) Using that portion of a stack which exceeds good engineering practice stack height, or

(B) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant, or

(C) Increasing the final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack, or other selective manipulation of exhaust gas streams so as to increase the exhaust gas plume rise.

(iii) For purposes of this requirement, "dispersion technique" does not include:

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

(B) The merging of exhaust gas streams where the source owner or operator demonstrates that the facility was originally designed and constructed with such merged streams.

(iv) For the purposes of this requirement, "emission limitation" means a requirement established by the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(v) "Nearby" as used in Chapter 6, Section 2(d)(i) is defined for a specific structure or terrain feature, and

(A) For purposes of applying the formula provided in Chapter 6, Section 2(d)(i)(B) means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than one half mile (0.8 km), and

(B) For conducting demonstrations under Chapter 6, Section

2(d)(i)(C) means not greater than one half mile (0.8 km), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if such feature achieves a height one half mile from the stack that is at least 40 percent of the GEP stack height determined by the formula provided in Chapter 6, Section 2(d)(i)(B) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure of terrain feature is measured from the ground-level elevation at the base of the stack.

(vi) "Excessive concentration" is defined for the purpose of determining good engineering practice stack height under Chapter 6, Section 2(d)(i)(C) and means,

(A) For sources seeking credit for stack height exceeding that established under Chapter 6, Section 2(d)(i)(B), a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration (Chapter 6, Section 4), an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this section shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Administrator, an alternative emission rate shall be established in consultation with the source owner or operator.

(vii) After the Administrator has reached a proposed decision to approve or disapprove a permit application in which the source relies on a good engineering practice stack height that exceeds the height allowed by Chapter 6, Section 2(d)(i)(A) or (B) the Administrator will notify the public of the availability of the demonstration study and proved the opportunity for public hearing. Specific notification of the Administrator's decision, availability of the demonstration and opportunity for public hearing will be included as part of the public notice required in Chapter 6, Section 2(m) of these regulations.

(e) No permit to operate may be granted until the applicant demonstrates to the satisfaction of the Administrator of the Division of Air Quality that:

(i) The facility is complying with the Wyoming Air Quality Standards and Regulations applicable at the time the permit to construct or modify was granted and

with the intent of the Wyoming Environmental Quality Act, 1973.

(ii) The facility has been constructed or modified in accordance with the requirements and conditions contained in the permit to construct or modify.

(f) The Administrator of the Division of Air Quality may impose any reasonable conditions upon an approval to construct, modify, or operate including, but not limited to, conditions requiring the source to be provided with:

(i) Sampling and testing facilities as the Administrator may require;

(ii) Safe access to the sampling facilities;

(iii) Instrumentation to monitor and record emission data; and

(iv) Ambient Air Quality monitoring which, in the judgment of the Administrator, is necessary to determine the effect which emissions from a source may have, or is having, on air quality in any area which may be affected by emissions from such source.

(g) The Administrator will review each application within 30 days and notify the applicant as to whether or not the application is complete. If the application is complete, the Administrator will propose approval, conditional approval or denial and will publish such proposal within 60 days of the determination that the application is complete. If the application is not complete, the application will be considered inactive and additional information as necessary will be requested. A complete application shall include all materials and analyses which the Administrator determines are necessary for the Division to review the facility as a source of air pollution.

(h) A permit to construct or modify shall remain in effect until the permit to operate the facility for which the application was filed is granted or denied or the application is canceled. However, an approval to construct or modify shall become invalid if construction is not commenced within 24 months after receipt of such approval or if construction is discontinued for a period of 24 months or more. The Administrator may extend such time period(s) upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; however, each phase must commence construction within 24 months of the projected and approved commencement date for such phase. Notwithstanding the above, a permit containing a case-by-case MACT determination pursuant to Chapter 6, Section 6 shall expire if construction or reconstruction has not commenced within 18 months of issuance, unless the Division has granted an extension which shall not exceed an additional 12 months.

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

(i) A notification of the anticipated date of initial start-up of each source not more than 60 days or less than 30 days prior to such date.

(ii) A notification of the actual date of initial start-up of each source within 15 days after such date.

(j) Within 30 days after achieving the maximum design production rate for which the permit is approved and at which each source will be operated, but not later than 90 days after initial start-up of such source, the owner or operator of such source shall conduct a performance test(s) in accordance with methods and under operating conditions approved by the Administrator and furnish the Administrator a written report of the results of each performance test.

(i) Such test shall be at the expense of the owner or operator.

(ii) The Administrator may monitor such test and may also conduct performance tests.

(iii) The owner or operator of a source shall provide the Administrator 15 days prior notice of the performance test to afford the Administrator the opportunity to have an observer present.

(iv) The Administrator may waive the requirement for performance tests if the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the source is being operated in compliance with all State and Federal Regulations which are part of the applicable plan.

(v) If the maximum design production rate for which the permit is approved is not achieved within 90 days of initial start-up, testing will be conducted on a schedule to be defined by the Administrator. This schedule may require that the source be tested at the production rate achieved within 90 days of initial start-up and again when maximum design production rate is achieved.

(k) Approval to construct or modify shall not be required for:

(i) The installation or alteration of an air pollutant detector, air pollutants recorder, combustion controller, or combustion shutoff.

(ii) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment.

(iii) Fuel burning equipment other than a smokehouse generator which has a heat input of not more than 25 million BTU per hour (6.25 billion gm-cal/hr) and burns only gaseous fuel containing not more than 20 grains total sulfur per 100 std. ft^3; has a heat input of not more than 10 million BTU/hr (2.5 billion gm-cal/hr) and burns any other fuel.

(iv) Mobile internal combustion engines.

(v) Laboratory equipment used exclusively for chemical or physical analyses.

(vi) The installation of air pollution control equipment which is not a part of a project which requires a construction or modification permit under Chapter 6, Section 2 or 4 of these regulations.

(vii) Gasoline storage tanks at retail establishments.

(viii) Such other minor sources which the Administrator determines to be insignificant in both emission rate and ambient air quality impact.

Notwithstanding the above exemptions, any facility which is a major emitting facility pursuant to the definition in Chapter 6, Section 4 shall comply with the requirements of both Chapter 6, Sections 2 and 4.

(l) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, state and federal rules and regulations.

(m) After the Administrator has reached a proposed decision based upon the information presented in the permit application to construct or modify, the Division of Air Quality will advertise such proposed decision in a newspaper of general circulation in the county in which the source is proposed. This advertisement will indicate the general nature of the proposed facility, the proposed approval/disapproval of the permit, and a location in the region where the public might inspect the information submitted in support of the requested permit and the Air Quality Division's analysis of the effect on air quality. A copy of the public notice required above will be sent as appropriate to (a) the applicant, (b) the U.S. EPA, (c) any affected comprehensive regional land use planning agency, (d) affected county commissioners, (e) any state or federal land manager or Indian governing body whose lands may be significantly affected by emissions from the proposed facility. The public notice will include notification of the opportunity for a public hearing and will indicate the anticipated degree of increment consumption if the source is subject to Chapter 6, Section 4 of these Regulations. The public will be afforded a 30-day period in which to make comments and recommendations to the Division of Air Quality. A public hearing may be called if sufficient interest is generated or if any aggrieved party so requests in writing within the 30-day comment period. After considering all comments, including those presented at any hearings held, the Administrator will reach a decision and notify the appropriate parties.

(n) ***(i)*** Within 30 days of receipt of a permit application for a new major emitting facility or major modification which is subject to the provisions of Chapter 6, Section 4, but not later than 60 days prior to public notice issued under Chapter 6,

Section 2(m) above, the Administrator shall provide written notification to all Federal Class I Area Federal Land Managers of such proposed new major emitting facility or major modification whose emissions may affect the Federal Class I Area or affect visibility in such Area. This notification must contain a copy of all information relevant to the permit application including an analysis of the anticipated impacts on air quality and visibility in any Federal Class I Area.

(ii) Within 30 days of receipt of advance notification of a permit application for a new source or facility which may be subject to Chapter 6, Section 4, and which may affect visibility in a Federal Class I Area, the Administrator shall notify the affected Federal Land Manager of such advance notification.

(o) A permit fee will be assessed on the owner or operator (applicant), based on the cost to the Department in reviewing and acting on permit applications submitted to the Division under this section.

(i) Fees for Reviewing the Application: The Department shall provide written notice of the fee to the applicant at such time as the Administrator of the Division reaches a proposed decision on the application under paragraph (m) of this section.

(A) The fee shall include all costs incurred by the Department in reviewing the application to this point in the permit process including the costs of advertising such decision and providing public notice.

(B) The fee is due upon receipt of the written notice unless the fee assessment is appealed pursuant to W.S. 35-11-211(d).

(C) Payment of this fee shall be required before the issuance of any permit under this section.

(ii) Fees for Issuing Permit: An additional fee shall be assessed and written notice provided to the applicant for any additional costs incurred by the Department (after the date of public notice) in reaching a final decision, including the costs of holding public hearings, reviewing public comments, and issuing permits.

(iii) Portable sources or facilities shall be assessed a fee of $100.00 for operation in each new location. This fee shall be submitted with each "self issuance" permit submitted to the Division for operation under Chapter 6, Section 2(a)(iv) and Chapter 6, Section 2(b) of these regulations. For portable sources or facilities which are not authorized to use the "self issuance" permits, the fee assessment shall be $250.00 for operation at each new location.

Section 3. Operating permits.

(a) Applicability. The following sources are subject to the operating permit requirements of this section:

(i) Any major source;

(ii) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 of the Act and Chapter 5, Section 2 of the WAQSR;

(iii) Any source, including an area source, subject to a standard or other requirement under section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the Act;

(iv) Any "affected source" subject to the acid rain provisions of title IV of the Act;

(v) Any stationary source subject to preconstruction review requirements pursuant to the Prevention of Significant Deterioration of Chapter 6, Section 4 of the WAQSR;

(vi) Any other stationary source in a source category that the EPA may designate by regulation pursuant to the authority granted under the Act.

(vii) The following sources are specifically exempt from operating permit requirements of this section:

(A) Sources subject to Chapter 5, Section 2, Subpart AAA - Standards of Performance for New Residential Wood Heaters; and

(B) Sources subject to the asbestos standards for demolition and renovation of Chapter 3, Section 8.

(viii) Permitted sources which are not subject to the requirements of this section must obtain an operating permit under Chapter 6, Section 2.

(ix) Research and Development Activities. Emissions from research and development facilities which are support facilities collocated with another source under common ownership or control must be included (along with other emissions from the source) in determining the applicability of Chapter 6, Section 3 if fifty (50) percent or more of the output from the research and development facility is used by the main activity at the source. Otherwise, research and development operations may be considered as separate and discrete stationary sources in determining whether such operations are subject to Chapter 6, Section 3 operating permit requirements.

(x) Emissions Units and Chapter 6, Section 3 Sources.

(A) For major sources, the Division shall include in the permit all

applicable requirements for all relevant emissions units in the major source.

(B) For any nonmajor source subject to the Chapter 6, Section 3 program under paragraph Chapter 6, Section 3(a), the Division shall include in the permit all applicable requirements applicable to emissions units that cause the source to be subject to the Chapter 6, Section 3 program.

(xi) Fugitive Emissions. Fugitive emissions from a Chapter 6, Section 3 source shall be included in the permit application and the Chapter 6, Section 3 permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

(b) Definitions. The following definitions apply to Chapter 6, Section 3. Unless defined differently below, the meaning of the terms used in this section is the same as in Chapter 1, Section 3; Chapter 5, Section 2; Chapter 6, Section 4 of the WAQSR.

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

(ii) "Affected source" shall have the meaning given to it in regulations promulgated under Title IV of the Act for the acid rain program.

(iii) "Affected states" are all states:

(A) Whose air quality may be affected and that are contiguous to the State of Wyoming where an operating permit, permit modification or permit renewal subject to the provisions of this section is being proposed; or

(B) That are within fifty miles of the permitted source.

(iv) "Affected unit" shall have the meaning given to it in the regulations promulgated under Title IV of the Act.

(v) "Applicable requirement" means all of the following as they apply to emissions units at a source subject to this section (including requirements with future effective compliance dates that have been promulgated or approved by the EPA or the State through rulemaking at the time of issuance of the operating permit):

(A) Any standard or other requirement provided for in the Wyoming implementation plan approved or promulgated by the EPA under title I of the Act that implements the relevant requirements of the Act, including any revisions to the plan promulgated in 40 CFR part 52;

(B) Any standards or requirements in the WAQSR which are not a part of the approved Wyoming implementation plan and are not federally enforceable;

(C) Any term or condition of any preconstruction permits issued

pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D of the Act and including Chapter 5, Section 2 and Chapter 6, Sections 2 and 4 of the WAQSR;

(D) Any standard or other requirement promulgated under section 111 of the Act, including section 111(d) and Chapter 5, Section 2 of the WAQSR;

(E) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act and including any regulations promulgated by the EPA and the State pursuant to Section 112 of the Act;

(F) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(G) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act concerning enhanced monitoring and compliance certifications;

(H) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(I) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act (having to do with the release of volatile organic compounds under ozone control requirements);

(J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the EPA has determined that such requirements need not be contained in a Title V permit;

(K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act; and

(L) Any state ambient air quality standard or increment or visibility requirement of the WAQSR.

(M) Nothing under paragraph (b)(v) of this section shall be construed as affecting the allowance program and Phase II compliance schedule under the acid rain provision of Title IV of the Act.

(vi) "Commencement of operation" means the setting into operation of a new or modified source (subject to the provisions of this section) for any purpose.

(vii) "Department" means the Wyoming Department of Environmental Quality or its Director.

(viii) "Designated representative" or ***"alternate designated representative"*** shall have the meaning given to it in the regulations promulgated under Title IV of the Act.

(ix) "Division" means the Air Quality Division of the Wyoming Department of Environmental Quality or its Administrator.

(x) "Draft permit" means the version of a permit for which the Division offers public notice and an opportunity for public comment and hearing.

(xi) "Emissions allowed under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

(xii) "Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

(xiii) "EPA" means the Administrator of the U.S. Environmental Protection Agency or the Administrator's designee.

(xiv) "Final permit" means the version of an operating permit under this section issued by the Division that has completed all review procedures required by Chapter 6, Section 3(d) and Section 3(e).

(xv) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(xvi) "General permit" means an operating permit under this section that meets the requirements of Chapter 6, Section 3(i).

(xvii) "Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person or persons under common control) belonging to a single major industrial grouping and this is described in paragraphs (A), (B), or (C) of this definition. For the purpose of defining "major source", a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(A) A major source under section 112 of the Act, which is defined

as:

(I) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the EPA may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(II) For radionuclides, "major source" shall have the meaning specified by the EPA by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the EPA). Emissions of air pollutants regulated solely due to section 112(r) of the Act shall not be considered in determining whether a source is a "major source" for purposes of Chapter 6, Section 3 applicability. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source unless the source belongs to one of the following categories of stationary sources:

(I) Stationary sources listed in Chapter 6, Section 4(a)(i)(a) of the WAQSR; or

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

(C) A major stationary source as defined in part D of Title I of the Act (in reference to sources located in non-attainment areas).

(xviii) "Operating permit" means any permit or group of permits covering a source under this section that is issued, renewed, amended, or revised pursuant to this section.

(xix) "Permit modification" means a revision to an operating permit that meets the requirements of Chapter 6, Section 3(d)(vi).

(xx) "Permit revision" means any permit modification or administrative permit amendment.

(xxi) "Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation is enforceable by the EPA and the Division. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

(xxii) "Proposed permit" means the version of a permit that the Division proposes to issue and forwards to the EPA for review.

(xxiii) "Regulated air pollutant" means the following:

(A) Nitrogen oxides (NO_x) or any volatile organic compound;

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

(C) Any pollutant that is subject to any standard established in Chapter 5, Section 2 of the WAQSR or section 111 of the Act;

(D) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or

(E) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act, including sections 112(g), (j), and (r) of the Act, including the following:

(I) Any pollutant subject to requirements under section 112(j) of the Act. If the EPA fails to promulgate a standard by the date established pursuant to section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and

(II) Any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to section 112(g)(2) requirement.

(F) Pollutants regulated solely under section 112(r) of the Act are to be regulated only with respect to the requirements of section 112(r) for permits issued under this section.

(xxiv) "Regulated pollutant (for fee calculation)", which is used only for purposes of Chapter 6, Section 3(f), means any "regulated air pollutant" except the following:

(A) Carbon monoxide;

(B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.

(xxv) "Renewal" means the process by which a permit is reissued at the end of its term.

(xxvi) "Responsible official" means one of the following:

(A) For a Corporation:

(I) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(II) A duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(1.) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

(2.) The delegation of authority to such representative is approved in advance by the Division;

(B) For a Partnership or Sole Proprietorship: a general partner or the proprietor, respectively;

(C) For a Municipality, State, Federal, or Other Public Agency: Either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency; or

(D) For Affected Sources:

(I) The designated representative or alternate designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

(II) The designated representative, alternate designated representative, or responsible official under Chapter 6, Section 3(b)(xxvi) for all other purposes under this section.

(xxvii) "Section 502(b)(10) changes" are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting or compliance certification requirements.

(xxviii) "Source" means any stationary source or area source (if subject to a standard, limitation or other requirement under section 111 or 112 of the Act).

(xxix) "State" means any non-Federal permitting authority, including any local agency, interstate association, or statewide program. "State" shall have its conventional meaning where such meaning is clear from the context.

(xxx) "Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

(xxxi) "WAQSR" means the Wyoming Air Quality Standards and Regulations promulgated under the Wyoming Environmental Quality Act, W.S. § 35-11-101 *et seq*.

(c) Permit Applications. Any stationary source or group of stationary sources subject to this section shall submit a timely and complete permit application in accordance with this paragraph.

(i) Timely Application.

(A) A timely application for a source applying for an operating permit under this section for the first time is one that is submitted to the Division within twelve (12) months after the source becomes subject to this section.

(B) Every stationary source or group of stationary sources which are subject to this section under paragraph (a), and which is required to obtain a construction or modification permit under Chapter 5, Section 2 or Chapter 6, Section 2 or 4 of the WAQSR or section 112(g) of the Act shall file a complete application to obtain an operating permit within twelve (12) months after commencing operation. Where an existing operating permit would prohibit such construction or change in operation, the owner or operator must obtain a permit revision before commencing operation.

(C) For the purpose of an operating permit renewal, a timely application is one that is submitted at least six (6) months, but no earlier than eighteen

(18) months, prior to the date of the permit expiration.

(D) Transition Period. Initial operating permit applications for sources subject to this section shall be submitted as follows:

(I) Permit applications for operating natural gas compressor engines, operating natural gas sweetening plants, and operating natural gas processing plants subject to the standards of performance of Subpart KKK of Chapter 5, Section 2 of the WAQSR, shall be submitted within four (4) months of the EPA's approval of this operating permit program, but not later than November 15, 1995. This requirement for the early submittal of permit applications includes only major sources as defined in Chapter 6, Section 3(b)(xvi).

(II) Permit applications for all other operating sources subject to this section shall be submitted within twelve (12) months of the EPA's approval of this operating permit program, but not later than November 15, 1995.

(III) Applications for affected facilities addressing State and federal requirements, other than Title IV acid rain program requirements, shall be submitted to the Division within twelve (12) months of EPA approval of the operating permit program, but no later than November 15, 1995. Applications for phase II acid rain permits and all other acid rain permits for affected facilities shall be submitted in accordance with the acid rain permit application deadlines of Chapter 11, Section 2(c)(i)(B).

(IV) All sources listed at Chapter 6, Section 3(a) that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, shall submit a permit application pursuant to this section at such time as the EPA requires such sources to obtain an operating permit in final regulations promulgated pursuant to Title V of the Act.

(ii) Complete Application.

(A) Operating permit applications shall be submitted on the Division's standard operating permit application forms and any required EPA Title IV acid rain permit forms. The information which must be included in the permit application is specified below:

(I) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(II) A description of the source's processes and products (by Standard Industrial Classification Code) including any associated with alternate scenarios identified by the source.

(III) The following emissions related information:

(1.) All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit. Sufficient information shall be provided to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule developed pursuant to Chapter 6, Section 3(f).

The source shall not be required to furnish the above information for insignificant activities and emission levels such as maintenance, cleaning and painting, welding, chemical storage and transfer, and other activities which are incidental to the source's primary business activity and which result in emissions of less than one ton per year of a regulated pollutant not included in the section 112(b) list of hazardous air pollutants or emissions less than 1000 pounds per year of a pollutant regulated pursuant to listing under section 112(b) of the Act. Provided however, such emission levels of hazardous air pollutants do not exceed exemptions based on insignificant emission levels established by EPA through rulemaking for modification under section 112(g) of the Act. The source shall list such insignificant activities, proposed for exclusion, in its application and certify that emissions from each of these activities are less than the above quantities. Activities and emissions which have applicable requirements shall not be excluded from the operating permit application.

(2.) Identification and description of all emission points and fugitive emission sources in sufficient detail to establish the basis for fees and applicability of requirements of the Act and the WAQSR.

(3.) Emission rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable emission standard and reference test method.

(4.) The following information to the extent it is emissions related: fuels, fuel use, raw materials, production rates, and operating schedules.

(5.) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(6.) Limitations on source operations affecting emissions or any work practice standards, where applicable, for all regulated pollutants.

(7.) Other information required by any applicable requirements (including information related to stack height limitations pursuant to Chapter 6, Section 2).

(8.) Calculations on which the information in items

(1.) through (7.) is based.

(IV) The following air pollution control requirements:

(1.) Citation and description of all applicable requirements; and

(2.) Description of or reference to any applicable test method for determining compliance with each applicable requirement and permit limitation.

(V) Other specific information that may be necessary to implement, and enforce other requirements of the Act and the WAQSR or to determine the applicability of such requirements.

(VI) An explanation of any proposed exemptions from otherwise applicable requirements.

(VII) Additional information as determined to be necessary by the Division to define alternative operating scenarios identified by the source pursuant to Chapter 6, Section 3(h)(i)(I) or to define permit terms and conditions implementing Chapter 6, Section 3(h)(i)(J).

(VIII) A compliance plan that contains the following:

(1.) A description of the compliance status of the source with respect to all applicable requirements.

(2.) A description as follows:

a. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

b. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

c. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(3.) A compliance schedule as follows:

a. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such

requirements.

b. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

c. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

(4.) A schedule for submission of certified progress reports where applicable no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation.

(5.) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(IX) Requirements for compliance certification, including the following:

(1.) A certification of compliance with all applicable requirements by a responsible official consistent with Chapter 6, Section 3(c)(iv) and section 114(a)(3) of the Act;

(2.) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(3.) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or this Division; and

(4.) A statement indicating the source's compliance

status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(X) The use of nationally standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act.

(B) Confidential Information. As provided in sections 35-11-1101(a) and 35-11-205(d) of the Wyoming Environmental Quality Act, upon a satisfactory showing that records, reports or information or particular parts thereof, other than emission and pollution data, if made public would divulge trade secrets, the records, reports or information or particular portions thereof shall be treated as confidential by the Division. The Division may also request under Chapter 6, Section 3(h)(i)(F)(V) that the applicant provide this information directly to the EPA.

(I) An applicant who submits information which it desires to be held confidential may do so by stamping the information as "Confidential" and submitting it in a separate envelope marked "Confidential".

(iii) Duty to Supplement. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

(iv) Certification. Any application form, report, or compliance certification submitted pursuant to the WAQSR shall require certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(d) Permit Issuance, Renewal, Reopenings, and Revisions.

(i) Action on Application.

(A) A permit, permit revision, or renewal may be issued only if all of the following conditions have been met:

(I) The Division has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under Chapter 6, Section 3(i);

(II) Except for modifications qualifying for minor permit

modification procedures under Chapter 6, Section 3(d)(vi), the Division has complied with the requirements for public participation specified in this section;

(III) The Division has complied with the requirements for notifying and responding to affected States as required in this section;

(IV) The conditions of the permit provide for compliance with all applicable requirements and requirements of this section; and

(V) The EPA has received a copy of the proposed permit and any notices required under this section, and has not objected to the issuance of the permit within the time period specified in this section.

(B) Except for permits issued during the initial transitional period or under regulations promulgated under Title IV of the Act for permitting affected units under the acid rain program, the Division shall take final action on each permit application, including a request for a permit modification or renewal within 18 months after receiving a complete permit application.

(C) Within 60 days of the receipt of the application, the Division shall provide notice of whether the application is complete. Unless additional information is requested subject to the application or if the applicant is otherwise notified of incompleteness, the application shall be deemed complete after this 60-day period. A completeness determination will not be made for minor permit modifications under Chapter 6, Section 3(d)(vi)(A) and (B).

(D) The Division shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The Division will provide this statement to the EPA and any other person who requests it.

(E) The submittal of a complete permit application shall not affect the requirement that any source have a preconstruction permit under Chapter 6, Section 2 or 4 of the WAQSR.

(ii) Requirement for a Permit. Except as provided in this paragraph or in Chapter 6, Section 3(d)(iii), no source requiring an operating permit under Chapter 6, Section 3 may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under this section. If a source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have an operating permit is not a violation of this part until the Division takes final action on the permit application, except as noted in this paragraph. This protection shall cease to apply after a completeness determination made pursuant to Chapter 6, Section 3(d)(i)(C), if the applicant fails to submit by the deadline specified in writing by the Division any additional information identified as being needed to process the application.

(iii) Changes for Which No Permit Revision is Required.

(A) A source may change operations without a permit revision, as allowed under section 502(b)(10) of the Act and W.S. § 35-11-206(f)(iii), provided that:

(I) The change is not a modification under any provision of Title I of the Act and does not violate applicable acid rain requirements under Title IV of the Act;

(II) The change has met the requirements of Chapter 6, Section 2 and is not a modification under Chapter 5, Section 2 or Chapter 6, Section 4 of the WAQSR and the changes do not exceed the emissions allowed under the permit (whether expressed therein as a rate of emissions or in terms of total emissions); and

(III) The source provides the EPA and the Division with written notification at least fourteen (14) days in advance of the proposed change. The source, the EPA, and the Division shall attach such notice to their copy of the relevant permit.

(1.) For each such change, the written notification required shall include a brief description of the change within the permitted source, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.

(2.) The permit shield described in Chapter 6, Section 3(k) shall not apply to any change made pursuant to Chapter 6, Section 3(d)(iii).

(iv) Permit Renewal and Expiration.

(A) Permits being renewed are subject to the same procedural requirements, including those for public participation, and affected State and EPA review, that apply to initial permit issuance.

(B) Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with Chapter 6, Section 3(d)(ii) and Chapter 6, Section 3(c)(i)(C).

(v) Administrative Permit Amendments.

(A) An "administrative permit amendment" is a permit revision that can accomplish one or more of the following changes:

(I) Corrects typographical errors;

(II) Identifies a change in the name, address, or phone

number of any person identified in the permit, or provides a similar minor administrative change at the source;

(III) Requires more frequent monitoring or reporting by the permittee;

(IV) Allows for a change in ownership or operational control of a source where the Division determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees has been submitted to the Division;

(V) Incorporates into the operating permit the requirements from preconstruction review permits issued pursuant to Chapter 6, Sections 2 and 4 of the WAQSR, provided that the process for issuing the preconstruction permit meets procedural requirements substantially equivalent to those that would be applicable under Chapter 6, Section 3(d) and (e) if the change were subject to review as an operating permit modification, and that the permit meets compliance requirements substantially equivalent to those of Chapter 6, Section 3(h); or

(VI) Incorporates any other type of change which the EPA has determined as part of the approved operating permit program to be similar to Chapter 6, Section 3(d)(v)(A)(I) through (V) above.

(B) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act.

(C) An administrative permit amendment may be made by the Division consistent with the following:

(I) The Division shall take final action on a request for an administrative permit amendment within 60 days from the receipt of the request, and my incorporate such changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.

(II) The Division shall submit a copy of the revised permit to the EPA.

(III) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(D) The Division may, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in Chapter 6, Section 3(k) for administrative permit amendments made pursuant to Chapter 6,

Section 3(d)(v)(A)(V) which meet the relevant requirements of Chapter 6, Section 3(d), 3(h), and 3(e) for significant permit modifications.

(vi) Permit Modification. A permit modification is any revision to an operating permit which can not be accomplished as an administrative permit amendment under Chapter 6, Section 3(d)(v). A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act.

(A) Minor Permit Modification Procedures.

(I) Criteria.

(1.) Minor permit modification procedures shall be used only for those permit modifications that:

a. Do not violate any applicable requirement;

b. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

c. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

d. Do not seek to change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed in order to avoid an otherwise applicable requirement. Such terms and conditions include:

1. A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Act;

2. An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Act concerning early reductions of hazardous air pollutants; and

3. A federally enforceable emissions cap assumed to avoid being subject to provisions of this section pursuant to Chapter 6, Section 3(m) regarding synthetic minors.

e. Are not modifications under any provision of title I of the Act; and

f. Are not required to be processed as a significant modification.

(2.) Notwithstanding Chapter 6, Sections 3(d)(vi)(A) and 3(d)(vi)(B), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the implementation plan.

(3.) Qualifying for a minor permit modification under this section does not relieve a source of its responsibility to obtain a modification permit under the preconstruction permit requirements of Chapter 6, Section 2 of the WAQSR.

(II) Application. An application requesting the use of minor permit modification procedures shall meet the requirements of Chapter 6, Section 3(c)(ii) and shall include the following:

(1.) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(2.) The source's suggested draft permit;

(3.) Certification by a responsible official, consistent with Chapter 6, Section 3(c)(iv), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

(4.) Completed forms for the Division to use to notify the EPA and affected States as required under Chapter 6, Section 3(e).

(III) EPA and Affected State Notification. Within 5 working days of receipt of a complete permit modification application, the Division shall meet its obligation under Chapter 6, Sections 3(e)(i)(A) and 3(e)(ii)(A) to notify the EPA and affected States of the requested permit modification. The Division shall promptly send any notice required under Chapter 6, Section 3(e)(ii)(B) to the EPA.

(IV) Timetable for Issuance. The Division may not issue a final minor permit modification until after the EPA's 45-day review period or until EPA has notified the Division that EPA will not object to issuance of the permit modification, whichever is first, although the Division can approve the permit modification prior to that time. Within 90 days of the Division's receipt of an application under minor permit modification procedures or 15 days after the end of the EPA's 45-day review period under Chapter 6, Section 3(e)(ii)(D), whichever is later, the Division shall:

(1.) Issue the permit modification as proposed;

(2.) Deny the permit modification application;

(3.) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or

(4.) Revise the draft permit modification and transmit to the EPA the new proposed permit modification as required by Chapter 6, Section 3(e)(i).

(V) Source's Ability to Make Change.

(1.) The Division will allow the source to make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the Division takes any of the actions specified in Chapter 6, Sections 3(d)(vi)(A)(IV)(1.) through (3.), the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify; however, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(VI) Permit Shield. The permit shield under Chapter 6, Section 3(k) does not extend to minor permit modifications.

(B) Group Processing of Minor Permit Modifications. The Division may process groups of a source's applications for certain modifications eligible for minor permit modification processing.

(I) Criteria. Group processing of modifications may be used only for those permit modifications:

(1.) That meet the criteria for minor permit modification procedures under Chapter 6, Section 3(d)(vi)(A)(I)(1.); and

(2.) That are collectively below a threshold of 10 percent of the emissions allowed under the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source in Chapter 6, Section 3(b), or 5 tons per year, whichever is least.

(II) Application. An application requesting the use of group processing procedures shall meet the requirements of Chapter 6, Section 3(c)(ii)

and shall include the following:

(1.) A description of the change, the emission resulting from the change, and any new applicable requirements that will apply if the change occurs.

(2.) The source's suggested draft permit.

(3.) Certification by a responsible official, consistent with Chapter 6, Section 3(c)(iv) that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.

(4.) A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold levels of this part.

(5.) Certification, consistent with Chapter 6, Section 3(c)(iv), that the source has notified EPA of the proposed modification. Such notification need only contain a brief description of the requested modifications.

(6.) Completed forms for the Division to use to notify the EPA and affected States as required under Chapter 6, Section 3(e).

(III) EPA and Affected State Notification. On a quarterly basis or within 5 business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level of this part, whichever is earlier, the Division shall meet its obligation under Chapter 6, Sections 3(e)(i)(a) and 3(e)(ii)(a) to notify the EPA and affected States of the requested permit modifications. The Division shall send any notice required under Chapter 6, Section 3(e)(ii)(B) to the EPA.

(IV) Timetable for Issuance. The provisions of Chapter 6, Section 3(d)(vi)(A)(IV) shall apply to modifications eligible for group processing, except that the Division shall take one of the actions specified in Chapter 6, Sections 3(d)(vi)(A)(IV)(1.) through (4.) within 180 days of receipt of the application or 15 days after the end of the EPA's 45-day review period, whichever is later.

(V) Source's Ability to Make Change. The provisions of Chapter 6, Section 3(d)(vi)(A)(V) apply to modifications eligible for group processing.

(VI) Permit Shield. The permit shield under Chapter 6, Section 3(k) does not extend to modifications eligible for group processing.

(C) Significant Modification Procedures.

(I) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall require a permit modification under this paragraph. Nothing herein shall be construed to preclude the permittee from making changes consistent with this section that would render existing permit compliance terms and conditions irrelevant.

(II) Significant permit modifications shall meet all requirements of this section including those for applications, public participation, review by affected States, and review by EPA, as they apply to permit issuance and permit renewal. The Division shall complete review on the majority of significant permit modifications within 9 months after receipt of a complete application.

(vii) Reopening for Cause.

(A) Every operating permit issued shall contain provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following conditions:

(I) Additional applicable requirements under the Act or the WAQSR become applicable to a major source subject to Chapter 6, Section 3 with a remaining permit term of 3 or more years. Such reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended.

(II) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval of the EPA, excess emissions offset plans shall be deemed to be incorporated into the permit.

(III) The Division or the EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

(IV) The Division or the EPA determines that the permit must be revised or revoked to assure compliance with applicable requirements.

(B) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously

as practicable.

(C) Reopenings under Chapter 6, Section 3(d)(vii)(A) shall not be initiated before a notice of such intent is provided to the source by the Division at least 30 days in advance of the date that the permit is to be reopened, except that the Division may provide a shorter time period in the case of an emergency.

(viii) Reopenings for Cause by the Environmental Protection Agency.

(A) If the EPA finds that cause exists to terminate, modify or revoke and reissue a permit pursuant to Chapter 6, Section 3(d)(vii), the EPA will notify the Division and the permittee of such finding in writing.

(B) The Division shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The EPA may extend this 90-day period for an additional 90 days if a new or revised permit application is necessary or if the Division must require the permittee to submit additional information.

(C) The EPA shall review the proposed determination from the Division within 90 days of receipt.

(D) The Division shall have 90 days from receipt of an EPA objection to resolve the objection and to terminate, modify or revoke and reissue the permit in accordance with the EPA's objection.

(E) If the Division fails to submit a proposed determination or fails to resolve any EPA objection, the EPA will terminate, modify, or revoke and reissue the permit after taking the following actions:

(I) Providing at least 30 day's notice to the permittee in writing of the reasons for any such action; and

(II) Providing the permittee an opportunity for comment on the EPA's proposed action and an opportunity for a hearing.

(ix) Public Participation. Except for modification qualifying for minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall provide procedures for public notice including offering an opportunity for public comment and a hearing on the draft permit. These procedures shall include the following:

(A) Notice shall be given by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice; to persons on a mailing list developed by the Division, including those who request in writing to be on the list; and by other means if necessary

to assure adequate notice to the affected public;

(B) The notice shall identify the affected source; the name and address of the permittee; the name and address of the Division; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, and all other materials available to the Division that are relevant to the permit decision; a brief description of the comment procedures; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled);

(C) The Division shall provide such notice and opportunity for participation by affected States as provided in Chapter 6, Section 3(e);

(D) Timing. The Division shall provide for a 30-day period for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing.

(E) The Division shall keep a record of the commenters and also of the issues raised during the public participation process so that the EPA may fulfill its obligation under section 505(b)(2) of the Act to determine whether a citizen petition may be granted, and such records shall be available to the public.

(e) Permit Review by the Environmental Protection Agency and Affected States.

(i) Information Provided to the Environmental Protection Agency.

(A) The Division shall provide a copy of the permit application (including the compliance plan) directly to the EPA, or the Division may require that the applicant requiring a permit under this section submit a copy of the application directly to the EPA.

(B) The Division shall provide to the Administrator of the EPA a copy of each proposed permit and each final operating permit.

(C) The Division shall keep all records associated with applications and permits under this section for a period of five years.

(ii) Review by Affected States.

(A) The Division shall give notice of each draft permit to any affected State at the time notice is provided to the public under Chapter 6, Section 3(d)(ix), except to the extent Chapter 6, Section 3(d)(vi)(A) allows the time of the notice to be different for minor permit modification procedures.

(B) The Division, as part of the submittal of the proposed permit to the EPA, or for a minor permit modification procedure, as soon thereafter as possible, shall notify the EPA and any affected State in writing of any refusal to accept all recommendations for the proposed permit that the affected State submitted during the public comment period. The notice shall include the Division's reasons for not accepting any such recommendation. The Division is not required to accept recommendations that are not based on applicable requirements or the requirements of this section.

(iii) EPA Objection.

(A) No permit shall be issued if the Administrator of the EPA objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information.

(B) Any EPA objection under Chapter 6, Section 3(e)(ii)(C) shall include a statement of reasons for the objection and a description of the terms and conditions that the permit must include to respond to the objections. The EPA shall provide the permit applicant with a copy of the objection.

(C) Failure of the Division to do any of the following shall also constitute grounds for an objection:

(I) Comply with Chapter 6, Sections 3(e)(i)(A) and (B), and Chapter 6, Sections 3(e)(ii)(A) and (B);

(II) Submit any information necessary to adequately review the proposed permit; or

(III) Process the permit under the procedures approved to meet the public participation requirements of Chapter 6, Section 3(d)(ix) except for minor permit modifications.

(D) If the Division fails, within ninety (90) days after the date of an objection under Chapter 6, Section 3(e)(ii)(C), to revise and submit a proposed permit in response to the objection, the EPA will issue or deny the permit in accordance with the requirements of the federal program promulgated under Title V of the Act.

(iv) Public Petitions to the EPA. If the EPA does not object in writing under paragraph (C) of this subsection, any person may petition the EPA within 60 days after the expiration of the 45-day review period to make such an objection. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in Chapter 6, Section 3(d)(ix), unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the EPA objects to the permit as a result of a petition filed under this paragraph, the

Division shall not issue the permit until the EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to the EPA objection. If a permit has been issued, the Division may thereafter issue only a revised permit that satisfies the EPA objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(v) No operating permit (including a permit renewal or revision) will be issued until affected States and EPA have had an opportunity to review the proposed permit as required under this section.

(f) Fees.

(i) Fee Requirement. Any source required to obtain a permit under this section shall, as a condition of continued operation, submit an annual fee to the Department.

(ii) Fee Payment. The Department shall give written notice of the amount of fee to be assessed and the basis for such fee assessment to the owner or operator of the source annually. The assessed fee is due on receipt of the notice unless the fee assessment is appealed pursuant to W.S. § 35-11-211(d). If any part of the fee assessment is not appealed it shall be paid to the Department on receipt of the written notice. Any remaining fee which may be due after completion of the appeal is immediately due and payable upon issuance of the council's decision.

(iii) Basis of Fee to Support the Program.

(A) Fees shall be assessed annually for each operating source, based on emissions of each regulated pollutant in an amount sufficient to cover all reasonable direct and indirect costs of the Department in developing, implementing and administering the operating permit program of this section, including the Department's Small Business Assistance Program. The permit fee will cover all reasonable direct and indirect program costs including cost of:

(I) Reviewing and acting on permit applications, permit renewals, permit reopenings, and permit revisions;

(II) Implementing and enforcing the terms and conditions of a permit (not including any court costs or other costs associated with any enforcement action) which include but is not limited to the following:

(1.) Source inspections including the witnessing and review of stack emission tests;

(2.) Ambient monitoring data review and reporting;

(3.) Continuous emission monitoring (CEM) reports and data review;

(4.) Complaint investigations;

(5.) Special purpose monitoring;

(6.) Ambient and CEM systems audits;

(7.) EPA reporting and data entry;

(III) Emissions and ambient monitoring;

(IV) Regulation preparation and guidance;

(V) Modeling analyses and demonstrations;

(VI) Preparing emission and source inventories and tracking emissions;

(VII) Fee assessment, billing and fiscal management;

(VIII) All other permit related functions performed by the Department;

(IX) Development and administration of Department Small Business Assistance Program; and

(X) Informational management activities.

(B) Exclusions.

(I) No fee will be assessed for emissions of a regulated pollutant in excess of 4000 tons per year at a source.

(II) For purposes of fee assessment, only under this section, the term "regulated pollutant" shall not include carbon monoxide, asbestos as regulated in Chapter 3, Section 8 of the WAQSR, residential wood smoke as regulated under Chapter 5, Section 2, Subpart AAA, or any substance which would be regulated only because it is listed or regulated under section 112(r) of the Act, prevention of accidental releases for hazardous air pollutants.

(III) Fugitive emissions of total suspended particulate matter (TSP) emissions, provided however, that portion of TSP which is PM_{10} particulate matter will be estimated and assessed fees.

(iv) Fee Determination.

(A) Fees for individual sources shall be computed by multiplying the total annual emissions, in tons up to a maximum of 4000 tons per year of each regulated pollutant emitted by the source, by the dollar per ton fee calculated as follows:

$$x = F \div T$$

Where: x = dollars per ton of emissions for each regulated pollutant emitted.

F = total annual fee target.

T = total number of tons state-wide of all regulated pollutants listed in the most recent annual emissions inventory for all sources subject to this section.

(B) Annual Fee Target. The annual fee target shall be computed as follows:

$$\text{Annual fee target } (F) = (LA - NSR) \div 2$$

Where: LA = The amount of funds appropriated from the permit fee fund by the legislature for the operation and implementation of the construction and modification permit programs and the operating permit program for a two-year period. This appropriation includes any carry over in the fund from previous budget periods.

NSR = Projected costs of reviewing and issuing construction and modification permits under the Division's new source review program pursuant to Chapter 6, Sections 2 and 4 of the WAQSR for the two-year budget period.

(C) Individual source fees shall be the greater of fees calculated pursuant to Chapter 6, Section 3(f)(iv)(A) or $500.00.

(D) A fee of $250.00 shall be required for the operation of a temporary source at each new location.

(E) Any affected unit which is utilized in an EPA approved Phase I substitution plan under section 404 of the Act during the years of 1995-1999 (inclusive) shall be subject to an annual fee of $35,000, in lieu of a fee based on actual emissions under Chapter 6, Section 3(d)(v), for each year that it participates in such a substitution plan for the purpose of covering the portion of direct and indirect costs described in

Chapter 6, Section 3(d)(iii)(A) attributed to administrating the program for those affected units.

(v) Fees Shall Be Based on Actual Emissions.

(A) Actual emissions for purposes of assessing fees are, in order of decreasing accuracy:

(I) Emission measured by a continuous emissions monitoring system (CEMS) that converts pollutant concentrations to mass emission rates and that meets the requirements for CEMS installation, operation, and certification of the WAQSR or any regulation promulgated by EPA under the Act. Actual emissions are the total emissions measured by the CEMS for the year plus estimated emissions during times when the CEMS was not operational.

(II) Emissions measured by periodic stack emission tests which have been accepted by the Division as being representative of normal source operation. Actual emissions are the hourly emission rates multiplied by the annual hours of operation.

(III) Emissions estimated by the utilization of data from the manufacturer of an internal combustion engine or turbine. Actual emissions are the hourly emission rates multiplied by the annual hours of operation.

(IV) Emissions estimated by utilization of the EPA document AP-42, "Compilation of Air Pollutant Emission Factors", or Division approved source-specific emission factors. Actual emissions are the hourly emission rates multiplied by the annual hours of operation.

(B) The methodology selected for the determination of actual emissions for fee assessment by the Division shall be equivalent to methods specified in any Chapter 6, Section 2 permit that the source may hold for initial applications applied for under this section, or emissions as verified by methods prescribed in a permit issued under this section. Actual emissions for sources for which no permit has previously been issued or for which no method has been prescribed in the permit shall be determined by the Division utilizing the most accurate method available as enumerated above under Chapter 6, Section 3(f)(v)(A).

(C) Actual emissions may, at the source's choice, be presumed to be allowable emissions as determined by applicable requirements (standards and regulations) or by permit unless there is evidence that actual emissions are in excess of allowable emissions.

(D) Particulate Emissions: Until such time as continuous measurement of particulate mass emission rates from stacks becomes available or required, particulate mass emission rates for purposes of fee assessment will be based on

allowable emission rates.

(E) Fugitive emission rates, for purposes of fee assessment, will be determined by EPA AP-42 emission factors, or by Division approved emission factors, in the case of emissions from surface coal mines and other similar sources of fugitive dust emissions. The use of alternative emission factors which are source specific must be well documented and approved for use by the Division prior to the date on which emission inventories are due to be submitted to the Division.

(F) Emissions in excess of applicable requirements or permit limits due to equipment malfunction and/or failure, or process start-up and shutdowns, to the extent that such emissions are quantifiable through recognized engineering calculations or emissions and process monitoring, shall be included in source emission inventories and assessed a fee.

(G) Fees shall be assessed against owners or operators of sources applying for any permit under this section and annually thereafter for the duration of the permit. Emission inventories for sources subject to this section shall be submitted to the Division for fee assessment and compliance determinations within sixty (60) days following the end of the calendar year.

(I) During the initial year of the operating permit program, sources required to apply for a permit under this section shall be assessed fees which include operations for the calendar year 1994.

(II) Fees shall be based on calendar year source operations.

(III) New sources applying for initial permits under this section shall pay a fee based on emissions occurring since the commencement of operation for the previous calendar year and annually thereafter.

(vi) Failure to Pay Fees. Failure to pay fees owned the Department is a violation of this section and W.S. § 35-11-203 and may be cause for the revocation of any permit issued to the source.

(g) Small Business Assistance Program.

(i) Any source operated or owned by a business which qualifies as a small business under the Department **Small Business Assistance Program** may apply for assistance in complying with the requirements of this section.

(h) Permit Content.

(i) Standard Permit Requirements. Each permit issued under this section shall include the following elements:

(A) Emission limitations and standards, including those operational requirements and limitations that are applied to assure compliance with all applicable requirements at the time of permit issuance.

(I) The permit shall specify and reference the origin of and authority for each term of condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(II) The permit shall state that, where an applicable requirement of the Act is more stringent than any applicable requirement of regulations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the EPA and the Division.

(III) In addition to the requirements in Chapter 6, Section 3(h)(i)(A)(I) and (II), the permit shall include emission limitations and standards which are a part of the WAQSR and are more stringent than those of any requirements of the Act. However, such requirements shall not be federally enforceable.

(B) Permit Duration. The Division shall issue permits for a fixed term of five years for all sources except in such circumstances as provided in W.S. § 35-11-206(f)(i), where a permit may be issued for a shorter term.

(C) Monitoring and Related Recordkeeping and Reporting Requirements.

(I) Each permit shall contain the following requirements with respect to monitoring:

(1.) All emissions monitoring and analysis procedures or test methods required under the applicable monitoring and testing requirements, including any procedures and methods promulgated pursuant to Title IV and sections 504(b) or 114(a)(3) of the Act. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as the result of such streamlining;

(2.) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to Chapter 6, Section 3(h)(i)(C)(III). Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph; and

(3.) As necessary, requirements concerning the use, maintenance, and, when appropriate, installation of monitoring equipment or methods.

(II) With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(1.) Records of monitoring information that include the following:

a. The date, place as defined in the permit, and time of sampling or measurements;

b. The date(s) the analyses were performed;

c. The company or entity that performed the analyses;

d. The analytical techniques or methods used;

e. The results of such analyses; and

f. The operating conditions as they existed at the time of sampling or measurement.

(2.) Retention of records of all monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

(III) With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(1.) Submittal of Reports of Any Required Monitoring at Least Every Six Months. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with Chapter 6, Section 3(c)(iv).

(2.) Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The Division shall define “prompt” in relation to the degree and type of deviation likely to occur and the applicable requirements.

(IV) To meet the requirements of Title IV of the Act, for affected sources under the acid rain program, the permit shall incorporate all provisions for monitoring, recordkeeping, and reporting promulgated in 40 CFR part 75.

(D) A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder.

(I) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(II) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense for noncompliance with any other applicable requirement.

(III) Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act.

(E) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion(s) of the permit.

(F) Provisions Stating the Following:

(I) Duty to Comply. The permittee must comply with all conditions of the operating permit. Any permit noncompliance constitutes a violation of the Act, Article 2 of the Wyoming Environmental Quality Act and the WAQSR and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

(II) Need to Halt or Reduce Activity is Not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(III) Permit Actions. The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(IV) Property Rights. The permit does not convey any property rights of any sort, or any exclusive privilege.

(V) Duty to Provide Information. The permittee shall furnish to the Division, within a reasonable time, any information that the Division may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Division copies of records required to be kept by the permit, including information claimed and shown to be confidential under Section 35-11-1101(a) of the Wyoming Environmental Quality Act. Upon request by the Division, the permittee shall also furnish confidential information directly to EPA along with a claim of confidentiality.

(G) A provision to ensure that any source under this section pays fees to the Division consistent with Chapter 6, Section 3(f) and the fee schedule developed by the Division and approved by the joint appropriations committee of the Wyoming State Legislature.

(H) Emissions Trading. A provision stating that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

(I) Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Division. Such terms and conditions:

(I) Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted source a record of the scenario under which it is operating;

(II) May extend the permit shield described in Chapter 6, Section 3(k) to all terms and conditions under each such operating scenario; and

(III) Must ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this section.

(J) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted source, to the extent that the applicable requirements, including the State implementation plan, provide for trading such increases and decreases without a case-by-case approval of each emissions trade. Such terms and conditions:

(I) Shall include all terms required under Chapter 6, Section 3(h)(i) and (iii) to determine compliance;

(II) May extend the permit shield described in Chapter 6, Section 3(k) to all terms and conditions that allow such increases and decreases in

emissions; and

(III) Must meet all applicable requirements and requirements of this section.

(ii) Federally-Enforceable Requirements.

(A) All terms and conditions in an operating permit under this section, including any provisions designed to limit a source's potential to emit, are enforceable by the EPA and citizens under the Act.

(B) Notwithstanding paragraph (A) above, the Division shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or any regulations promulgated thereunder.

(iii) Compliance Requirements. All operating permits under this section shall contain the following elements with respect to compliance:

(A) Consistent with Chapter 6, Section 3(h)(i)(C), compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by an operating permit under this section shall contain a certification by a responsible official that meets the requirements of Chapter 6, Section 3(c)(iv).

(B) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Division or an authorized representative to perform the following:

(I) Enter upon the permittee's premises where a source is located or emissions related activity is conducted, or where records must be kept under the conditions of the permit.

(II) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit.

(III) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit.

(IV) As authorized by the Act, sample or monitor, at reasonable times, any substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(C) A schedule of compliance consistent with Chapter 6, Section 3(c)(ii)(A)(VIII).

(D) Progress reports consistent with an applicable schedule of compliance and Chapter 6, Section 3(c)(ii)(A)(VIII) to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the Division. Such progress reports shall contain the following:

(I) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(II) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(E) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

(I) The frequency (not less than annually or such more frequent period as specified in the applicable requirement or by the Division) of submissions of compliance certifications;

(II) A means for assessing or monitoring the compliance of the source with its emissions limitations, standards, and work practices;

(III) A requirement that the compliance certification include the following (provided that the identification of applicable information may cross-reference the permit or previous reports as applicable):

(1.) The identification of each term or condition of the permit that is the basis of the certification;

(2.) The status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the method or means designated in Chapter 6, Section 3(h)(iii)(E)(III)(4.). The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined in Chapter 7, Section 3 occurred;

(3.) Whether compliance was continuous or intermittent;

(4.) The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period, and whether such methods or other

means provide continuous or intermittent data. Such methods and other means shall include, at a minimum, the methods and means required under Chapter 6, Section 3(h)(i)(C). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)2 of the Clean Air Act, which prohibits knowingly making a false certification or omitting material information;

(5.) Such other facts as the Division may require to determine the status of the source;

(IV) A requirement that all compliance certifications be submitted to the EPA as well as to the Division.

(F) Such other provisions as the Division may require.

(i) General Permits.

(i) Issuance. The Division may, after notice and opportunity for public comment and hearing pursuant to Chapter 6, Section 3(d)(ix), issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to other operating permits under this section and shall identify criteria by which sources may qualify for the general permit. To sources that qualify, the Division shall grant the conditions and terms of the general permit. Notwithstanding the shield provisions of Chapter 6, Section 3(k), the source shall be subject to enforcement action for operation without an operating permit under this section if the source is later determined not to qualify for the conditions and terms of the general permit. General permits shall not be authorized for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the Act.

(ii) Application. Sources under this section that would qualify for a general permit must apply to the Division for coverage under the terms of the general permit or must apply for an operating permit consistent with Chapter 6, Section 3(c). The Division may provide for general permit applications which deviate from the requirements of Chapter 6, Section 3(c) provided that such applications meet the requirements of Title V of the Act and include all information necessary to determine qualification for, and to assure compliance with, the general permit. The Division may grant a source's request for authorization to operate under a general permit without repeating the notice and comment procedures required under Chapter 6, Section 3(d)(ix), but such issuance shall not be a final action for purposes of judicial review.

(j) Temporary Sources (Portable Sources). The Division may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operations must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

(i) Conditions that will assure compliance with all applicable requirements at all authorized locations;

(ii) Requirements that the owner or operator notify the Division at least ten days in advance of each change in location; and

(iii) Conditions that assure compliance with all other provisions of this section.

(k) Permit Shield.

(i) Except as provided in this part, the Division may expressly include in an operating permit under this section a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

(A) Such applicable requirements are included and are specifically identified in the permit; or

(B) The Division, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

(ii) An operating permit under this section that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(iii) Nothing in this paragraph or in any operating permit under this section shall alter or affect the following:

(A) The provisions of section 303 of the Act (emergency orders), including the authority of the EPA under that section.

(B) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance.

(C) The applicable requirements of the acid rain program, consistent with section 408(a) of the Act.

(D) The ability of the EPA to obtain information from a source pursuant to section 114 of the Act, or the Division to obtain information pursuant to Section 35-11-110 of the Wyoming Environmental Quality Act.

(l) Emergency Provision.

(i) Definition. An "emergency" means any situation arising from sudden

and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(ii) Effect of an Emergency. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of the following paragraph (l)(iii) are met.

(iii) Affirmative Defense. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

(A) An emergency occurred and that the permittee can identify the cause(s) of the emergency;

(B) The permitted source was at the time being properly operated;

(C) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and

(D) The permittee submitted notice of the emergency to the Division within one working day of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of Chapter 6, Section 3(h)(i)(C)(III)(2.). This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(iv) Enforcement. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

(v) Scope. This provision is in addition to any emergency or upset provision contained in any applicable requirement.

(m) Permits for Synthetic Minors.

(i) Applicability. A source may apply under this section for a permit or for a condition to a permit to limit emissions below any threshold level which would otherwise subject the source to an applicable requirement or to the provisions of this section utilizing the source's potential to emit. With respect to a condition or permit so issued, the source will not have to comply with the other provisions of this section with the exception of the following:

(A) The payment of a fee based on tons of emissions emitted pursuant to the fee schedule developed under Chapter 6, Section 3(f);

(B) The emissions limit specified in the permit shall be federally enforceable and enforceable by the Division; and

(C) Compliance with any applicable requirements specified in the permit or elsewhere in the WAQSR.

(ii) Use of General Permits. General permits issued in accordance with Chapter 6, Section 3(i) may be utilized by the Division to permit numerous similar synthetic minor sources.

(iii) Use of Chapter 6, Section 2 Permit. A source may apply for a permit under Chapter 6, Section 2 of the WAQSR to qualify as a synthetic minor, provided the permit is federally enforceable.

Section 4. Prevention of significant deterioration.

(a) Definitions. For purposes of this section:

"Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (i) through (iii) of this definition, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under paragraph (b)(xv) of this section. Instead, the definitions for "Projected actual emissions" and "Baseline actual emissions" of this section shall apply for those purposes.

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

(ii) The Division may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

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

"Administrator" means Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality.

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

(i) Applicable standards set forth in Chapter 5, Section 2 or Section 3 of these regulations and other new source performance standards and national emission standards for hazardous air pollutants promulgated by the EPA but not yet adopted by the State of Wyoming.

(ii) Any other applicable emission limit in these regulations.

(iii) The emission rate agreed to by the owner or operator as an enforceable permit condition.

"Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with paragraphs (i) through (iv) of this definition.

(i) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The Division shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

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

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

(C) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(D) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraph (i)(B) of this definition.

(ii) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month

period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Division for a Chapter 6, Section 4 permit, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

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

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

(C) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period; however, if an emission limitation is part of a maximum achievable control technology standard that the EPA Administrator proposed or promulgated under 40 CFR 63, the baseline actual emissions need only be adjusted if the Division has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

(D) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(E) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraphs (ii)(B) and (C) of this definition.

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

(iv) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (i) of this definition, for other existing emissions units in accordance with the procedures contained in paragraph (ii) of this definition, and for a new emissions unit in accordance with the procedures contained in paragraph (iii) of this definition.

"Baseline area" means any intrastate area (and every part thereof) designated as

attainment or unclassifiable under the Federal Clean Air Act in which a major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 $\mu g/m^3$ (annual average) of the pollutant for which the minor source baseline date is established.

(i) The following baseline areas have been designated as separate particulate matter attainment areas under section 107 of the Clean Air Act:

(A) The Powder River Basin Area, described as that area bounded by Township 40 through 52 North, and Range 69 through 73 West, inclusive of the Sixth Principal Meridian, Campbell and Converse Counties, excluding the areas defined as the Pacific Power and Light attainment area and the Hampshire Energy attainment area.

(B) The Pacific Power and Light Area, described as that area bounded by the NW¼ of Section 27, T50N, R71W, Campbell County, Wyoming.

(C) The Hampshire Energy Area, described as that area bounded by Section 6 excluding the SW¼; E½ Section 7; Section 17 excluding the SW¼; Section 14 excluding the SE¼; Sections 2, 3, 4, 5, 8, 9, 10, 11, 15, 16 of T48N, R70W and Section 26 excluding the NE¼; SW¼ Section 23; Sections 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, 35 of T49N, R70W, Campbell County, Wyoming.

(D) The Kennecott-Puron Area, described as the area bounded by the W½SW¼ Section 18, W½NW¼, NW¼SW¼ Section 19, T47N, R70W, S½ Section 13, N½, N½SW¼, N½SE¼ Section 24 T47N, R71W, Campbell County, Wyoming.

(E) The remainder of the State of Wyoming.

(ii) Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments.

"Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

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

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

(iii) Contributions due to emissions from any emitting source or

modification which (1) is not listed in Chapter 6, Section 4(a) under the definition for "Major stationary source", item (a) and qualified as "major" prior to August 7, 1980 only because fugitive emissions were included in determining potential to emit, (2) submitted a complete permit application under Chapter 6, Section 4(b) or the Federal Clean Air Act prior to August 7, 1980, and (3) was in existence as of the minor source baseline date;

(iv) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increment:

(A) Actual emissions, as defined in this section, from any major stationary source on which construction commenced after the major source baseline date; and

(B) Actual emissions increases and decreases, as determined in accordance with the definition for "Actual emissions" in this section, at any stationary source occurring after the minor source baseline date.

"Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those onsite activities, other than preparatory activities, which mark the initiation of the change.

"Best available control technology" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction of each pollutant subject to regulation under these Standards and Regulations or regulation under the Federal Clean Air Act, which would be emitted from or which results for any proposed major stationary source or major modification which the Administrator, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application or production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emission standard infeasible, he may instead prescribe a design, equipment, work practice or operational standard or combination thereof to satisfy the requirement of Best Available Control Technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results. Application of BACT shall not result in emissions in excess of those allowed under Chapter 5, Section 2 or Section 3 of these regulations and any other new source performance standard or national emission standards for hazardous air pollutants promulgated by the EPA but not yet adopted by the State of Wyoming.

"Clean coal technology" means any technology, including technologies applied

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

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

"Commenced", as applied to construction of a major stationary source or major modification, means that the owner or operator has obtained a Construction Permit required by Chapter 6, Section 2 and either has (i) begun, or caused to begin, a continuous program of actual on-site construction of the source or (ii) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

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

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

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

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

"Continuous parameter monitoring system (CPMS)" means all of the equipment necessary to meet the data acquisition and availability requirements of this section, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and to record average operational parameter value(s) on a continuous basis.

"Electric utility steam generating unit" means any steam electric generating unit

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

"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit as defined in this section. For purposes of this section, there are two types of emissions units as described in paragraphs (i) and (ii) of this definition.

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

(ii) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (i) of this definition.

"Enforceable" means all limitations and conditions which are enforceable under provisions of the Wyoming Environmental Quality Act and/or are federally enforceable by the Administrator of the EPA, including those requirements developed pursuant to 40 CFR parts 60 and 61, requirements within the State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 51.166.

"Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

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

"Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-Government.

"Indian Reservation" means any federally recognized reservation established by treaty, agreement, executive order, or act of Congress.

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

economics, or non air quality environmental impacts.

"Lowest achievable emission rate (LAER)" means, for any source, the more stringent rate of emissions based on the following:

(i) The most stringent emissions limitation which is contained in the implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

(ii) The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

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

"Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in: a significant emissions increase (as defined in the definition for "Significant emissions increase" in this section) of a regulated NSR pollutant (as defined in the definition for "Regulated NSR pollutant" in this section); and a significant net emissions increase of that pollutant from the major stationary source. Any significant emissions increase (as defined in the definition for "Significant emissions increase" in this section) from any emissions units or net emissions increase (as defined in the definition for "Net emissions increase" in this section) at a major stationary source that is significant for volatile organic compounds shall be considered significant for ozone.

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

(A) Routine maintenance, repair and replacement.

(B) Use of an alternative fuel by reason of an order under section 125 of the Federal Clean Air Act;

(C) An increase in the hours of operation or in the production rate, if such increase does not exceed the operating design capacity of the major stationary source unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division;

(D) Use of an alternative fuel or raw material by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental

Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

(E) Use of an alternative fuel or raw material, if prior to January 6, 1975, the source was capable of accommodating such fuel or material unless such change would be prohibited by, or inconsistent with, an enforceable permit issued by the Division, or if the source is approved to use such fuel or material through an enforceable permit issued under these regulations;

(F) Change in ownership of the stationary source;

(G) The use of municipal solid waste as an alternative fuel at a steam generating plant;

(H) The installation, operation, cessation or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(I) The Wyoming State Implementation Plan, and

(II) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

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

(J) The reactivation of a very clean coal-fired electric utility steam generating unit.

(ii) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under paragraph (b)(xv) of this section for a PAL for that pollutant. Instead, the definition in paragraph (b)(xv)(B) for "PAL major modification" of this section shall apply.

"Major source baseline date" means:

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

(ii) In the case of nitrogen dioxide, February 8, 1988.

"Major stationary source" means (a) any of the following stationary sources of air pollutants which emit, or have the potential to emit, one hundred tons per year or

more of any air pollutant for which standards are established under these Standards and Regulations or under the Federal Clean Air Act: fossil fuel-fired steam electric plants of more than two hundred and fifty million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, Portland Cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than two hundred and fifty tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combinations thereof) of more than two hundred and fifty million British thermal units per hour heat input, petroleum storage and transfer plants with a capacity exceeding three hundred thousand barrels, taconite ore processing plants, glass fiber processing plants, charcoal production plants. (b) Such term also includes any stationary source which emits, or has the potential to emit, two hundred and fifty tons per year or more of any air pollutant for which standards are established under these Standards and Regulations or under the Federal Clean Air Act. (c) Such term also includes any physical change that would occur at a stationary source not otherwise qualifying under this definition if the change would constitute a major stationary source by itself. (d) A major source which is major for volatile organic compounds is considered to be major for ozone.

"Minor source baseline date" means the earliest date after August 7, 1977 for particulate matter and sulfur dioxide, and after February 8, 1988 for nitrogen oxides, on which a major stationary source or major modification submits a complete permit application under Chapter 6, Section 4(b) or under the Federal Clean Air Act.

(i) The minor source baseline date for sulfur dioxide for the State of Wyoming is February 2, 1978.

(ii) The minor source baseline date for nitrogen oxides for the State of Wyoming is February 26, 1988.

(iii) The minor source baseline date for particulate matter is as follows:

(A) For the Powder River Basin Area – March 6, 1997;

(B) For the Pacific Power and Light Area – June 18 1980;

(C) For the Hampshire Energy Area – September 30, 1982;

(D) For the Kennecott-Puron Area – February 27, 1995;

(E) For the rest of the State of Wyoming – February 22, 1979.

(iv) The baseline date is established for each pollutant for which

increments or other equivalent measures have been established, if:

(A) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under the Federal Clean Air Act for the pollutant on the date of its complete application; and

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

(v) The baseline date is not established by the permit application for an emitting source or modification which (1) is not listed in Chapter 6, Section 4(a) under the definition for "Major stationary source", item (a), (2) qualified as "major" prior to August 7, 1980 only because fugitive emissions were included in determining potential to emit, and (3) submitted a complete permit application under Chapter 6, Section 4(b) or the Federal Clean Air Act prior to August 7, 1980.

(vi) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments.

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

(i) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to paragraph (b)(i)(J) of this section;

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

(iii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(A) The date five years before construction on the particular change commences; and

(B) The date that the increase from the particular change occurs.

(iv) An increase or decrease in actual emissions is creditable only if:

(A) The Division has not relied on it in issuing a Chapter 6, Section 4 permit for the source, which is in effect when the increase in actual emissions from the particular change occurs.

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

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

(vii) A decrease in actual emissions is creditable only to the extent that:

(A) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(B) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

(C) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

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

(ix) The definition of "Actual emissions" of this section, shall not apply for determining creditable increases and decreases.

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

"Predictive emissions monitoring system (PEMS)" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

"Project" means a physical change in, or change in method of operation of, an

existing major stationary source.

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

(i) In determining the projected actual emissions under the above paragraph of this section (before beginning actual construction), the owner or operator of the major stationary source:

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

(B) Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions;

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

(D) In lieu of using the method set out in paragraphs (i)(A) through (C) of this definition, may elect to use the emissions unit's potential to emit, in tons per year, as defined under the definition of "Potential to emit" of this section.

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

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

(ii) Was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85

percent and a removal efficiency for particulates of not less than 98 percent;

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

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

"Regulated NSR pollutant", for purposes of this section, means the following:

(i) Any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the EPA Administrator (e.g., volatile organic compounds are precursors for ozone);

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

(iii) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Federal Clean Air Act; or

(iv) Any pollutant that otherwise is subject to regulation under the Federal Clean Air Act; except that any or all hazardous air pollutants either listed in section 112 of the Federal Clean Air Act or added to the list pursuant to section 112(b)(2) of the Federal Clean Air Act, which have not been delisted pursuant to section 112(b)(3) of the Federal Clean Air Act, are not regulated NSR pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Federal Clean Air Act.

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

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

(ii) The Administrator shall give expedited consideration to permit applications for any source that satisfies the requirements of this subsection and is granted an extension under section 409 of the Clean Air Act.

"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or modification of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle or from a train.

"Significant" means:

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

POLLUTANT AND EMISSIONS RATE

Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
Particulate matter:	25 tpy of particulate matter emissions; 15 tpy of PM_{10} emissions
Ozone:	40 tpy of volatile organic compounds
Lead:	0.6 tpy
Fluorides:	3 tpy
Sulfuric acid mist:	7 tpy
Hydrogen sulfide (H_2S):	10 tpy
Total reduced sulfur (including H_2S):	10 tpy
Reduced sulfur compounds (including H_2S):	10 tpy
Municipal solid waste landfill emissions (measured as nonmethane organic compounds):	50 tpy
Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans):	3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year)
Municipal waste combustor metals (measured as particulate matter):	14 megagrams per year (15 tons per year)
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride):	36 megagrams per year (40 tons per year)

(ii) "Significant" means, in reference to a net emissions increase or the potential of a source to emit a pollutant subject to these regulations and regulations under

the Clean Air Act, that paragraph (i) above does not list, any emissions rate.

(iii) Notwithstanding paragraph (i) above, "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification which would construct within 10 kilometers of a Class I Area, and have an impact on such area equal to or greater than 1 $\mu g/m^3$ (24-hour average).

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in paragraph (i) of the definition of "Significant" in this section) for that pollutant.

"Stationary source" means any structure, building, facility, equipment, installation or operation (or combination thereof) which emits or may emit any air pollutant subject to these regulations or regulations under the Federal Clean Air Act.

"Structure, building, facility, equipment, installation, or operation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same *Major Group* (i.e., which have the same two-digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Wyoming State Implementation Plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Volatile organic compounds (VOCs)" is defined in Chapter 3, Section 6(a) of these regulations.

(b) Any person who plans to construct any major stationary source or undertake a major modification of an existing stationary source shall be subject to the conditions outlined below.

(i) (A) (I) The review of the stationary source for the construction or modification permit(s) required under Chapter 6, Section 2 of these regulations shall apply and shall be expanded so as to include analysis of the predicted impact of the allowable and secondary emissions from the stationary source on the ambient air quality in areas affected by such emissions. An analysis of the predicted impact of emissions from the stationary source is required for all pollutants for which standards have been established under these regulations or under the Federal Clean Air Act and which are emitted in significant amounts. An analysis of the impact of other pollutants may be

required by the Administrator. Such analysis shall identify and quantify the impact on the air quality in the area of all emissions not included in the baseline concentrations including, but not limited to, those emissions resulting from the instant application and all other permits issued in the area. The purpose of this analysis is to determine the total deterioration of air quality from the baseline concentrations; however, projections of deterioration due to general non-stationary source growth in the area predicted to occur after the date of application is not required. A permit to construct pursuant to Chapter 6, Section 2 shall be issued only if the conditions of Chapter 6, Section 2 are complied with and if the predicted impact (over and above the baseline concentration) of emissions defined above is less than the maximum allowable increment shown in Table 1 for the classification of the area in which the impact is predicted and if the ambient standard for the pollutant(s) is not exceeded.

Table 1
Maximum Allowable Increments of Deterioration - $\mu g/m^3$

Pollutant	Class I	Class II
Particulate Matter:		
PM_{10}, annual arithmetic mean	4	17
PM_{10}, 24-hour maximum	8	30
Sulfur Dioxide:		
Annual arithmetic mean	2	20
24-hour maximum*	5	91
3-hour maximum*	25	512
Nitrogen Dioxide		
Annual arithmetic mean	2.5	25

*Maximum allowable increment may be exceeded once per year at any receptor site.

(II) Notwithstanding the provisions of paragraph (b)(i)(A)(I) above, the following concentrations shall be excluded in determining compliance with maximum allowable increases:

(l.) Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order. No such exclusion shall apply for more than five years after the later of such effective dates;

(2.) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan. No such exclusion shall apply for more than 5 years after the later of such effective date;

(3.) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;

(4.) The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentrations; and

(5.) Concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate matter, or nitrogen oxides from stationary sources as specified below.

a. The temporary emissions do not occur for more than 2 years.

b. The 2-year time period is not renewable.

c. Such temporary emissions are not eligible for exclusion if they would impact a Class I Area or an area where the applicable increment is known to be violated or an area where they would cause or contribute to a violation of the applicable ambient air quality standard.

d. At the end of the temporary emission time frame, emissions from the stationary source causing these temporary emissions shall not exceed those levels occurring at such source prior to such temporary emission.

(B) In addition to the analyses required under Chapter 6, Section 4(b)(i)(A) above,

(I) The owner or operator shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(II) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.

(C) The requirements for demonstration of compliance with applicable increments of Chapter 6, Section 4(b)(i)(A)(I), the additional analysis requirements of Chapter 6, Section 4(b)(i)(B) and the ambient air quality analysis requirements of Chapter 6, Section 4(b)(i)(E) shall not apply to a proposed major stationary source or modification with respect to a particular pollutant if the Administrator determines that:

(I) The increase in allowable emissions of that pollutant from the stationary source or the net emissions increase of that pollutant from a modification would be temporary and would impact no Class I Area and no area where an applicable increment is known to be violated; or

(II) The stationary source was in existence on March 1, 1978, and that the maximum allowable emission increases only impact Class II Areas, and that after application of BACT, the increase in allowable emissions of each pollutant would be less than 50 tons per year.

(D) Fugitive emissions, to the extent quantifiable, will be considered in calculating the potential to emit of the stationary source or modification only for:

(I) Sources listed in Chapter 6, Section 4(a) under the definition of "Major stationary source", item (a).

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

(III) And such other sources as the Environmental Quality Council may later determine.

(E) An application subject to this section shall contain an analysis of ambient air quality in the area that would be affected by the stationary source or modification as required below:

(I) For each pollutant that the source would have the

potential to emit in a significant amount.

(II) For the modification, each pollutant for which it would result in a significant net emissions increase.

(III) For pollutants for which National Ambient Air Quality Standards have been established, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

(IV) In general, the required continuous air quality monitoring data shall have been gathered over a period of one year immediately preceding receipt of the application. The Administrator may provide that the monitoring period specification may be reduced to a minimum of four months if he is satisfied that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year.

(V) All monitoring conducted pursuant to the requirements of this section shall meet the requirements of Appendix B of 40 CFR part 58.

(VI) The requirements for pre-construction monitoring specified above and under Chapter 6, Section 2(b) with respect to monitoring for a particular pollutant may be waived by the Administrator upon petition from an applicant if:

(1.) The emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts:

a. Carbon Monoxide - 575 $\mu g/m^3$, 8-hour average;

b. Nitrogen Dioxide - 14 $\mu g/m^3$, annual average;

c. Particulate Matter - 10 $\mu g/m^3$ of PM_{10}, 24-hour average;

d. Sulfur Dioxide - 13 $\mu g/m^3$, 24-hour average;

e. Ozone (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 would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.)

f. Lead - 0.1 μg/m^3, 3-month average;

g. Fluorides - 0.25 μg/m^3, 24-hour average;

h. Total Reduced Sulfur - 10 μg/m^3, 1-hour average;

i. Hydrogen Sulfide - 0.2 μg/m^3, 1-hour average;

j. Reduced Sulfur Compounds - 10 μg/m^3, 1-hour average; or

(2.) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed above; or

(3.) The pollutant is not listed above.

(F) The Administrator may require an applicant subject to the provisions of this section to conduct an approved visibility monitoring program in any Class I Area which may be impacted by emissions from the proposed stationary source.

(G) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, then all of the provisions of Chapter 6, Sections 2 and 4 shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(H) The following specific provisions apply to projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where the owner or operator elects to use the method specified in paragraphs (i)(A) through (C) of the definition for "Projected actual emissions" for calculating projected actual emissions.

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

(1.) A description of the project;

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

(3.) A description of the applicability test used to

determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph (i)(C) of the definition for "Projected actual emissions" in Section 4(a) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(II) Before beginning actual construction, the owner or operator shall provide the information set out in paragraph (b)(i)(H)(I) of this section to the Division as a Chapter 6, Section 2 permit application.

(III) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph (b)(i)(H)(I)(2.) of this section; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.

(IV) The owner or operator shall submit a report to the Division within 60 days after the end of each year during which records must be generated under paragraph (b)(i)(H)(III) of this section setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(I) The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph (b)(i)(H) of this section available for review upon request for inspection by the Division or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).

(J) (I) Except as otherwise provided in paragraph (b)(xv) of this section, and consistent with the definition of "Major modification" contained in Section 4(a), a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases—a significant emissions increase (as defined in the definition for "Significant emissions increase" in Section 4(a)), and a significant net emissions increase (as defined in the definitions for "Net emissions increase" and "Significant" in Section 4(a)). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(II) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (b)(i)(J)(III) through (V) of this section. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in

the definition for "Net emissions increase" in Section 4(a). Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(III) Actual-to-Projected-Actual Applicability Test For Projects That Only Involve Existing Emissions Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in the definition for "Projected actual emissions" in Section 4(a)) and the baseline actual emissions (as defined in paragraphs (i) and (ii) in the definition of "Baseline actual emissions" in Section 4(a)) for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in the definition of "Significant" in Section 4(a)).

(IV) Actual-to-Potential Test For Projects That Only Involve Construction of a New Emissions Unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in the definition for "Potential to emit" in Section 4(a)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in paragraph (iii) for the definition of "Baseline actual emissions" in Section 4(a)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in the definition of "Significant" in Section 4(a)).

(V) Hybrid Test For Projects That Involve Multiple Types of Emissions Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs (b)(i)(J)(III) and (IV) of this section as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in the definition of "Significant" in Section 4(a)).

(ii) (A) The required permit shall not be issued unless the proposed major stationary source or major modification would meet an emission limit(s) or equipment standard(s) specified by the Administrator to represent the application of Best Available Control Technology for each pollutant regulated under these Standards and Regulations and under the Federal Clean Air Act and having the potential to emit in significant amounts. For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest, most reasonable time no later than 18 months prior to commencement of each phase of the proposed project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the stationary source.

(B) In the case of a major modification, the requirements for Best Available Control Technology shall apply only to each new or modified emissions unit at which a net emissions increase of the pollutant would occur.

(C) (I) The applicant for a permit for a source subject to this section may petition the Administrator to approve a system of innovative control technology.

(II) The Administrator, with the approval of the governor(s) of other affected state(s) may approve the employment of a system of innovative control technology if:

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

(2.) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under paragraphs (ii)(A) and (B) above by a date specified by the Administrator. Such date shall not be later than 4 years from the time of startup or 7 years from permit issuance.

(3.) The major stationary source or major modification would meet the requirements equivalent to those in paragraphs (b)(i)(A)(I), (b)(ii)(A), and (b)(ii)(B) above based on the emission rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Administrator.

(4.) The source or modification would not before the date specified by the Administrator:

a. Cause or contribute to any violation of an applicable National Ambient Air Quality Standard, or

b. Impact any Class I Area, or

c. Impact any area where an applicable increment is known to be violated.

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

(III) The approval to employ a system of innovative control technology shall be withdrawn by the Administrator if:

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

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

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

(IV) If the source or modification fails to meet the required level of continuous emissions reduction within the specified time period or if the approval is withdrawn in accordance with (III) above, the Administrator may allow the source or modification up to an additional three years to meet the requirement for the application of BACT through use of a demonstrated system of control.

(iii) Temporary particulate matter emissions such as those associated with the construction phase of the source shall not be included in the determination on the issuance or denial of a required permit and shall not be taken into account when determining compliance with the maximum allowable increments in Table 1; however, Best Available Control Technology shall be applied to abate such temporary emission.

(iv) All applications of air quality modeling required under paragraph (b)(i) above shall be based on the applicable models, databases, and other requirements specified in Appendix W of 40 CFR part 51 (Guideline on Air Quality Models). Where an air quality model specified in Appendix W of 40 CFR part 51 (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific State of Wyoming program. Written approval of the EPA Administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures set forth in Chapter 6, Section 2(g).

(v) In any case where the federal official charged with direct responsibility for management of any lands within a Class I Area, or the Administrator of EPA or the governor of an adjacent state containing such a Class I Area, files a notice alleging that emissions from a proposed source or major modification may cause or contribute to a change in the air quality in such area and identifying the potential adverse impact of such change, a permit shall not be issued unless the owner or operator of such source demonstrates to the satisfaction of the Administrator that emissions of particulate matter, sulfur dioxide, and nitrogen oxides will not cause or contribute to concentrations which exceed the maximum allowable increases for the Class I Area in question.

(vi) (A) In any case where a Federal Land Manager demonstrates to the satisfaction of the Administrator that the emissions from such source will have an adverse impact on the air quality-related values (including visibility) of such Class I Areas, notwithstanding the fact that the change in air quality resulting from emissions from such source will not cause or contribute to concentrations which exceed the maximum allowable increases for Class I Areas, a permit shall not be issued.

(B) However, in the case where the Federal Land Manager provides to the Division at least 30 days prior to the Public Notice issued pursuant to Chapter 6, Section 2(m) of these regulations, an analysis of the impact of the emissions on visibility in a Federal Class I Area, the Division must consider such analysis in making its proposed decision. If the Federal Land Manager's analysis concludes that an adverse impact on visibility in the Federal Class I Area will occur but the Administrator determines that the analysis does not demonstrate to his satisfaction that such an adverse impact on visibility will occur, the Administrator shall in the Public Notice issued pursuant to the requirements of Chapter 6, Section 2(m), explain his decision or give notice as to where the explanation can be obtained.

(vii) In any case where the owner or operator of such source demonstrates to the satisfaction of the Federal Land Manager, and the Federal Land Manager so certifies, that the emissions from such source will have no adverse impact on the air quality-related values of such Class I Areas (including visibility) notwithstanding the fact that the change in air quality resulting from emissions from such source will cause or contribute to concentrations which exceed the maximum allowable increases for Class I Areas, the Administrator may issue a permit.

(viii) In the case of a permit issued pursuant to subsection (vii), such source shall comply with such emission limitation under such permit as may be necessary to assure that emissions of sulfur oxides, particulate matter, and nitrogen oxides from such source, will not cause or contribute to concentrations of such pollutant which exceeds the following maximum allowable increases over the baseline concentration for such pollutants:

	Maximum Allowable Increase (micrograms per cubic meter)
Particulate matter:	
PM_{10}, annual arithmetic mean	17
PM_{10}, 24-hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
Twenty-four-hour maximum	91
Three-hour maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

(ix) (A) In any case where the owner or operator of a proposed major stationary source or major modification who has been denied a certification under subparagraph (vii) demonstrates to the satisfaction of the Governor of Wyoming (hereinafter the Governor), after notice and public hearing, and the Governor finds, that the source cannot be constructed by reason of any maximum allowable increases for sulfur dioxide for periods of twenty-four hours or less applicable to any Class I Area and, in the case of federal Mandatory Class I Areas, that a variance under this clause will not adversely affect the air quality related values of the area (including visibility), the

Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may grant a variance from such maximum allowable increase. If a variance is granted, a permit may be issued to such source pursuant to the requirements of this subparagraph provided other requirements of this section are met.

(B) In the case of a permit issued pursuant to subparagraph (ix)(A), such source shall comply with such emission limitations under such permit as may be necessary to assure that emissions of sulfur oxides from such source will not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which exceed the following maximum allowable increases for such areas over the baseline concentration for such pollutant and to assure that such emissions will not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less on more than 18 days during any annual period.

	Maximum Allowable Increase (micrograms per cubic meter)
Period of exposure:	
Low terrain areas:	
24-hr maximum	36
3-hr maximum	130
High terrain areas:	
24-hr. maximum	62
3-hr maximum	221

(x) Notwithstanding other requirements of this section, a portable source which is a major stationary source and which has otherwise received a construction permit under Chapter 6, Sections 2 and 4 shall not be required to obtain additional relocation permits under this section if:

(A) Emissions from the source would not exceed allowable emissions; and

(B) Such relocation would impact no Class I Area and no area where an applicable increment is known to be violated; and

(C) Notice is given to the Division at least 10 days prior to such relocation identifying the proposed new location and the probable duration of operation at such location; and

(D) Emissions at the new location will be temporary.

(xi) After a final decision is made on an application for a source subject

to this section, the final decision will be transmitted in writing to the applicant and the final decision and all comments received by the Division during the public comment period will be made available for public inspection in the same location where the application and analysis was posted. A copy of each permit application for each source or modification subject to this section and impacting a Federal Class I Area will be transmitted to EPA. EPA will be provided with notice of each action taken by the Division on such application.

(xii) [Reserved]

(xiii) [Reserved]

(xiv) [Reserved]

(xv) Actuals Plantwide Applicability Limitations (PALs).

(A) Applicability.

(I) The Division may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in paragraphs (b)(xv)(A) through (O) of this section. The term "PAL" shall mean "actuals PAL" throughout paragraph (b)(xv) of this section.

(II) Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in paragraphs (b)(xv)(A) through (O) of this section, and complies with the PAL permit:

(1.) Is not a major modification for the PAL pollutant;

(2.) Does not have to be approved through a Chapter 6, Section 4 permit; and

(3.) Is not subject to the provisions in paragraph (b)(i)(G) of this section (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of Chapter 6, Section 4).

(III) Except as provided under paragraph (b)(xv)(A)(II)(3.) of this section, a major stationary source shall continue to comply with all applicable Federal or State of Wyoming requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

(B) Definitions. The following definitions shall be used for actuals PALs consistent with paragraphs (b)(xv)(A) through (O) of this section. When a term is not defined in these paragraphs, it shall have the meaning given in Section 4(a) of

this section or in the Clean Air Act.

"Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 4(a)) of all emissions units (as defined in the definition for "Source" in Section 4(a)) at the source, that emit or have the potential to emit the PAL pollutant.

"Allowable emissions" has the same meaning as in the definition for "Allowable emissions" in Section 4(a), except as this definition is modified according to paragraphs (i) and (ii) of this definition.

(i) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

(ii) An emissions unit's potential to emit shall be determined using the definition of "Potential to emit" in Section 4(a), except that the words "or enforceable as a practical matter" should be added after "enforceable".

"Major emissions unit" means:

(i) Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or

(ii) Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Clean Air Act for nonattainment areas. (For example, in accordance with the definition of major stationary source in section 182(c) of the Clean Air Act, an emissions unit would be a major emissions unit for VOC if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOC per year.)

"PAL effective date" generally means the date of issuance of the PAL permit; however, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

"PAL effective period" means the period beginning with the PAL effective date and ending 10 years later.

"PAL major modification" means, notwithstanding the definitions for "Major modification" and "Net emissions increase" of Section 4(a), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

"PAL permit" means the Chapter 6, Section 2 or Section 4 permit issued by the Division that establishes a PAL for a major stationary source.

"PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

"Plantwide applicability limitation (PAL)" means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with paragraphs (b)(xv)(A) through (O) of this section.

"Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in the definition for "Significant" in Section 4(a) or in the Clean Air Act, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in paragraph (b)(xv)(B) for the definition of "Major emissions unit" of this section.

"Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in the definition for "Significant" in Section 4(a) or in the Clean Air Act, whichever is lower.

(C) Permit Application Requirements. As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information in paragraphs (b)(xv)(C)(I) through (III) of this section to the Division for approval.

(I) A List of All Emissions Units at the Source Designated as Small, Significant or Major Based on Their Potential to Emit. In addition, the owner or operator of the source shall indicate which, if any, Federal or State of Wyoming applicable requirements, emission limitations, or work practices apply to each unit.

(II) Calculations of the Baseline Actual Emissions (With Supporting Documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction.

(III) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph (b)(xv)(M)(I) of this section.

(D) General Requirements For Establishing PALs.

(I) The Division may establish a PAL at a major stationary

source, provided that at a minimum, the requirements in paragraphs (b)(xv)(D)(I)(1.) through (7.) of this section are met.

(1.) The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(2.) The PAL shall be established in a PAL permit that meets the public participation requirements in paragraph (b)(xv)(E) of this section.

(3.) The PAL permit shall contain all the requirements of paragraph (b)(xv)(G) of this section.

(4.) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

(5.) Each PAL shall regulate emissions of only one pollutant.

(6.) Each PAL shall have a PAL effective period of 10 years.

(7.) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in paragraphs (b)(xv)(L) through (N) of this section for each emissions unit under the PAL through the PAL effective period.

(II) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under 40 CFR Part 51.165(a)(3)(ii) unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

(E) Public Participation Requirements For PALs. PALs for existing major stationary sources shall be established, renewed, or increased, through a procedure that is consistent with Chapter 6, Section 2. This includes the requirement that the Division provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The Division must address all

material comments before taking final action on the permit.

(F) Setting the 10-Year Actuals PAL Level.

(I) Except as provided in paragraph (b)(xv)(F)(II) of this section, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in the definition for "Baseline actual emissions" in Section 4(a)) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under the definition of "Significant" in Section 4(a) or under the Clean Air Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units; however, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Division shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable Federal or State of Wyoming regulatory requirement(s) that the Division is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NOx to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).

(II) For newly constructed units (which do not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in paragraph (b)(xv)(F)(I) of this section, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

(G) Contents of the PAL Permit. The PAL permit shall contain, at a minimum, the information in paragraphs (b)(xv)(G)(I) through (X) of this section.

(I) The PAL pollutant and the applicable source-wide emission limitation in tons per year.

(II) The PAL permit effective date and the expiration date of the PAL (PAL effective period).

(III) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with paragraph (b)(xv)(J) of this section before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Division.

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

(V) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of paragraph (b)(xv)(I) of this section.

(VI) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph (b)(xv)(C)(I) of this section.

(VII) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under paragraph (b)(xv)(M) of this section.

(VIII) A requirement to retain the records required under paragraph (b)(xv)(M) of this section on site. Such records may be retained in an electronic format.

(IX) A requirement to submit the reports required under paragraph (b)(xv)(N) of this section by the required deadlines.

(X) Any other requirements that the Division deems necessary to implement and enforce the PAL.

(H) PAL Effective Period and Reopening of the PAL Permit.

(I) PAL Effective Period. The PAL effective period shall be 10 years.

(II) Reopening of the PAL Permit.

(1.) During the PAL effective period, the Division shall reopen the PAL permit to:

a. Correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL;

b. Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under 40 CFR part 51.165(a)(3)(ii); and

c. Revise the PAL to reflect an increase in the PAL as provided under paragraph (b)(xv)(K) of this section.

(2.) The Division may reopen the PAL permit for the following:

a. Reduce the PAL to reflect newly applicable Federal requirements (for example, NSPS) with compliance dates after the PAL effective date;

b. Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the Division may impose on the major stationary source; and

c. Reduce the PAL if the Division determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an AQRV that has been identified for a Federal Class I Area by a Federal Land Manager and for which information is available to the general public.

(3.) Except for the permit reopening in paragraph (b)(xv)(H)(II)(1.)a. of this section for the correction of typographical/calculation errors that do not increase the PAL level, all reopenings shall be carried out in accordance with the public participation requirements of paragraph (b)(xv)(E) of this section.

(I) Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in paragraph (b)(xv)(J) of this section shall expire at the end of the PAL effective period, and the requirements in paragraphs (b)(xv)(I)(I) through (V) of this section shall apply.

(I) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the procedures in paragraphs (b)(xv)(I)(I)(1.) and (2.) of this section.

(1.) Within the time frame specified for PAL renewals in paragraph (b)(xv)(J)(II) of this section, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Division) by distributing the PAL-allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph (b)(xv)(J)(V) of this section, such distribution shall be made as if the PAL had been adjusted.

(2.) The Division shall decide whether and how the PAL-allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Division determines is appropriate.

(II) Each emissions unit(s) shall comply with the allowable

emission limitation on a 12-month rolling basis. The Division may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS or CPMS to demonstrate compliance with the allowable emission limitation.

(III) Until the Division issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (b)(xv)(I)(I)(2.) of this section, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(IV) Any physical change or change in the method of operation at the major stationary source will be subject to Chapter 6, Section 4 requirements if such change meets the definition of "Major modification" in Section 4(a).

(V) The major stationary source owner or operator shall continue to comply with any State of Wyoming or Federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to paragraph (b)(i)(G) of this section, but were eliminated by the PAL in accordance with the provisions in paragraph (b)(xv)(A)(II)(3.) of this section.

(J) Renewal of a PAL.

(I) The Division shall follow the procedures specified in paragraph (b)(xv)(E) of this section in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Division.

(II) Application Deadline. A major stationary source owner or operator shall submit a timely application to the Division to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

(III) Application Requirements. The application to renew a PAL permit shall contain the information required in paragraphs (b)(xv)(J)(III)(1.) through (4.) of this section.

(1.) The information required in paragraphs (b)(xv)(C)(I) through (III) of this section.

(2.) A proposed PAL level.

(3.) The sum of the potential to emit of all emissions units under the PAL (with supporting documentation).

(4.) Any other information the owner or operator wishes the Division to consider in determining the appropriate level for renewing the PAL.

(IV) PAL Adjustment. In determining whether and how to adjust the PAL, the Division shall consider the options outlined in paragraphs (b)(xv)(J)(IV)(1.) and (2.) of this section; however, in no case may any such adjustment fail to comply with paragraph (b)(xv)(J)(IV)(3.) of this section.

(1.) If the emissions level calculated in accordance with paragraph (b)(xv)(F) of this section is equal to or greater than 80 percent of the PAL level, the Division may renew the PAL at the same level without considering the factors set forth in paragraph (b)(xv)(J)(IV)(2.)of this section; or

(2.) The Division may set the PAL at a level that it determines to be more representative of the source's baseline actual emissions, or that it determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Division in its written rationale.

(3.) Notwithstanding paragraphs (b)(xv)(J)(IV)(1.) and (2.) of this section:

a. If the potential to emit of the major stationary source is less than the PAL, the Division shall adjust the PAL to a level no greater than the potential to emit of the source; and

b. The Division shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of paragraph (b)(xv)(K) of this section (increasing a PAL).

(V) If the compliance date for a State of Wyoming or Federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Division has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or Chapter 6, Section 3 operating permit renewal, whichever occurs first.

(K) Increasing a PAL During the PAL Effective Period.

(I) The Division may increase a PAL emission limitation

only if the major stationary source complies with the provisions in paragraphs (b)(xv)(K)(I)(1.) through (4.) of this section.

(1.) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(2.) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(3.) The owner or operator obtains a Chapter 6, Section 4 permit for all emissions unit(s) identified in paragraph (b)(xv)(K)(I)(1.) of this section, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the Chapter 6, Section 4 process (for example, BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.

(4.) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(II) The Division shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with paragraph (b)(xv)(K)(I)(2.) of this section), plus the sum of the baseline actual emissions of the small emissions units.

(III) The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of paragraph (b)(xv)(E) of this section.

(L) Monitoring Requirements for PALs.

(I) General Requirements.

(1.) Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(2.) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in paragraphs (b)(xv)(L)(II)(1.) through (4.) of this section and must be approved by the Division.

(3.) Notwithstanding paragraph (b)(xv)(L)(I)(2.) of this section, you may also employ an alternative monitoring approach that meets paragraph (b)(xv)(L)(I)(1.) of this section if approved by the Division.

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

(II) Minimum Performance Requirements For Approved Monitoring Approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (b)(xv)(L)(III) through (IX) of this section:

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

(2.) CEMS;

(3.) CPMS or PEMS; and

(4.) Emission factors.

(III) Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

(1.) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

(2.) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the

emissions unit, if it cannot otherwise be accounted for in the process; and

(3.) Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Division determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(IV) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1.) CEMS must comply with applicable Performance Specifications found in 40 CFR part 60, Appendix B; and

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

(V) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

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

(2.) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Division, while the emissions unit is operating.

(VI) Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

(1.) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

(2.) The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

(3.) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the Division determines that testing is not required.

(VII) A source owner or operator must record and report

maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

(VIII) Notwithstanding the requirements in paragraphs (b)(xv)(L)(III) through (VIII) of this section, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Division shall, at the time of permit issuance:

(1.) Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or

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

(IX) Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Division. Such testing must occur at least once every 5 years after issuance of the PAL.

(M) Recordkeeping Requirements.

(I) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of paragraph (b)(xv) of this section and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record.

(II) The PAL permit shall require an owner or operator to retain a copy of the following records, for the duration of the PAL effective period plus 5 years:

(1.) A copy of the PAL permit application and any applications for revisions to the PAL; and

(2.) Each annual certification of compliance pursuant to Chapter 6, Section 3 and the data relied on in certifying the compliance.

(N) Reporting and Notification Requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Division in accordance with the applicable Chapter 6, Section 3 operating permit program. The reports shall meet the requirements in paragraphs (b)(xv)(N)(I) through

(III) of this section.

(I) Semi-annual Report. The semi-annual report shall be submitted to the Division within 30 days of the end of each reporting period. This report shall contain the information required in paragraphs (b)(xv)(N)(I)(1.) through (7.) of this section.

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

(2.) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to paragraph (b)(xv)(M)(I) of this section.

(3.) All data relied upon, including, but not limited to, any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions.

(4.) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period.

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

(6.) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by paragraph (b)(xv)(L)(VII) of this section.

(7.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(II) Deviation Report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to Chapter 6, Section 3(h)(i)(C)(III)(2.) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by Chapter 6, Section 3(h)(i)(C)(III)(2.). The reports shall contain the following information:

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

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

(3.) Emissions resulting from the deviation or the exceedance; and

(4.) A signed statement by the responsible official (as defined by the applicable Chapter 6, Section 3 operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(III) Re-validation Results. The owner or operator shall submit to the Division the results of any re-validation test or method within three months after completion of such test or method.

(O) Transition Requirements.

(I) The Division shall not issue a PAL that does not comply with the requirements in paragraphs (b)(xv)(A) through (O) of this section after the Administrator has approved regulations incorporating these requirements into Chapter 6, Section 4.

(II) The Division may supersede any PAL which was established prior to the date of approval of this regulation by the Administrator of EPA with a PAL that complies with the requirements of paragraphs (b)(xv)(A) through (O) of this section.

(xvi) If any provision of this section, or the application of such provision to any person or circumstance, is held invalid, the remainder of this section, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(xvii) Transition:

(A) The requirements for BACT in Chapter 6, Section 4(b)(ii) and the requirements for air quality analysis in Chapter 6, Section 4(b)(i) shall not apply to a major stationary source or major modification that was subject to Chapter 6, Section 4, as effective on January 25, 1979, if the owner or operator of the source submitted an application for a permit under these regulations before August 7, 1980, and the Administrator subsequently determines that the application submitted before that date was complete. Instead, the requirements of Chapter 6, Section 4 as in effect on January 25, 1979, apply to any such source or modification.

(B) The requirements for air quality monitoring in paragraph (b)(i)(E) shall not apply to a particular source or modification that was subject to Chapter 6, Section 4, as effective on January 25, 1979, if the owner or operator of the source or

modification submits an application for a permit under these regulations on or before June 8, 1981, and the Administrator subsequently determines that the application submitted before that date was complete with respect to the requirements for ambient air quality data analyses as in effect on January 25, 1979. Instead, the latter requirements shall apply to such source or modification.

(C) The requirements for air quality monitoring in paragraph (b)(i)(E) shall not apply to a particular source or modification that was not subject to Chapter 6, Section 4, as effective on January 25, 1979, if the owner or operator of the source or modification submits an application for a permit under these regulations before June 8, 1981, and the Administrator subsequently determines that the application as submitted before that date was complete except with respect to the requirements in paragraph (b)(i)(F).

(D) The requirements for air quality monitoring for PM_{10} in paragraphs (b)(i)(E)(I) through (IV) of this section, effective February 13, 1989, shall not apply to a particular source or modification, if the owner or operator of the source or modification submits an application for a permit under Chapter 6, Section 4 on or before June 1, 1988 and the Administrator subsequently determines that the application submitted before that date was complete, except with respect to the requirements for monitoring particulate matter.

(E) The requirements for air quality monitoring of PM_{10} in paragraphs (b)(i)(E)(IV) through (b)(i)(E)(V) of this section, effective February 13, 1989, shall apply to a particular source or modification if the owner or operator of the source or modification submits an application for a permit under this section after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions set forth under paragraph (b)(xvii)(G) of this section, except that the Administrator may provide that the monitoring period specification may be reduced to a minimum of four months if he is satisfied that a complete and adequate analysis can be accomplished with monitoring data gathered over that shorter period of time.

(F) For any application under this section that becomes complete except as to the requirements of paragraphs (b)(i)(E)(III) and (b)(i)(E)(IV) pertaining to PM_{10}, after December 1, 1988 and no later than August 1, 1989, the data that paragraph (b)(i)(E)(III) requires will have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete. The Administrator may provide that the monitoring period specification may be reduced to a minimum of four months if he is satisfied that a complete and adequate analysis can be accomplished with monitoring data gathered over that shorter period of time.

(G) With respect to any requirements for air quality monitoring of PM_{10} specified under paragraphs (b)(xvii)(D) and (b)(xvii)(E) of this section, effective February 13, 1989, the owner or operator of the source or modification shall use a

monitoring method approved by the Administrator and shall estimate the ambient concentrations of PM_{10} using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Administrator.

(H) The requirement to demonstrate compliance with the maximum allowable increment for nitrogen dioxide shall not apply to a major stationary source or major modification that was subject to Chapter 6, Section 4, as effective on February 8, 1988, if the owner or operator of the source or modification submits an application for a permit under these regulations on or before October 30, 1990 and the Administrator subsequently determines that the application submitted before that date was complete.

(I) The requirement to demonstrate compliance with the maximum allowable increment for PM_{10} shall not apply to a major stationary source or major modification that was subject to Chapter 6, Section 4, as effective on June 3, 1993, if the owner or operator of the source or modification submits an application for a permit under these regulations on or before the effective date of this regulation revision and the Administrator subsequently determines that the application submitted before that date was complete. Instead, the requirement to demonstrate compliance with the maximum allowable increment for TSP, as in effect at the time the application was submitted, shall apply:

Maximum Allowable Increments of Deterioration - $\mu g/m^3$

Pollutant	Class I	Class II
Particulate Matter:		
TSP, Annual geometric mean	5	19
TSP, 24-hour maximum*	10	37

*Maximum allowable increment may be exceeded once per year at any receptor site.

(c) All national parks, national wilderness areas, and national memorial parks in Wyoming as of January 25, 1979, shall be designated Class I and may not be redesignated. All other areas of the State of Wyoming shall be designated Class II as of the effective date of this regulation.

(d) Redesignation. All redesignation of areas within the State of Wyoming shall be accomplished through the process of establishment of Standards and Regulations set forth in the Wyoming Environmental Quality Act.

(i) The following areas may be redesignated only as Class I or Class II Areas:

(A) An area which exceeds 10,000 acres in size and is a national monument, a national primitive area, a national preserve, a national recreational area, a

national wild and scenic river, a national wildlife refuge, a national lakeshore, and

(B) A national park or national wilderness area which exceeds 10,000 acres in size and is established after the effective date of this regulation.

(ii) Except as provided in paragraph (c) above, any area may be redesignated as Class I or II, with the approval of the Administrator of the Environmental Protection Agency, in accordance with the provisions of paragraph (iii) below; provided, however, that lands within the exterior boundaries of reservations of federally recognized Indian tribes may be redesignated to any class, but only by the appropriate Indian governing body.

(iii) (A) At least one public hearing must be held in accordance with the provisions for adoption of regulations as set forth in the Administrative Procedures Act and the Wyoming Environmental Quality Act.

(B) At least 30 days prior to the public hearing, a description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation shall be prepared and made available for public inspection. Any person petitioning the Department or Council to redesignate an area shall be responsible for preparing or submitting such description and analysis. Such persons shall also be responsible for revising this required documentation to the extent necessary to satisfy the Administrator of the U.S. EPA. The notice of the public hearing shall contain appropriate notification of the availability of the description and analysis of the proposed redesignation.

(C) Agencies from neighboring states, Indian governing bodies, Federal Land Managers, and local governments whose land may be affected by the proposed redesignation shall be notified at least 30 days prior to the hearing.

(D) Prior to proposing a redesignation, the Division and the Air Quality Advisory Board shall consult with the elected leadership of local and other substate general purpose governments in the area covered by the redesignation.

(E) Prior to public notice of the proposed redesignation the Division shall provide written notice to any Federal Land Manager who may be responsible for any federal lands within the area proposed for such redesignation and shall afford adequate opportunity (but not in excess of 60 days) to confer with the State respecting the intended notice of designation. The Federal Land Manager shall be offered the opportunity to submit written comments and recommendations with respect to such intended notice of redesignation. In redesignating any area with respect to which the federal land manager has submitted written comments and recommendations, the Division will publish a list of any inconsistency between such redesignation and such recommendation with an explanation of such inconsistency (together with the reasons for making such redesignation against the recommendation of the Federal Land Manager).

(F) The Council shall review and examine the description and analysis prepared pursuant to subparagraph (iii)(B) above prior to any redesignation.

(iv) (A) If an area has been proposed for redesignation to a more stringent class, no permit to construct may be granted to a source which may cause an impact in the area proposed for redesignation and for which an application to construct is received by the Division after the filing of the petition for redesignation with the Environmental Quality Council until the proposed redesignation has been acted upon; however, approval may be granted if, in the Administrator's judgment, the proposed source would not violate the applicable increments of the proposed redesignation. Such approval shall be withheld only so long as in the Administrator's judgment, the petitioner is expeditiously proceeding toward development of the "description and analysis" required under (iii)(B) above, and provided that such "description and analysis" is complete and submitted to the Council for action on the petition within 18 months of the filing of the initial petition. Upon good cause shown, the Council may extend the foregoing deadline.

(B) Where an application for a permit to construct a source has been received by the Division prior to the receipt by the Council of a petition for redesignation of an area to a more stringent class and where such source may cause an impact in the area proposed for redesignation, the permit application shall be processed considering the classification of an area which existed at the time of permit application. For purposes of establishing a priority date under this Chapter 6, Section 4(d)(vi)(B), (1) such permit application is not required to meet the provisions for completeness in Chapter 6, Section 2, and (2) the time frames in Chapter 6, Section 2(g) for action on applications shall not apply.

However, a priority date established under Chapter 6, Section 4(d)(vi)(B), shall remain in effect only so long as in the Administrator's judgment, the applicant is expeditiously proceeding toward the development and submittal of such other information and data as required to make the application complete under the provisions of Chapter 6, Section 2, and provided that such other information and data is submitted to, and judged to be complete by the Administrator within 18 months of the filing of the initial permit application. Upon good cause shown, the Administrator may extend the foregoing deadline.

Section 5. Permit requirements for construction and modification of NESHAPs sources.

(a) (i) Applicability.

(A) This section implements the preconstruction review requirements of section 112(i)(1) for sources subject to a relevant emission standard that has been promulgated under Chapter 5, Section 3. In addition, this subsection includes other requirements for constructed and reconstructed stationary sources that are or become subject to a relevant promulgated emission standard.

(B) After the effective date of a relevant standard, the requirements in this subsection apply to owners or operators who construct a new source or reconstruct a source after the proposal date of that standard. New or reconstructed sources that start up before the standard's effective date are not subject to the preconstruction review requirements specified in paragraphs (ii)(B), (iii), and (iv) of this subsection.

(ii) Requirements for Existing, Newly Constructed, and Reconstructed Sources.

(A) Upon construction an affected source is subject to relevant standards for new sources, including compliance dates. Upon reconstruction, an affected source is subject to relevant standards for new sources, including compliance dates, irrespective of any change in emissions of hazardous air pollutants from that source.

(B) After the effective date of any relevant standard, no person may construct a new major affected source or reconstruct a major affected source subject to such standard, or reconstruct a major source such that the source becomes a major affected source subject to the standard, without obtaining written approval, in advance, from the Administrator in accordance with the procedures specified in paragraphs (iii) and (iv) of this subsection.

(C) After the effective date of any relevant standard, no person may construct a new affected source or reconstruct an affected source subject to such standard, or reconstruct a source such that the source becomes an affected source subject to the standard, without notifying the Administrator of the intended construction or reconstruction. The notification shall be submitted in accordance with the procedures in Chapter 5, Section 3(k)(ii) and shall include all the information required for an application for approval of construction or reconstruction as specified in paragraph (iii) of this subsection. For major sources, the application for approval of construction or reconstruction may be used to fulfill the notification requirements of this subparagraph.

(D) After the effective date of any relevant standard, no person may operate such source without complying with the provisions of this section and the relevant standard unless that person has received an extension of compliance or an exemption from compliance under Chapter 5, Section 3(h)(viii) or Section 3(h)(ix).

(E) After the effective date of any relevant standard, equipment added (or a process change) to an affected source that is within the scope of the definition of affected source under the relevant standard shall be considered part of the affected source and subject to all provisions of the relevant standard established for that affected source. If a new affected source is added to the facility, the new affected source shall be subject to all the provisions of the relevant standard that are established for new sources including compliance dates.

(iii) Application for Approval of Construction or Reconstruction. The provisions of this paragraph implement section 112(i)(1) of the Act.

(A) General Application Requirements.

(I) An owner or operator who is subject to the requirements of paragraph (ii)(B) of this subsection shall submit to the Administrator an application for approval of the construction of a new major affected source, the reconstruction of a major affected source, or the reconstruction of a major source such that the source becomes a major affected source subject to the standard. The application shall be submitted in accordance with Chapter 6, Section 2 requirements before the construction or reconstruction is planned to commence. The application for approval of construction or reconstruction may be used to fulfill the initial notification requirements of Chapter 5, Section 3(k)(ii)(E). The owner or operator may submit the application for approval well in advance of the date construction or reconstruction is planned to commence in order to ensure a timely review by the Administrator and that the planned commencement date will not be delayed.

(II) A separate application shall be submitted for each construction or reconstruction. Each application for approval of construction or reconstruction shall include at a minimum:

(1.) The applicant's name and address;

(2.) A notification of intention to construct a new major affected source or make any physical or operational change to a major affected source that may meet or has been determined to meet the criteria for a reconstruction, as defined in Chapter 5, Section 3(e);

(3.) The address (i.e., physical location) or proposed address of the source;

(4.) An identification of the relevant standard that is the basis of the application;

(5.) The expected commencement date of the construction or reconstruction;

(6.) The expected completion date of the construction or reconstruction;

(7.) The anticipated date of (initial) startup of the source;

(8.) The type and quantity of hazardous air pollutants emitted by the source, reported in units and averaging times and in accordance

with the test methods specified in the relevant standard, or if actual emissions data are not yet available, an estimate of the type and quantity of hazardous air pollutants expected to be emitted by the source reported in units and averaging times specified in the relevant standard. The owner or operator may submit percent reduction information if a relevant standard is established in terms of percent reduction. However, operating parameters, such as flow rate, shall be included in the submission to the extent that they demonstrate performance and compliance; and

(9.) Other information as specified in paragraphs (iii)(B) and (iii)(C) of this subsection.

(III) An owner or operator who submits estimates or preliminary information in place of the actual emissions data and analysis required in paragraphs (iii)(A)(II)(8.) and (iii)(B) of this subsection shall submit the actual, measured emissions data and other correct information as soon as available but not later than with the notification of compliance status required in Chapter 5, Section 3(k)(viii) [see Chapter 5, Section 3(k)(viii)(D)].

(B) Application for Approval of Construction. Each application for approval of construction shall include, in addition to the information required in paragraph (iii)(A)(II) of this subsection, technical information describing the proposed nature, size, design, operating design capacity, and method of operation of the source, including an identification of each point of emission for each hazardous air pollutant that is emitted (or could be emitted) and a description of the planned air pollution control system (equipment or method) for each emission point. The description of the equipment to be used for the control of emissions shall include each control device for each hazardous air pollutant and the estimated control efficiency (percent) for each control device. The description of the method to be used for the control of emissions shall include an estimated control efficiency (percent) for that method. Such technical information shall include calculations of emission estimates in sufficient detail to permit assessment of the validity of the calculations. An owner or operator who submits approximations of control efficiencies under this subparagraph shall submit the actual control efficiencies as specified in paragraph (iii)(A)(III) of this subsection.

(C) Application for Approval of Reconstruction. Each application for approval of reconstruction shall include, in addition to the information required in paragraph (iii)(A)(II) of this subsection:

(I) A brief description of the affected source and the components that are to be replaced;

(II) A description of present and proposed emission control systems (i.e., equipment or methods). The description of the equipment to be used for the control of emissions shall include each control device for each hazardous air pollutant and the estimated control efficiency (percent) for each control device. The description of the method to be used for the control of emissions shall include an estimated control

efficiency (percent) for that method. Such technical information shall include calculations of emission estimates in sufficient detail to permit assessment of the validity of the calculations;

(III) An estimate of the fixed capital cost of the replacements and of constructing a comparable entirely new source;

(IV) The estimated life of the affected source after the replacements; and

(V) A discussion of any economic or technical limitations the source may have in complying with relevant standards or other requirements after the proposed replacements. The discussion shall be sufficiently detailed to demonstrate to the Administrator's satisfaction that the technical or economic limitations affect the source's ability to comply with the relevant standard and how they do so.

(VI) If in the application for approval of reconstruction the owner or operator designates the affected source as a reconstructed source and declares that there are no economic or technical limitations to prevent the source from complying with all relevant standards or other requirements, the owner or operator need not submit the information required in subparagraphs (iii)(C)(III) through (V) of this subsection, above.

(D) Additional Information. The Administrator may request additional relevant information after the submittal of an application for approval of construction or reconstruction.

(iv) Approval of Construction or Reconstruction.

(A) (I) If the Administrator determines that, if properly constructed, or reconstructed, and operated, a new or existing source for which an application under paragraph (iii) of this subsection was submitted will not cause emissions in violation of the relevant standard(s) and any other federally enforceable requirements, the Administrator will approve the construction or reconstruction through issuance of a construction or reconstruction permit for the source.

(II) In addition, in the case of reconstruction, the Administrator's determination under this paragraph will be based on:

(1.) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new source;

(2.) The estimated life of the source after the replacements compared to the life of a comparable entirely new source;

(3.) The extent to which the components being replaced cause or contribute to the emissions from the source; and

(4.) Any economic or technical limitations on compliance with relevant standards that are inherent in the proposed replacements.

(B) (I) The Administrator will notify the owner or operator in writing of approval or intention to deny approval of construction or reconstruction within 60 calendar days after receipt of sufficient information to evaluate an application submitted under paragraph (iii) of this subsection. The 60-day approval or denial period will begin after the owner or operator has been notified in writing that the application is complete. The Administrator will notify the owner or operator in writing of the status of the application, that is, whether the application contains sufficient information to make a determination, within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted.

(II) When notifying the owner or operator that the application is not complete, the Administrator will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 30 calendar days after notification of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

(C) Before denying any application for approval of construction or reconstruction, the Administrator will notify the applicant of the Administrator's intention to issue the denial together with:

(I) Notice of the information and findings on which the intended denial is based; and

(II) Notice of opportunity for the applicant to present, in writing, within 30 calendar days after notification of the intended denial, additional information or arguments to the Administrator to enable further action on the application.

(D) A final determination to deny any application for approval will be in writing and will specify the ground on which the denial is based. The final determination will be made within 60 calendar days of presentation of additional information or arguments (if the application is complete), or within 60 calendar days after the final date specified for presentation if no presentation is made.

(E) Neither the submission of an application for approval nor the Administrator's approval of construction or reconstruction shall:

(I) Relieve an owner or operator of legal responsibility for compliance with any applicable provisions of this section or with any other applicable Federal, State, or local requirement; or

(II) Prevent the Administrator from implementing or enforcing this section or taking any other action under the Wyoming Environmental Quality Act.

(v) Approval of Construction or Reconstruction Based on Prior State Preconstruction Review.

(A) The Administrator may approve an application for construction or reconstruction specified in paragraphs (ii)(B) and (iii) of this section if the owner or operator of a new or reconstructed source who is subject to such requirement demonstrates to the Administrator's satisfaction that the following conditions have been (or will be) met:

(I) The owner or operator of the new or reconstructed source has undergone a preconstruction review and approval process under Chapter 6, Section 2 before the promulgation date of the relevant standard and has received a federally enforceable construction permit that contains a finding that the source will meet the relevant emission standard as proposed, if the source is properly built and operated;

(II) In making its finding, the State has considered factors substantially equivalent to those specified in paragraph (iv)(A) of this section; and either

(III) The promulgated standard is no more stringent than the proposed standard in any relevant aspect that would affect the Administrator's decision to approve or disapprove an application for approval of construction or reconstruction under this section; or

(IV) The promulgated standard is more stringent than the proposed standard but the owner or operator will comply with the standard as proposed during the 3-year period immediately following the effective date of the standard as allowed for in Chapter 5, Section 3(h)(ii)(C).

(B) The owner or operator shall submit to the Administrator the request for approval of construction or reconstruction under this paragraph no later than the application deadline specified in paragraph (iii)(A) of this section [see also Chapter 5, Section 3(k)(ii)(B)]. The owner or operator shall include in the request information sufficient for the Administrator's determination. The Administrator will evaluate the owner or operator's request in accordance with the procedures specified in paragraph (iv) of this section. The Administrator may request additional relevant information after the submittal of a request for approval of construction or reconstruction under this paragraph.

Section 6. Permit requirements for case-by-case maximum achievable control technology (MACT) determination.

(a) Applicability. The requirements of this section carry out section 112(g)(2)(B)

of the Clean Air Act, as amended in 1990.

(b) Overall Requirements. The requirements of this section apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after the effective date of this section unless the major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to section 112(d), section 112(h), or section 112(j) and incorporated in 40 CFR part 63 or Chapter 5, Section 3, or the owner or operator of such major source has received all necessary air quality permits for such construction or reconstruction project before the effective date of this section.

(c) Exclusion for Electric Utility Steam Generating Units. The requirements of this section do not apply to electric utility steam generating units unless and until such time as these units are added to the source category list pursuant to section 112(c)(5) of the Act.

(d) Exclusion for Stationary Sources in Deleted Source Categories. The requirements of this section do not apply to stationary sources that are within a source category that has been deleted from the source category list pursuant to section 112(c)(9) of the Act.

(e) Exclusion for Research and Development Activities. The requirements of this section do not apply to research and development activities, as defined in Chapter 6, Section 6(f)(xiii).

(f) Definitions:

Terms used in this section that are not defined in this section have the meaning given to them in the Act and in Chapter 5, Section 3.

(i) "Affected source" means the stationary source or group of stationary sources which, when fabricated (on site), erected, or installed meets the definition of "construct a major source" or the definition of "reconstruct a major source" contained in this section.

(ii) "Affected States" are all States:

(A) Whose air quality may be affected and that are contiguous to the State of Wyoming where a MACT determination is made in accordance with this Section; or

(B) Whose air quality may be affected and that are within 50 miles of the major source for which a MACT determination is made in accordance with this section.

(iii) "Available information" means, for purposes of identifying control

technology options for the affected source, information contained in the following information sources as of the date of approval of the MACT determination by the Division:

(A) A relevant proposed regulation, including all supporting information;

(B) Background information documents for a draft or proposed regulation;

(C) Data and information available for the EPA Control Technology Center developed pursuant to section 113 of the Act;

(D) Data and information contained in the EPA Aerometric Informational Retrieval System including information in the MACT data base;

(E) Any additional information that can be expeditiously provided by EPA; and

(F) For the purpose of determinations by the Division, any additional information provided by the applicant or others, and any additional information considered available by the Division.

(iv) "Construct a major source" means:

(A) To Fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAPs or 25 tons per year of any combination of HAP, or

(B) To fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, unless the process or production unit satisfies criteria in paragraphs (B)(I) through (VI) of this definition.

(I) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of this section will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

(II) (1.) The Division has determined within a period of 5 years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented best available control technology (BACT), toxics-best available control technology (T-BACT), under Chapter 6, Section 2, or MACT based on State air toxic rules for the category of pollutants which includes those HAPs to be emitted by the process or production unit; or

(2.) The Division determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, T-BACT, or State air toxic rule MACT determination);

(III) The Division determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

(IV) The Division has provided notice and an opportunity for public comment concerning its determination that criteria in paragraphs (B)(I), (B)(II), and (B)(III) of this definition apply and concerning the continued adequacy of any prior BACT, T-BACT, or State air toxic rule MACT determination;

(V) If any commenter has asserted that a prior BACT, T-BACT, or State air toxic rule MACT determination is no longer adequate, the Division has determined that the level of control required by that prior determination remains adequate; and

(VI) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the Division are applicable requirements under Chapter 6, Section 3 and either have been incorporated into any existing operating permit for the affected facility or will be incorporated into such permit upon issuance.

(v) "Control technology" means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants through process changes, substitution of materials or other modifications;

(A) Reduce the quantity of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications;

(B) Enclose systems or processes to eliminate emissions;

(C) Collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

(D) Are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 U.S.C. 7412(h); or

(E) Are a combination of paragraphs (A) through (D) of this definition.

(vi) "Electric utility steam generating unit" means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that co-generates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

(vii) "Greenfield site" means a contiguous area under common control that is an undeveloped site.

(viii) "List of Source Categories" means the Source Category List required by section 112(c) of the Act.

(ix) "Maximum achievable control technology (MACT) emission limitation for new sources" means the emission limitation which is not less stringent than the emission limitation achieved in practice by the best controlled similar source, and which reflects the maximum degree of reduction in emissions that the Division, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.

(x) "Notice of MACT Approval" means a Chapter 6, Section 2 permit issued by a Division containing all federally enforceable conditions necessary to enforce the application and operation of MACT or other control technologies such that the MACT emission limitation is met.

(xi) "Process or production unit" means any collection of structures and/or equipment, that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.

(xii) "Reconstruct a major source" means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever:

(A) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and

(B) It is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this section.

(xiii) "Research and development activities" means activities conducted

at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.

(xiv) "Similar source" means a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology.

(g) Prohibition. After the effective date of this section no person may begin actual construction or reconstruction of a major source of HAP unless:

(i) The major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to section 112(d), section 112(h) or section 112(j) in 40 CFR part 63, and the owner and operator has fully complied with all procedures and requirements for preconstruction review established by that standard, including any applicable requirements set forth in Chapter 6, Section 5; or

(ii) The Division has made a final and effective case-by-case determination pursuant to the provisions of Chapter 6, Section 6(h) such that emissions from the constructed or reconstructed major source will be controlled to a level no less stringent than the maximum achievable control technology emission limitation for new sources.

(h) Maximum Achievable Control Technology (MACT) Determinations for Constructed and Reconstructed Major Sources.

(i) Applicability. The requirements of this section apply to an owner or operator who constructs or reconstructs a major source of HAP subject to a case-by-case determination of maximum achievable control technology pursuant to Chapter 6, Section 6(g).

(ii) Requirements for Constructed and Reconstructed Major Sources. When a case-by-case determination of MACT is required by Chapter 6, Section 6(g), the owner and operator shall obtain from the Division an approved MACT determination in conjunction with the required Chapter 6, Section 2 permit according to the requirements listed in Chapter 6, Section 6(h)(iv).

(iii) Principles of MACT Determinations. The following general principles shall govern preparation by the owner or operator of each permit application or other application requiring a case-by-case MACT determination concerning construction or reconstruction of a major source, and all subsequent review of and actions taken concerning such an application by the Division:

(A) The MACT emission limitation or MACT requirements

recommended by the applicant and approved by the Division shall not be less stringent than the emission control which is achieved in practice by the best controlled similar source, as determined by the Division.

(B) Based upon available information, as defined in this section, the MACT emission limitation and control technology (including any requirements under Chapter 6, Section 6(h)(iii)(C)) recommended by the applicant and approved by the Division shall achieve the maximum degree of reduction in emissions of HAP which can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements associated with the emission reduction.

(C) The applicant may recommend a specific design, equipment, work practice, or operational standard, or a combination thereof, and the Division may approve such a standard if the Division specifically determines that it is not feasible to prescribe or enforce an emission limitation under the criteria set forth in section 112(h)(2) of the Act.

(D) If EPA has either proposed a relevant emission standard pursuant to section 112(d) or section 112(h) of the Act or adopted a presumptive MACT determination for the source category which includes the constructed or reconstructed major source, then the MACT requirements applied to the constructed or reconstructed major source shall have considered those MACT emission limitations and requirements of the proposed standard or presumptive MACT determination.

(iv) Application Requirements for a Case-By-Case MACT Determination.

(A) An application for a MACT determination, in conjunction with an application for a permit pursuant to Chapter 6, Section 2, shall specify a control technology selected by the owner or operator that, if properly operated and maintained, will meet the MACT emission limitation or standard as determined according to the principles set forth in Chapter 6, Section 6(h)(iii).

(B) In each instance where a constructed or reconstructed major source would require additional control technology or a change in control technology, the application for a MACT determination shall contain the following information:

(I) The name and address (physical location) of the major source to be constructed or reconstructed;

(II) A brief description of the major source to be constructed or reconstructed and identification of any listed source category or categories in which it is included;

(III) The expected commencement date for the construction or reconstruction of the major source;

(IV) The expected completion date for construction or reconstruction of the major source;

(V) The anticipated date of start-up for the constructed or reconstructed major source;

(VI) The HAP emitted by the constructed or reconstructed major source, and the estimated emission rate for each such HAP, to the extent this information is needed by the Division to determine MACT;

(VII) Any federally enforceable emission limitations applicable to the constructed or reconstructed major source;

(VIII) The maximum and expected utilization of capacity of the constructed or reconstructed major source, and the associated uncontrolled emission rates for that source, to the extent this information is needed by the Division to determine MACT;

(IX) The controlled emissions for the constructed or reconstructed major source in tons/yr at expected and maximum utilization of capacity, to the extent this information is needed by the Division to determine MACT;

(X) A recommended emission limitation for the constructed or reconstructed major source consistent with the principles set forth in paragraph (iii) of this section;

(XI) The selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the Division);

(XII) Supporting documentation including identification of alternative control technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology; and

(XIII) Any other relevant information required pursuant to Section 33.

(C) In each instance where the owner or operator contends that a constructed or reconstructed major source will be in compliance, upon startup, with case-by-case MACT under this section without a change in control technology, the application

for a MACT determination shall contain the following information:

(I) The information described in Chapter 6, Section 6(h)(iv)(B)(I) through (iv)(B)(X); and

(II) Documentation of the control technology in place.

(v) Administrative Procedures for Review of the Notice of MACT Approval.

(A) The administrative procedures for review shall follow the procedures specified in Chapter 6, Section 2(g) for the permit review and approval or denial process.

(vi) Notice of MACT Approval.

(A) The Notice of MACT Approval will contain a MACT emission limitation (or a MACT work practice standard if the Division determines it is not feasible to prescribe or enforce an emission standard) to control the emissions of HAP. The MACT emission limitation or standard will be determined by the Division and will conform to the principles set forth in Chapter 6, Section 6(h)(iii) of this section.

(B) The Notice of MACT Approval will specify any notification, operation and maintenance, performance testing, monitoring, reporting and recordkeeping requirements. The Notice of MACT Approval shall include:

(I) In addition to the MACT emission limitation or MACT work practice standard established under this section, additional emission limits, production limits, operational limits or other terms and conditions necessary to ensure Federal enforceability of the MACT emission limitation;

(II) Compliance certifications, testing, monitoring, reporting and recordkeeping requirements that are consistent with the requirements of Chapter 6, Section 3(h);

(III) In accordance with section 114(a)(3) of the Act, monitoring shall be capable of demonstrating continuous compliance during the applicable reporting period. Such monitoring data shall be of sufficient quality to be used as a basis for enforcing all applicable requirements established under this section, including emission limitations;

(IV) A statement requiring the owner or operator to comply with all applicable requirements contained in Chapter 5, Section 3 and Chapter 6, Section 5;

(C) All provisions contained in the Notice of MACT Approval

shall be federally enforceable upon the effective date of issuance of such notice, as provided by Chapter 6, Section 6(h)(ix).

(D) The Notice of MACT Approval shall expire if construction or reconstruction has not commenced within 18 months of issuance, unless the Division has granted an extension which shall not exceed an additional 12 months.

(vii) Opportunity for Public Comment on the Notice of MACT Approval.

(A) The opportunity for public comment shall follow the procedures specified in Chapter 6, Section 2(m) for the permit review and approval process.

(viii) EPA Notification. The Division shall send a copy of the final Notice of MACT Approval issued pursuant to Chapter 6, Section 2 and this section to the EPA through the appropriate Regional Office, and to all other State and local air pollution control agencies having jurisdiction in affected States.

(ix) Effective Date. The effective date of a MACT determination shall be the date of issuance of the Chapter 6, Section 2 permit to construct or reconstruct.

(x) Compliance Date. On and after the date of start-up, a constructed or reconstructed major source which is subject to the requirements of this section shall be in compliance with all applicable requirements specified in the MACT determination.

(xi) Compliance With MACT Determinations.

(A) An owner or operator of a constructed or reconstructed major source that is subject to a MACT determination shall comply with all requirements in the final Notice of MACT Approval, including but not limited to any MACT emission limitation or MACT work practice standard, and any notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements.

(B) An owner or operator of a constructed or reconstructed major source which has obtained a MACT determination shall be deemed to be in compliance with Chapter 6, Section 6(g) only to the extent that the constructed or reconstructed major source is in compliance with all requirements set forth in the final Notice of MACT Approval issued pursuant to Chapter 6, Section 2 and this section. Any violation of such requirements by the owner or operator shall be deemed by the Division and by EPA to be a violation of the prohibition on construction or reconstruction in Chapter 6, Section 6(g) for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action.

(xii) Reporting to EPA. Within 60 days of the issuance of a final Notice of MACT Approval issued pursuant to Chapter 6, Section 2 and this section, the Division shall provide a copy of such notice to the Administrator, and shall provide a summary in a compatible electronic format for inclusion in the MACT data base.

(i) Requirements for Constructed or Reconstructed Major Sources Subject to a Subsequently Promulgated MACT Standard or MACT Requirement.

(i) If EPA promulgates an emission standard under section 112(d) or section 112(h) of the Act or the Division issues a determination under section 112(j) of the Act that is applicable to a stationary source or group of sources which would be deemed to be a constructed or reconstructed major source under this section before the date that the owner or operator has obtained a final and legally effective MACT determination pursuant to Chapter 6, Section 6(h), the owner or operator of the source(s) shall comply with the promulgated standard or determination rather than any MACT determination under this section by the Division, and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

(ii) If EPA promulgates an emission standard under section 112(d) or section 112(h) of the Act or the Division makes a determination under section 112(j) of the Act that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this section and has been subject to a prior case-by-case MACT determination pursuant to Chapter 6, Section 6(h), and the owner and operator obtained a final and legally effective case-by-case MACT determination prior to the promulgation date of such emission standard, then the Division shall (if the initial operating permit has not yet been issued) issue an initial operating permit which incorporates the emission standard or determination, or shall (if the initial operating permit has been issued) revise the operating permit according to the reopening procedures in Chapter 6, Section 3(d)(vii) to incorporate the emission standard or determination.

(A) The EPA may include in the emission standard established under section 112(d) or section 112(h) of the Act a specific compliance date for those sources which have obtained a final and legally effective MACT determination under this section and which have submitted the information required by Chapter 6, Section 6(h) to the EPA before the close of the public comment period for the standard established under section 112(d) of the Act. Such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but not longer than 8 years after such standard is promulgated. In that event, the Division shall incorporate the applicable compliance date in the Chapter 6, Section 3 operating permit.

(B) If no compliance date has been established in the promulgated 112(d) or 112(h) standard or section 112(j) determination, for those sources which have obtained a final and legally effective MACT determination under this section, then the Division shall establish a compliance date in the Chapter 6, Section 3 operating permit that assures that the owner or operator shall comply with the promulgated standard or

determination as expeditiously as practicable, but not longer than 8 years after such standard is promulgated or a section 112(j) determination is made.

(iii) Notwithstanding the requirements of paragraphs (i) and (ii) of this section, if EPA promulgates an emission standard under section 112(d) or section 112(h) of the Act or the Division issues a determination under section 112(j) of the Act that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this section and which is the subject of a prior case-by-case MACT determination pursuant to subsection (h), and the level of control required by the emission standard issued under section 112(d) or section 112(h) or the determination issued under section 112(j) is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the Division is not required to incorporate any less stringent terms of the promulgated standard in the Chapter 6, Section 3 operating permit applicable to such source(s) and may in its discretion consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such an operating permit.

Section 7. Clean air resource allocation expiration.

(a) ***(i)*** Any owner or operator of a facility which ceases operation shall not be entitled to the continued use of the clean air resource necessary to accommodate the emissions from such facility if such cessation of operation extends beyond a day 5 years after the date of cessation of such operation.

(ii) Within 60 days after determining that a facility has ceased operation, the Administrator shall notify in writing the affected owner or operator that this section is applicable. The notice shall further advise the owner or operator of the proposed expiration date for the facility's entitlement to use its allocated air resource and provide the operator or owner the opportunity to review the Administrator's decision.

Within 60 days after receiving the notice, the owner or operator of the facility shall notify the Administrator if it intends to operate the facility in the future. Failure to so notify the Administrator will constitute a rebuttable presumption that the owner or operator has permanently and purposefully ceased operation of the facility with no intent to operate in the future. The continuous five-year period shall not begin earlier than 60 days prior to receipt by the owner or operator of the notice from the Administrator.

(iii) Prior to revoking an air allocation, the Administrator shall provide notice to the affected owner or operator and if requested by the owner or operator will hold a public hearing pursuant to Chapter III of the Rules of Practice and Procedure of the Department on the impending expiration of the entitlement to use the allocated clean air resource. Said notice shall be served no later than six months prior to the proposed expiration date. The Administrator's decision issued as a result of the Chapter III hearing may be appealed to the Environmental Quality Council in the manner set forth in the Environmental Quality Act and the applicable rules and regulations.

(iv) The Administrator may extend the 5-year time period for non-use upon a satisfactory showing that the owner or operator intends and can demonstrate firm plans to operate the facility in the future.

(v) The transfer of ownership of a facility shall not affect the entitlement for use by the facility of the clean air resource. Such a transfer of ownership does not extend the expiration date defined in paragraph (a)(i).

(vi) For purposes of this section "operation" means to function in a manner which directly contributes to the accomplishment of the primary purpose of the facility. The definition of operation of a mining facility shall include: (i) all of the primary activities associated with mining, such as ore and overburden removal, topsoil stripping and haulage, reclamation and associated construction activities, and (ii) activities and commitments accepted by the Department as "interim stabilization" measures which qualify the mine for "temporary cessation and a resultant extension of reclamation obligations" under the regulations of the Land Quality Division of the Department.

(b) ***(i)*** In a case where an owner or operator permanently and purposefully ceases operation with no expressed intent to operate the facility in the future, the associated clean air resource allocation is not reserved to the owner or operator and immediately reverts to the state.

(ii) Prior to such revocation the Administrator shall provide notice to the affected owner or operator and if requested by such owner or operator will hold a public hearing pursuant to Chapter III of the Rules of Practice and Procedure of the Department.

(c) Start-up and operation of a facility after a period of non-use which lasts at least 5 years shall be considered to represent the operation of a new facility and shall be subject to the permit requirements of Chapter 6, Section 2. The provisions of Chapter 6, Section 4 may also be applicable.

(d) Brief periods of facility operation which are clearly designed to circumvent the intent of this section shall not be considered as operation under the provisions of subsections (a) and (b) above. For purposes of this section, operation must be for commercial purposes (which does not include temporary operation for period testing or maintenance of the facility in a standby status).

Section 8. ***[Reserved]***

Section 9. Best available retrofit technology (BART).

(a) Applicability. The provisions of this regulation apply to existing stationary facilities, as defined in Section 9(b) of this chapter.

(b) Definitions.

"Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with 1) times of visitor use of the Federal Class I area, and 2) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.

"Applicable technology" means a commercially available control option that has been or is soon to be deployed (e.g., is specified in a permit) on the same or a similar source type or a technology that has been used on a pollutant-bearing gas stream that is the same or similar to the gas stream characteristics of the source.

"Available technology" means that a technology is licensed and available through commercial sales.

"Average cost effectiveness" means the total annualized costs of control divided by annual emissions reductions (the difference between baseline annual emissions and the estimate of emissions after controls). For the purposes of calculating average cost effectiveness, baseline annual emissions means a realistic depiction of anticipated annual emissions for the source. The source or the Division may use State or Federally enforceable permit limits or estimate the anticipated annual emissions based upon actual emissions from a representative baseline period.

"BART alternative" means an alternative measure to the installation, operation, and maintenance of BART that will achieve greater reasonable progress toward national visibility goals than would have resulted from the installation, operation, and maintenance of BART at BART-eligible sources within industry source categories subject to BART requirements.

"Best available retrofit technology (BART)" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant that is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source or unit, the remaining useful life of the source or unit, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

"Deciview" means a measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated

based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements):

Deciview haze index = 10 $\ln_e$ (b_{ext}/10 Mm^{-1})

Where b_{ext} = the atmospheric light extinction coefficient, expressed in inverse megameters (Mm^{-1}).

"Existing stationary facility" means any of the following stationary sources of air pollutants, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit 250 tons per year or more of any visibility impairing air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted.

(i) Fossil fuel-fired steam electric plants of more than 250 million British thermal units (BTU) per hour heat input that generate electricity for sale.

(A) Boiler capacities shall be aggregated to determine the heat input of a plant.

(B) Includes plants that co-generate steam and electricity and combined cycle turbines.

(ii) Coal cleaning plants (thermal dryers).

(iii) Kraft pulp mills.

(iv) Portland cement plants.

(v) Primary zinc smelters.

(vi) Iron and steel mill plants.

(vii) Primary aluminum ore reduction plants.

(viii) Primary copper smelters.

(ix) Municipal incinerators capable of charging more than 250 tons of refuse per day.

(x) Hydrofluoric, sulfuric, and nitric acid plants.

(xi) Petroleum refineries.

(xii) Lime plants.

(xiii) Phosphate rock processing plants. Includes all types of phosphate rock processing facilities, including elemental phosphorous plants as well as fertilizer production plants.

(xiv) Coke oven batteries.

(xv) Sulfur recovery plants.

(xvi) Carbon black plants (furnace process).

(xvii) Primary lead smelters.

(xviii) Fuel conversion plants.

(xix) Sintering plants.

(xx) Secondary metal production facilities. Includes nonferrous metal facilities included within Standard Industrial Classification code 3341, and secondary ferrous metal facilities in the category "iron and steel mill plants".

(xxi) Chemical process plants. Includes those facilities within the 2-digit Standard Industrial Classification 28, including pharmaceutical manufacturing facilities.

(xxii) Fossil fuel boilers of more than 250 million BTUs per hour heat input.

(A) Individual boilers greater than 250 million BTU/hr, considering federally enforceable operational limits.

(B) Includes multi-fuel boilers that burn at least fifty percent fossil fuels.

(xxiii) Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels.

(A) 300,000 barrels refers to total facility-wide tank capacity for tanks put in place after August 7, 1962 and in existence on August 7, 1977.

(B) Includes gasoline and other petroleum-derived liquids.

(xxiv) Taconite ore processing facilities.

(xxv) Glass fiber processing plants.

(xxvi) Charcoal production facilities. Includes charcoal briquette manufacturing and activated carbon production.

"Incremental cost effectiveness" means the comparison of the costs and emissions performance level of a control option to those of the next most stringent option, as shown in the following formula:

> Incremental Cost Effectiveness (dollars per incremental ton removed) = [(Total annualized costs of control option) - (Total annualized costs of next control option)] ÷ [(Next control option annual emissions) - (Control option annual emissions)]

"In existence" means that the owner or operator has obtained all necessary preconstruction approvals or permits required by Federal, State, or local air pollution emissions and air quality laws or regulations and either has 1) begun, or caused to begin, a continuous program of physical on-site construction of the facility or 2) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed in a reasonable time.

"In operation" means engaged in activity related to the primary design function of the source.

"Integral vista" means a view perceived from within the mandatory Class I Federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal area.

"Natural conditions" means naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.

"Plant" means all emissions units at a stationary source.

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

"Visibility-impairing air pollutant" includes the following:

(i) Sulfur dioxide (SO_2);

(ii) Nitrogen oxides (NO_x); and

(iii) Particulate matter. (PM_{10} will be used as the indicator for particulate matter. Emissions of PM_{10} include the components of $PM_{2.5}$ as a subset).

(c) Guidelines for BART Determinations.

(i) The U.S. Environmental Protection Agency regulations contained in 40 CFR part 51, Appendix Y, are incorporated by reference into these regulations. The specific documents containing the complete text of the regulations are found in 40 CFR part 51, Appendix Y, as published on July 6, 2005 in the Federal Register beginning on page 39104, not including later amendments. Copies of the July 6, 2005 materials can be obtained from the Department of Environmental Quality, Division of Air Quality, 122 W. 25th Street, Cheyenne, Wyoming 82002.

(ii) The owner or operator of a fossil fuel-fired steam electric plant with a generating capacity greater than seven hundred fifty megawatts of electricity shall comply with the requirements of 40 CFR part 51, Appendix Y. All other facility owners or operators shall use Appendix Y as guidance for preparing their best available control retrofit technology determinations.

(d) Identification of Sources Subject to BART.

(i) Identification of sources subject to BART shall be performed by the Air Quality Division in accordance with EPA's guidelines for BART determinations under the regional haze rule 40 CFR part 51, Appendix Y, and incorporated by reference under Section 9(c). A BART-eligible source is subject to BART unless valid air quality dispersion modeling demonstrates that the source will not cause or contribute to visibility impairment in any Class I area.

(A) A single source that is responsible for a 1.0 deciview change or more is considered to "cause" visibility impairment in any Class I area.

(B) A single source that is responsible for a 0.5 deciview change or more is considered to "contribute" visibility impairment in any Class I area.

(C) A single source is exempt from BART if the 98th percentile daily change in visibility, as compared against natural background conditions, is less than 0.5 deciviews at all Class I federal areas for each year modeled and for the entire multi-year modeling period.

(ii) The Division will provide written notice to each source determined to be subject to BART.

(e) BART Requirements.

(i) Submission of Best Available Retrofit Technology (BART) Permit Application. The owner or operator of each source subject to BART as determined under Section 9(d), shall submit a BART permit application to the Division. The permit application shall be submitted according to a schedule determined by the Division, but no

later than December 15, 2006. Sources with a potential to emit less than 40 tons per year SO_2 or NO_x or less than 15 tons per year PM_{10} may exclude those de minimis level pollutants from the BART analysis. The BART permit application shall include:

(A) The name and address (physical location) of the existing stationary facility subject to BART.

(B) A brief description of the source and identification of any listed source categories in which it is included.

(C) Information on de minimis levels if pollutants are excluded from the analysis.

(D) An analysis of control options performed in accordance with 40 CFR part 51, Appendix Y, IV.

(E) A proposal and justification for BART emission limits and control technology that reflect the BART requirements established in 40 CFR part 51, Appendix Y.

(F) A description of the proposed emission control systems, including the estimated control efficiencies.

(G) A schedule to install and operate BART.

(H) Additional relevant information as the Administrator may request.

(ii) Administrative Procedures for Review of a BART Permit Application. The administrative procedures for review shall follow the procedures specified in Chapter 6, Section 2(g) of these regulations.

(iii) Proposed Permits. The Administrator shall prepare a proposed permit following the Division's review of the BART permit application. The Administrator may approve, or amend the proposed emission limits, BART technology, and compliance schedule. Any proposed permit shall specify any notification, operation and maintenance, performance testing, monitoring, reporting and recordkeeping requirements determined by the Administrator to be reasonable and necessary.

(iv) Opportunity for Public Comment. The opportunity for public comment shall follow the procedures specified in Chapter 6, Section 2(m) for permit review.

(v) Modifications to BART Permits. Any source seeking to modify the BART determination for that facility must obtain the Administrator's approval.

(vi) Operating Permit Requirements. BART requirements established pursuant to any BART permit issued under this section shall be included in a Chapter 6, Section 3 Operating Permit according to the procedures established in Chapter 6, Section 3.

(vii) Fees. Persons applying for a permit under this section shall pay a fee to cover the Department's cost of reviewing and acting on permit applications in accordance with Chapter 6, Section 2(o).

(viii) Installation of Best Available Retrofit Technology. The owner or operator of any source required to operate under a BART permit issued under Section 9(e)(iii), shall install and operate best available retrofit technology unless an alternative to the installation of BART as specified under Section 9(f) has been approved by the Division. Any control equipment required under a permit issued in this section shall be installed and operating as expeditiously as practicable but in no event later than five years after the United States Environmental Protection Agency's approval of Wyoming's State Implementation Plan revision for Regional Haze.

(ix) Operation and Maintenance of Best Available Retrofit Technology. The owner or operator of a facility required to install best available retrofit technology under Section 9(e)(viii) shall establish procedures to ensure such equipment is properly operated and maintained.

(f) BART Alternative.

(i) The Administrator may implement or require participation in an emissions trading program or other alternative measures developed in accordance with 40 CFR 51.308(e) rather than to require sources subject to BART to install, operate and maintain BART.

(g) Monitoring, Recordkeeping and Reporting. The owner or operator of any existing stationary facility that is required to install best available retrofit technology or an approved BART alternative shall conduct monitoring, recordkeeping and reporting sufficient to show compliance or noncompliance on a continuous basis.