Chapter 113: ~~GROWTH OFFSET~~ MAJOR STATIONARY SOURCE NEW SOURCE REVIEW and PLANTWIDE APPLICABILITY LIMITATION LICENSE REGULATION

SUMMARY: This regulation ~~establishes certain~~implements New Source Review (NSR) requirements of the Clean Air Act (CAA) and Section 590 of Title 38 Maine Revised Statutes Annotated (MRSA) for those Minor Stationary Sources undergoing changes requiring a Major Modification license, new Major Stationary Sources, and those Major Stationary Sources undergoing changes subject to NSR under the CAA. For Major Stationary Sources, this rule serves as the pre-construction NSR Program; 06-096 CMR 140* implements the operating licensing requirements ~~for new and~~ of 40 CFR Part 70. The pre-construction licenses issued for Major Stationary Sources under this Chapter will not expire and will be incorporated into the Part 70 License issued under 06-096 CMR 140. The requirements of this Chapter regarding application pre-filing requirements and public notice requirements for applications and draft licenses supersede the requirements in 06-096 CMR 2.

All Plantwide Applicability Limitation (PAL) license specifications and requirements are addressed in Section VI of this Chapter. Every other section of this Chapter is considered applicable to NSR license requirements and not applicable to PAL license requirements unless the PAL course is specifically named in the section.

* Rule chapters in the Code of Maine Rules (CMR) are arranged by unique numbers which identify the department, departmental unit, and chapter. For example, 06-096 CMR 140 represents Chapter 140 of the Department of Environmental Protection / General rules implementing the requirements of the specific Maine statutes (MRSA) denoted at the beginning of Chapter 140.

This Chapter is organized as follows:

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I. Section I: Licensing Applicability and General Terms and Conditions

A. Applicability

1. **Geographic Scope.** This regulation shall be effective in all air quality control regions in the State.

2. **Introduction to New Source Review Licensing Requirements.** The U.S. Environmental Protection Agency (EPA) and the Department have established ambient air quality standards for several "criteria" pollutants (CO, SO_2, PM_{10}, $PM_{2.5}$ as a component of PM_{10}, NO_x, ozone, and Pb). These standards are used to classify all geographic areas of the United States as either attainment areas (meeting the standard), or non-attainment areas (not meeting the standard) for each criteria pollutant.

   New Major Stationary Sources of air pollution and Modifications to all licensed Stationary Sources are required to obtain an air emission license for the proposed new facility or modification before beginning construction. This licensing process is called New Source Review (NSR). Federal NSR regulations were established in 1972 and Major Source NSR on August 7, 1977 (per CAA §7475(a)). The NSR federal regulations as found in 40 CFR § 52.21 were amended on August 7, 1980. Under the NSR pre-construction licensing program, before a new facility is built or an existing ~~sources of~~ facility is modified, the emissions of pollutants regulated through the NSR process and resulting from the project must be quantified in order to identify the appropriate classification of the source and the corresponding applicable NSR requirements.

   Once a facility is a licensed source, any modification, as defined under "modification or modified source" in 06-096 CMR 100, is subject to NSR according to the processes outlined in this Chapter, or as outlined in 06-096 CMR 115 for a Minor Modification at a Minor Stationary Source.

   The following pollutants are regulated under the NSR program:
   - particulate matter (PM)
   - particulate matter < 10 microns in diameter (PM_{10})
   - particulate matter < 2.5 microns in diameter ($PM_{2.5}$)
   - sulfur dioxide (SO_2)
   - ozone (hydrocarbons and volatile organic compounds)
   - nitrogen oxides (NO_x)
   - carbon monoxide (CO)
   - lead (Pb)
   - fluorides
   - total reduced sulfur compounds, including hydrogen sulfides (TRS)
   - sulfuric acid mist
   - municipal waste combustor (MWC) acid gases

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MWC metals
MWC organics
municipal solid waste landfill gas
greenhouse gases (as carbon dioxide equivalents, CO_2e)

There are three categories of NSR licensing requirements. Requirements for (1) a Major Source or Major Modification proposed for an area where the national ambient air quality standards (NAAQS) are exceeded (nonattainment ~~pollutant emissions mandated under the New Source Review~~ areas) or (2) a Major Source or Major Modification proposed in an attainment area when the source will have a significant impact (i.e., modeled impacts above the significant impact level (SIL) for the nonattainment pollutant) in a nonattainment area, are different than the requirements for such a facility in an area where NAAQS are not exceeded (attainment and unclassifiable areas). Because classification in the appropriate category is determined for each pollutant individually, a source may be required to fulfill the requirements of one or more of these categories for different pollutants from the same new source or source modification project. The three types of NSR licenses are as follows:

a. **Prevention of Significant Deterioration (PSD) NSR License (or PSD License)**, required for a new Major Stationary Source and for a Major Modification in an attainment area;

b. **Nonattainment NSR License**, required for a new Major Stationary Source and a Major Modification in a nonattainment area; and

c. **Minor NSR License**, required for a Minor Modification at a Major Stationary Source (licensed under this Chapter), for a new Minor Stationary Source (licensed under 06-096 CMR 115), and for a Minor Modification at a Minor Stationary Source (licensed under 06-096 CMR 115).

3. **General Licensing Requirements.** Once a new source or modification to an existing source requires a NSR air emission license according to any of the categories above, the following apply:

a. A NSR license for a Major Stationary Source is a stand-alone document with no expiration date and is not to be combined with other licensing actions such as a Part 70 license renewal or a Part 70 license amendment.

b. For a new source, all emission units which emit regulated pollutants at the new source must be included in the NSR license.

c. For a modification, emissions from all emission units modified or affected by the modification must be addressed in the NSR license.

d. All requirements as specified in any NSR license, including but not limited to emission limits, operating restrictions, control technologies and strategies,

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monitoring, recordkeeping, and reporting, shall continue to apply to the units addressed in the NSR license even after construction is complete and the facility or modification addressed in the NSR license is in operation, unless or until modified through a subsequently issued NSR license amendment or as allowed under the Part 70 licensing program.

e. Exceptions to inclusion in a NSR License:

(1) Activities with de minimis emissions, as identified in Appendix B of 06-096 CMR 140;

(2) Activities which the Department has documented in writing on a case-by-case basis its determination that the activity or activities are substantially equivalent to the de minimis activities specified in Appendix B of 06-096 CMR 140, including trials being conducted on a temporary basis and which have received approval from the Department; and

(3) Emission units that are mobile or temporary, as defined in 06-096 CMR 100.

4. **Part 70 Licensing Requirements for NSR Licenses**

a. For a Minor Stationary Source undergoing a Major Modification, the NSR licensing process contained in Section IV of this Chapter is applicable. Completion of the Major Modification would reclassify the source as a Major Stationary Source. Thus, once the Major Modification at a Minor Stationary Source licensing process is completed, the facility is then required to apply, as a Major Stationary Source and within 12 months of the completion of the modification, for an initial Part 70 license, per 06-096 CMR 140, *Part 70 Air Emission License Regulations*.

b. For a Major Stationary Source, a modification at the facility which meets the definition under "modification or modified source" in 06-096 CMR 100 requires a NSR license to be issued authorizing construction of the modification before beginning actual construction, as defined in 06-096 CMR 100, in accordance with the applicable process specified in this Chapter. Within 12 months of the completion of the modification, the facility is then required to apply for an amendment to the Part 70 operating license to incorporate the conditions contained in the NSR license.

NOTE: If any condition or requirement of a NSR license contradicts any condition or requirement of the existing Part 70 license, the Part 70 license may have to be amended before the facility is permitted to commence operation of the NSR-licensed modification.

c. Any modification to a Part 70 license must undergo license amendment procedures as specified in 06-096 CMR 140.

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B. General Terms and Conditions of Applications and Licenses

1. **Required Application Form and Additional Information.** The application shall include the application form prescribed by the Department and additional information required by the Department, unless otherwise specified in this Chapter. The applicant may not omit information needed to determine the applicability of or justification for inclusion of any requirement, or to evaluate the fee amount. An application for a Minor Modification or a Major Modification need supply only that information related to the proposed project. The application form and additional required information shall include, but is not limited to, the following elements, as applicable:

a. Identifying information, including the legal name of the owner or operator, facility site name and physical site location, facility mailing address, responsible official's name, and name(s) with corresponding contact information for the facility manager/contact, application contact, and billing contact.

b. Identification of the source's input materials (including fuels), processes, and products;

c. Any activities which the source proposes to be qualified as having de minimis emissions or substantially equivalent to the activities specified in Appendix B of 06-096 CMR 140;

d. The following emissions-related information for units and activities regulated under this Chapter:

(1) All information relating to proposed emissions of any regulated pollutants as necessary for the Department to determine requirements to which the source may be subject;

(2) Any additional emissions-related information necessary to calculate annual license fees;

(3) Identification and description of all points of emissions included in (1) and (2) above in sufficient detail to determine requirements to which each point of emissions is subject;

(4) Emission rates in such terms as are necessary to establish compliance with applicable requirements, consistent with the applicable US Environmental Protection Agency (EPA) standard reference test method(s), and consistent with each applicable emission limit;

(5) The following information as appropriate to determine or regulate emissions: fuel types, fuel use, raw materials processing capacities, production rates, and operating schedules;

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(6) Identification and description of proposed air pollution control equipment and compliance monitoring devices or activities;

(7) Limitations on source operations or any work practice standards, where applicable, affecting emissions for any regulated pollutant;

(8) Calculations used as the basis for emissions-related information;

e. Any other information that may be necessary to evaluate, implement, or enforce any requirements applicable to the source;

f. If required by the Department, proposed monitoring, ambient air quality impact analysis, testing, recordkeeping and reporting protocols, the results of previously performed in-stack monitoring, and/or results of previously performed stack testing. This information shall not be used in the completeness determination of the application unless the information is required as part of a NSR application;

g. Results of meteorological or air quality monitoring if required by the Department, including an analysis of meteorological and topographical data necessary to evaluate the air quality impact pursuant to Section VII of this Chapter. The information required pursuant to Section VII of this Chapter shall not be used in the completeness determination of the application unless the information is required as part of a NSR application; and

h. If any regulated pollutant from an existing source has or will have a significant impact, a description of the factors used in the ambient air quality impact analysis pursuant to Section VII of this Chapter. The information required pursuant to Section VII of this Chapter shall not be used in the completeness determination of the application unless the information is required as part of a NSR application.

2. **Certification by Responsible Official.** All applications submitted to the Department shall contain a certification of truth, accuracy, and completeness with the signature and printed name of the responsible official (see *Definitions*, 06-096 CMR 100). The signatory statement shall make the following certification:

"I certify under penalty of law that, based on information and belief formed after reasonable inquiry, I believe the information included in the attached document is true, complete, and accurate."

Upon becoming aware that he or she submitted incorrect information or failed to submit relevant facts, the responsible official must notify the Department and provide the supplementary facts or corrected information as soon as reasonably possible.

3. **Public Notice of Intent to File.** Any person applying for a new source license or a major or minor modification license under this Chapter must publish, at the applicant's expense and within thirty (30) days prior to filing an application, a Public Notice of Intent to File. No public notice of intent to file is required for a minor revision.

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This notice shall be published once in the public notice section of a newspaper of general circulation in the region in which the source would be (or is, for an existing source) located, or via an alternate public notification method as prescribed by the Department. In addition, a copy of the application and supporting materials shall be made available at the municipal office of the municipality(ies) where the source is located or, if the project is in an unorganized area, to the county commissioners. Verification that public notice was published (such as the public notice from the paper, cut or copied from the newspaper in which it was printed) must be submitted with the application.

After an application has been received by the Department and accepted as complete, if the Department determines that information subsequently submitted is significantly new or substantially modifies the application as described in the published Public Notice of Intent to File, the applicant shall provide additional notice to interested persons who have commented on that application. The Department may also require additional public notice and may extend the time during which requests for a public meeting or hearing or for the Board to assume jurisdiction may be submitted.

An applicant must publish a Public Notice of Intent to File for a resubmitted application that was originally returned and deemed incomplete by the Department.
The Public Notice of Intent to File must include the following information:

a. Name, address, and telephone number of the applicant;

b. Citation of the statutes or rules under which the application is being processed;

c. Location of the proposed action;

d. Summary of the proposed action;

e. Anticipated date for filing the application with the Department;

f. A statement that public requests for either of the following must be submitted to the Department in writing no later than twenty (20) days after the application is accepted as complete for processing:

(1) for the Board of Environmental Protection to assume jurisdiction over the application; or

(2) for a public hearing to be held on the application;

g. A statement of the name, address, and phone number of the Department contact person;

h. A statement providing the local filing location where the application and supporting materials can be examined; and

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i. Any other information required by rule or law.

NOTE: A "Public Notice of Intent to File" form is available from the Department.

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4. **Application Acceptability and Completeness**

a. **General.** Within fifteen (15) working days of receipt of any application, the Department shall determine the completeness of an application and shall respond to the applicant in one of the following ways:

(1) Notify the applicant in writing of the official date on which the application was accepted as complete for processing; or

(2) Return the application with the reasons why the application was not accepted as complete; or

(3) Provide notice to the applicant indicating the additional information necessary to deem the application as complete for processing.

If the Department does not make a determination regarding the completeness and the corresponding acceptance or rejection of the application within fifteen (15) working days, the application shall be deemed accepted as complete for processing on the 16th day.

b. **Criteria for Completeness.** An application shall be deemed complete when all of the relevant information and other data required by the Department to evaluate the application and to allow the Department to begin processing the application are submitted. The certification by the Responsible Official and proof of publication of the Public Notice of Intent to File (e.g., an original or copy of the newspaper publication) (except for Minor Revisions, for which Public Notice of Intent to File is not required) must be included as part of the application submittal before it is deemed complete.

For new source licenses, the air emission license fee must be paid in full before the application is deemed complete.

5. **Application Submittal.** Applications must be submitted to the Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017, in a format and media as prescribed by the Department.

6. **Authority to Request Additional Information.** The Department's determination that an application is accepted as complete for processing is not a review of the sufficiency of that information and does not preclude the Department from requesting additional information. Additional information needed to process the license application may be requested in writing by the Department and shall be provided by the applicant within the deadline specified by the Department.

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If the applicant fails to submit the requested information by the deadline specified or as otherwise agreed in writing by the Department, the Department may deny the license application. Thirty (30) days prior to denying the license application, the Department shall provide written notice to the applicant including a list of the required information. A person may reapply at any time after an application is denied. The reapplication shall meet all requirements of a complete initial license application, including any required license fee.

7. **Procedures for Timely License Application Processing and License Denials**

a. The requirements of Title 38 MRSA §344 shall govern the processing of applications under this Chapter.

b. Upon the denial of any license application, the Department shall provide the applicant a written statement with the grounds of the denial.

8. **Operational Flexibility.** The following changes are allowed without requiring a NSR license or amendment:

a. Operational flexibility provided for in the license language;

b. Off-permit changes that are not addressed in the license and are one of the following:

(1) The installation of an activity with de minimis emissions, as found in Appendix B of 06-096 CMR 140. In no case shall activities with de minimis emissions, to the extent quantifiable, be exempt from determining whether the source is a Part 70 source;

(2) The modification of an activity with de minimis emissions that remains an activity with de minimis emissions after the modification; or

(3) A change at the source for which the applicant has received written Departmental approval that the change does not require a license, license amendment, or other action under this Chapter.

9. **License Content.** The Department may impose any appropriate and reasonable license conditions to ensure or maintain compliance with any requirements, emission limitations, ambient air quality standards, or regulations.

The following elements shall be included in the license:

a. **Specification of Emission Units and Pollutants Emitted from Each.** The license shall contain identification of all emission units subject to licensing pursuant to this Chapter and fugitive emission sources, as appropriate, and the pollutants emitted from each.

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b. **Emission Limitations and Specific Regulatory Requirements.** The license shall specify allowable emission rates, terms, and conditions for each pollutant from each emission unit, including fugitive emissions, as appropriate, including those operational requirements and limitations that assure compliance with any requirement at the time of issuance of license. The license shall specify both State and federal specific requirements for each unit, as applicable.

c. **BPT, BACT, LAER.** The license shall contain a brief technical evaluation of the controls considered as Best Practical Treatment (BPT), Best Available Control Technology (BACT), and/or Lowest Achievable Emission Rate (LAER), as applicable.

d. **Compliance Assurance Requirements.** The license shall include the following compliance assurance elements:

(1) A description of all required monitoring and analysis procedures or test methods required under the regulatory constraints and requirements applicable to the source.

(2) A description of all recordkeeping requirements.

(3) A description of all reporting requirements.

e. **Ambient Air Quality Impact Analysis.** The license shall include a section summarizing all required ambient air quality impact analyses.

f. **Standard Conditions.** All sources subject to this Chapter are subject to the following standard conditions:

(1) Employees and authorized representatives of the Department shall be allowed access to the licensee's premises during business hours, at any time any emissions units are in operation, and at such other times as the Department deems necessary for the purpose of performing tests, collecting samples, conducting inspections, or examining and copying records relating to emissions (reference Title 38 MRSA §347-C);

(2) The licensee shall acquire a new or amended air emission license prior to beginning actual construction of a modification, as defined in 06-096 CMR 100, unless specifically provided for in this NSR license;

(3) Approval to construct shall become invalid if the source has not commenced construction within 18 months after receipt of such approval or if construction is discontinued for a period of 18 months or more. The Department may extend this time period upon a satisfactory showing that an extension is justified, but may condition such extension upon a review of either the control technology analysis or the ambient air quality standards analysis, or both;

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(4) All requirements as specified in this NSR license, including but not limited to emission limits, operating restrictions, control technologies and strategies, monitoring, recordkeeping, and reporting, shall continue to apply to the units addressed in this NSR license even after construction is complete and the facility or modification addressed in this NSR license is in operation, unless or until modified through a subsequently issued NSR license amendment or as allowed under the Part 70 licensing program.

(5) The licensee shall establish and maintain a continuing program of best management practices for suppression of fugitive particulate matter during any period of construction, reconstruction, or operation which may result in fugitive dust, and shall submit a description of the program to the Department upon request;

(6) The licensee shall pay the annual air emission license fee to the Department, calculated pursuant to Title 38 MRSA §353.

(7) The license does not convey any property rights of any sort, or any exclusive privilege;

(8) The licensee shall maintain and operate all emission units and all air pollution control and monitoring systems required by the air emission license in a manner consistent with good air pollution control practice for minimizing emissions;

(9) The licensee shall maintain sufficient records to accurately document compliance with emission standards and license conditions and shall maintain records of malfunctions, failures, downtime, and any other similar change in operation of air pollution control systems or the emissions unit itself that would affect emissions and that is not consistent with the terms and conditions of the air emission license. The records shall be maintained for a minimum of six years shall be submitted to the Department upon written request or in accordance with other provisions of ~~the Clean Air Act Amendments of 1990. Major new sources and major modifications of existing~~ this license;

(10) The licensee shall comply with all terms and conditions of this NSR air emission license. The filing of an appeal by the licensee, the notification of planned changes or anticipated noncompliance by the licensee, or the filing of an application by the licensee for an amendment to the license or the incorporation of the NSR license into the facility's Part 70 operating license shall not stay any condition of the license.

(11) The licensee may not use as a defense in an enforcement action that the disruption, cessation, or reduction of licensed operations would have been necessary in order to maintain compliance with the conditions of the air emission license;

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(12) In accordance with the Department's air emission compliance test protocol and 40 CFR Part 60 or other method approved or required by the Department, the licensee shall:

(a) Perform emission testing to demonstrate compliance with the applicable emission standards under circumstances representative of the facility's normal process and operating conditions

i. Within 60 calendar days of receipt of a notification to test from the Department or EPA, if visible emissions, equipment operating parameters, staff inspection, air monitoring, or other cause indicate to the Department or EPA that equipment may be operating out of compliance with emission standards or license conditions; or

ii. Pursuant to any other requirement of this license to perform emission testing.

(b) Install or make provisions to install test ports that meet the criteria of 40 CFR Part 60, Appendix A, and test platforms, if necessary, and other accommodations necessary to allow emission testing; and

(c) Submit a written report to the Department within thirty (30) days from date of test completion or as otherwise required.

(13) If the results of an emission test performed under circumstances representative of the facility's normal process and operating conditions indicate emissions in excess of the applicable standards, then:

(a) Within 30 days following receipt of the written test report by the Department, or another alternative timeframe approved by the Department, the licensee shall re-test the non-complying emission source under circumstances representative of the facility's normal process and operating conditions and in accordance with the Department's air emission compliance test protocol and 40 CFR Part 60 or other method approved or required by the Department;

(b) The days of violation shall be presumed to include the date of the emission test and each and every day of operation thereafter until compliance is demonstrated under normal and representative process and operating conditions, except to the extent that the facility can prove to the satisfaction of the Department that there were intervening days during which no violation occurred or that the violation was not continuing in nature; and

(c) The licensee may, upon the approval of the Department following the successful demonstration of compliance at alternative load conditions, operate under such alternative load conditions on an interim basis prior to a demonstration of compliance under normal and representative process and operating conditions.

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(14) Notwithstanding any other provision in the State Implementation Plan approved by the EPA or Section 114(a) of the CAA, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any statute, regulation, or license requirement.

(15) Upon written request of the Department, the licensee shall establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment, sample such emissions (in accordance with such methods, at such locations, at such intervals, and in such manner as the Department shall prescribe), and provide other information as the Department may reasonably require to determine the licensee's compliance status.

(16) The licensee shall provide the following notifications (reference Title 38 MRSA §605-C):

(a) Notify the Department within 48 hours if a malfunction or breakdown in any component causes a violation of any air emission standard.

(b) Submit to the Department on a quarterly basis a report summarizing these notifications.

10. **Draft License Notification**

a. **Major NSR Licenses: Major Modifications and New Major Stationary Sources.** A public comment period shall be held on draft Major NSR licenses, as follows:

(1) **Public.** The applicant shall provide a copy of the draft license and the application, including any supporting documentation and any subsequent amendments to the application, to the municipal clerk of the municipality(ies) where the source is located, or, if the project is in an unorganized area, to the county commissioners. This material shall also be available at the Department's Augusta office. This material must be on file for public comment for thirty (30) calendar days.

(2) **EPA.** The Department shall provide a copy of the draft license to EPA. EPA shall have a thirty (30) day draft license review period on Major NSR Licenses.

(3) **Draft License Availability Notice.** At the applicant's expense, a Notice of Draft License Availability shall be published once in the public notice section of a newspaper of general circulation in the region in which the source would be (or is, for an existing source) located, or as otherwise allowed under federal regulations. The Draft License Availability Notice shall include the following information:

(a) The name, address, and telephone number of the applicant;

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(b) A citation of the statutes or rules under which the application is being processed;

(c) The location of the proposed action;

(d) A summary of the proposed action, including the emissions change(s) and ambient increment consumption related to any proposed modification;

(e) A statement of the availability of the application and supporting documents and the Department's preliminary determination in the form of a draft license;

(f) A statement of the public's right to provide written public comment or to request a public meeting, with the mailing address of the Department; and

(g) For the purpose of a Major NSR draft license subject to this subsection, the date, place, and time a public meeting may be held, if requested in writing within 15 calendar days from the date upon which the notice is published. The date the public meeting is scheduled shall be no sooner than 30 days after the date the notice is published.

NOTE: A Draft License Availability Notice form is available from the Department.

(4) **Federal Land Managers and Indian Governing Bodies.** In cases where a copy of the Public Notice of Intent to File and the application were provided to Federal Land Managers and the Indian governing body of any reservation whose lands may be affected by the proposed project, the Department or the applicant shall provide the appropriate Federal Land Manager or Indian governing body a copy of the draft license, if requested, on or before the date the applicant provides Public Notice of Draft Availability to the public.

After reviewing the draft license, a Federal Land Manager with direct responsibility for management of Class I lands may present to the Department a demonstration that the emissions from the proposed source or modification would have an adverse impact on the Air Quality Related Values (including visibility) of any federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Department concurs with such demonstration, the Department shall not issue the license.

The Department shall receive comment for at least 30 days, beginning the day after the Notice of Draft Availability is published, or the day after all of the persons in this section are mailed notice, whichever is later.

(5) **Consideration of Draft License Comments.** For a Major NSR draft license subject to this subsection, any person may request in writing that the Department hold a public meeting. The written request shall state the nature of the issues to

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be raised at a public meeting. If the Department receives a written request for a public meeting within 15 calendar days from the date upon which the notice is published which raises a material issue, a public meeting may be held on the date and time as scheduled in the public notice. When a public meeting is requested, the public comment period shall end at the conclusion of the public meeting or, at the discretion of the Department, be extended to a later date announced at the public meeting.

The Department shall receive comments for at least thirty (30) days, beginning the day after the Draft Availability Notice is published or the day after the EPA received the draft, whichever is later.

The Department shall keep records of all analyses and all written comments received during the public comment period and all comments received at any public meeting, and shall consider such comments in making a final decision on the approvability of the draft license. The Department shall file all written comments for public inspection at the Department's Augusta office.

b. **Minor NSR Licenses: Minor Modifications at Major Stationary Sources.** The requirement of a public comment period for draft Minor NSR licenses shall be fulfilled as follows:

The Department shall provide a public notice of the Minor NSR license application acceptance and the agency's proposed approval or disapproval, including an overview of the project and the Department's assessment of the effect of the construction or modification on ambient air quality, based on the information submitted by the applicant. This information shall be available for review at the Department's Bureau of Air Quality web site for 30 calendar days prior to issuance of the Minor NSR license. This public notice shall include a statement that the Minor NSR license will require the facility to meet standards and constraints in accordance with BPT and/or BACT requirements, as applicable, and other requirements of applicable State and federal regulations. The Department reserves the right to adjust emission rates in the final license and/or to add specific license conditions not specifically addressed in this notice. A copy of this notice shall also be provided to the EPA.

The Department shall keep records of all written comments received during the public comment period and shall consider such comments in making a final decision on the content and approvability of the license. The Department shall file all written comments for public inspection at the Department's Augusta office.

11. **Effective Date of a License.** Unless otherwise indicated as a condition of the license, a license granted by the Department is effective when the Commissioner, or his or her designee, signs the license. A license granted by the Board of Environmental Protection (BEP) is effective when the BEP chair signs the license.

12. **Term of a License.** A NSR license issued to a Major Stationary Source shall not expire.

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13. **Source Obligation.** Approval to construct a new source or modification, or an exemption pursuant to Section I(B) of this Chapter shall not relieve any owner or operator of a source from the responsibility to comply fully with all requirements applicable to the source.

14. **Public Access to Information and Confidentiality.** As a general rule, all information and data submitted in an application for a license shall be available upon request for public inspection and copying. Any exception to this general rule shall be governed by the provisions of the Freedom of Access Law, Title 1 MRSA §401 et seq., as amended. Information for which the applicant seeks confidential status shall be conspicuously identified in a separate document and submitted to the Department for a determination that one or more of the criteria of Title 1 MRSA §402(3) with respect to the exemptions from the term "public records" was met. Such information shall be stored separately, in accordance with procedures developed by the Department. Public records include, but are not limited to, the following:

    a. Information concerning the nature and extent of the emissions of any regulated pollutant by a source; and

    b. Information submitted by the source with respect to the economic, environmental, and energy impacts of various control options in the determination of control technology requirements.

    In the case where a source has submitted information to the Department under a claim of confidentiality, the Department may also require the source to submit a copy of such information directly to the EPA.

    At reasonable times and location, the Department shall provide for the inspection of public records. Charges for copying shall reflect the costs to the Department, and payment shall be made to the Maine Environmental Protection Fund.

15. **Inspections to Verify Information.** Employees and authorized representatives of the Department shall be allowed safe access to the licensee's premises during business hours, at any time during which any emissions unit or units are in operation, and at such other times as the Department deems necessary for the purpose of performing tests, collecting samples, conducting inspections, or examining and copying records relating to emissions.

16. **Licensing of Hazardous Air Pollutants (HAPs) Emissions.** Pursuant to 38 MRSA Section 585-B, the Department may address HAP emissions by adopting emission limits, design and/or equipment specifications, work practices, or operational standards for activities emitting hazardous air pollutants even if no ambient air quality standards have been established for those pollutants.

17. **Computation of Time Period**

    a. "Days" are calendar days unless otherwise designated.

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b. "Working days" excludes Saturdays, Sundays, State holidays, and State government shutdown days.

In computing any period of time prescribed or allowed by this Chapter, the last day of the period is to be included unless it is a Saturday, Sunday, State holiday, or State government shutdown day, in which event the period runs until the end of the next day which is not a Saturday, Sunday, State holiday, or State government shutdown day.

II. Section II: New Major Stationary Source Licensing Process

In addition to the applicable requirements of Sections I and VII of this Chapter, the process of licensing new Major Stationary Sources shall be according to the requirements and specifications set forth in this Section.

A. Determination of Source Classification. Any proposed new air emissions source must undergo licensing in one of the following three categories: PSD NSR License, Nonattainment NSR License, or Minor NSR License. The following steps shall be used to determine whether a new stationary source is major or minor.

1. **Determine PTE.** Determine the proposed source's potential to emit (PTE) for each regulated pollutant under the source's physical and operational design. Any physical or operational limitation on the capacity of the source to emit a regulated pollutant, including air pollution control equipment and restrictions on the hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is, or shall be upon issuance of the initial license, enforceable as a practical matter.

2. **Comparison of PTE and Significant Emissions Levels.** On a pollutant-by-pollutant basis, compare the source's PTE to the Significant Emissions levels as identified in 06-096 CMR 100.

3. **Source Classification Determination.** A new source will be identified as one of the following two categories:

a. **Minor Stationary Source.** The source shall be identified as a Minor Stationary Source if the PTE of every pollutant is less than the corresponding Significant Emissions level for that pollutant. A new Minor Stationary Source shall follow the licensing process specified in 06-096 CMR 115, *Minor Stationary Source Air Emission License Regulation*.

b. **Major Stationary Source.** The source shall be identified as a Major Source for each pollutant for which the PTE is equal to or greater than the corresponding Significant Emissions level for that pollutant. If the source is found to be major for any one

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pollutant, the entire source shall be identified as a Major Stationary Source and shall follow the licensing process as found in part B of this section.

B. Licensing Process for a New Major Stationary Source (Major NSR License). The U.S. Environmental Protection Agency (EPA) and the Department have established ambient air quality standards for seven "criteria" pollutants (CO, SO_2, PM_{10}, $PM_{2.5}$ as a component of PM_{10}, NO_2, ozone, and Pb). These standards are used to classify all geographic areas of the United States as either attainment (meeting the standard), nonattainment (not meeting the standard), or unclassifiable for each criteria pollutant.

NOTE: "Unclassifiable" is the designation for those areas for which there is no data or insufficient data such that a determination of whether or not the area is in attainment cannot be made. For regulatory purposes, unclassifiable areas are subject to the same requirements as areas in attainment. Thus, in this Chapter, all requirements specified for attainment areas also apply to unclassifiable areas.

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NSR requirements vary depending on the classification of the area in which a new source plans to locate. The following parts 1 and 2 identify the licensing process for the two specific categories: those sources ~~proposing to emit significant levels of non-~~located in an area identified as in attainment or unclassifiable, and those sources located in an area identified as in nonattainment.

1. **New Major Stationary Source in an Attainment Area (PSD NSR License, also called PSD License)**

a. **Applicability.** Prevention of Significant Deterioration (PSD) is part of the NSR preconstruction licensing program. In an attainment area, a PSD License is required for a new Major Stationary Source.

A PSD license application requires the following, as applicable:
(1) Best Available Control Technology (BACT) analysis;
(2) Ambient air quality impact and additional impacts analyses; and
(3) Opportunity for public involvement.

These requirements are included in the following procedures, which shall be used for licensing of New Major Stationary Sources, as defined in 06-096 CMR 100.

b. **Schedule.** The BACT determination shall be reviewed and modified as appropriate for any phased construction project for which the time between initiation of an independent phase and initiation of the next independent phase exceeds 18 months. Therefore, an applicant planning a phased construction project shall submit an application for a Major or Minor Modification, as appropriate, for each future independent phase, including a new BACT analysis pursuant to subsection II(B)(1)(d)(5) of this Chapter.

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c. **Application Notification**

(1) **Public Notice of Intent to File.** The applicant shall publish a Public Notice of Intent to File as specified in subsection I(B)(3) of this Chapter.

(2) **Abutters.** The applicant shall send to all abutters by certified mail a copy of the Public Notice of Intent to File.

(3) **EPA Region I.** The applicant shall send a copy of the application, including any supporting documentation and any subsequent amendments to the application, to EPA Region I.

(4) **Federal Land Managers, Indian Governing Bodies.** The applicant and/or the Department shall notify and, if requested, provide a copy of the application to all Federal Land Managers listed in 06-096 CMR 100 and the Indian governing body of any reservation whose lands may be affected by any new Major Stationary Source on or before the date the applicant provides Public Notice of Intent to File, and provide at least a 30-day public comment period.

NOTE: See *Classification of Air Quality Control Regions*, 06-096 CMR 114 for a listing of federal lands which have been established as mandatory Class I areas. Check with the Department, Federal Land Manager, or Indian governing body for the most current list of specific local and national modeling review contacts and addresses for the federal lands.

d. **Required Application Information.** The applicant shall submit to the Department the following information:

(1) **Application Form.** The application form as specified in subsection I(B)(1) of this Chapter that contains the required information;

(2) **Source Description.** A description of the nature of the source, location, plot plan, building dimensions, and any other information required by the Department;

(3) **Schedule for Construction.** A schedule for construction of the New Major Stationary Source;

(4) **Identification of Requirements.** Identification and discussion of applicable State and federal requirements;

(5) **Best Available Control Technology (BACT) Analysis.** The applicant must demonstrate that each emissions unit to be constructed, reconstructed, or modified will receive BACT, as defined in 06-096 CMR 100. BACT shall be applied to all regulated pollutants ~~must obtain~~from new and modified emission units, including both fugitive and stack emissions.

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In selecting the appropriate control technology as BACT, the applicant should consider application of flue gas treatment, fuel treatment and process alternatives, and techniques which are inherently low polluting and economically feasible. In cases where technological and/or economic limitations on the application of measurement techniques would make the imposition of an emission limitation infeasible, a design, operating, equipment, or work practice standard may be proposed by the source.

The BACT analysis shall include the following steps:

(a) Identify all potential control strategies.

(b) Eliminate technically infeasible options. The demonstration of technical infeasibility should be clearly documented and should show, based on physical, chemical, and/or engineering principles, how technical difficulties would preclude the successful use of the control option on the emission unit under review.

(c) Rank remaining control technologies by control effectiveness. The ranking should include relevant information including the following:
· control effectiveness
· expected emission rate
· expected emission reduction

(d) Evaluate the most effective controls, and document results. The evaluation should include case by case consideration of energy, environmental, and economic impacts. If the top option is not selected as BACT, the evaluation should consider the next most effective control option.

(e) Select BACT. BACT is the most effective option not rejected in the previous step.

(6) **Ambient Air Quality Impact Analysis.** If required by the Department pursuant to Section VII of this Chapter, the applicant shall submit the results of ambient air quality impact analyses, including an analysis of the impacts to Air Quality Related Values and impact on visibility if the Department determines that the source may affect ambient increments or Air Quality Related Values in any Class I area or integral vista to that Class I area. The analysis shall be performed pursuant to Section VII of this Chapter. This analysis shall be used in the completeness determination of the application.

(7) **Additional Impacts Analysis.** If required by the Department pursuant to Section VII of this Chapter, the applicant shall meet the following requirements:

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(a) 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.

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

(8) **Innovative Control Technology.** The applicant may request that the Department approve a system of innovative control technology.

(a) **Conditions for Approval of Innovative Control Technology.** The Department may approve, with the consent of the Governor(s) of other affected State(s), the implementation of innovative control technology under the following conditions:

i. The proposed system of innovative control technology will not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

ii. The applicant agrees to achieve, by a date approved by the Department, a continuous emissions reduction rate equivalent to or greater than the rate that would have been required by BACT. The date of achievement shall be no later than four years from the time of startup or seven years from the issuance of the license.

iii. The new source or modification will meet the control technology requirements and the requirements of Section IV of this Chapter based on the emissions rate that the applicant would be required to meet on the date as required in (ii) above;

iv. The modification or new source will not, prior to the date required in (ii) above:

a) Cause or contribute to any violation of any applicable ambient air quality standard;

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b) Impact any area where an applicable ambient increment is known to be violated;

c) Cause a significant impact in any nonattainment area; or

d) Cause or contribute to an adverse Air Quality Related Value (AQRV) impact in any Class I area;

v. The applicant will meet all of the relevant requirements of this Chapter, including the requirements for public participation.

(b) **Conditions for Withdrawal of Approval of Innovative Control Technology.** The Department shall withdraw any approval to employ a system of innovative control technology under the following conditions:

i. The proposed system of innovative control technology fails to achieve the continuous emissions reduction rate by the specified date;

ii. The proposed system of innovative control technology fails before the specified date, so as to contribute to an unreasonable risk to public health, welfare, or safety; or

iii. The Department decides at any time that the proposed system of innovative control technology is unlikely to achieve the continuous emissions reduction rate by the specified date, or will cause or contribute to an unreasonable risk to public health, welfare, or safety.

(c) **Extension of Compliance Deadline for Innovative Control Technology.** If the applicant fails to meet the continuous emissions reduction rate by the specified date, or if the Department's approval of the innovative control technology is withdrawn, the Department may allow the applicant an additional period, not to exceed three (3) years, to meet the requirement for the application of BACT through use of a demonstrated system of control.

(9) **Compliance Monitoring Methods.** All process control and compliance monitoring devices or activities and any other emission reduction systems planned by the owner or operator of a New Major Stationary Source shall be specified, along with such other information as required to accurately establish emission estimates and to document future compliance.

(10) **Growth Analysis.** The air quality impacts and the nature and extent of emissions from all general, commercial, residential, industrial, and other growth in the area affected by the New Major Stationary Source, including associated mobile sources, pursuant to Section VII of this Chapter, and which has occurred

(a) Since August 7, 1977, for sulfur dioxide (SO_2) and PM_{10};

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(b) Since February 8, 1988, for NO_2; and

(c) Since October 20, 2010, for $PM_{2.5}$.

The growth analysis shall be performed only for those pollutants (SO_2, PM_{10}, $PM_{2.5}$, and/or NO_2) for which the new source was determined as major.

(11) **Title, Right, or Interest.** Prior to acceptance of an application for processing for a New Major Stationary Source license, the applicant shall demonstrate to the Department's satisfaction sufficient title, right, or interest in all of the property which is proposed for development or use in accordance with the following provisions:

(a) When the applicant owns the property, a copy of the deed(s) to the property must be supplied;

(b) When the applicant has a lease or easement on the property, a copy of the lease or easement must be supplied. The lease or easement must be of sufficient duration and terms, as determined by the Department, to license the proposed construction and reasonable use of the property, including reclamation, closure, and post-closure care, where required;

(c) When the applicant has an option to buy or lease the property, a copy of the option agreement must be supplied. The option agreement must be sufficient, as determined by the Department, to give rights to title, or a leasehold or easement of sufficient duration and terms to permit the proposed construction and use of the property including closure and post-closure care, where required;

(d) When the applicant has eminent domain power over the property, evidence must be supplied as to the ability and intent to use the eminent domain power to acquire sufficient title, right, or interest as determined by the Department; and

(e) When the applicant has either a valid preliminary permit or a notification of acceptance for filing of an application for a license from the Federal Energy Regulatory Commission for the site which is proposed for development or use, a copy of that permit or notification must be supplied.

(12) **Signatory Certification.** A signed certification from a responsible official in accordance with Section I(B)(2) of this Chapter shall be included in the application.

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(13) **Notice of Intent to File.** Proof of publication of the Public Notice of Intent to File (e.g., an original or copy of the newspaper publication) as specified in subsection I(B)(3) of this Chapter shall be included in the application.

e. **License Content.** The license content shall contain all of the relevant criteria as specified in subsection I(B)(9) of this Chapter.

f. **Criteria for License Approval.** The Department shall grant the license if the following criteria are met:

(1) The Department has received a complete application for a license pursuant to this Chapter;

(2) The emissions will receive BACT;

(3) The emissions will not violate State standards adopted by the Department pursuant to Title 38 MRSA §585 or can be controlled after application of BACT and other license conditions so as not to violate the same;

(4) The emissions, either alone or in conjunction with existing emissions, will not violate or can be controlled after application of BACT and other license conditions so as not to violate applicable ambient air quality standards including, but not limited to, ambient increments as adopted by the Department pursuant to Title 38 MRSA §584;

(5) The conditions of the license provide for compliance with all applicable and State requirements and the relevant requirements of this Chapter;

(6) The Department and applicant have complied with the public participation and EPA notification and review procedures for issuance of a license pursuant to subsections I(B)(3) and (10) of this Chapter;

(7) The emissions will not have an adverse impact on Air Quality Related Values of any Class I area, including any integral vista for that Class I area.

(8) All facility accounts with the Department are current, with no overdue balance.

g. **Draft License Notification**

A comment period shall be held on the draft license, as described in subsection I(B)(10) of this Chapter.

2. **New Major Stationary Source in a Nonattainment Area (Nonattainment NSR License)**

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Nonattainment Major NSR is the preconstruction permitting program for New Major Stationary Sources and Major Modifications in nonattainment areas. The specific Nonattainment NSR licensing requirements apply to those pollutants for which there are Significant Emissions of the nonattainment pollutant(s) for that area. Emissions of other pollutants for which the area is in attainment shall be licensed according to subsection II(B)(1) of this Chapter.

a. **Applicability.** If located in a nonattainment area, a Nonattainment NSR License is required for a New Major Stationary Source. A Nonattainment NSR License application requires the following, as applicable:

(1) Lowest Achievable Emission Rate (LAER) analysis for those pollutants for which the emissions from the new source are greater than the Significant Emissions level as identified in 06-096 CMR 100 and for which the area is identified as nonattainment;

(2) For a New Stationary Source, BACT analysis for those pollutants emitted by the new source for which the area is in attainment;

(3) Identification of emissions offsets for those pollutants identified as subject to LAER analysis according to (1) above, pursuant to Section V of this Chapter;

(4) Ambient air quality impact and additional impacts analyses; and

(5) Opportunity for public involvement.

These requirements are included in the procedure below.

b. **Schedule.** The LAER and/or BACT determination(s) shall be reviewed and modified as appropriate for any phased construction project for which the time between initiation of an independent phase and initiation of the next independent phase exceeds 18 months. Therefore, an applicant planning a phased construction project shall submit an application for a Major or Minor Modification, as appropriate, for each future independent phase, including a new LAER and/or BACT analysis, as applicable to each pollutant.

c. **Application Notification**

(1) **Public Notice of Intent to File.** The applicant shall publish a Public Notice of Intent to File as specified in subsection I(B)(3) of this Chapter.

(2) **Abutters.** The applicant shall send to all abutters by certified mail a copy of the Public Notice of Intent to File.

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(3) **EPA Region I.** The applicant shall send a copy of the application, including any supporting documentation and any subsequent amendments to the application, to EPA Region I.

(4) **Federal Land Managers, Indian Governing Bodies.** The applicant and/or the Department shall notify and, if requested, provide a copy of the application to all Federal Land Managers listed in 06-096 CMR 100 and the Indian governing body of any reservation whose lands may be affected by the new Major Stationary Source on or before the date the applicant provides Public Notice of Intent to File, and provide at least a thirty-day public comment period.

NOTE: See *Classification of Air Quality Control Regions*, 06-096 CMR 114, for a listing of federal lands which have been established as mandatory Class I areas. Check with the Department, Federal Land Manager, or Indian governing body for the most current list of specific local and national modeling review contacts and addresses for the federal lands.

d. **Required Application Information.** The applicant shall submit to the Department the following information, as applicable:

(1) **Application Form.** The application form as specified in subsection I(B)(1) of this Chapter that contains the required information;

(2) **Source Description.** A description of the nature of the source, location, plot plan, building dimensions, and any other information required by the Department;

(3) **Schedule for Construction.** A schedule for construction of the New Major Stationary Source;

(4) **Identification of Requirements.** Identification and discussion of applicable State and federal requirements;

(5) **Best Available Control Technology (BACT) Analysis**, as defined in 06-096 CMR 100 and in accordance with subsection II(B)(1)(d)(5) of this Chapter, for those pollutants for which the area is in attainment;

(6) **Lowest Achievable Emission Rate (LAER) Determination**, as defined in 06-096 CMR 100 and in accordance with the following specifications, for a New Major Stationary Source with significant emissions of one or more federal nonattainment pollutants and which is located within the geographical boundaries of a nonattainment area, or whose emissions will significantly impact a nonattainment area, must demonstrate that LAER is being met for the federal nonattainment pollutant(s).

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NOTE: LAER is required in areas EPA has designated as federal nonattainment or in areas the State of Maine has designated as nonattainment but for which EPA has not yet taken final action. LAER is based on the State's applicability criteria in all cases, except where the Department has amended the attainment status from "federal nonattainment" to "attainment" pursuant to 06-096 CMR 114. In those cases where the Department has completed re-designation procedures from "federal nonattainment" to "attainment" but for which EPA has not taken final action, EPA's applicability criteria in Sections 172(c)(6) and 173 of the CAA apply.

(7) **Offsets.** Certification with supporting documentation that the facility has obtained offsetting emission reductions ~~from other sources.~~pursuant to Section V of this Chapter, as applicable;

(8) **Ambient Air Quality Impact Analysis.** If required by the Department pursuant to Section VII of this Chapter, the applicant shall submit the results of ambient air quality impact analyses, including an analysis of the impacts to Air Quality Related Values and impact on visibility if the Department determines that the source may affect ambient increments or Air Quality Related Values in any Class I area or integral vista to that Class I area. The analysis shall be performed pursuant to Section VII of this Chapter. This analysis shall be used in the completeness determination of the application.

(9) **Additional Impacts Analysis.** If required by the Department pursuant to Section VII of this Chapter, the applicant shall provide an Additional Impacts Analysis in accordance with subpart II(B)(1)(d)(7) of this Chapter.

(10) **Innovative Control Technology.** The applicant shall provide Innovative Control Technology approval, if applicable, pursuant to subpart II(B)(1)(d)(8) of this Chapter. The innovative control technology alternative is not available for a source in a nonattainment area for the specific pollutants for which the area is in nonattainment.

(11) **Compliance Monitoring Methods.** The applicant shall identify compliance monitoring methods in accordance with subpart II(B)(1)(d)(9) of this Chapter.

(12) **Growth Analysis.** The applicant shall provide a Growth Analysis in accordance with subpart II(B)(1)(d)(10) of this Chapter.

(13) **Title, Right, or Interest.** The applicant shall comply with the Title, Right, or Interest requirements in accordance with subpart II(B)(1)(d)(11) of this Chapter.

(14) **Signatory Certification.** A signed certification from a responsible official in accordance with Section I(B)(2) of this Chapter shall be included in the application.

(15) **Public Notice of Intent to File.** Proof of publication of the Public Notice of Intent to File (e.g., an original or copy of the newspaper publication) as specified in subsection I(B)(3) of this Chapter shall be included in the application.

e. **License Content.** The license content shall contain all of the relevant criteria as specified in subsection I(B)(9) of this Chapter.

f. **Criteria for License Approval.** The Department shall grant the license if the following criteria are met:

(1) The Department has received a complete application for a license pursuant to this Chapter.

(2) The emissions will receive LAER and/or BACT, as applicable.

(3) The facility has obtained offsetting emission reductions pursuant to Section V of this Chapter, as applicable;

(4) The emissions will not violate State standards adopted by the Department pursuant to Title 38 MRSA §585 or can be controlled after the application of LAER and/or BACT, as applicable, and other license conditions so as not to violate the same.

(5) The emissions, either alone or in conjunction with existing emissions, will not violate or can be controlled after the application of LAER and/or BACT, as applicable, and other license conditions so as not to violate applicable ambient air quality standards including, but not limited to, ambient increments as adopted by the Department pursuant to Title 38 MRSA §584; or, for those sources locating within or significantly impacting a nonattainment area, the impact to ambient air quality standards is consistent with any plan demonstrating Reasonable Further Progress as defined in Section 171 of the CAA.

(6) The conditions of the license provide for compliance with all applicable and State requirements and the relevant requirements of this Chapter.

(7) The Department and applicant have complied with the public participation and EPA notification and review procedures for issuance of a license pursuant to subsections I(B)(3) and I(B)(10) of this Chapter.

(8) The emissions will not have an adverse impact on Air Quality Related Values of any Class I area, including any integral vista for that Class I area.

(9) Pursuant to the requirements of Title I, Part D of the CAA, the Department shall not issue a license if the EPA has determined that implementation of the State Implementation Plan is inadequate for the nonattainment area in which the proposed source or modification will be constructed;

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(10) With respect to any New Major Stationary Source which will emit significant emissions of a nonattainment pollutant and which seeks to locate in the geographical boundaries of a nonattainment area or which will have a significant impact on a nonattainment area, the following conditions shall be met:

(a) All sources owned or operated by the applicant (or by any entity controlling, controlled by, or under common control with such person) in this State are currently in compliance, or on an enforceable schedule for compliance, with all applicable emission limitations under the CAA, including but not limited to the terms and conditions of any license, the applicable emission limitations, and the ambient air quality standards;

(b) The owner or operator has complied with the applicable provisions of Section V of this Chapter; and

(c) The owner or operator has conducted an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(11) All facility accounts with the Department are current, with no overdue balance.

g. **Draft License Notification**

A comment period shall be held on the draft license, as described in subsection I(B)(10) of this Chapter.

III. Section III: Modification at a Major Stationary Source Licensing Process

In addition to the applicable requirements of Sections I and VII of this Chapter, the process of licensing modifications at existing Major Stationary Sources shall be according to the requirements and specifications set forth in this Section.

With the exception of modifications which meet the definition of Minor Revision, any modification at an existing Major Stationary Source must undergo licensing in one of the following three categories: PSD License, Nonattainment NSR License, or Minor NSR License. A PSD License or a Nonattainment NSR License must be issued to the facility before the facility commences construction of the modification, as defined in 06-096 CMR 100. A facility must be issued a Minor NSR License prior to beginning actual construction of a minor modification.

A. Determination of Modification Classification. A change at a facility is identified as a Major Modification, a Minor Modification, or a Minor Revision based on the quantities of projected net emissions increases resulting from the change. Net emission increases are

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determined pursuant to the process defined in 06-096 CMR 100 and pursuant to the following guidance:

1. Determine the projected actual emissions increases (but not any decreases at this step) from the proposed project, independent of any contemporaneous emissions changes or netting calculations.

2. Based on the projected actual emissions increases, proceed according to the licensing process identified in one of the following three categories:

   a. **Identification of Minor Revision.** If projected actual emission increases from the modification alone (not including contemporaneous emissions changes through netting calculations) are less than four tons per year for any one regulated pollutant other than greenhouse gases (GHG) and less than eight tons per year of total regulated pollutants other than GHG, and the change does not include the addition to the license of an air emissions unit not previously licensed, proceed with Licensing Process for a Minor Revision.

   b. **Identification of Minor Modification.** If projected actual emission increases are less than Significant Emission Increase levels (see 06-096 CMR 100) but greater than four tons per year for any one regulated pollutant other than GHG or greater than eight tons per year of total regulated pollutants other than GHG, proceed with Licensing Process for a Minor Modification.

   c. **Identification of Major Modification.** If projected actual emissions increases exceed Significant Emission Increase levels, proceed as follows:

      (1) Determine the beginning and ending dates of the contemporaneous period as it relates to the proposed modification.

      (2) Determine which emissions units at the source experienced or will experience an increase or decrease in emissions during the contemporaneous period, including any expected or proposed decreases resulting from the proposed modification.

      (3) Determine which of the contemporaneous emissions changes are creditable.

      (4) Determine, on a pollutant-by-pollutant basis, the amount of each contemporaneous and creditable emissions increase or decrease for each unit which will experience an emission change due to the modification.

      (5) Sum all contemporaneous and creditable increases and decreases with the increase from the proposed modification, on a pollutant-by-pollutant basis.

      (6) If there are one or more pollutants for which the net increase exceeds Significant Emission Increase levels, proceed with the Licensing Process for a Major Modification. If the net increase is below Significant Emission Increase levels

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for all pollutants, proceed with the Licensing Process for a Minor Modification or the Licensing Process for a Minor Revision, as applicable.

B. Reasonable Possibility. If the projected actual emissions for a modification were calculated using the potential to emit of the emission unit(s), this subsection does not apply. This subsection shall apply to all other modifications in which the projected actual emissions were calculated based on values other than the potential to emit.

For a project at a Major Stationary Source for which projected actual emissions were calculated in accordance with parts A, B, and C of the definition as found in 06-096 CMR 100, and which did not exceed Significant Emissions Increase levels, and for regulated NSR pollutant(s) that are part of a Major Modification but not the pollutant(s) which triggered "major modification" status, the source must determine whether or not there is a reasonable possibility, within the meaning as given below, that the project may result in a Significant Emissions Increase of such pollutant.

1. A *reasonable possibility*, for the purposes of this section, occurs when the owner or operator calculates the project to result in either of the following:

Case A: A projected actual emission increase of at least 50% of the Significant Emissions Increase level for that pollutant, without reference to the amount that is a significant net emissions increase; or

Case B: A projected actual emissions increase that, added to the amount of emissions excluded under part C of the "Projected actual emissions" definition as found in 06-096 CMR 100, sums to at least 50% of the Significant Emissions Increase level for that pollutant, without reference to the amount that is a significant net emissions increase.

For a project for which a reasonable possibility occurs only within the meaning of Case B and not also within the meaning of Case A above, the provisions of (b) through (e) below do not apply to the project.

2. Except as identified, the following provisions apply to any regulated NSR pollutant emitted from a project or projects modifying an existing Major Stationary Source (other than projects at a source with a PAL) when there is a reasonable possibility that the project may result in a significant emissions increase of such pollutant.

The owner or operator of the source shall make the information required to be documented and maintained pursuant to this subsection available for review upon a request for inspection by the Department or the general public.

a. 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;

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(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 the calculation of "projected actual emissions" as identified in part C of the definition in 06-096 CMR 100 and an explanation for why such amount was excluded, and any netting calculations, if applicable.

b. If the emission unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the above information to the Department. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the Department before beginning actual construction.

c. The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in part 2(a)(2) of this subsection; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of five years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit. Fugitive emissions, to the extent quantifiable, shall be monitored if the emissions unit is part of one of the source categories listed in the definition of "Part 70 major source or major stationary source" as given in 06-096 CMR 100 or if the emissions unit is located at a Major Stationary Source that belongs to one of the listed source categories.

d. If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report of each unit's annual emissions to the Department within 60 days after the end of each calendar year during which emissions must be monitored and records generated under paragraph c of this section.

e. If the unit is an existing unit other than an electricity utility steam generating unit, the owner or operator shall submit a report to the Department if the annual emissions from the project, in tons per year, exceed the baseline actual emissions, as documented and maintained pursuant to paragraph a of this section, by a significant amount, as defined in 06-096 CMR 100, for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph a of this section. Such report shall be submitted to the Administrator within 60 days after the end of such year and shall contain the following:

(1) The name, address, and telephone number of the Major Stationary Source;

(2) The annual emissions as calculated pursuant to paragraph c of this section;

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(3) An explanation as to why the emissions differ from the preconstruction projection, and

(4) Any other information the owner or operator wishes to include in the report.

C. Licensing Process for a Minor Revision at a Major Stationary Source

1. **Applicability.** Minor Revision procedures to modify a license may be used for the following:

a. The correction of typographical errors in a NSR license;

b. The change in the name, address, or phone number of any person or facility identified in the source's NSR air emission license, or a similar administrative change at the source;

c. A change in monitoring and reporting requirements;

d. A revision at a facility with a projected actual emissions increase under four tons per year for any one regulated pollutant except GHG and under eight tons per year of total regulated pollutants except GHG, and is determined not to be a Major or Minor Modification by the Department and is subject to licensing as defined in this Chapter. On a case-by-case basis, revisions under this subsection shall be subject to BACT and/or an ambient air quality analysis; or

e. Any other changes approved by the Department that meet the criteria of a Minor Revision.

2. **Schedule.** The applicant may request a Minor Revision at any time during the term of a license.

3. **Public Notice of Intent to File**. No application notification is required for the processing of a Minor Revision.

4. **Required Application Information.** For a Minor Revision, the application submission shall consist of a letter requesting the Minor Revision with the reason for the request and any relevant information, such as a description of the revision, any emission calculations, and a BACT analysis, as described in Section II(B)(1)(d)(5) of this Chapter, for any change, as applicable. A signed certification from a responsible official in accordance with Section I(B)(2) of this Chapter shall be included in the submittal.

5. **License Content.** A Minor Revision shall contain the following:

a. A description of the revision and the reason for the request, and

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b. Terms and conditions that will assure compliance with any requirements applicable to the revision.

6. **Criteria for License Approval.** The Minor Revision shall be granted if the Department determines that the revision meets the applicability criteria specified in this subsection and will not violate any requirements applicable to the source, and all facility accounts with the Department are current, with no overdue balance.

7. **Joint Processing.** A Minor Revision may be incorporated when processing a minor or major modification or a license transfer provided all applicable requirements of all applicable licensing processes are met.

8. **Draft License Notification.** Draft license notification is not required for a Minor Revision.

D. Licensing Process for a Minor Modification at a Major Stationary Source (Minor NSR License)

1. **Applicability.** A Minor Modification at a Major Stationary Source is required to follow the Minor NSR licensing process in this section.

2. **Schedule.** The BACT determination shall be reviewed and modified as appropriate for any phased construction project for which the time between initiation of an independent phase and initiation of the next independent phase exceeds 18 months. Therefore, an applicant planning such a phased construction project shall submit an application for a Modification for each future independent phase, including a new BACT analysis as applicable.

3. **Application and Draft License Notification.** The applicant shall publish a Public Notice of Intent to File and Draft License Notification in accordance with subsections I(B)(3) and I(B)(10) of this Chapter.

4. **Required Application Information.** The applicant shall submit to the Department the information listed below, as applicable:

a. **Application Form.** The application form as specified in subsection I(B)(1) of this Chapter which contains the required information;

b. **Source Description.** A description of the nature of the process, location of the source, plot plan, building dimensions, and any other information required by the Department;

c. **Schedule for Construction.** A schedule for construction of the Minor Modification;

d. **Identification of Requirements.** Identification and discussion of applicable State and federal requirements;

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e. **BACT.** Best Available Control Technology (BACT) analysis as described in subsection II(B)(1)(d)(5) of this Chapter;

f. **Innovative Control Technology.** If relevant, documentation of Innovative Control Technology approval as specified in subsection II(B)(1)(d)(8) of this Chapter;

g. **Compliance Monitoring Methods.** All process control and compliance monitoring devices or activities and any other emission reduction system planned for the Minor Modification, as well as such other information required to accurately establish emission estimates and to document future compliance;

h. **Ambient Air Quality Impact Analysis.** The results of all ambient air quality impact analyses required by the Department pursuant to Section VII of this Chapter. This analysis shall be used in the completeness determination of the application;

i. **Signatory Certification.** A signed certification from a responsible official in accordance with Section I(B)(2) of this Chapter; and

j. **Public Notice of Intent to File.** Proof of publication of the Public Notice of Intent to File (e.g., an original or copy of the newspaper publication) as specified in subsection I(B)(3) of this Chapter.

5. **License Content.** The license content shall contain all of the criteria as specified in subsection I(B)(9) of this Chapter relevant to the modification.

6. **Criteria for License Approval.** The Department shall grant the license if the following criteria are met:

a. The Department has received a complete application for a license pursuant to this Chapter;

b. The emissions will receive BACT, as applicable;

c. The emissions will not violate State standards adopted by the Department pursuant to Title 38 MRSA §585 or can be controlled after application of BACT and other license conditions so as not to violate the same;

d. The emissions, either alone or in conjunction with existing emissions, will not violate or can be controlled after application of BACT and other license conditions so as not to violate ambient air quality standards including, but not limited to, ambient increments as adopted by the Department pursuant to Title 38 MRSA §584; or for those sources locating within or significantly impacting a nonattainment area, the impact to ambient air quality standards is consistent with any plan demonstrating Reasonable Further Progress as defined in Section 171 of the CAA;

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e. The conditions of the license provide for compliance with all applicable and State requirements and the relevant requirements of this Chapter;

f. The Department and applicant have complied with the public participation and review procedures for issuance of a license pursuant to subsection I(B)(3) of this Chapter.

g. All facility accounts with the Department are current, with no overdue balance.

7. **Joint Processing.** A Minor Modification may be processed with a renewal license provided all applicable requirements of both applicable licensing processes are met.

8. **Draft License Notification.** Draft license notification is required for a Minor NSR License. Draft license notification shall be pursuant to subsection I(B)(10)(b) of this Chapter.

E. Licensing Process for a Major Modification at a Major Stationary Source. A modification at an existing Major Stationary Source is a Major Modification for any pollutant whose net emissions increase is greater than the "Significant Emission Increase" level for that pollutant as defined in 06-096 CMR 100. The emissions increase is not major for any pollutant not exceeding the defined threshold level.

Specifics of the licensing process for a Major Modification differ depending on the classification of the area in which the source is located. The following licensing processes 1: *Major Modification at a Major Stationary Source in an Attainment Area (PSD NSR License, also called PSD License)*, or 2: *Major Modification at a Major Stationary Source in a Nonattainment Area (Nonattainment NSR License)*, shall be utilized, as applicable. Requirements of Subsection III.B, *Reasonable Possibility*, apply to both of the licensing processes outlined in 1 and 2.

1. **Major Modification at a Major Stationary Source in an Attainment Area (PSD NSR License, also called PSD License)**

a. **Applicability.** Prevention of Significant Deterioration (PSD) is part of the NSR preconstruction licensing program. In an attainment area, A PSD License is required for a Major Modification at an existing Major Stationary Source.

A PSD license application includes but is not limited to the following:
(1) Best Available Control Technology (BACT) analysis;
(2) Ambient air quality impact and additional impacts analyses; and
(3) Opportunity for public involvement.

These requirements are included in the following procedures, which shall be used for licensing of Major Modifications, as defined in 06-096 CMR 100.

b. **Schedule.** The BACT determination shall be reviewed and modified as appropriate for any phased construction project for which the time between initiation of an

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independent phase and initiation of the next independent phase exceeds 18 months. Therefore, an applicant planning a phased construction project shall submit an application for a Major or Minor Modification, as appropriate, for each future independent phase, including a new BACT analysis as applicable.

c. **Application Notification**

(1) **Public Notice of Intent to File.** The applicant shall publish a Public Notice of Intent to File as specified in subsection I(B)(3) of this Chapter.

(2) **Abutters.** The applicant shall send to all abutters by certified mail a copy of the Public Notice of Intent to File.

(3) **EPA Region I.** The applicant shall send a copy of the application, including any supporting documentation and any subsequent amendments to the application, to EPA Region I.

(4) **Federal Land Managers, Indian Governing Bodies.** The applicant and/or the Department shall notify and, if requested, provide a copy of the application to all Federal Land Managers listed in 06-096 CMR 100 and the Indian governing body of any reservation whose lands may be affected by the proposed Major Modification at a Major Stationary Source on or before the date the applicant provides Public Notice of Intent to File, and provide at least a 30-day public comment period.

NOTE: See *Classification of Air Quality Control Regions*, 06-096 CMR 114 for a listing of federal lands which have been established as mandatory Class I areas. Check with the Department, Federal Land Manager, or Indian governing body for the most current list of specific local and national modeling review contacts and addresses for the federal lands.

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d. **Required Application Information.** The applicant shall submit to the Department the following information, as applicable:

(1) **Application Form.** The application form as specified in subsection I(B)(1) of this Chapter which contains the required information;

(2) **Modification Description.** A description of the modification at the source, location, plot plan, building dimensions, and any other information required by the Department;

(3) **Schedule for Construction.** A schedule for construction of the Major Modification;

(4) **Identification of Requirements.** Identification and discussion of applicable federal and State requirements;

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(5) **Best Available Control Technology (BACT) Analysis,** as described in Section II(B)(1)(d)(5) of this Chapter;

(6) **Innovative Control Technology.** If relevant, documentation of Innovative Control Technology approval as specified in subsection II(B)(1)(d)(8) of this Chapter;

(7) **Compliance Monitoring Methods.** All process control and compliance monitoring devices or activities and any other emission reduction system planned by the owner or operator of a Major Modification at a Major Stationary Source shall be specified, as well as such other information required to accurately establish emission estimates and to document future compliance;

(8) **Growth Analysis.** The air quality impacts and the nature and extent of emissions from all general, commercial, residential, industrial, and other growth in the area affected by the Major Modification, including associated mobile sources, pursuant to Section VII of this Chapter, and which has occurred

i. since August 7, 1977, for sulfur dioxide (SO_2) and PM_{10};

ii. since February 8, 1988, for NO_2; and

iii. since October 20, 2010, for $PM_{2.5}$;

. The growth analysis shall be performed only for those pollutants (SO_2, PM_{10}, $PM_{2.5}$, and/or NO_2) for which the modification was determined as major.

(9) **Ambient Air Quality Impact Analysis.** The results of all ambient air quality impact analyses required by the Department pursuant to Section VII of this Chapter. This analysis shall be used in the completeness determination of the application;

(10) **Signatory Certification.** A signed certification from a responsible official in accordance with Section I(B)(2) of this Chapter; and

(11) **Public Notice of Intent to File.** Proof of publication of the Public Notice of Intent to File (e.g., an original or copy of the newspaper publication) as specified in subsection I(B)(3) of this Chapter.

e. **License Content.** The license content shall contain all of the relevant criteria as specified in subsection I(B)(9) of this Chapter.

f. **Criteria for License Approval.** The Department shall grant the license if the following criteria are met:

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(1) The Department has received a complete application for a license pursuant to this Chapter;

(2) The emissions will receive BACT;

(3) The emissions will not violate State standards adopted by the Department pursuant to Title 38 MRSA §585 or can be controlled after application of BACT and other license conditions so as not to violate the same;

(4) The emissions, either alone or in conjunction with existing emissions, will not violate or can be controlled after application of BACT and other license conditions so as not to violate applicable ambient air quality standards including, but not limited to, ambient increments as adopted by the Department pursuant to Title 38 MRSA §584;

(5) The conditions of the license provide for compliance with all applicable and State requirements and the relevant requirements of this Chapter;

(6) The Department and applicant have complied with the public participation and EPA notification and review procedures for issuance of a license pursuant to subsections I(B)(3) and I(B)(10) of this Chapter; and

(7) The emissions will not have an adverse impact on Air Quality Related Values of any Class I area, including any integral vista for that Class I area.

(8) All facility accounts with the Department are current, with no overdue balance.

g. **Draft License Notification**

A comment period shall be held on the draft license, as described in subsection I(B)(10) of this Chapter.

2. **Major Modification at a Major Stationary Source in a Nonattainment Area (Nonattainment NSR License)**

Nonattainment Major NSR is the preconstruction permitting program for New Major Stationary Sources and Major Modifications in nonattainment areas. The specific Nonattainment NSR Licensing requirements apply to those pollutants for which there are significant emissions of the nonattainment pollutant(s) for that area. Emissions of other pollutants for which the area is in attainment shall be licensed according to subsection III(E)(1) of this Chapter.

a. **Applicability.** If located in a nonattainment area, a Nonattainment NSR License is required for an existing Major Stationary Source planning a Major Modification.

A Nonattainment NSR License application includes, but is not limited to, the following requirements, which are included in the procedure below:

(1) LAER analysis for those pollutants for which the net emissions increase is greater than the Significant Emissions Increase level as identified in 06-096 CMR 100 and for which the area is identified as nonattainment;

(2) BACT analysis for those pollutants emitted by the modified equipment for which the area is in attainment, as applicable;

(3) Identification of emissions offsets for those pollutants identified as subject to LAER analysis according to (1) above, pursuant to Section V of this Chapter; and

(4) Opportunity for public involvement.

b. **Schedule.** The LAER and/or BACT determination(s) shall be reviewed and modified as appropriate for any phased construction project for which the time between initiation of an independent phase and initiation of the next independent phase exceeds 18 months. Therefore, an applicant planning a phased construction project shall submit an application for a Major or Minor Modification, as appropriate, for each future independent phase, including a new LAER and/or BACT analysis, as applicable to each pollutant.

c. **Application Notification**

(1) **Public Notice of Intent to File.** The applicant shall publish a Public Notice of Intent to File as specified in subsection I(B)(3) of this Chapter.

(2) **Abutters.** The applicant shall send to all abutters by certified mail a copy of the Public Notice of Intent to File.

(3) **EPA Region I.** The applicant shall send a copy of the application, including any supporting documentation and any subsequent amendments to the application, to EPA Region I.

(4) **Federal Land Managers, Indian Governing Bodies.** The applicant and/or the Department shall notify and, if requested, provide a copy of the application to all Federal Land Managers listed in 06-096 CMR 100 and the Indian governing body of any reservation whose lands may be affected by the proposed Major Modification on or before the date the applicant provides Public Notice of Intent to File, and provide at least a thirty (30) day public comment period.

NOTE: See *Classification of Air Quality Control Regions*, 06-096 CMR 114 for a listing of federal lands which have been established as mandatory Class I areas. Check with the Department, Federal Land Manager, or Indian governing body for the most current list of specific local and national modeling review contacts and addresses for the federal lands.

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d. **Required Application Information.** The applicant shall submit to the Department the following information, as applicable:

(1) **Application Form.** The application form as specified in subsection I(B)(1) of this Chapter that contains the required information;

(2) **Source Description.** A description of the nature of the source and modification, location, plot plan, building dimensions, and any other information required by the Department;

(3) **Schedule for Construction.** A schedule for construction of the Major Modification;

(4) **Identification of Requirements.** Identification and discussion of applicable and State requirements;

(5) **Best Available Control Technology (BACT) Analysis**, as defined in 06-096 CMR 100 and in accordance with subsection II(B)(1)(d)(5) of this Chapter, for those pollutants for which the area is in attainment;

(6) **Lowest Achievable Emission Rate (LAER) Determination**, as defined in 06-096 CMR 100 and in accordance with the following specifications for a Major Modification with significant emissions increases of one or more federal nonattainment pollutants and which is located in the geographical boundaries of a nonattainment area, or whose emissions will significantly impact a nonattainment area. The application must include a demonstration that LAER is being met for the federal nonattainment pollutant(s).

NOTE: LAER is required in areas EPA has designated as federal nonattainment or in areas Maine has designated as nonattainment but for which EPA has not yet taken final action. LAER is based on the State's applicability criteria in all cases, except where the Department has amended the attainment status from "federal nonattainment" to "attainment" pursuant to 06-096 CMR 114. In those cases where the Department has completed re-designation procedures from "federal nonattainment" to "attainment" but for which EPA has not taken final action, EPA's applicability criteria in Sections 172(c)(6) and 173 of the CAA apply.

(7) **Offsets.** Identification of emissions offsets for those pollutants identified as subject to LAER, determined pursuant to Section V of this Chapter;

(8) **Ambient Air Quality Impact Analysis.** If required by the Department pursuant to Section VII of this Chapter, the applicant shall submit the results of ambient air quality impact analyses, including an analysis of the impacts to Air Quality Related Values and impact on visibility if the Department determines that the source may affect ambient increments or Air Quality Related Values in any Class I area or integral vista to that Class I area. The analysis shall be performed

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pursuant to Section VII of this Chapter. This analysis shall be used in the completeness determination of the application.

(9) **Additional Impacts Analysis.** The applicant shall provide an Additional Impacts Analysis in accordance with subpart II(B)(1)(d)(7) of this Chapter for those pollutants emitted by the modified or affected units for which the area is in attainment with NAAQS.

(10) **Compliance Monitoring Methods.** The applicant shall identify compliance monitoring methods in accordance with subpart II(B)(1)(d)(9) of this Chapter.

(11) **Growth Analysis.** The applicant shall provide a Growth Analysis in accordance with subpart II(B)(1)(d)(10) of this Chapter for those pollutants emitted by the modified or affected units for which the area is in attainment with NAAQS.

(12) **Signatory Certification.** A signed certification from a responsible official in accordance with Section I(B)(2) of this Chapter shall be included in the application.

(13) **Public Notice of Intent to File.** Proof of publication of the Public Notice of Intent to File (e.g., an original or copy of the newspaper publication) as specified in subsection I(B)(3) of this Chapter shall be included in the application.

e. **License Content.** The license content shall contain all of the relevant criteria as specified in subsection I(B)(9) of this Chapter.

f. **Criteria for License Approval.** The Department shall grant the license if the following criteria are met:

(1) The Department has received a complete application for a license pursuant to this Chapter;

(2) The emissions will receive LAER and/or BACT, as applicable;

(3) Emissions offsets for those pollutants identified as subject to LAER, determined pursuant to Section V of this Chapter, have been certified and documented in accordance with federal and State requirements;

(4) The emissions will not violate State standards adopted by the Department pursuant to Title 38 MRSA §585 or can be controlled after application of BACT and other license conditions so as not to violate the same;

(5) The emissions, either alone or in conjunction with existing emissions, will not violate or can be controlled after application of BACT and other license conditions so as not to violate applicable ambient air quality standards including, but not limited to, ambient increments as adopted by the Department pursuant to Title 38 MRSA §584; or, for those sources locating within or significantly

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impacting a nonattainment area, the impact to ambient air quality standards is consistent with any plan demonstrating Reasonable Further Progress as defined in Section 171 of the CAA;

(6) The conditions of the license provide for compliance with all applicable and State requirements and the relevant requirements of this Chapter;

(7) The Department and applicant have complied with the public participation and EPA notification and review procedures for issuance of a license pursuant to subsections I(B)(3) and I(B)(10) of this Chapter;

(8) The emissions will not have an adverse impact on Air Quality Related Values of any Class I area, including any integral vista for that Class I area;

(9) Pursuant to the requirements of Title I, Part D of the CAA, the Department shall not issue a license if the EPA has determined that implementation of the State Implementation Plan is inadequate for the nonattainment area in which the proposed source or modification will be constructed;

(10) For any Major Modification with a net significant emissions increase of a nonattainment pollutant and which is located within the geographical boundaries of a nonattainment area, or which will have a significant impact on a nonattainment area, all sources owned or operated by the applicant (or by any entity controlling, controlled by, or under common control with such person) in this State are in compliance, or on an enforceable schedule for compliance, with all applicable emission limitations under the CAA, including but not limited to the terms and conditions of any license, the applicable emission limitations, and the ambient air quality standards;

(11) All facility accounts with the Department are current, with no overdue balance.

g. **Draft License Notification**

A comment period shall be held on the draft license, as described in subsection I(B)(10) of this Chapter.

IV. Section IV: Major Modification at a Minor Stationary Source Licensing Process

A. Applicability. This section applies to a source which has previously been licensed as a Minor Stationary Source which is proposing a Major Modification at the source, according to the *Determination of Modification Classification* subsection of 06-096 CMR 115, Section IV(B).

The completion of a Major Modification at a Minor Stationary Source causes total emissions from the source to exceed the Significant Emissions levels, as identified in 06-096 CMR 100, thus classifying the source as a Major Stationary Source. As such, the source must apply for

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a Part 70 license under *Part 70 Air Emission License Regulation*, 06-096 CMR 140, Section 3, within 12 months of commencing operation of the modification, as provided in 40 CFR Part 70.5.

A modification at an existing Minor Stationary Source is a Major Modification for any pollutant whose projected emissions increase is greater than Significant Emissions for that pollutant as defined in 06-096 CMR 100. The projected emissions increase is not major for any pollutant not exceeding the defined threshold level.

Specifics of a Major Modification licensing process differ depending on the classification of the area in which the source is located. The following licensing processes shall be utilized, as applicable.

B. Major Modification at a Minor Stationary Source in an Attainment Area (PSD NSR License, also called PSD License)

1. **Applicability.** Prevention of Significant Deterioration (PSD) is part of the NSR preconstruction licensing program. In an attainment area, A PSD License is required for a Major Modification at a facility previously licensed as a Minor Stationary Source.

   A PSD License application includes, but is not limited to, the following:

   a. BACT analysis;

   b. Ambient air quality impact and additional impacts analyses; and

   c. Opportunity for public involvement.

   These requirements are included in the following procedures, which shall be used for licensing of Major Modifications, as defined in 06-096 CMR 100.

2. **Schedule.** The BACT determination shall be reviewed and modified as appropriate for any phased construction project for which the time between initiation of an independent phase and initiation of the next independent phase exceeds 18 months. Therefore, an applicant planning a phased construction project shall submit an application for a Major or Minor Modification, as appropriate, for each future independent phase, including a new BACT analysis as applicable.

3. **Application Notification**

   a. **Public Notice of Intent to File.** The applicant shall publish a Public Notice of Intent to File as specified in subsection I(B)(3) of this Chapter.

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b. **Abutters.** The applicant shall send to all abutters by certified mail a copy of the Public Notice of Intent to File.

c. **EPA Region I.** The applicant shall send a copy of the application, including any supporting documentation and any subsequent amendments to the application, to EPA Region I.

d. **Federal Land Managers, Indian Governing Bodies.** The applicant and/or the Department shall notify and, if requested, provide a copy of the application to all Federal Land Managers listed in 06-096 CMR 100 and the Indian governing body of any reservation whose lands may be affected by the proposed Major Modification on or before the date the applicant provides Public Notice of Intent to File, and provide at least a 30-day public comment period.

NOTE: See 06-096 CMR 114, *Classification of Air Quality Control Regions*, for a listing of federal lands which have been established as mandatory Class I areas. Check with the Department, Federal Land Manager, or Indian governing body for the most current list of specific local and national modeling review contacts and addresses for the federal lands.

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4. **Required Application Information.** The applicant shall submit to the Department the following information, as applicable:

a. **Application Form.** The application form as specified in subsection I(B)(1) of this Chapter that contains the required information;

b. **Modification Description.** A description of the modification at the source, location, plot plan, building dimensions, and any other information required by the Department;

c. **Schedule for Construction.** A schedule for construction of the Major Modification;

d. **Identification of Requirements.** Identification and discussion of applicable State and federal requirements;

e. **Best Available Control Technology (BACT) Analysis**, as defined in 06-096 CMR 100 and in accordance with subsection II(B)(1)(d)(5) of this Chapter, for those pollutants for which the area is in attainment;

f. **Ambient Air Quality Impact Analysis.** If required by the Department pursuant to Section VII of this Chapter, the applicant shall submit the results of ambient air quality impact analyses, including an analysis of the impacts to Air Quality Related Values and impact on visibility if the Department determines that the source may affect ambient increments or Air Quality Related Values in any Class I area or integral vista to that Class I area as a result of the major modification. The analysis shall be performed pursuant to Section VII of this Chapter. This analysis shall be used in the completeness determination of the application.

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g. **Additional Impacts Analysis.** If required by the Department pursuant to Section VII of this Chapter, the applicant shall provide an Additional Impacts Analysis in accordance with subpart II(B)(1)(d)(7) of this Chapter.

h. **Innovative Control Technology.** The applicant shall provide documentation of Innovative Control Technology approval, as applicable, in accordance with subpart II(B)(1)(d)(8) of this Chapter.

i. **Compliance Monitoring Methods.** The applicant shall identify compliance monitoring methods in accordance with subpart II(B)(1)(d)(9) of this Chapter.

j. **Growth Analysis.** The applicant shall provide a Growth Analysis in accordance with subpart II(B)(1)(d)(10) of this Chapter.

k. **Signatory Certification.** A signed certification from a responsible official in accordance with Section I(B)(2) of this Chapter shall be included in the application.

l. **Public Notice of Intent to File.** Proof of publication of the Public Notice of Intent to File (e.g., an original or copy of the newspaper publication) as specified in subsection I(B)(3) of this Chapter shall be included in the application.

5. **License Content.** The license content shall contain all of the relevant criteria as specified in subsection I(B)(9) of this Chapter.

6. **Criteria for License Approval.** The Department shall grant the license if the following criteria are met:

a. The Department has received a complete application for a license pursuant to this Chapter;

b. The emissions will receive BACT;

c. The emissions will not violate State standards adopted by the Department pursuant to Title 38 MRSA §585 or can be controlled after application of BACT and other license conditions so as not to violate the same;

d. The emissions, either alone or in conjunction with existing emissions, will not violate or can be controlled after application of BACT and other license conditions so as not to violate applicable ambient air quality standards including, but not limited to, ambient increments as adopted by the Department pursuant to Title 38 MRSA §584;

e. The conditions of the license provide for compliance with all applicable and State requirements and the relevant requirements of this Chapter;

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f. The Department and applicant have complied with the public participation and EPA notification and review procedures for issuance of a license pursuant to subsections I(B)(3) and I(B)(10) of this Chapter;

g. The emissions will not have an adverse impact on Air Quality Related Values of any Class I area, including any integral vista for that Class I area.

h. All facility accounts with the Department are current, with no overdue balance.

7. **Draft License Notification**

A comment period of 30 days shall be held for the public and EPA on the draft license, as described in subsection I(B)(10) of this Chapter.

C. Major Modification at a Minor Stationary Source in a Nonattainment Area (Nonattainment NSR License)

Nonattainment Major NSR is the preconstruction permitting program for Major Modifications in nonattainment areas. The specific Nonattainment NSR Licensing requirements apply to those pollutants for which there are Significant Emissions of the nonattainment pollutant(s) for that area. Emissions of other pollutants for which the area is in attainment shall be licensed according to subsection IV(B) of this Chapter.

1. **Applicability.** If located in a nonattainment area, a Nonattainment NSR License is required for an existing Minor Stationary Source making a Major Modification, causing the source to become a Major Stationary Source.

A Nonattainment NSR License requires the following, as applicable, which requirements are included in the procedure below:

a. Lowest Achievable Emission Rate (LAER) analysis for those pollutants for which the emissions from the new source are greater than the Significant Emissions level as identified in 06-096 CMR 100 and for which the area is identified as nonattainment;

b. For a New Stationary Source, BACT analysis for those pollutants emitted by the modified equipment for which the area is in attainment;

c. Identification of emissions offsets for those pollutants identified as subject to LAER analysis according to (1) above, pursuant to Section V of this Chapter;

d. Ambient air quality impact and additional impacts analyses; and

e. Opportunity for public involvement.

2. **Schedule.** An applicant who intends to construct a phased construction project in which the construction phases exceed 18 months, shall submit an application for a Major or Minor Modification, as appropriate, for each future phase, including a new BACT

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determination pursuant to subsection II(B)(1)(d)(5) of this Chapter and/or LAER determination pursuant to subsection II(B)(2)(d)(6) of this Chapter, as applicable for each pollutant.

3. **Application Notification**

a. **Public Notice of Intent to File.** The applicant shall publish a Public Notice of Intent to File as specified in subsection I(B)(3) of this Chapter.

b. **Abutters.** The applicant shall send to all abutters by certified mail a copy of the Public Notice of Intent to File.

c. **EPA Region I.** The applicant shall send a copy of the application, including any supporting documentation and any subsequent amendments to the application, to EPA Region I.

d. **Federal Land Managers, Indian Governing Bodies.** The applicant and/or the Department shall notify and, if requested, provide a copy of the application to all Federal Land Managers listed in 06-096 CMR 100 and the Indian governing body of any reservation whose lands may be affected by the proposed Major Modification on or before the date the applicant provides Public Notice of Intent to File, and provide at least a thirty (30) day public comment period.

NOTE: See *Classification of Air Quality Control Regions*, 06-096 CMR 114 for a listing of federal lands which have been established as mandatory Class I areas. Check with the Department, Federal Land Manager, or Indian governing body for the most current list of specific local and national modeling review contacts and addresses for the federal lands.

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4. **Required Application Information.** The applicant shall submit to the Department the following information, as applicable:

a. **Application Form.** The application form as specified in subsection I(B)(1) of this Chapter that contains the required information;

b. **Source Description.** A description of the nature of the source, location, plot plan, building dimensions, and any other information required by the Department;

c. **Schedule for Construction.** A schedule for construction of the Major Modification;

d. **Identification of Requirements.** Identification and discussion of applicable and State requirements;

e. **BACT Analysis**, as defined in 06-096 CMR 100 and in accordance with subsection II(B)(1)(d)(5) of this Chapter, for those pollutants for which the area is in attainment;

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f. **Lowest Achievable Emission Rate (LAER) Determination**, as defined in 06-096 CMR 100 and in accordance with the following specifications for a Major Modification with significant emissions increases of one or more federal nonattainment pollutants and which is located in the geographical boundaries of a nonattainment area, or whose emissions will significantly impact a nonattainment area. The application must include a demonstration that LAER is being met for the federal nonattainment pollutant(s).

NOTE: LAER is required in areas EPA has designated as federal nonattainment or in areas Maine has designated as nonattainment but for which EPA has not yet taken final action. LAER is based on the State's applicability criteria in all cases, except where the Department has amended the attainment status from "federal nonattainment" to "attainment" pursuant to 06-096 CMR 114. In those cases where the Department has completed re-designation procedures from "federal nonattainment" to "attainment" but for which EPA has not taken final action, EPA's applicability criteria in Sections 172(b)(6) and 173 of the CAA apply.

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g. **Offsets.** Identification of emissions offsets for those pollutants identified as subject to LAER, determined pursuant to Section V of this Chapter;

h. **Ambient Air Quality Impact Analysis.** If required by the Department pursuant to Section VII of this Chapter, the applicant shall submit the results of ambient air quality impact analyses, including an analysis of the impacts to Air Quality Related Values and impact on visibility if the Department determines that the source may affect ambient increments or Air Quality Related Values in any Class I area or integral vista to that Class I area. The analysis shall be performed pursuant to Section VII of this Chapter. This analysis shall be used in the completeness determination of the application.

i. **Additional Impacts Analysis.** The applicant shall provide an Additional Impacts Analysis in accordance with subpart II(B)(1)(d)(7) of this Chapter.

j. **Compliance Monitoring Methods.** The applicant shall identify compliance monitoring methods in accordance with subpart II(B)(1)(d)(9) of this Chapter.

k. **Growth Analysis.** The applicant shall provide a Growth Analysis in accordance with subpart II(B)(1)(d)(10) of this Chapter.

l. **Signatory Certification.** A signed certification from a responsible official in accordance with Section I(B)(2) of this Chapter shall be included in the application.

m. **Public Notice of Intent to File.** Proof of publication of the Public Notice of Intent to File (e.g., an original or copy of the newspaper publication) as specified in subsection I(B)(3) of this Chapter shall be included in the application.

5. **License Content.** The license content shall contain all of the relevant criteria as specified in subsection I(B)(9) of this Chapter.

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6. **Criteria for License Approval.** The Department shall grant the license if the following criteria are met:

a. The Department has received a complete application for a license pursuant to this Chapter.

b. The emissions will receive LAER and/or BACT, as applicable.

c. Emissions offsets for those pollutants identified as subject to LAER, determined pursuant to Section V of this Chapter, have been certified and documented in accordance with federal and State requirements;

d. The emissions will not violate State standards adopted by the Department pursuant to Title 38 MRSA §585 or can be controlled after application of LAER and/or BACT, as applicable, and other license conditions so as not to violate the same.

e. The emissions, either alone or in conjunction with existing emissions, will not violate or can be controlled after application of LAER and/or BACT, as applicable, so as not to violate applicable ambient air quality standards including, but not limited to, ambient increments as adopted by the Department pursuant to Title 38 MRSA §584; or, for those sources locating within or significantly impacting a nonattainment area, the impact to ambient air quality standards is consistent with any plan demonstrating Reasonable Further Progress as defined in Section 171 of the CAA.

f. The conditions of the license provide for compliance with all applicable and State requirements and the relevant requirements of this Chapter.

g. The Department and applicant have complied with the public participation and EPA notification and review procedures for issuance of a license pursuant to subsections I(B)(3) and I(B)(10) of this Chapter.

h. The emissions will not have an adverse impact on Air Quality Related Values of any Class I area, including any integral vista for that Class I area.

i. Pursuant to the requirements of Title I, Part D of the CAA, the Department shall not issue a license if the EPA has determined that implementation of the State Implementation Plan is inadequate for the nonattainment area in which the proposed source or modification will be constructed;

j. For any Major Modification with a net significant emissions increase of a nonattainment pollutant and which is located within the geographical boundaries of a nonattainment area, or which will have a significant impact on a nonattainment area, all sources owned or operated by the applicant (or by any entity controlling, controlled by, or under common control with such person) in this State are in compliance, or on an enforceable schedule for compliance, with all applicable emission limitations under the CAA, including but not limited to the terms and

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conditions of any license, the applicable emission limitations, and the ambient air quality standards.

k. All facility accounts with the Department are current, with no overdue balance.

7. **Draft License Notification**

A comment period of 30 days shall be held for the public and EPA on the draft license, as described in subsection I(B)(10) of this Chapter.

V. Section V: Growth Offset Processes for Nonattainment NSR

Major New Sources and Major Modifications of existing stationary sources proposing to be licensed to emit significant levels of nonattainment pollutants must obtain offsetting emission reductions from other sources. Under this offset program, ~~the~~ total emissions of the nonattainment pollutant(s) will be reduced from new stationary sources and modifications at existing ~~sources will be reduced,~~stationary sources meeting the applicability criteria of Section IV(C) of this Chapter and located within a nonattainment area; and reductions in pollution from credit generation will benefit Maine's air quality. Generation and use of offsets should contribute to progress toward achievement of the National Ambient Air Quality Standards. ~~The Department will audit the offset trading program every three years as required in the State Implementation Plan (SIP), and will take steps as necessary to ensure that the program's intended benefits are occurring.~~ Offset credits are regulatory allowances and do not constitute property rights or an investment security or commodity.

~~1~~A. Applicability and Exemptions

~~A.~~1. **Applicability**

~~(1)~~ a. **New Major Stationary Sources or Existing Sources Proposing a Major Modification.** The following types of stationary sources that seek to locate or expand within the geographical bounds of, or that will have a significant impact on, an area which is designated ~~as~~a nonattainment ~~under the former one-hour federal ozone standard or under the eight-hour federal ozone standard, whichever is in effect, or in the Ozone Transport Region~~area must obtain offset credits as provided for in this ~~Chapter~~Section:

~~(a~~(1) Any new ~~source~~Stationary Source or proposed new ~~source~~Stationary Source that has the potential to emit ~~significant emissions~~Significant Emissions of the nonattainment pollutant – or its precursor(s) – after application of Lowest Achievable Emission Rate (LAER~~);~~) requirements;

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(b)(2) Any existing source that is a major source for the nonattainment pollutant, – or its precursor(s) – and which has proposed or is proposing a modification that would result in a significantnet emissions increase above the Significant Emissions Increase level of the nonattainment pollutant – or its precursor(s) – after application of LAER requirements;

(c)(3) Any existing source that is a minor source for the nonattainment pollutant, – or its precursor(s) – and which has proposed or is proposing a modification that would result in an increase of the source's potential to emit the nonattainment pollutant by a level of significant emissionsor greater than Significant Emissions levels after application of LAER requirements; or

(d)(4) Any source for which (b2) or (c3) above occurs by virtue of a relaxation after August 7, 1980, due to a relaxation of any federally enforceable limitation or license condition.

(2) b. **Generation or Trading of Offset Credits.** Sources that seek to voluntarily generate and/or trade offset credits will be subject to provisions in this ChapterSection pertaining to generation of offset credits.

B2. **Exemptions**

(1) Offsets for NOx emissions are not required in those areas that have received a waiver of certain NOx controls from the United States Environmental Protection Agency (USEPA) under Section 182(f) of the Clean Air Act.

(2) Provisions in Section 4part D of this chapterSection, *Generation of Offset Credits*, will not apply to offset credits generated in states other than Maine, except for Section 4(A)(2)D(1)(b), which will apply to offset credits generated in other states.

2B. General Provisions

A1. Violations in offset credit generation or use will be the responsibility of the violator and not the responsibility of other emission credit generators or offset credit users who have met the requirements of this ChapterSection.

B2. For licensed sources generating offset credits, offset credits must be certified by the Department, or by the air pollution control agency in the state in which the offset credits were generated, before or concurrent with use as offset credits whenin a new or amended license is issued to the generating source. using those offset credits. For sources not requiring licensing, offset credits must be certified by the Department before use in accordance with Sections 5subsections E and 6F of this ChapterSection.

C3. Offset credits may not be used unless certified by the Department or by the air pollution control agency in the state in which the offset credits were generated. Use of offset credits is subject to all other applicable laws.

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~~D~~4. Unless otherwise provided by rule or statute, ~~surplus~~ emission reductions that occur as a result of state-mandated or federally ~~-~~mandated controls on sources other than licensed stationary sources will revert to the State for use in meeting present or future ~~state~~State or federal air quality requirements.

~~E.~~ 5. All offset credit generation and offset credit use shall follow public review procedures as specified by ~~Section 6~~subsection F of this ~~Chapter~~Section.

~~F. All trades involving VOC offset credits or an increase in VOC emissions requiring offsets pursuant to this Chapter must be presented to the Board of Environmental Protection prior to Department approval.~~

~~3~~C. Use of Offset Credits

~~A~~1. Sources that meet the applicability requirements pursuant to subsection A of this Section ~~1 of this Chapter~~ must obtain offset credits for that non-attainment pollutant as directed in ~~Subsection 3(E~~subsection C(5) below, and will thereby provide a positive net air quality benefit.

~~B~~2. The new source or modification may not commence operation until the Department determines that emission reductions of the nonattainment pollutant have occurred, and that all requirements of subsection D of this Section ~~4 of this Chapter~~ are met.

~~C. Offset credit~~ 3. Emission reductions resulting in offset credits must be federally enforceable ~~by the time~~concurrent with issuance of the air emission license ~~for~~using the ~~user is issued~~offset credits.

~~D~~4. The determination of total offset credits required for an air emission license prior to license issuance shall be ~~made in a manner consistent with the applicable SIP approved by the EPA. At~~, at a minimum, ~~the total credit shall be~~ greater than the potential emissions from a new source or the net emission increase from a ~~new source or new~~ modification, including minor growth and secondary emissions (except where superseded by a higher ratio in Subsection C(6)(a)(3~~(E)(1~~)(c~~)(i~~) or (~~ii~~d)), and shall provide a positive net air quality benefit.

~~E~~5. Once a proposed new source is required to obtain credits to offset emissions, the entire amount of emissions must be offset at the ratios specified in this Section, and not only the amount in excess of the Significant Emissions level(s) specified in 06-096 CMR 100.

Once a proposed modification at an existing source is required to obtain credits to offset net emission increases, the entire amount of the net emission increases must be offset at the ratios specified in this Section, and not only the amount in excess of the "significant emission increase" level(s) as specified in 06-096 CMR 100.

6. Offset Credit Requirements

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~~(1)~~ a. Nitrogen Oxides (NO_x) and Volatile Organic Compound (VOC) Offset Credits

~~(a~~(1) Volatile Organic Compounds (VOC) and NO_x Offset Ratios. For a new source or modification subject to this ~~Chapter~~Section, the offset ratio for VOC and NO_x is based on the ~~current~~ ozone ~~nonattainment area~~ classification ~~or other designation~~ for the area in which the new source or modification will locate, and on the ~~distance between~~location of the new source or modification and of the source from which offsets are obtained, as specified below. If the location of a new source or modification is subject to more than one classification, the more restrictive offset ratio shall apply.

(~~b~~2) NO_x offset credits may be used to offset increased VOC emissions, and VOC offset credits may be used to offset increased NO_x emissions, if approved by the ~~USEPA and the~~ Department~~. In areas subject to a NOx waiver under section 182(f) of the Clean Air Act, NOx credits may be used to offset VOC emissions to the extent allowed under the Clean Air Act and upon written notification of approval from the USEPA.~~ and EPA. The same number of offset credits must be obtained whether NO_x or VOC credits are used. Approval by the Department will be based on whether or not the Department finds that the same estimated ozone reduction will be achieved whether VOC offset credits or NO_x offset credits are used.

(~~c~~3)Location of Offset Credits for VOC and NO_x. Offset credits for VOC and NO_x shall be obtained from sources in the same ozone nonattainment area or area previously designated as non-attainment for the 1-hour standard, or attainment area, except that such offset credits may be obtained from a source in another ozone nonattainment area or attainment area if the following conditions ~~of either (i) or (ii), whichever is relevant,~~ are met:

~~(i) For a new source or modification subject to this Chapter locating in an ozone nonattainment area or area previously designated as non-attainment for the 1-hour standard:~~

~~a.~~(a) The ozone nonattainment area from which offset credits are obtained has an equal or higher (i.e., more serious) nonattainment classification than the ozone nonattainment area in which the new source or modification subject to this ~~Chapter~~Section is locating; and

(b~~.~~) Emissions from the ozone nonattainment area from which offset credits are obtained contribute to a violation of a National Ambient Air Quality Standard in the ozone nonattainment area in which the new source or modification subject to this ~~Chapter~~Section is locating; and

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(c.) Offset credits are obtained based on the classification of the area in which the new source or modification is locating, according to the minimum offset ratios listed below:

Ozone Classification for Area in which New Source or Modification is Locating	Minimum Offset Ratio
Serious Nonattainment Area	1.2 to 1
~~Serious nonattainment area~~Moderate Nonattainment Area	1.~~2~~15 to 1
~~Moderate nonattainment area~~Marginal Nonattainment Area	1.~~15~~1 to 1
~~Marginal nonattainment area (not included in the OTR)~~**Ozone Classification for Area in which New Source or Modification is Locating**	~~1.1 to 1~~**Minimum Offset Ratio**
~~Nonclassified area (not included in the OTR)~~Non-Classified Area	> 1 to 1
~~Marginal or nonclassified area (in the OTR)~~All Areas Within an Ozone Transport Region	1.15 to 1

~~d~~b. Offset ~~credits must be obtained from states within the Ozone Transport Region (OTR); if offset credits are obtained from OTR states outside of New England, they must be obtained at a ratio of 2.0 to 1.~~

~~(ii) For a new source or modification subject to this Chapter locating in an ozone attainment area, the source from which the offset credits are being obtained is located within another ozone attainment area or within an ozone nonattainment area, either of which are located in a state in the Ozone Transport Region (OTR). Sources locating in an ozone attainment area must obtain VOC offset credits at a ratio of 1.15 to 1. Sources locating in an ozone attainment area that does not have a waiver of NOx requirements under section 182(f) of the Clean Air Act must obtain NOx offset credits at a ratio of 2.0 to 1 for offset credits obtained outside of New England, and 1.15 to 1 for offset credits obtained within New England.~~

~~(2) Offset~~ Credits for SO_2, PM_{10}, NO_2, CO, or Lead ~~or Chromium~~(Pb)

(~~a~~1)Offset credits for SO_2, PM_{10}, NO_2, CO, ~~Lead~~ or ~~Chromium~~lead (Pb) must be obtained in a ratio that is greater than 1 to 1.

(~~b~~2) Demonstration of a Net Air Quality Benefit. When the new source or modification subject to this ~~Chapter~~Section is locating in or has a significant impact on an SO_2, ~~NO_2~~ PM_{10}, NO_2, CO, ~~Lead~~ or ~~Chromium~~lead nonattainment area, and the offset credits are not obtained from an existing stationary source on the same premises or in the vicinity (within 250 meters), and the pollutants are

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not emitted from substantially the same effective stack height of the new source or modification, a demonstration of a net air quality benefit shall be made on the basis of ~~atmospheric dispersion modeling~~ambient air quality impact analysis.

(~~c~~3)Location of Offset Credits. Offset credits for SO_2, PM_{10}, NO_2, CO, ~~Lead and Chromium~~or lead shall be obtained from sources that have a significant impact on or are located in the SO_2, PM_{10}, NO_2, CO, ~~Lead,~~ or ~~Chromium~~lead nonattainment area in which the new source or modification is to be located.

~~4~~D. Generation of Offset Credits

~~A~~1. All offset credits must be quantifiable and calculated according to the same method and averaging time for the base case ~~and~~as for the future case.

~~(1)~~a. For offset credits generated within the State of Maine, the base case from which to measure offset credits shall be the actual emissions for any consecutive 24-month period after May 31, 1995. To be creditable as offsets, emissions reductions made in Maine must be made on or after May 31, 1995.

~~(2)~~b. To be creditable as offsets, emissions reductions made in states other than Maine must be made on or after November 15, 1990.

~~B~~2. When quantifying the amount of offset credits generated by reducing actual emissions from existing sources that are exceeding emission limits, only those emission reductions below the licensed or otherwise allowable emissions for the existing source are ~~creditable as~~eligible to be offset credits.

~~C~~3. In no case shall offset credits be allowed for reductions in emissions that were required by any federally enforceable license ~~conditions~~condition(s) developed pursuant to 40 CFR Parts 51, 52, 70, and 71, or other requirements of the Clean Air Act or other applicable federal or ~~state~~State law or requirement, including without limitation those required in achieving attainment of National Ambient Air Quality Standards or Reasonable Further Progress. If incidental emission reductions not required under the Clean Air Act or other federal or ~~state~~State law or requirement meet the applicable requirements of this rule for offset credits, such emission reductions may be creditable as offset credits.

~~D~~4. Prior to the new source or modification subject to this ~~Chapter~~Section commencing operation, the credit generator must have made real and permanent reductions in actual emissions as certified by the Department. Where the new source or modification is a replacement for a facility that is being shut down in order to provide the necessary offsets, the Department may allow up to 180 days for shakedown of the new source or modification before the existing facility is required to cease operation.

~~E~~5. Prior to the new source or modification commencing operation, the credit generator must demonstrate to the Department that the offset credits have been certified by the

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Department~~,~~ and will provide other documentation and information as requested by the Department.

~~F~~6. In addition to the other limitations of this rule, emission reductions will qualify as offset credits only to the extent that they are in surplus of all of the following:

~~(1)~~a. emission reductions required by then existing or reasonably foreseeable federal laws and requirements for the non-attainment pollutant, including without limitation proposed rules and rules promulgated with future or no established compliance dates, proposed MACT standards, proposed rules or standards, programs included in an attainment demonstration, and Control Technology Guidelines;

~~(2)~~b. emission reductions of the non-attainment pollutant that are required by then existing or reasonably foreseeable ~~state~~State laws and requirements, including without limitation ~~proposed rules, legislation pending before the Maine Legislature, and proposed license limits;~~

~~(3) emission reductions required by state~~State laws specifically identified in the SIP as being necessary for the State to meet Clean Air Act requirements, proposed rules, legislation pending before the Maine Legislature, and proposed license limits;

~~(4)~~c. emission reductions already relied on for SIP planning purposes;

~~(5)~~d. emission reductions used by~~,~~ the source or that will be required for~~,~~ the source to meet any other federal or ~~state~~State regulatory requirement;

~~G~~7. Emission reductions may qualify as offset credits only if they are made federally enforceable through changes in source licenses, SIP revisions, or applicable EPA-approved ~~state~~State regulations that reflect a reduced level of actual or allowable emissions.

~~H~~8. To qualify as offset credits, emission reductions must be generated by a source that has been licensed or otherwise allowed to emit and has ~~been~~ actually ~~operating~~operated and ~~emitting~~emitted the pollutant for at least ~~2~~two years.

~~I~~9. To qualify as offset credits, shutdowns or curtailments of plant production resulting in reduced emissions must meet the following conditions:

~~(1)~~a. The source must demonstrate to the satisfaction of the Department that demand for the services or products of units affected by the shutdown or curtailment will not shift to other similar sources in the ~~state~~State that are not required to offset new emissions, such that the expected decrease in emissions would fail to occur; and

~~(2)~~b. If the owner or operator of a licensed new source or modification subject to this ~~Chapter~~Section plans to generate and trade offset credits, any shutdown or curtailment shall require an amendment to its air emission license.

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~~J.~~ 10. Prior to the use of VOC or NO_x offset credits, the credit generator must demonstrate to the Department that the portion of the credits to be used during the ozone season, as defined in 40 CFR Part 58, Appendix D, are generated primarily during the ozone season.

~~K~~11. Offset credits from shutdowns may be used at a new site within the State by the owners of the facility shutting down ~~at a new site within the State~~, or may be transferred by the owners to another facility. The source using offset credits from shutdowns must demonstrate to the Department~~, through photochemical grid modeling or another demonstration as approved by the Department,~~ that the use of these offset credits will result in a net air quality benefit in Maine, as compared with emissions prior to the shutdown.

~~L. NOx offset credits may be granted for emission reductions made in an area with a NOx waiver under section 182(f) of the Clean Air Act only upon written notification of approval from the USEPA.~~

~~5~~E. Quantification of Offset Credits for Credit Generators

~~A~~1. Offset credits shall be quantified in an average hourly or daily emission rate expressed in pounds.

~~B~~2. Quantification of offset credits shall follow the two-step process provided below, including quantification of the base credit and adjustment of the base credit for compliance assurance.

~~C~~a. Step One: Quantification of the Base Credit

Replicable methods must be used to establish the baseline which reflects the lower of actual or allowable emissions and which serves as the level below which emission reductions are considered surplus, and to quantify base credit reflecting the real emission reduction below baseline. Replicable methods must include the following, as appropriate, for the specific offset credit application:

(1) Direct measurement of emissions by use of a test method contained in 40 CFR Part 60, Appendices; or

(2) Parametric Monitoring programs approved by the Department where the owner or operator identifies one or more indicators of the performance of an applicable control device or process at a pollutant specific emission unit subject to this ~~Chapter~~Section, and, for each indicator identified, provides a credible demonstration of the validity of the indicator monitored which includes:

(a) The demonstrated relationship between the indicator and emissions from the emissions specific unit; and

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(b) The demonstrated margin of compliance with the applicable emission standard; and

(c) The potential variability of emissions under normal and anticipated operating conditions; or

(3) Calculation equations which are a function of process and control equipment parameters~~.~~; mass-balance calculations which are a function of inventory, usage, and disposal records~~.~~; activity levels and/or throughput production consistent with good engineering practice; and methods described in the Air Pollution Engineering Manual ISBN 0-442-00843-0; or

(4) Use of EPA-approved emission factors and emission calculation methods described in "Compilation of Air Pollutant Emission Factors, EPA, AP-42 Volume 1: Stationary and Area Sources," including the most recent supplements ~~at~~to AP-42 as of the time of application; "Guidance for Procedures for Emission Inventory Preparation," U.S. EPA 450/4-81-02, as ~~is~~ appropriate for the application under consideration.

~~D~~b. Step Two: Compliance Assurance Adjustment of the Base Credit

Once the base credit has been ~~established~~quantified, an adjustment shall be made by applying a compliance assurance multiplier reflecting the method of measurement. Emission reductions will be certified by the Department as offset credits only after application of ~~a~~the compliance assurance multiplier. The applicable compliance assurance multiplier will be determined by the Department as provided in the table below.

Method of Measurement	**Compliance Assurance Multiplier**
Irreversible ~~process change~~Process Change	1.0
Compliance Assessment by Direct Determination ~~:~~	
Mass balance reconciliation	0.95
Continuous emission monitoring (CEM)	0.95
Compliance Assessment by Testing ~~:~~	
Periodic stack test / emission test	0.~~85~~95
Testing of ~~capture~~ efficiency of capture and control as set by Department	
Emission Determinations using estimates of capture and control efficiency, emission factors, and/or all other methods	0.~~50~~65 - 0.~~80~~95

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~~E~~3. Once the offset credit has been certified by the Department, the value of the resulting offset credit may be adjusted only to reflect calculation errors prior to use pursuant to this ~~Chapter~~Section.

~~6~~F. Certification Procedures

~~A~~1. A completeness review shall be performed on any application for certification of an offset credit that has been submitted to the Department documenting the proposed offset credit generation pursuant to this ~~Chapter. The Department shall conduct~~Section. After conducting a technical review of the application ~~and~~, the Department shall issue a draft Department Order ~~shall be issued~~ describing the Department's preliminary determination on the acceptability of the proposal to generate or use offset credits.

~~B~~2. Public review procedures shall be followed by any source that seeks to generate offset credits. A public comment period shall be held on the draft Department Order as follows:

~~(1)~~a. The applicant shall provide a copy of the draft Department Order, ~~its~~the application for credit generation or use, any supporting documentation, and any subsequent amendments to the application, to the municipal clerk of the municipality where the source is located, or, if the project is in an unorganized area, to the county commissioners. This material shall also be available at the Department's Augusta office. This material must be ~~on file~~available for public comment for thirty (30) calendar days.

~~(2)~~b. The Department shall provide a copy of the draft Department Order and the application for credit generation or use, any supporting documentation, and any subsequent amendments to the application, to EPA. EPA shall have thirty (30) days to review the draft**.**

~~(3) A notice~~c. At the applicant's expense, a Public Notice of Draft Availability shall be published once at the beginning of the comment period~~, at the applicant's expense, once~~ in the public notice section of a newspaper of general circulation in the region in which the source is or would be located. The notice of Draft Availability shall include:

(~~a~~1) the name, address, and telephone number of the applicant;

(~~b~~2) a citation of the statutes or rules under which the application is being processed;

(~~c~~3) the location of the proposed action;

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(d4) a summary of the proposed action including the emissions change involved in any proposed application;

(e5) a statement of the availability of the application and supporting documents and the Department's preliminary determination in the form of a draft Order;

(f6) a statement of written public comment opportunity, with the mailing address of the Department; and

(g7) the date, place, and time a public meeting may be held, if a written request is received by the Department within 15 calendar days from the date on which the notice is published. The date the public meeting is scheduled shall ordinarily be within 30 days after the date the notice is published.

(4)d. Any person may request in writing that the Department hold a public meeting. The written request shall state the issuesissue(s) which the person requesting the hearingmeeting would like addressed. If the Department's Augusta office receives a written request for a public meeting within fifteen (15) calendar days from the date on which the notice is published and which raises a material issue, a public meeting shall be held on the date and time as scheduledidentified in the public notice. Whenever the Department holds When a public meeting, or for other good cause, the duration of the is requested, the public comment period may be extended toshall end at the closeconclusion of the public meeting or, at the discretion of the Department, be extended to a later date announced at the public meeting.

(5)e. The Department shall receive comment for at least thirty (30) days, beginning after the day on which the noticePublic Notice of the Draft Availability is published.

(6) Thef. In making a final decision on the approvability of the draft Order, the Department shall consider and keep records of all analyses and all written comments received during the public comment period, and all comments received at any public meeting in making a final decision on the approvability of the draft Order.. The Department shall maintain all written comments for public inspection at the Department's Augusta office.

VI. Section VI: Plantwide Applicability Limitations (PALs)

A Plantwide Applicability Limitation (PAL*) establishes a site-specific, plantwide emission level for a pollutant that allows the source to make changes at the facility without triggering the requirement of the PSD program, provided that emissions do not exceed the PAL level. A PAL license may be established for all regulated pollutants.

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* Throughout section VI of this Chapter, the term "PAL" shall mean "actuals PAL" as used in 40 CFR §52.21.

Within 12 months after the issuance date of a PAL license to a Major Stationary Source, the facility is then required to apply for an amendment to their Part 70 operating license to incorporate the conditions contained in the PAL license.

A. Applicability

1. The Department may approve the use of a PAL for any existing Major Stationary Source or any existing GHG-only source if the PAL meets all requirements of this subchapter.

2. Any physical change in or change in the method of operation at a Major Stationary Source which meets the requirements of this subchapter and complies with the PAL license is considered to meet the criteria for the following designations:

   a. Is not a major modification for the PAL pollutant;

   b. Does not have to be approved through the PSD program; and

   c. Is not subject to restrictions on relaxing enforceable emission limitations the Major Stationary Source used to avoid applicability of the major NSR program.

3. Except as provided under paragraph (A)(2)(c) of this subsection, a Major Stationary Source shall continue to comply with all applicable federal and State requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

B. PAL Licensing Procedures. The following procedures shall be used for a PAL. These procedures incorporate State NSR requirements.

1. **Public Notice of Intent to File.** The applicant shall publish a Public Notice of Intent to File as specified in subsection I(B)(3) of this Chapter.

2. **Required Application Information.** The applicant shall submit to the Department the information listed below, as applicable:

   a. The application form as specified in subsection I(B)(2) of this Chapter that contains the required information;

   b. A description of the nature of the process, location of the source, plot plan, building dimensions, and any other information required by the Department;

   c. For new emission units included in the PAL, Best Available Control Technology (BACT) analysis as described in subsection II(B)(1)(d)(5) of this Chapter;

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d. A list of all emission units at the source designated as small PAL emission units or major PAL emission units based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal and State applicable requirements, emission limitations, or work practices apply to each unit, as applicable;

e. Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with the normal operation of the unit, but also emissions associated with startup, shutdown, and malfunction, as applicable;

f. 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 for the PAL pollutant(s) based on a 12-month rolling total for each emissions unit, as applicable;

g. A signed certification from a responsible official in accordance with Section I(B)(2) of this Chapter;

h. A copy of the published Public Notice of Intent to File as specified in subsection I(B)(3) of this Chapter; and

i. Other information as specified in subsection VI(I)(3) of this Chapter.

C. General Requirements for Establishing PALs

1. The Department may establish a PAL at a Major Stationary Source provided the following requirements are met:

a. The PAL shall be established in a PAL license that meets the public participation requirements in subsection VI(F) of this Chapter.

b. The PAL license shall contain all the requirements of subsection VI(D) of this Chapter and all relevant criteria as specified in subsection I of this Chapter.

c. 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.

d. Each PAL shall regulate emissions of only one pollutant.

e. Each PAL shall have a PAL effective period of 10 years.

f. The owner or operator of the Major Stationary Source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Section VI, subsections (K), (L), and (M) of this Chapter for each emissions unit under the PAL through the PAL effective period.

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2. 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.

3. Within 12 months after the issuance date of a PAL license to a Major Stationary Source, the facility is then required to apply for an amendment to their Part 70 operating license to incorporate the conditions contained in the PAL license.

D. Setting the 10-year Actual Emissions PAL Level

1. Except as provided in subsection VI(D)(2) of this Chapter, the maximum actual emissions PAL level for a Major Stationary Source shall be established as the sum of the following values:

   a. The baseline actual emissions, as defined in 06-096 CMR 100, of the PAL pollutant for each emissions unit at the source; plus

   b. An amount equal to the applicable Significant Emissions Increase for the PAL pollutant.

   When establishing the actual emissions PAL level for each PAL pollutant, only one consecutive 24-month period may be used to determine the baseline actual emissions, as defined in 06-096 CMR 100, of that pollutant for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units permanently shut down after the 24-month baseline period must be subtracted from the PAL level. The Department shall specify a reduced PAL level(s), in tons per year, in the PAL license to become effective on the future compliance date(s) of any applicable federal or State regulatory requirement(s) that the Department is aware of prior to issuance of the PAL license. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers by half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the license 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).

2. For newly constructed units (which do not include modifications to existing units) on which actual construction began after the 24-month baseline period, in lieu of adding the baseline actual emissions as specified in subsection VI(D)(1) of this Chapter, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

E. Contents of the PAL License. The PAL license shall contain, at a minimum, the following information and all relevant criteria as specified in subsection I(B)(9) of this Chapter.

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

2. The PAL license effective date and the expiration date of the PAL (PAL effective period).

3. Specification that if a Major Stationary Source owner or operator applies to renew a PAL in accordance with subsection VI(I) of this Chapter 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 license is issued by the Department.

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

5. A requirement that, once the PAL expires, the Major Stationary Source is subject to the requirements of subsection VI(H) of this Chapter.

6. 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 total, 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.

   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 shall be specified in the PAL license.

7. A requirement that the Major Stationary Source owner or operator monitor all emissions units in accordance with the provisions under subsection VI(K) of this Chapter.

8. A requirement to retain the records on site as required under subsection VI(L) of this Chapter. Such records may be retained in an electronic format.

9. A requirement to submit the reports required under subsection VI(M) of this Chapter by the required deadlines.

10. Any other requirements that the Department deems necessary to implement and enforce the PAL.

F. Public Participation Requirements for PALs. PALs for existing Major Stationary Sources shall be established, renewed, or increased through a procedure consistent with Section III of this Chapter and other requirements of this Section. This includes the requirement that the applicant provide the public with notice of the draft PAL license availability and at least a

30-day period for submittal of public comment. The Department shall address all material comments before taking final action on the license.

G. PAL Effective Period and Reopening of the PAL License

1. **PAL Effective Period.** The PAL effective period shall be 10 years from the date of issuance of the PAL license.

2. **Reopening of the PAL License**

a. During the PAL effective period, the Department must reopen the PAL license to:

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

(2) 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

(3) Revise the PAL to reflect an increase in the PAL as provided under subsection VI(J) of this Chapter.

b. The Department shall have discretion to reopen the PAL license for the following reasons:

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

(2) Reduce the PAL consistent with any other requirement enforceable as a practical matter which the Department may impose on the Major Stationary Source under the State Implementation Plan; and

(3) Reduce the PAL if the Department 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 air quality related value that has been identified for a federal Class I area by a Federal Land Manager and for which information is available to the general public.

c. Except for the license reopening in subsection VI(G)(2)(a)(1) of this Chapter for the correction of typographical or calculation errors that do not increase the PAL level, all other re-openings shall be carried out in accordance with the public participation requirements of subsection VI(D) of this Chapter.

H. Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in subsection VI(I) of this Chapter shall expire at the end of the PAL effective period, and the requirements in subsection VI(H) of this Chapter shall apply.

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1. Each emissions unit (or each group of emissions units) that operated under the PAL shall comply with an allowable emission limitation under a revised air emission license established according to either of the following:

   a. Within the 18 months before the PAL expiration date, the owner or operator 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 Department) by distributing the PAL allowable emissions for the source among each of the emissions units that was addressed 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 subsection VI(I)(5) of this Chapter, such distribution shall be made as if the PAL had been adjusted; or

   b. The Department shall decide whether and how the PAL allowable emissions will be distributed and issue a revised license incorporating allowable limits for each emissions unit, or each group of emissions units, as the Department determines is appropriate.

2. Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling total basis. The Department 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.

3. Until the Department issues the revised license incorporating allowable limits for each emissions unit or each group of emissions units, as required under subsection VI(H)(1)(b) of this Chapter, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

4. Any physical change or change in the method of operation at the Major Stationary Source or GHG-only source will be subject to major NSR requirements if such change meets the definition of major modification defined in 06-096 CMR 100, *Definitions Regulation*.

5. The Major Stationary Source or GHG-only source owner or operator shall continue to comply with any State 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 40 CFR Part 52.21(r)(4), but were eliminated by the PAL in accordance with the provisions in 40 CFR Part 52.21(aa)(1)(ii)(c).

I. Renewal of a PAL

1. **Public Participation.** The Department shall follow the public participation requirements for a PAL specified in subsection VI(D) of this Chapter 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 Department.

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2. **Application Deadline.** A Major Stationary Source owner or operator shall submit an application to renew the PAL license at least six months but no more than 18 months prior to the date of license expiration. 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 license with the renewed PAL is issued. If the owner or operator of a Major Stationary Source does not submit a complete application to renew or adjust the PAL within this time period, the requirements in subsection VI(H) of this Chapter shall apply.

3. **Application Requirements.** The application to renew a PAL license shall contain the following information:

   a. The information required in subsection VI(B)(2)(d) through (f) of this Chapter.

   b. A proposed PAL level.

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

   d. Any other information the owner or operator wishes the Department to consider in determining the appropriate level for renewing the PAL.

4. **PAL Adjustment.** In determining whether and how to adjust the PAL, the Department shall consider the options outlined in subsection VI(I)(4)(a) and (b) of this Chapter. However, in no case may any such adjustment fail to comply with subsection VI(I)(4)(c) of this Chapter.

   a. If the emissions level calculated in accordance with subsection VI(E) of this Chapter is equal to or greater than 80% of the PAL level, the Department may renew the PAL at the same level without considering the factors set forth in subsection VI(I)(4)(b) of this Chapter; or

   b. The Department may set the PAL at a level:

      (1) Determined to be more representative of the source's baseline actual emissions;

      (2) Determined to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions; or

      (3) Other factors as specifically identified by the Department.

   c. Notwithstanding subsection VI(I)(4)(a) and (b) of this Chapter:

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(1) If the potential to emit of the Major Stationary Source is less than the PAL, the Department shall adjust the PAL to a level no greater than the potential to emit of the source; and

(2) The Department shall not approve a renewed PAL level higher than the current PAL, unless the Major Stationary Source has complied with the provisions of subsection VI(J) of this Chapter (increasing a PAL).

5. If the compliance date for a State or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Department has not already adjusted the PAL for such requirement, the PAL shall be adjusted at the time of PAL license renewal or Part 70 license renewal, whichever occurs first.

J. Increasing a PAL during the PAL Effective Period

1. The Department may increase a PAL emission limitation only if the Major Stationary Source complies with the following provisions:

a. 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.

b. 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 PAL emissions units, plus the sum of the baseline actual emissions of the significant and major PAL 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 PAL 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.

c. The owner or operator obtains a major NSR license for all emissions unit(s) identified in subsection VI(J)(1)(a) of this Chapter, regardless of the magnitude of the emissions increase resulting from them (that is, no significance levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the major NSR process (for example, BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.

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d. The PAL license 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.

2. The Department 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 PAL emissions units (assuming application of BACT equivalent controls as determined in accordance with subsection VI(J)(1)(b) of this Chapter), plus the sum of the baseline actual emissions of the small PAL emissions units.

3. The PAL license shall be revised to reflect the increased PAL level pursuant to the public notice requirements of subsection VI(F) of this Chapter.

K. Monitoring Requirements for a PAL

1. **General Requirements**

a. Each PAL license 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 license 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 license.

b. The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in subsection VI(K)(2) of this Chapter or an alternative monitoring approach meeting the requirements of this section. The monitoring method(s) must be approved by the Department.

c. Failure to use a monitoring system that meets the requirements of this section renders the PAL invalid.

2. **Minimum Performance Requirements for Approved Monitoring Approaches.** The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in the subsequent parts of this section:

a. Mass balance calculations for activities using coatings or solvents;

b. CEMS;

c. CPMS or PEMS; and

d. Emission factors.

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3. **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:

   a. 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;

   b. 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

   c. 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 Department determines there is site-specific data or a site-specific monitoring program to support another content within the range.

4. **CEMS.** An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

   a. CEMS must comply with applicable Performance Specifications found in 40 CFR Part 60, appendix B or 40 CFR Part 75; and

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

5. **CPMS or PEMS.** An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

   a. 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

   b. Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Department, while the emissions unit is operating.

6. **Emission Factors.** An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

   a. All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

   b. The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

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c. If technically practicable, the owner or operator of a significant PAL 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 six months of PAL license issuance, unless the Department determines that testing is not required.

7. 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 license.

8. Notwithstanding the requirements in subsection VI(K)(3) through (9) of this Chapter, 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 Department shall, at the time of license issuance:

a. Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or

b. 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.

9. **Revalidation.** All data used to establish each PAL must be revalidated through performance testing or other scientifically valid means approved by the Department. Such testing must occur at least once every five years after issuance of the PAL.

L. Recordkeeping Requirements

1. The PAL license shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five years from the date of such record.

2. The PAL license shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five years:

a. A copy of the PAL license application and any applications for revisions to the PAL; and

b. Each annual certification of compliance pursuant to Part 70 and the data relied on in certifying the compliance.

M. Reporting and Notification Requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Department in accordance with the applicable Part 70 operating license program. The reports shall meet the following requirements:

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1. **Semi-annual Report.** The semi-annual report shall be submitted to the Department within 30 days of the end of each reporting period. This report shall contain the following information:

   a. The identification of owner and operator and the license number.

   b. Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to subsection VI(L) of this Chapter.

   c. 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.

   d. A list of any emissions units modified or added to the Major Stationary Source during the preceding six-month period.

   e. 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.

   f. 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 license, as provided by subsection VI(K)(7) of this Chapter.

   g. A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.

2. **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 40 CFR Part 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program implementing 40 CFR Part 70.6(a)(3)(iii)(B). The reports shall contain the following information:

   a. The identification of owner and operator and the license number;

   b. The PAL requirement that experienced the deviation or that was exceeded;

   c. Emissions resulting from the deviation or the exceedance; and

   d. A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.

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3. **Revalidation Results.** The owner or operator shall submit to the Department the results of any revalidation test or method within three months after completion of such test or method.

VII. Section VII: Ambient Air Quality Analysis

A. General Requirements. It shall be the burden of any applicant to provide an affirmative demonstration that its emissions, in conjunction with all other sources, will not violate applicable ambient air quality standards or increment, except that a source in a nonattainment area or which significantly impacts a nonattainment area shall be required to demonstrate that the source's emissions are consistent with Reasonable Further Progress provisions of the State Implementation Plan. An applicant may use ambient air monitoring, modeling, or other assessment techniques as approved by the Department. NSR modeling required pursuant to Sections VI and VII of this Chapter shall be consistent with EPA regulations and guidelines or other requirements under the CAA. The analyses shall include relevant emissions units at the source, as determined by the Department, and meteorological and topographical data necessary to estimate such impacts; and shall consider the impact of fugitive emissions to the extent quantifiable, secondary emissions, and emissions from other existing sources, including increases in mobile and area source emissions impacting the same area.

Any applicant likely to be required to conduct and submit an air quality dispersion modeling analysis must consult with the Department prior to submitting the information specified in this Chapter.

The level of analysis shall depend upon the size of the source, the regulated air pollutants emitted, existing air quality, and proximity to Class I or nonattainment areas. (For the purposes of this Section, Class I area shall include any conservation easements under the jurisdiction of an appropriate Federal Land Manager as of August 7, 1977.) The ambient air quality impact analysis, in general, will not be required of the applicant for those regulated pollutants that are not listed under "Significant Emissions Increase" in 06-096 CMR 100. The analysis shall be conducted in accordance with the provisions of subsection VII (E) of this Chapter, 06-096 CMR 116, *Prohibited Dispersion Techniques*, and Appendix W to 40 CFR Part 51 – *Guideline on Air Quality Models.*

Air quality modeling conducted as part of the licensing of a new source or modification in the United States is governed by Appendix W to 40 CFR Part 51 – *Guideline on Air Quality Models*. That modeling guidance was first promulgated in 1978 and, by law, must be routinely updated by EPA. Thus, federal regulatory guidance on modeling and the list of acceptable models do change. The Department recognizes that air dispersion modeling guidance will be periodically updated to reflect the latest federal guidance. To maintain an orderly licensing process in the State, applicants are required to conform to those procedures and guidelines in effect at the time a written modeling protocol meeting all applicable requirements receives the Department's approval, to complete modeling as approved, and to submit results within six months of the date of approval of the protocol. If the protocol calls for collection of on-site meteorological data, then the starting date for the on-site data

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collection must be no later than six months after approval of the protocol, and modeling results must be submitted within six months of obtaining acceptable on-site meteorological monitoring data. Requests by the applicant to modify the modeling protocol will require conformance to the most current applicable air dispersion modeling guidance.

1. **Ambient Air Quality Monitoring Requirements.** Monitoring done by the owner or operator shall conform to the requirements of 40 CFR Part 58, Appendix B and the Department's Quality Assurance Plan (or other plan approved by the Department) during the operation of monitoring stations. It is recommended that a written protocol be developed by the owner or operator and the Department when a source is required to conduct either pre-construction or post-construction monitoring. The protocol shall, at a minimum, specify the monitoring sites, frequency of sampling, data recovery, pollutants, and monitoring method(s).

2. **Air Quality Impact Modeling Requirements**

   a. All estimates of ambient concentrations required by an ambient or increment impact analysis shall be based on the preferred air quality models, data bases, and other requirements specified in the current Appendix W to 40 CFR Part 51 – *Guideline on Air Quality Models*, and in accordance with subsection VII (E) of this Chapter and 06-096 CMR 116.

   b. All input, output, and diagnostic files used in the final Class I and Class II ambient air quality standards and increment compliance modeling analyses and Class I AQRV and visibility modeling analyses shall be submitted to the Department on media approved by the Department.

   c. Where an air quality impact model specified in the Appendix W to 40 CFR Part 51, *Guideline on Air Quality Models*, is inappropriate, the model may be changed or another model substituted; such change or substitution shall be subject to public comment and require the written approval of the Department and the Regional Administrator of the U. S. Environmental Protection Agency or his designee. Methods like those outlined in the *Protocol for Determining the Best Performing Model* (EPA-454/R-92-025) and the *Interim Procedures for Evaluating Air Quality Models: Experience with Implementation* (EPA-450/4-85-006) should be used to determine the comparability of air quality models.

B. Minor Modifications to Major Stationary Sources (Minor NSR Licenses). This Section applies to a Minor Modification at a Major Stationary Source.

An existing Major Stationary Source not previously required to submit an air quality impact analysis for an air emission license and which is currently undergoing the licensing of a Minor Modification may be required to submit an ambient air quality impact analysis for those regulated pollutants that the source emits or has the potential to emit at levels equal to or greater than the following levels, after the application of control technology requirements.

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If the source is located in or near a Class I area or an area where the available air quality is limited or other extenuating circumstances exist, an ambient air quality impact analysis is required. The level of ambient air quality impact analysis required for a source shall be determined by the Department on a case-by case basis.

Modeling Threshold Levels

50 tons per year (tpy) for SO_2
250 tpy for CO
25 tpy for PM_{10}
100 tpy for NO_x (measured as NO_2)

The case-by-case determination of the level of required air quality analysis and modeling required shall be based on consideration of the following:

1. Air quality data available in or representative of the area;

2. Good Engineering Practice Stack Height. A cavity and wake region modeling analysis may be required by the Department if a stack height is less than the formula Good Engineering Practice stack height. An analysis may be required, even in cases resulting in no increases in emissions, if a stack height is less than Good Engineering Practice stack height or if there are changes in stack or building configurations or other factors which are determined to alter the dispersion characteristics of the Major Stationary Source.

3. Similarity with other licensed sources in terms of size, emissions, and local topography;

4. Location, including proximity to, complex terrain, Class I areas' integral vistas, nonattainment areas, or areas where increment has been substantially consumed; and

5. The results of previous air quality analyses.

C. New Major Stationary Sources and Major Modifications (PSD Licenses and Nonattainment NSR Licenses). This Section applies to any new Major Stationary Source and any Major Modification to an existing Minor or Major Stationary Source.

1. **Pre-Construction Monitoring**

a. For those pollutants for which there is an ambient air quality standard and which the Department deems is necessary for inclusion, the analysis shall consist of continuous air quality monitoring data gathered over a period of one year and shall represent the year preceding the application. If the Department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year, the application may be deemed acceptable for processing based on the data gathered over that shorter period. The period shall not be less than four months. The applicant must demonstrate that such shorter period, or period other

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than the preceding year, is representative of ambient concentrations under the seasonal conditions expected to record the highest concentrations.

b. For those pollutants for which no ambient air quality standard exists, the analysis shall contain such air quality monitoring data as the Department determines is necessary and feasible in light of methods available to monitor such pollutants.

c. In areas where meteorological monitoring data are not available or the Department determines that the available data are inadequate or not representative, the new Major Stationary Source or Major Modification shall be required to collect preconstruction meteorological data sufficient for air quality modeling, as defined in *Meteorological Monitoring Guidance for Regulatory Modeling Applications* (EPA-454/R-99-05). At least one year of data is required to be used in the modeling to support the application.

2. **Ambient Air Quality Analysis.** An ambient air quality analysis including dispersion modeling shall be submitted for the area that the new Major Stationary Source or Major Modification would affect for each of the following pollutants for which there is an ambient standard (except non-methane hydrocarbons):

a. For the new Major Stationary Source, each pollutant that it would have the potential to emit in a significant amount;

b. For the Major Modification, each pollutant for which it would result in a significant net emissions increase.

The analysis shall include ambient air monitoring, meteorological, and topographic data necessary to estimate impact from the new Major Stationary Source or Major Modification; and an analysis of the impact of all other sources in the area with actual emissions of 100 tpy or more of the same pollutant. At a minimum, this analysis shall include all such sources that emit more than 100 tpy of a given regulated pollutant located within the lesser of 10 km or the area which, based upon the Department's expertise, may reasonably be expected to be significantly impacted by the new Major Stationary Source or Major Modification. Conservative regional background concentrations for sources not explicitly included in the modeling analysis are available from the Department. If more refined background concentrations are necessary, the impact of sources not explicitly included in the modeling analysis shall be obtained through an analysis of ambient air quality data as outlined in the Department's guidelines for determination of background concentrations.

3. **Ambient Increment Analysis.** An increment analysis shall be submitted for the area that the new Major Stationary Source or Major Modification would affect for each of the following pollutants for which there is an ambient standard (except non-methane hydrocarbons):

a. For the new Major Stationary Source, each pollutant that it would have the potential to emit in a significant amount;

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b. For the Major Modification, each pollutant for which it would result in a significant net emissions increase.

The analysis shall include meteorological and topographical data necessary to estimate such impacts. The analysis shall also include the nature and extent of any and all general, commercial, residential, industrial, and other growth and the air quality impacts thereof, including increases in mobile source and area source emissions, which have occurred since the baseline date and therefore have consumed increment in the area which the new Major Stationary Source or Major Modification will significantly impact. The Department will provide emissions data from other sources to the applicant for inclusion in the increment analysis. This analysis shall be conducted in accordance with the modeling provisions of this subsection.

4. **Additional Impact Analysis.** The proposed new Major Stationary Source or Major Modification shall provide an additional impact analysis of the following:

a. The impairment to visibility, soils, and vegetation that would occur as a result of the new Major Stationary Source or Major Modification and general, commercial, residential, industrial, and other growth associated with the new Major Stationary Source or Major Modification, except that an analysis of the impact on vegetation having no significant commercial or recreational value is not required;

b. The air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the facility or modification; and

c. The impact, including visibility impairment, on any Class I area or integral vista (see 06-096 CMR 114(1)(C)(1)). Consultation with the appropriate Federal Land Manager (potentially affected federal lands as listed in 06-096 CMR 114) and the Department on these requirements and how to perform these analyses should begin prior to submittal of the initial modeling protocol. The impact analysis shall include the following components:

(1) Impacts of AQRVs;

(2) Plume blight (for regions within a Class I area that are affected by plumes or layers that are viewed against a background. Generally within 50 kilometers of the source); and

(3) Regional haze impacts that the Federal Land Manager and the Department agree should be assessed (for regions of a Class I area where visibility impairment from the source would cause a general alteration of the appearance of the scene, generally 50 kilometers or more away from the source or from the interaction of the emissions from multiple sources).

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5. **Post-Construction Monitoring.** The owner or operator shall, after construction of the new Major Stationary Source or Major Modification, conduct such ambient monitoring or meteorological monitoring as the Department deems necessary to determine the effect emissions from the new Major Stationary Source or Major Modification may have or are having on air quality in any area.

A new Major Stationary Source or Major Modification shall be exempt from the requirements of this subsection if its emissions do not significantly impact either 1) a Class I area or 2) an area where the increment is known to be completely or substantially consumed; and the allowable emissions increase will be temporary, not to exceed two years.

D. Modeling/Data Collection Protocol. Any air quality dispersion modeling or data collection program shall be developed consistent with the following requirements:

1. **Guidance.** All air quality dispersion modeling and meteorological data collection shall be conducted consistent with Section VII of this Chapter and Appendix W to 40 CFR Part 51 – *Guideline on Air Quality Models*.

NOTE: For new Major Stationary Sources and Major Modifications, prior to submitting a modeling/data collection protocol, the applicant shall consult with the Department and Federal Land Managers (potentially affected federal lands are listed in 06-096 CMR 114) if Class I analyses are required. The applicant is responsible for obtaining the training necessary to perform the required air dispersion modeling and meteorological data collection.

2. **Variance from Guidance.** Upon an applicant's written request, the Department may grant a variance from any of the requirements set forth in Section VII of this Chapter and Appendix W to 40 CFR Part 51 – *Guideline on Air Quality Models*, when the Department finds that the alternative proposed by the applicant will not significantly affect the accuracy of the modeling, and/or when data collection results or compliance with the requirements specified in Section VII of this Chapter and Appendix W to 40 CFR Part 51 – *Guideline on Air Quality Models* is technically infeasible or economically unreasonable for the applicant.

3. **Significant Impact Modeling Protocol for SO_2, NO_2, CO, $PM_{2.5}$, and PM_{10}.** Prior to undertaking significant impact modeling for SO_2, NO_2, CO, $PM_{2.5}$, and PM_{10}, the applicant shall provide in writing to the Department a description of the following factors that the applicant proposes to use in the significant impact modeling demonstration (see Appendix W to 40 CFR Part 51 – *Guideline on Air Quality Models* for more specific guidance):

a. Operating scenarios, emission units, and emission rates in English and metric units;

b. Regulated air pollutants;

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c. Model(s) and methodologies;

d. Origin and period of meteorological data, including location of collection site relative to facility, meteorological parameters, instrument height, recovery rates, substitution techniques, meteorological data processing procedures, and QA/QC procedures;

e. Receptor grid (listing of coordinates and elevations, topographic maps covering the receptor grid area map of receptors). A listing of all Digital Elevation Model (DEM) quadrangles used, and method(s) used to convert DEM data to the proposed receptor grid shall also be included. If DEM data is being used to create a rectangular receptor grid, the elevation of each receptor point shall be the highest elevation within the grid cell. The grid cell is defined as an area enclosed by boundaries located half way to the nearest receptor in each direction;

f. Any special (e.g., fence line, air intake, or flagpole) receptors;

g. Identity of emission units and emissions which are included in baseline;

h. A properly scaled plot plan of the proposed facility with clearly marked true north indicator, building heights, and an accurate scale ruler; and the location of the source on a map or aerial photograph of the area; and

NOTE: An original plot plan is preferred, but if a photocopy is submitted, care should be taken to make sure that the scale is not changed on any area of the plot.

i. Building dimension and Good Engineering Practice (GEP) analysis techniques. For each stack, all buildings that are large enough and close enough to influence the stack should be considered in the GEP analysis.

As expeditiously as possible and within thirty (30) calendar days of receipt of this information, the Department shall notify the applicant in writing that such information is complete and acceptable for modeling or notify the applicant in writing of the reason(s) why the information is not complete. If the information is not complete, the Department shall clearly identify the changes or additional information that must be submitted to complete the protocol requirements.

4. **Submittal of Significant Impact Modeling**

a. Prior to undertaking the final air quality dispersion modeling demonstration, the applicant shall submit the following for review:

(1) Significant impact modeling results;

(2) Emissions data for regulated pollutants not in the significant impact modeling protocol;

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(3) A preliminary analysis of nearby sources that will not be included in the background concentration analysis;

NOTE: The Department is responsible for the final decision of which off-site sources are to be modeled. The Department will provide the applicant with a list of any additional sources that may have to be included in the final modeling analysis and the requisite model input data for these sources. This list will contain all data required for model input including source location(s), emission rates, stack parameters, and necessary building dimensions for the applicant to determine direction-specific building parameters.

(4) Background concentration data. The applicant is responsible for determining background values for pollutants, in consultation with the Department. General guidance on determining background determinations based on monitoring data is provided in the most recent version of the Department's *Guideline Document for Background Air Quality Determinations*. Particular care must be taken when determining background values so that they do not implicitly include any impacts of the source(s) being modeled in order to avoid double counting. As an alternative, conservative background values are available from the Department for all areas of the state; and

(5) Processed meteorological data (if required by the Department). The meteorological data may be either data collected onsite or data collected at the nearest National Weather Service (NWS) station. Modeling applications require, at a minimum, the use of five (5) consecutive years of off-site NWS meteorological data (or other data equivalent or better in accuracy and detail to the NWS data) or at least one year of site-specific data.

If one year or more, including partial years, and up to five (5) years, of acceptable, site-specific data is available, it shall be used in the air quality analysis. If data requirements, source configurations, or characteristics of the surrounding area change, the database may need to be updated after consultation with the Department. However, a requirement to collect a new database will neither preclude the applicant's ability to use the existing database in the interim data collection period nor require the applicant to redo any previously submitted analyses that used the original database.

b. Within thirty (30) calendar days of receipt of this information, the Department shall notify the applicant of the following in writing:

(1) The submitted information is complete and acceptable for modeling or the reason(s) why the information is not complete. If the information is not complete, the Department shall clearly identify the changes or additional information that must be submitted to complete the protocol requirements; and

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(2) For each regulated pollutant for which there are significant impacts, the Department shall specify which operating scenarios and other nearby sources, if any, need to be modeled further.

If the applicant requests, in writing, information in the possession of the Department that is required for modeling (for example, emissions which are included in baseline emissions, background data, or other emissions data from nearby sources), the Department shall provide such information to the applicant within 30 calendar days.

5. **Air Quality Dispersion Modeling Protocol.** If impacts from SO_2, NO_2, CO, $PM_{2.5}$, or PM_{10} are above significance levels or if there are other regulated pollutants to be modeled, the applicant must provide to the Department a written description of the following factors (if different from previously submitted data) the applicant proposes to use in the air quality dispersion modeling (see Appendix W to 40 CFR Part 51 – *Guideline on Air Quality Models* for more specific guidance):

a. Operating scenarios, emission units, and emissions in English and metric units (including other nearby sources, if necessary);

b. Regulated air pollutants;

c. Model(s) and methodologies;

d. Origin and period of meteorological data, including location of collection site relative to facility, meteorological parameters, instrument height, recovery rates, substitution techniques, meteorological data processing procedures, and QA/QC procedures;

e. Receptor grid (listing of coordinates and elevations, topographic maps covering the receptor grid area, map of receptors and if applicable, a listing of all Digital Elevation Model (DEM) quadrangles used and method(s) used to convert DEM data to the proposed receptor grid). If DEM data is being used to create a rectangular grid, the elevation of each receptor shall be the highest within the grid cell. The grid cell is defined as an area enclosed by boundaries located half way to the nearest receptor in each direction;

f. Any special (e.g., fence line, air intake, or flagpole) receptors;

g. Identity of emissions which are included in baseline emissions;

h. A properly scaled plot plan of the proposed facility with clearly marked true north indicator, building heights, and an accurate scale ruler; and the location of the source on a map or aerial photograph of the area; and

NOTE: An original plot plan is preferred, but if a photocopy is submitted, care should be taken to make sure that the scale is not changed on any area of the plot.

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i. Building Dimension and Good Engineering Practice (GEP) Analysis Techniques. For each stack, all buildings that are large enough and close enough to influence the stack shall be considered in the GEP analysis using the most recent version of any EPA-approved Building Profile Input Program (BPIP) software package. The applicant shall submit all input and output files on media approved by the Department. All tiers of a building will be input as tiers of that building, not as separate buildings; and

j. Background Concentration Data. Within 30 calendar days of receipt of this information, the Department shall notify the applicant in writing that such information is complete and acceptable for modeling or notify the applicant in writing of the reason(s) why the information is not complete. If the information is not complete, the Department shall clearly identify the changes or additional information that must be submitted to complete the protocol requirements.

When all submitted information is considered complete and acceptable for modeling, the applicant shall perform air quality dispersion modeling and submit for review the air quality dispersion modeling analysis as part of the final application submittal.

6. **Presentation of Final Results.** Once compliance with ambient air quality standards and ambient increments has been demonstrated and other required analyses documenting compliance with applicable standards have been completed, the applicant shall prepare a written report documenting the source being modeled, the modeling effort, and a compliance demonstration. The following outline indicates the information required in the written report and information required to be submitted on media approved by the Department.

a. **Introduction.** Briefly give an overview of the project, the analyses conducted, and the results);

b. **Site and Surroundings.** Describe the topography, demography, air quality control region, and compliance status (attainment/nonattainment); include a topographic map section showing the site and a properly scaled plot plan of the proposed facility; include rural/urban classification and simple/complex terrain determination. Topography and land-use shall be described in sufficient detail to specify roughness length if roughness length is a required input for the modeling system used in the analysis;

c. **Source Description.** Provide an overview of the source, and describe the process(es) involved;

d. **Description of Each Emission Unit at the Source.** Describe the equipment/operations, emission controls, emission limits; list emissions and stack parameters for each emission unit in English and metric units;

e. **Screening Modeling.** Describe the screening analyses performed, including the following:

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(1) Modeling approach/model(s) used;

(2) Model version used;

(3) Model switch selections;

(4) Source data (affected source and other nearby sources);

(5) Meteorological data;

(6) Receptor data; and

(7) Screening results.

f. **Final Compliance Modeling Analysis.** Describe in detail modeling performed and results, including the following:

(1) Modeling approach/model(s) used;

(2) Model version used;

(3) Model switch selections;

(4) Source data (affected source and other nearby sources);

(5) Meteorological Data Base. The meteorological data base shall be submitted on media approved by the Department if the applicant processed the meteorological data base;

(6) Receptor Data. A map of the receptor grid shall be submitted. (If applicable, all DEM data used to create the receptor grid shall be submitted on media approved by the Department); and

(7) Modeling Results. All input files needed to duplicate the final compliance model runs and all final compliance model output and diagnostic files shall be submitted on media approved by the Department.

g. **Compliance Demonstration.** Describe how the predicted concentrations comply with all applicable ambient air quality standards and ambient increments, including the following:

(1) Background determination (include table of values);

(2) Compliance with ambient air quality standards; and

(3) Compliance with Class II PSD increments (if applicable).

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h. **Class I Area Impact Assessment (if required).** Describe any analyses made for federal Class I areas and include the following:

(1) Basis for assessment;

(2) Modeling approach/model(s) used;

(3) Model version used;

(4) Model switch selections;

(5) Class I areas affected;

(6) Emissions and conditions of operating scenarios;

(7) Meteorological data;

(8) Receptor grid;

(9) Computational grid;

(10) Air quality impacts (both ambient air quality standards and ambient increments);

(11) Visibility – plume blight assessment (for regions within a Class I area that are affected by plumes or layers that are viewed against a background, generally within 50 kilometers of the source); regional haze assessment (for regions of a Class I area where visibility impairment from the source would cause a general alteration of the appearance of the scene, generally 50 kilometers or more away from the source or from the interaction of the emissions from multiple sources); and other assessments that the Federal Land Manager and the Department agree should be assessed; and

(12) All input files needed to duplicate the final Class I analysis model runs and all final Class I analysis model output and diagnostic files, submitted on media approved by the Department.

NOTE: A failure by the Department to notify or provide information to the applicant as specified in this subsection does not constitute an approval of the proposed protocol and/or modeling.

NOTE: If a source of NO_x is subject to both the PSD and NSR thresholds, the source shall comply with the nonattainment area NSR provisions for ozone as well as modeling requirements for the NO_2 National Ambient Air Quality Standard, NO_2 increment, and Class I areas analyses, etc.

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AUTHORITY: 38 M.R.S.A., Section 590, 585-A

EFFECTIVE DATE: August 9, 1988
Amended: October 25, 1989
Amended: July 10, 1990
Amended: December 12, 1993
Amended: July 11, 1994
Amended: October 28, 1995
EFFECTIVE DATE (ELECTRONIC CONVERSION): May 8, 1996
Amended: October 6, 1996
NON-SUBSTANTIVE CORRECTIONS: January 2, 1997 - added machine readable version of Appendix A.
NON-SUBSTANTIVE CORRECTIONS: February 18, 1997 - minor reformatting requested by the Department
NON-SUBSTANTIVE CORRECTION: May 9, 1997 - insertion of missing map, Figure 6.1 in Appendix A
Amended: September 22, 2001 - includes repeal of Appendix A, for which see the companion filing 2001-405
NON-SUBSTANTIVE CORRECTION: July 26, 2002 - Appendix B corrected from September 22, 2001 paper filing
Amended: December 24, 2005
Amended: August 4, 2008
Amended:
Amended:

BASIS STATEMENT

The regulations address control technology requirements, air quality impact analyses requirements, license conditions, and procedural requirements for license renewals as well as for new sources and modifications of existing sources. The changes were required in order to assure EPA approval of the State's authority to issue licenses for new sources and modifications under Title 40 Code of Federal Regulations Section 51.166.

BASIS STATEMENT FOR AMENDMENT OF SEPTEMBER 27, 1989

This amendment incorporates minor changes needed for consistency with federal requirements and with deletion of the Total Suspended Particulate standards. No comments on the proposed changes were received by the Department.

BASIS STATEMENT FOR AMENDMENT OF JUNE 13, 1990

This regulation was amended to implement a federally mandated nitrogen oxide (NOx) increment program in the State of Maine. As part of the Prevention of Significant Deterioration Program, these amendments establish maximum increases in pollution concentration. NOx increment standards are established and the NOx baseline concentration represents air quality existing in an area on February 8, 1988. No comments were received on the proposed amendments.

BASIS STATEMENT FOR AMENDMENT OF NOVEMBER 23, 1993

This amendment was implemented pursuant to Section 14, 1991 Public Law 384, which required the development of an ambient air quality modeling protocol that includes methodologies and information to be used in air emission licensing. A specified protocol was deemed necessary due to the number of applications that had to be resubmitted for the lack of adequate modeling information, thus resulting in delayed processing. The ambient air quality modeling protocol provides an applicant for air emission license with clear guidance on how to submit acceptable modeling needed in support of an application. The new information, which is detailed in a new Appendix A, will also facilitate the process of reviewing the modeling by Department staff. In addition to this basis statement, the Department has filed with the Secretary of State its response to comments received during the comment period.

BASIS STATEMENT FOR AMENDMENTS OF JUNE 22, 1994

This regulation was amended to reflect New Source Review requirements contained in the Clean Air Act, as amended, 42 U.S.C. 7401, et seq. and Chapter 113 of the Department's regulations (pertaining to growth offset regulations). In addition to this Basis Statement, the Department has filed with the Secretary of State the response to representative comments received during the comment period.

BASIS STATEMENT FOR AMENDMENT OF OCTOBER 11, 1995

This Chapter replaces the former Chapter 115 and establishes a revised State operating permit program for major and minor stationary sources of air pollution. While Maine has had an operating permit program since 1988, the existing program did not meet federal requirements established pursuant to Title V of the 1990 Clean Air Act Amendments and 40 CFR Part 70. To best address the needs of the regulated community and comply with all applicable federal requirements, the Department has promulgated a two-tiered licensing program, with Chapter 140 addressing the Part 70 federal requirements for major sources of air emissions, and Chapter 115 addressing those sources not requiring a Part 70 license. The amended Chapter 115 provides the opportunity for stationary sources of air emissions to avoid the requirements of obtaining a Part 70 operating permit through the establishment of federally-enforceable emissions cap and has been amended to provide increased operational flexibility and a "permit shield." The amended Chapter 115 has also been reorganized along functional lines. In addition to the Basis Statement,

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the Department has filed a supplemental basis statement with the Secretary of State that summarizes its responses to comments received during the comment period.

BASIS STATEMENT FOR AMENDMENT OF SEPTEMBER 11, 1996

These amendments expand the flexibility of Chapter 115 by providing a comprehensive listing of insignificant activities exempt from inclusion on a license application, along with provisions for the case-by-case exemption of substantially equivalent activities. The amendments also clarify the scope of the state-enforceable permit shield provisions and federal enforceability of Chapter 115 licenses. In addition, the amendments improve the public notification process for license transfers and synthetic minor applications, and provide for increased compliance through the addition of a standard licensing condition requiring the licensee to establish and maintain compliance documentation and hardware as necessary for the Department to determine compliance status.

During the public comment period, the Department received comments from several members of the regulated community and incorporated recommendations to eliminate its proposal to change the exemption threshold for gas and propane fired stationary internal combustion engines and its proposal to delete the exemption for incinerators having a maximum design heat input of less than 1.0 million BTU for the auxiliary fuel. An exemption for gasoline and diesel-powered ski lift emergency back-up motors was added at the request of the ski industry. In addition to the Basis Statement above, the Department has filed with the Secretary of State responses to representative comments received during the comment period.

BASIS STATEMENT FOR AMENDMENTS OF SEPTEMBER 10, 2001

These amendments incorporate air quality modeling requirements contained within 40 CFR Part 51, Appendix W, "Guideline on Air Quality Models." The proposed amendments also establish provisions in requiring an applicant to notify all federal land managers and the Indian governing body of any reservation located within 50km of any major Modification or new Major Source. During the public comment period, the Department received comments and incorporated suggested changes from members of the regulated community, federal land managers, EPA and environmental groups. In addition to the Basis Statement above, the Department has filed with the Secretary of State responses to representative comments received during the comment period.

BASIS STATEMENT FOR AMENDMENTS OF DECEMBER 1, 2005

The amendments enable Chapter 115 to serve as both an operating license program and pre-construction New Source Review program for Minor Stationary Sources. For major sources that are subject to 40 CFR Part 70, Chapter 115 will serve as a pre-construction New Source Review program, while Chapter 140 will implement the operating licensing requirements of 40 CFR Part 70. In addition to this Basis Statement, the Department has filed with the Secretary of State responses to representative comments received during the comment period.

BASIS STATEMENT FOR AMENDMENTS OF JULY 17, 2008

The amendments to Chapter 115 allow most nonmetallic mineral processing plant (NMMPP), defined as any combination of a rock crusher and stationary engine functioning in conjunction, to obtain a permit from the Department under Chapter 149 General Permit for Nonmetallic Mineral Processing Plants without going through the licensing process currently required by Chapter 115. Owner/operators may choose to be licensed under Chapter 149 or Chapter 115, however, facilities emitting pollutants at levels subject to Chapter 137 Emission Statements will not be permitted to utilize Chapter 149 and will require a Chapter 115 license.

Chapter 149 provides clear requirements for both the owners and operators of the NMMPP. By making the permitting process faster and more accessible, rock crushing operations will be better accounted for, and compliance with operating conditions to control emissions will improve.

In addition to the Basis Statement above, the Department has filed with the Secretary of State its response to comments received during the public comment period.

BASIS STATEMENT FOR AMENDMENTS OF NOVEMBER 2012

The Environmental Protection Agency finalized regulations to implement the New Source Review (NSR) program for fine particulate matter (PM2.5). The Department amended Chapter 115 and Chapter 140, including the ambient air quality analysis and modeling/data collection protocol sections, to incorporate the PM2.5 updates. Also, clarifications as well as plantwide applicability limitation (PAL) requirements are included in Chapter 115.

In addition to the Basis Statement above, the Department has filed with the Secretary of State its response to comments received during the public comment period.

BASIS STATEMENT FOR AMENDMENTS OF MONTH 2015

(APA Office Note: Appendix A repealed by filing 2001-405 effective September 22, 2001.)

AUTHORITY: 38 MRSA § 585-A

EFFECTIVE DATE: May 7, 1979
Amended January 16, 1980
Amended June 27, 1983

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Amended August 9, 1988
Amended October 25, 1989
Amended July 10, 1990
Amended July 11, 1994
Amended June 27, 1998
Amended April 18, 1999
Amended ****** **, 2015

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