



GOVERNMENT OF PUERTO RICO  
DEPARTMENT OF NATURAL AND ENVIRONMENTAL RESOURCES

NÚMERO: 9420

Fecha: 21 de noviembre de 2022

Aprobado: Omar J. Marrero Díaz

Secretario de Estado  
Departamento de Estado  
Gobierno de Puerto Rico

**REGULATION FOR THE CONTROL OF  
ATMOSPHERIC POLLUTION  
AMENDMENT  
(Rule 102, 210 and 425)**

San José Industrial Park, 1375 Ave Ponce de León, San Juan, PR 00926



## TABLE OF CONTENTS

			PAGE
RULE	102	Definitions	3
RULE	210	Non-attainment Provisions	51
RULE	425	Provisions for SO <sub>2</sub> Non-Attainment Areas	60



## **RULE 102      DEFINITIONS**

### **Accidental Release**

Means an unanticipated emission of a regulated substance or other hazardous air pollutant or hazardous solid waste into the ambient air from a stationary source.

### **Act ("the Act")**

Means the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.

### **Actual emissions**

Mean the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined under this paragraph, except that this definition shall not apply for calculating whether a significant emissions increase, as defined in this Rule, has occurred, or for establishing a Plantwide Applicable Limitation under Prevention of Significant Deterioration. Instead, "baseline actual emissions" and "projected actual emissions" shall apply for those purposes.

- (1) Actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal emissions unit operation. The DNER shall allow the use of a different time period upon a determination that it is more representative of normal emissions unit operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates and types of materials processed, stored or combusted during the selected time period.
- (2) The DNER may presume that emissions unit-specific allowable emissions for the emissions unit are equivalent to the actual emissions of the emissions unit.
- (3) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emissions unit on that date.

### **Actual Emissions (for the purpose of Rule 211)**

The emissions of a regulated air pollutant from a stationary source for every 12-month period. Valid continuous emission monitoring data or source test data shall be preferentially used to determine actual emissions. In the absence of valid continuous emissions monitoring data or source test data, the basis for determining actual emissions shall be: throughput of process materials, throughput of materials stored, usage of materials, data provided in manufacturer's product specifications, material volatile organic compound (VOC) content reports or laboratory analyses, other information as required by this rule and any applicable DNER and EPA regulations; or information

requested in writing by the DNER. All calculations of actual emissions shall use EPA approved methods, including emission factors, source testing, continuous emissions monitoring, and mass balance calculations.

**Acute Adverse Effects**

Those adverse effects that occur or develop rapidly on living organisms after an acute exposure which is a one-time or short-term exposure with a duration of less than or equal to 24 hours.

**Administrator**

Means the Administrator of the United States Environmental Protection Agency (EPA)

**Affected Source**

For the purpose of 40 CFR Part 63, means the stationary source, the group of stationary sources or the portion of a stationary source that is regulated by a relevant standard or other requirements established pursuant to section 112 of the Act. Each relevant standard will define the "affected source" for the purposes of that standard. The term "affected source", as used in Part 63 is separate and distinct from any other use of that term in EPA's regulation such as those implementing Title IV of the Act. Sources regulated under Part 60 or part 61 of the 40 CFR are not affected sources for the purposes of 40 CFR Part 63.

**Affected States / Territories**

Are all States / Territories that are within 50 miles of the permitted source.

**Agricultural Burning**

Burning or combustion of sugar cane, pineapple pruning and rice hulls and stubble on the fields where grown, when said fields are in active use for the raising of crops for commercial purposes.

**Agricultural Wastes**

Any discarded material, solid or liquid, produced as a result of agricultural activities, except pineapple pruning and rice hulls and stubble.

## **Air Pollutant**

Dust, fumes, mist, smoke, other particulate matter, vapors, gases, odors, physical, chemical, biological, or radioactive substances, or any combination thereof, but not including uncombined water vapor.

## **Air Pollution**

The presence in the ambient air of one or more air pollutants in such quantities and for such duration as could be injurious to human health or welfare, animal or plant life, or property, or which interferes with the enjoyment of life or property, or which violates any standard established in this Regulation or under the Federal Clean Air Act.

## **Air Pollution Control Equipment**

Any process (including a sulfur recovery plant) equipment, device, and all appurtenances thereto, used for eliminating, reducing, or controlling the emission of any air pollutant.

## **Air Toxic Limits (ATLs)**

Refer to the numerical values, based on available health effects data, that serve as health based guidelines in the management of the risk associated with air toxic emissions. These values are based only on health effects and do not include consideration of technical, economic, and analytical feasibility. The ATLs' values are derived by using any of the following methods, as described in the "Methodology for the Derivation of the ATLs": a quantitative dose-response assessment for non-threshold effects, the uncertainty factor (UF) approach for threshold effects, or the application of uncertainty factors (UFs) to occupational exposure levels. The derived numerical value represents a recommended maximum level of the contaminant in ambient air that will protect the general population from its adverse health effects.

## **Allowable Emissions**

Mean the emissions rate of a stationary source calculated using the maximum rated capacity of the air contaminant source (unless the air contaminant source is subject to limits that are federally enforceable or legally and practically enforceable by the state that restrict the operating rate or hours of operation, or both), and the most stringent of the following:

- (A) The applicable standards set forth in 40 CFR part 60, 61 or 63;
- (B) The applicable Puerto Rico State Implementation Plan emissions limitation, including those with a future compliance date; or

- (C) The emission rate by a permit condition that is federally enforceable including those with a future compliance date.

#### **Alternative Operational Limit (for the purpose of Rule 211)**

A limit on a measurable parameter, such as hours of operation, throughput of materials, use of materials, or quantity of product.

#### **Ambient Air**

Means that portion of the atmosphere, external to buildings, to which the general public has access.

#### **Applicable Rules and Regulations**

All rules and regulations promulgated under the Environmental Public Policy Act (Law No.416, September 22, 2004, as amended) and the "Clean Air Act" for the control of atmospheric pollution, including but not limited to:

- (1) All requirements established by these regulations or any other applicable laws or regulations of the Commonwealth of Puerto Rico;
- (2) The "Standards of Performance of New Stationary Sources" (40 CFR Part 60);
- (3) The "National Emission Standards for Hazardous Air Pollutants" (40 CFR Part 61 and Part 63);
- (4) Any other requirements established by the government of the United States under the Clean Air Act as amended;
- (5) Any other requirement established by the DNER to insure the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS).

#### **Applicable requirement**

Means all of the following as they apply to emissions units in a Title V source (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future-effective compliance dates):

- (1) Any standard or other requirement provided for in the Commonwealth's implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to the plan promulgated in 40 CFR Part 52, Subpart BBB.



- (2) Any term or condition of any construction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including Parts C or D, of the Act;
- (3) Any standard or other requirement under Section 111 of the Act (New Source Performance Standards), including Section 111(d);
- (4) Any standard or other requirement under Section 112 of the Act (National Emission Standards for Hazardous Air Pollutants), including any requirement concerning accident prevention under Section 112(r)(7) of the Act and any substances listed under Section 112 (r)(3);
- (5) Any requirements established pursuant to Section 504(b) (Monitoring and Analysis) or Section 114(a)(3) (Enhanced Monitoring) of the Act;
- (6) Any standard or other requirement governing solid waste incineration, under Section 129 of the Act;
- (7) Any standard or other requirement for consumer and commercial products, under Section 183(e) of the Act;
- (8) Any standard or other requirement for tank vessels under Section 183(f) of the Act;
- (9) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under Section 328 of the Act;
- (10) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit.

### **Asbestos**

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

### **Asbestos-containing material (ACM)**

Means any material or product which contains more than 1 percent of asbestos (by volume).

**Asbestos Inspector**

A person accredited by an asbestos-training school and registered in the DNER; the one that determines the presence of asbestos in a building. Must evaluate the asbestos-containing material and building characteristics.

**Asbestos Planner**

A person accredited by an asbestos-training school and registered in the DNER; the one that determines the presence of asbestos in a building, who uses the inspector information to prepare an Asbestos Management Plan for schools.

**Asphaltic Concrete Batching Plant**

Any facility used to manufacture asphalt concrete by heating and drying the aggregate and mixing it with asphaltic cements, comprised only of any combination of the following: dryer systems for screening, handling, storing and weighing hot aggregates; systems for loading, transferring and storing filler minerals; systems for mixing asphalt concrete; and the loading transfer, and storage systems associated with emission control systems...

**Baseline actual emissions**

The rate of emissions, in tons per year, of a regulated NSR pollutant, as determined below:

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

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

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

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

(d) The average rate shall not be based on any consecutive twenty-four-month period for which there is inadequate information for determining annual emissions, in tons per

year, and for adjusting this amount if required by paragraph (1)(b) of this definition.

(2) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive twenty-four-month period selected by the owner or operator within the ten-year period immediately preceding either the date the owner or operator begins actual construction of the NSR project, or the date a complete permit application is received by the DNER for a permit required either under this Rule or under a plan approved by the Administrator, whichever is earlier, except that the ten-year period shall not include any period earlier than November 15, 1990.

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

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

(c) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive twenty-four-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the State has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with Rule 210B of the RCAP.

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

(e) The average rate shall not be based on any consecutive twenty-four-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraphs (2)(b) and (2)(c) of this definition.

(3) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero if the operation of the new emissions unit has not yet begun or shall equal the unit's potential to emit if the operation of the new emissions unit has not begun.

(4) For a Plant Applicability Limitation for a major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (1) of this definition, for other existing emissions units in accordance with the procedures contained in paragraph (2) of this definition, and for a new emissions unit in accordance with the procedures contained in paragraph (3) of this definition.

**Baseline Emissions**

The total emission from existing sources or facilities allowed under the applicable rules and regulations, prior to the application for location approval of a new major source or major modification.

**Begin actual construction**

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

**Best Available Control Technology (BACT)**

Means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the reviewing authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant that would exceed the emissions allowed by any applicable standard under 40 CFR Parts 60, 61, and 63. If the reviewing authority determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be approved by the reviewing authority instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

**Best available technology**

Means any combination of work practices, raw material specifications, throughput limitations, source design characteristics, an evaluation of the annualized cost per ton of air pollutant removed, and air pollution control devices that have been previously demonstrated to the reviewing authority of environmental protection to operate

satisfactorily in this state or other states with similar air quality on substantially similar air pollution sources.

### **Blending of Fuels**

The mixing or combination of different fuels at the source premises to produce a fuel of new characteristics for use in fuel burning equipment.

### **Building, structure, facility, or installation**

All of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same *Major Group* (i.e., which have the same two-digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

### **Burning of Multiple Fuels**

The simultaneous use of different grades of liquid fuels or the simultaneous use of liquid, gaseous and solid fuels, or any combination thereof, inside the combustion chamber of any fuel burning equipment.

### **Burning or Incineration**

The complete or incomplete combustion of any material.

### **Chronic Adverse Effects**

Those adverse effects that are developed after multiple/ repeated exposure occurring over an extended period of time, or a significant fraction of the animal's or the individual's lifetime.

### **Clean coal technology**

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

**Clean coal technology demonstration project**

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

**Commence**

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

- (A) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or
- (B) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

**Commonwealth**

Refers to the island of Puerto Rico.

**Complete**

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

**Continuous emissions rate monitoring system (CERMS)**

The total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

**Continuous parameter monitoring system (CPMS)**

All of the equipment necessary to meet the data acquisition and availability requirements of this section, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information

(for example, gas flow rate, O<sub>2</sub> or CO<sub>2</sub> concentrations), and to record average operational parameter value(s) on a continuous basis.

### **Construction**

Any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emission unit) that would result in a change in emissions.

### **Construction (for the purpose of section 112 (g) of the Act)**

Means the on-site fabrication, erection or installation of an affected source.

### **Continuous emissions monitoring system (CEMS)**

All of the equipment that may be required to meet the data acquisition and availability requirements, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

### **Criteria pollutant**

Means PM<sub>10</sub>, PM<sub>2.5</sub>, nitrogen oxides, ozone, sulfur dioxide, carbon monoxide, lead or any other air pollutant for which a national ambient air quality standard has been promulgated under Section 109 of the Clean Air Act.

### **De-minimis means**

- (1) a rate of emissions less than or equal to any of the emission rates listed in Appendix E (taken from section 63.44 of 40 CFR Part 63 Subpart B), or
- (2) a rate of emissions:
  - (i) that is less than or equal to 10 tons per year, and
  - (ii) for which DNER has approved a case-by-case- demonstration that ambient impacts are de-minimis.
- (3) If the emission rate included in Appendix E is different from the one established in section 63.44 of subpart B of the 40 CFR Part 63, the federal regulation will prevail.

**De-Minimis Source (for the purpose of Rule 211)**

Any stationary source with de-minimis emissions or operations as specified below:

- (a) In every 12-month period, any stationary source which emits less than or equal to the following thresholds:
  - (i) 2 tons of regulated air pollutant (excluding HAPs),
  - (ii) 5 tons of any combination of regulated pollutants (excluding HAP's),
  - (iii) the insignificant activity threshold for HAP emissions listed in Appendix E of the regulation.

**Demolition**

Means the wrecking or taking out of any load supporting structural member and any related razing, removing, or stripping of asbestos-containing material.

**Dispersion Models**

Mathematical techniques which simulate the atmospheric transport of pollutants for the purpose of estimating concentrations of air pollutants for the purpose of estimating concentrations of air pollutants which may be or are emitted from a source.

**Dispersion Techniques**

Any method which attempts to affect the concentration of a pollutant in the ambient air by:

- (1) The use of that portion of stack which exceeds good engineering practice stack height;
- (2) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or
- (3) The manipulation of process parameters, exhaust gas parameters, stack parameters other than height, or other selective handling of exhaust gas plume rise, (except the reheating of a gas stream following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the source generating the gas stream).



**DNER**

Means Department of Natural and Environmental Resources.

**Domestic non-hazardous solid waste incineration unit**

Means a unit which combusts non-hazardous solid waste that is generated by the general public in single or multiples residences, hotels, motels, etc.

**Draft permit**

Means the version of a permit for which the DNER offers public participation under section (a) of Rule 609 or affected State / Territory review under Rule 609.

**Electric utility steam generating unit**

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

**Electric Power Plant Company**

Any plant engaged in the generation of electrical power by any means.

**Emission**

The release or discharge of air pollutants into the ambient air.

**Emissions Factor**

Estimated averages of the rate at which pollutants are released to the ambient air as specified in the latest version of USEPA Publication No. AP-42, "Compilation of Air Pollutants Emission Factors", or such other factors as may be approved by the DNER.

**Emissions Offset**

Emissions reductions provided from an existing source or facility by the owner or operator of a new major source, or major modification or significant source when applying for a location approval in order to furnish a net ambient air quality benefit in the area.

**Emission point (for purpose of Section 112(g) of the Act)**

Means any part or activity of a major source that emits or could emit any hazardous air pollutant.

**Emission Statement (for the purpose of Rule 211)**

An annual report from an owner or operator of a stationary source certifying the actual emissions of each regulated air pollutant and each hazardous air pollutant emitted from the stationary source.

**Emissions Unit**

Means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric steam generating unit as previously defined. The two types of emissions units are as follow:

- (A) A new emissions unit is any emissions unit which is (or will be) newly constructed and which has existed for less than 2 years from the date such emissions unit first operated.
- (B) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph A of this definition. A replacement unit as defined in rule is an existing emissions unit.

**Emission Unit (for the purpose of Rule 211)**

Any article, machine, equipment, operation, contrivance or related groupings of such that may produce and/or emit any regulated air pollutant or hazardous air pollutant.

**Emission unit (for purpose of Section 112(g) of the Act)**

Means the collection of emission points within a source requiring a MACT determination. An emission unit can be defined (by the permitting authority) as any of the following:

- (1) An emitting point that can be individually controlled, e.g., a boiler, a spray booth, etc.
- (2) The smallest grouping of emission points, that, when collected together, can be commonly controlled by a single control device or work practice.
- (3) The grouping of emission points, that, when collected together, can be commonly controlled by a single control device or work practice.
- (4) A grouping of emission points that are functionally related. Equipment is functionally related if the operation or action for which the equipment was specifically

designed could not occur without being connected with or relying on the operation of another piece of equipment.

- (5) For modifications under Section 112(g), only those emission points affected by the modification shall be included.

### **Encapsulation**

Means the treatment of ACM with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers, as the encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

### **Enclosure**

Means an airtight, impermeable, permanent barrier around Asbestos Containing Building Material (ACBM) to prevent the release of asbestos fibers into the air.

### **Enhanced Monitoring**

Means the methodology used by an owner or operator to detect deviations with sufficient representativeness, accuracy, precision, reliability, frequency, and timeliness in order to determine if compliance is continuous during a reporting period. Such monitoring shall be conducted through an enhanced monitoring protocol.

### **Enhanced monitoring protocol**

Means the methodology and all installation, equipment, performance, operation and quality assurance requirements applicable to such methodology, developed by the owner or operator for the purpose of conducting enhanced monitoring.

### **EPA**

The Environmental Protection Agency of the United States of America.

### **Facility**

Means all of the air contaminant sources that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel and those emissions resulting directly from an internal combustion engine for transportation purposes or from a non-road engine or non-road vehicle as defined in Section 216 of the Clean Air Act. Air contaminant sources shall be considered as part of

the same industrial grouping if they belong to the same major group (i.e., they have the same two-digit code) as described in the "Standard Industrial Classification Manual."

### **Federal Land Manager**

With respect to any lands in the United States, the Secretary of the Department with authority over such lands.

### **Federally Enforceable**

Means all limitations and conditions that are enforceable by the administrator (of the United States Environmental Protection Agency), including those requirements developed pursuant to 40 CFR Parts 60, 61 and 63, requirements within the Puerto Rico state implementation plan that implements the requirements of the Clean Air Act, any permit requirements designated as federally enforceable established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I, including operating permit requirements designated as federally enforceable issued under an United States Environmental Protection Agency-approved program that is incorporated into the Puerto Rico state implementation plan and expressly requires adherence to any permit issued under such program.

### **Final permit**

Means the version of a Title V permit issued by the DNER that has completed all review procedures required by Rules 605, 606, 608, and 609.

### **Fossil Fuel Boiler**

A unit (or combination of such units) which combusts fossil fuel (or receives heat from other fossil fuel units) to produce steam by indirect heat transfer and includes such units that produce steam for electric generation. The heat input for such units includes any heat provided to such units from the combustion of fossil fuels in other units. The total heat input from fossil fuel firing for a combination of such units is the sum of the heat inputs from fossil fuel firing for each unit.

### **Fuels**

Any liquid, solid, or gaseous substance burned to produce heat or power.

## **Fuel Burning Equipment**

Any furnace boiler, apparatus, stack, and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer.

## **Fugitive Dust**

Particulate matter which is or may be omitted from any activity other than through a stack, chimney or vent.

## **Fugitive Emissions**

Those emissions which do not pass through a stack, chimney, vent or other functionally equivalent opening.

## **Garbage**

Animal and vegetable matter originating in houses, kitchens, restaurants, hotels, produce markets, and similar places.

## **GACT- Generally Available Control Technology**

Refers to the control technology or management practices promulgated as standard for the reduction of emissions of hazardous air pollutants from categories or subcategories of area sources (non major source).

## **Good Engineering Practice (GEP) Stack Height**

GEP stack height means the greater of:

- (1) 65 meters, measured from the ground-level elevation at the base of the stack; or
- (2)(i) For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required under 40 CFR Parts 51 and 52.  $H_g = 2.5H$ , provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation;
- (ii) For all other stacks,  $H_g = H + 1.5L$  where

$H_g$  = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack, and

L = lesser dimension, height or projected width, of nearby structure(s), provided that the EPA, State or local control agency may require the use of a field study or fluid model to verify GEP stack height for the source; or

- (3) The height demonstrated by a fluid model or a field study approved by the EPA, State or local control agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

### **Grains**

Means alfalfa, corn, wheat, sorghum, rice, rye, oats, barley, cotton seeds, beetroot, purine, bran, sunflower seeds, soy wheat, soy pellets and soybeans.

### **Guayama - Salinas SO<sub>2</sub> Non-Attainment Area**

Means the Aguirre and Lapa Wards in the municipality of Salinas as defined in the Puerto Rico Non-Attainment State Implementation Plan Sulfur Dioxide National Ambient Air Quality Standard.

### **Hazardous Air Pollutant**

Any air pollutant listed in Appendix A of these regulation and any other substance adopted by the EPA after DNER complies with the public notice and public hearing regulatory requirements, pursuant to the Puerto Rico Administrative Procedures Act.

### **Hazardous solid waste (based on the Puerto Rico Hazardous Solid Waste Regulation or 40 CFR 261)**

Residues, solid waste or combination of wastes which quantity, concentration or chemical or physical characteristics might:

- (1) represent a potential or substantial risk to the human health or to the environment when managed, treated or disposed in an inappropriate way; or
- (2) causes or contributes in a significant increase in mortality or irreversible or reversible serious handicapped illness.

**Heat Input**

The total gross calorific value (where gross calorific value is measured by ASTM Method D2015-66, D240-64, or D1826-64) of all fuels burned. Heat input is calculated in British thermal units (BTU) per hour using the higher heating value of the fuel.

**Incinerator**

Any apparatus, equipment, and all appurtenances thereof, used for the burning or incineration of refuse or other combustible wastes, either liquid, solid or gaseous

**Increments of Progress**

The steps to be taken by the owner or operator for bringing a source into a compliance with applicable rules and regulations, or with any condition imposed by the DNER, as specified in an approved compliance plan or on any other legally binding or enforceable document issued by the DNER.

**Innovative control technology**

Means any system of air pollution control that has not been adequately demonstrated in practice but would have a substantial likelihood of achieving greater continuous emission reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics or non-air quality environmental impacts.

**Install or installation**

Means to begin actual construction, erect, locate or affix any air contaminant source.

**Intermediate Sources (for the purpose of Rule 211)**

Any stationary source with emissions or operations as specified below:

- (a) In every 12-month period, the stationary source emits more than the minor source levels, but less than the following quantities of emissions:
  - (i) 100% of the threshold levels for major sources of a regulated air pollutants (excluding HAPs),
  - (ii) 100% of the threshold levels for major sources of HAPs,
  - (iii) 100% of any lesser threshold for a single HAP that the United States

Environmental Protection Agency (U.S. EPA) may establish by rule.

### **Lowest Achievable Emission Rate (LAER)**

For any emissions unit, means the more stringent rate of emissions based on the following:

- 1- The most stringent emissions limitation that is contained in the implementation plan of any State for such class or category of emission unit, unless the owner or operator of the proposed emission unit demonstrates that such limitations are not achievable; or
- 2- The most stringent emissions limitation which is achieved in practice by such class or category of emission unit. This limitation, when applied to a major modification, means the lowest achievable emission rate for the new or modified emissions unit within the stationary source. In no event shall the application of this term permit a proposed new or modified emissions unit to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

### **Maximum Achievable Control Technology (MACT)**

Are emission standards based on the best demonstrated control technology and practices in the regulated industry as promulgated by the Administrator pursuant to Section 112 of the Act. MACT for existing sources in a category or subcategory with 30 or more sources must be as stringent as the average emission limitation of the best controlled 12 % of similar sources, excluding sources which have achieved the LAER within 18 months prior to proposal or 30 months prior to promulgation. MACT for existing sources in a category or subcategory with fewer than 30 sources must be as stringent as the average emission limitation of the best performing 5 sources. MACT for new sources must be as stringent as the best controlled similar source.

### **Major Modification:**

- (1) Any physical change in or change in the method of operation of a major stationary source that would result in any combination of the following:
  - (a) A significant emissions increase of a regulated NSR pollutant.
  - (b) A significant net emissions increase of that pollutant from the major stationary source.

[Comment: Except as otherwise provided, and consistent with the definition of major modification, a NSR project is a major modification for a regulated NSR pollutant if the NSR project causes two types of emissions increases; a significant emissions increase and a significant net emissions increase. The NSR project is not



a major modification if the NSR project does not cause a significant emissions increase. If the NSR project causes a significant emissions increase, then the NSR project is a major modification only if the NSR project also results in a significant net emissions increase.]

- (2) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is considered significant for VOCs or nitrogen oxides shall be considered significant for ozone.
- (3) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (3)(a) to (3)(c) of this definition. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the “net emission increase” definition of this Rule. Regardless of any such preconstruction projections, a major modification results if the NSR project causes a significant emissions increase and a significant net emissions increase.
  - (a) Actual-to-projected-actual applicability test for NSR projects that only involve existing emissions units.

A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions, for each existing emissions unit, equals or exceeds the significant amount for that pollutant.
  - (b) Actual-to-potential test for NSR projects that only involve construction of a new emissions unit.

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

A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference for each emissions unit, using the method specified in paragraphs (4)(a) to (4)(b) of this definition as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant.
  - (d) The “sum of the difference” as used above in (3)(a), (3)(b), and (3)(c) shall include both increases and decreases in emissions calculated in accordance with those paragraphs.
- (4) A physical change or change in the method of operation shall not include the following:
  - (a) Routine maintenance, routine repair, and routine replacement.
  - (b) Use of an alternative fuel or raw material by reason of an order under Section 2(A) and (B) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan

- pursuant to the Federal Power Act.
- (c) Use of an alternative fuel by reason of an order or Rule under Section 125 of the Clean Air Act.
  - (d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.
  - (e) Use of an alternative fuel or raw material by a stationary source that does one of the following:
    - (i) For non-attainment NSR purposes, the stationary source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition that was established after December 21, 1976, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or 40 CFR 51.166.
    - (ii) For PSD purposes, the stationary source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition that was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or 40 CFR 51.166.
    - (iii) The stationary source is approved to use under any effective and applicable non-attainment NSR permit or PSD permit.
  - (f) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition that was established after the following:
    - (i) For non-attainment NSR purposes, December 21, 1976 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or 40 CFR 51.166.
    - (ii) For PSD purposes, January 6, 1975 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or 40 CFR 51.166.
  - (g) Any change in ownership at a stationary source.
  - (h) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the temporary clean coal technology demonstration project complies with the following:
    - (i) The Puerto Rico state implementation plan.
    - (ii) Other requirements necessary to attain and maintain the national ambient air quality standard during the temporary clean coal technology demonstration project and after the NSR project is terminated.
- (5) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under Rule 3745-31-32 of the RCAP for a PAL for that pollutant. Instead, the definition of "Quantifiable" of this Rule shall apply.
- (6) Different pollutants, including individual precursors, are not summed to determine applicability of a major modification.

## Major Stationary Source

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

(A) For the purpose of construction will be define as:

Any of the following sources which have potential to emit one hundred tons per year or more of any air pollutant from the following types of stationary sources:

- (1) Coal cleaning plants (with thermal dryers);
- (2) Kraft pulp mills;
- (3) Portland Cements plants;
- (4) Primary zinc smelters;
- (5) Iron and steel mill plants;
- (6) Primary aluminum ore reduction plants;
- (7) Primary copper smelters;
- (8) Municipal incinerators with a capacity of more than fifty (50) tons of refuse per day;
- (9) Hydrofluoric acid plants;
- (10) Nitric acid plants
- (11) Sulfuric acid plants
- (12) Sulfur recovery plants;
- (13) Petroleum refineries;
- (14) Lime plants;
- (15) Coke oven batteries;
- (16) Phosphate rock processing plants;
- (17) Fuel conversion plants;
- (18) Carbon black plants (furnace process);
- (19) Sintering plants;
- (20) Primary lead smelters;
- (21) Fossil-fuel fired steam electric plants of more than two hundred and fifty ( $250 \times 10^6$ ) million British thermal units per hour heat input; fuel conversion plants;
- (22) Secondary metal production facilities;

- (23) Chemical process plants;
- (24) fossil-fuel boilers (or combination thereof) totalling more than two hundred and fifty millions ( $250 \times 10^6$ ) British Thermal Units per hour heat input;
- (25) Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels;
- (26) Taconite ore processing facilities;
- (27) Glass fiber processing plant,
- (28) Charcoal production facilities; or
- (29) Any other stationary source category regulated under section 111 or 112 of the Act.

Such term also includes any other source with the potential to emit two hundred and fifty (250) tons per year or more of any air pollutant, PROVIDED THAT, in the case of a source locating in a non-attainment area, or the emission of which may significantly impact a non-attainment area, such term means any source having the potential to emit one-hundred tons per year (100 tons/year) or more of any air pollutant, except for lead which has a potential to emit of 2 tons per year or more.

(B)- For the purpose of operating a source it will be define as:

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

- (ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.
- (2) A major stationary source of air pollutants, as defined in Section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including fugitive emissions of any such pollutant from the source). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:
  - (1) Coal cleaning plants (with thermal dryers);
  - (2) Kraft pulp mills;
  - (3) Portland Cements plants;
  - (4) Primary zinc smelters;
  - (5) Iron and steel mill plants;
  - (6) Primary aluminum ore reduction plants;
  - (7) Primary copper smelters;
  - (8) Municipal incinerators with a capacity of more than fifty (50) tons of refuse per day;
  - (9) Hydrofluoric acid plants;
  - (10) Nitric acid plants
  - (11) Sulfuric acid plants
  - (12) Sulfur recovery plants;
  - (13) Petroleum refineries;
  - (14) Lime plants;
  - (15) Coke oven batteries;
  - (16) Phosphate rock processing plants;
  - (17) Fuel conversion plants;
  - (18) Carbon black plants (furnace process);
  - (19) Sintering plants;
  - (20) Primary lead smelters;
  - (21) Fossil-fuel fired steam electric plants of more than two hundred and fifty ( $250 \times 10^6$ ) million British thermal units per hour heat input; fuel conversion plants;
  - (22) Secondary metal production facilities;
  - (23) Chemical process plants;
  - (24) Fossil-fuel boilers (or combination thereof) totalling more than two hundred and fifty millions ( $250 \times 10^6$ ) British Thermal units per hour heat input;
  - (25) Petroleum storage and transfer facilities with a capacity exceeding three hundred thousands (300,000) barrels;
  - (26) Taconite ore processing facilities;

- (27) Glass fiber processing plant,
  - (28) Charcoal production facilities; or (29) Any other stationary source category regulated under section 111 or 112 of the Act.
- (3) A major stationary source as defined in Part D of Title I of the Act, including:
- (i) For ozone non-attainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme," (fugitive emissions shall not be considered in determining whether a source is a major source unless the source belongs to one of the stationary source categories listed in paragraph 2 above); except that the references in this paragraph to 100, 50, 25 and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under Section 182(f) (1) or (2) of the Act, that requirements under Section 182(f) of the Act do not apply;
  - (ii) For carbon monoxide non-attainment areas:
    - (A) That are classified as "serious," and
    - (B) In which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
  - (iii) For particulate matter (PM-10) non-attainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10, or where applicable a PM-10 precursor.
  - (iv) For lead non-attainment areas, sources of lead with a potential to emit of 2 tons per year or more.

### **Malfunction**

Any failure of air pollution control equipment or process equipment, or of a process to operate in a normal or usual manner.

**Manufacturing Waste**

Solid or liquified material or rubbish resulting from the operation of any business, construction activity, building, or industrial operation, such as plastic products, carton, paints, grease, oil, and other petroleum products, chemicals reagents, cinders, and other forms of solid or liquid waste material, or any other substances classified as hazardous material.

**Maritime Vessel**

Any type of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

**Mass Emissions Rate**

The average rate at which a pollutant is actually released to the ambient air from any activity, such as combustion or industrial process, expressed in weight or mass per unit time.

**Maximum Allowable Increments (RESERVED)****Minor Source (for the purpose of Rule 211)**

Any stationary source with emissions or operations as specified below:

- (a) In every 12-month period, the stationary source emits more than the de minimis source levels, but less than or equal to the following quantities of emissions:
  - (i) 75% of the threshold levels for major sources of regulated air pollutants (excluding HAPs),
  - (ii) 75% of the threshold levels for major sources of HAPs,
  - (iii) 75% of any lesser threshold for a single HAP that the United States Environmental Protection Agency (U.S. EPA) may establish by rule.
  - (iv) No stationary source subject to a NSPS, NESHAPS or MACT standard shall be considered a minor source for the purpose of Rule 211.

**Modification (for the purposes of Part II of this Regulation)**

Any physical change in, change in the method of operation or a change in type of fuel used of an existing stationary source, that would result in a net increase in that stationary source's potential to emit any air pollutant (subject to any standard), or which results in the emission of any pollutant (subject to a standard) not previously emitted.

A physical change shall not include routine maintenance, repair and the replacement of any equipment having the same capacity, equal efficiency or greater environmental benefit to be used for the same purpose

**Modification (for purpose of Section 112 (g) of the Act)**

means the fabrication (on site), erection, or installation of any physical change in, or change in the method of operation of, a major source which increases the actual emissions of any hazardous air pollutant emitted by such source by more than a de minimis amount or which results in the emission of any hazardous air pollutant not previously emitted by more than a de minimis amount. A physical change in, or change in the method of operation of, a major source which results in a greater than de minimis increase in actual emissions of hazardous air pollutants shall not be considered a modification, if such increase in the quantity of actual emissions of any hazardous air pollutant from such source will be offset by an equal or greater decrease in the quantity of another hazardous air pollutant (or pollutants) from such source which is deemed more hazardous.

**Motor vehicle**

Any vehicle propelled by means other than human or muscular power, excepting such vehicles as run only upon rails or tracks.

**Necessary preconstruction approvals or permits**

Means those permits or approvals required under federal air pollution control laws and regulations and those air pollution control laws and regulations that are part of the federally approved Puerto Rico state implementation plan.

**National Ambient Air Quality Standards (NAAQS)**

The primary and secondary national ambient air quality standards set forth by the US Environmental Protection Agency in 40 CFR, Part 50.



## **National Emission Standards for Hazardous Air Pollutants (NESHAPS)**

The national emission standards for hazardous air pollutants set forth by the US Environmental Protection Agency in 40 CFR, Part 61 or Part 63.

## **Net Air Quality Benefit**

A net air quality benefit is achieved when the air quality impact does not exceed the significant air quality impact levels and the modelling analysis predicts that the Lowest Achievable Emission Rate (LAER) and emission offsets proposed will result in a net concentration change that is less than zero at several receptors agreed upon by the DNER.

## **Net emissions increase**

Means, with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following, except as limited by paragraph (3) of this definition, exceeds zero:

- (1) Any increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated under this Rule.
- (2) Any other increases and decreases in actual emissions at the stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this definition shall be determined as provided in the definition of "Baseline actual emissions" of this Rule, except that paragraphs (1)(c) and (2)(d) of "Baseline actual emissions" definition shall not apply.
- (3) The following limit paragraphs (1) and (2) of this definition:
  - (a) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if the increase or decrease occurs within the period beginning five years prior to the date on which the owner or operator of the facility expects construction to commence, as stated in the initial complete application for an installation permit for a new or modified emission unit for the particular change or project, and ending on the date when the new or modified emissions unit becomes operational and begins to emit a pollutant.
  - (b) An increase or decrease in actual emissions is creditable only if the DNER has not relied on the increase or decrease in issuing a permit for the stationary source under regulations approved pursuant to this Rule, which permit is in effect when the increase in actual emissions from the particular change occurs.
  - (c) For PSD purposes only, an increase or decrease in actual emissions of sulfur dioxide, nitrogen oxide, or particulate matter that occurs before the applicable minor source baseline date is creditable only if the increase or decrease is required to be considered in calculating the amount of maximum allowable increases remaining available. Only PM10 emissions shall be used to evaluate the net emissions increase for PM10.

- (d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
- (e) A decrease in actual emissions is creditable only if the following apply:
  - (i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions.
  - (ii) The decrease is enforceable as a practical matter at and after the time that actual construction on the particular change begins.
  - (iii) The decrease has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
  - (iv) For non-attainment NSR purposes only, the DNER has not relied on the decrease in issuing any permit under regulations pursuant to 40 CFR part 51, subpart I or the DNER has not relied on the decrease in demonstrating attainment or reasonable further progress.
- (f) An increase that results from a physical change at a stationary source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular air pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty days.
- (g) Paragraph (1) of "Actual emissions" definition of this Rule shall not apply for determining creditable increases and decreases or after a change.

#### **Non-Attainment Area**

Means that the area has been designated as non-attainment in 40 CFR 81.355 for a given pollutant

#### **Non-attainment new source review permit or non-attainment NSR permit**

Means any permit that is issued under a major source preconstruction permit program that has been approved by the administrator and incorporated into a plan to implement the requirements of 40 CFR 51.165, or a program that implements 40 CFR part 51, appendix S, sections I to VI.

#### **Non-hazardous solid waste**

Any solid waste not regulated as a hazardous solid waste.

#### **Non-Process Source**

Any source other than a process source.

## **Notice of MACT Approval**

Refers to the procedures established in Subpart B of 40 CFR Part 63 by which a Maximum Achievable Control Technology analysis is performed by the owner or operator of a source and submitted to the permitting authority for determination of equivalency of emission limitation applicable to such source.

## **Opacity**

A state which renders a material or substance partially or totally blocked to the transmission of visible light and is expressed as the percentage of light obstructed.

## **Open Burning**

The burning of solid waste, agricultural waste, or plant life without:

- (1) Control of combustion air to maintain adequate temperature for efficient combustion;
- (2) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
- (3) Control of the emission of the gaseous combustion products.

## **Organic Compound**

Any chemical substance which contains carbon and hydrogen, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates and ammonium carbonate.

## **Organic Solvents**

Organic materials which are liquids at standard conditions, including, but not limited to, diluents and thinners, and which are used as dissolvents, viscosity reducers or cleaning agents.

## **Owner or Operator**

Any person who owns, leases, operates, controls or supervises a source or facility.

**Particulate Matter**

Any material in solid or liquid form sufficiently subdivided into small particles as to be susceptible to dispersion and suspension or to be carried by currents of air or other gases, except water in its uncombined state.

**Permit modification**

Means a revision to a Title V permit that meets the requirements of section (b) of Rule 606.

**Permit program costs**

Means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in section (b) of Rule 610 (whether such costs are incurred by the DNER or other State or local agencies that do not issue permits directly, but that support permit issuance or administration).

**Permit revision**

Means any permit modification or administrative permit amendment.

**Person**

Any person, natural or juridical, or group of persons, private or public, including agencies, government bodies, municipalities and public quasi-public corporations.

**Plant Life**

Vegetation such as trees, tree branches, leaves, yard trimmings, shrubbery, grass, weeds and crops.

**PM<sub>2.5</sub>**

Particulate matter with a size less than or equal to 2.5 micrometers in aerodynamic mass median diameter.

**PM<sub>10</sub>**

Particulate matter with a size less than or equal to 10 micrometers in aerodynamic mass median diameter.

**PM<sub>10</sub> Precursor**

Means sulfur dioxide, nitrogen oxides, or volatile organic compounds.

**PM<sub>10</sub> Non-Attainment Area for Guaynabo**

The entire Municipality of Guaynabo as defined in the Puerto Rico PM<sub>10</sub> State Implementation Plan (PR-SIP) and in Law 81 of August 30, 1991- "Autonomous Municipality Act" (Repealed)

**Pollution prevention**

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

**Portable source**

Means an air contaminant source that, in the DNER's judgment, is specifically designed to be transferred to a new site as needs warrant.

**Potential to Emit**

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

**Predictive emissions monitoring system (PEMS)**

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

**Prevention of Significant Deterioration (PSD) permit**

Any permit that is issued under a major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of 40 CFR §51.166, or under the program in 40 CFR §52.21

**Process Source**

A source from which emissions are, in whole or in part, the result of a manufacturing process that produces a chemical change in any of the materials or substances used in that process.

**Process Statement (for the purpose of Rule 211)**

An annual report on permitted emission units from an owner or operator of a stationary source certifying under penalty of perjury the following: throughput of process materials; throughput of materials stored; usage of materials; fuel usage; any available continuous emissions monitoring data; hours of operation; and any other information required by this rule or requested in writing by the DNER.

**Process unit**

Means any collection of structures and/or equipment that processes, assembles, applies, blends, or otherwise uses material inputs to produce or store an intermediate or a completed product. A single stationary source may contain more than one process unit, and a process unit may contain more than one emissions unit

**Project**

A physical change in, or change in the method of operation of, an existing major stationary source.

**Projected actual emissions**

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

In determining the projected actual emissions under this Rule before beginning actual construction, the owner or operator of the major stationary source shall do the following:

- (1) Consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the approved plan.
- (2) Include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
- (3) Exclude, in calculating any increase in emissions that results from the particular NSR project, that portion of the emissions unit's emissions following the NSR project that an existing emissions unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under definition "Baseline actual emissions" of this Rule and that are also unrelated to the particular NSR project, including any increased utilization due to product demand growth.
- (4) In lieu of using the method set out in paragraphs (1) to (3) of this definition, the owner or operator may elect to use the emissions unit's potential to emit, in tons per year, as the defined in definition "Potential to emit" of this Rule.

**Proposed permit**

Means the version of a permit that the DNER proposes to issue and forwards to the Administrator for review in compliance with Rule 609.

**Public and Commercial Building**

Means the interior space of any building which it is not a school building, except that the term does not include any residential apartment building of fewer than ten (10) units or detach single-family homes. The term includes, but is not limited to, industrial and office building, residential building and condominium of 10 or more dwelling units, government-owned building, colleges (private and public university institutions), museums, airports, hospitals, churches, preschools, stores, warehouses and factories. Interior spaces include exterior hallways connecting buildings, porticos and mechanical systems used to condition interior spaces.

**Puerto Rico Air Quality Control Region**

All the land under the jurisdiction of the Commonwealth of Puerto Rico pursuant to Section 110 of the Clean Air Act (42 USC 7410) for the control of air pollution in Puerto Rico, as defined in the PR-SIP.

**Puerto Rico State Implementation Plan**

Means the plan submitted by the state of Puerto Rico to, and approved by, the United States Environmental Protection Agency in response to Section 110 of the Clean Air Act.

**Reasonable Available Control Technology (RACT)**

The lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

**Reasonable Further Progress (RFP)**

Annual incremental reductions in the emissions of an air pollutant which are sufficient, in the judgement of the DNER (and the UP EPA Administrator), to provide for the attainment of the applicable NAAQS by the date specified in the SIP of Puerto Rico.

**Refuse**

Garbage, rubbish, manufacturing wastes, and sludge resulting from the treatment and purification of wastewater and water.

**Refuse Derived Fuel (RDF)**

A combustible material of a low to moderate heating value artificially produced by a resource recovery facility.

**Regulated air pollutant or Regulated Substance**

Means the following:

- (1) Nitrogen oxides or any volatile organic compounds;
- (2) Any pollutant for which a national ambient air quality standard has been promulgated;
- (3) Any pollutant that is subject to any standard promulgated under Section 111 of the Act;
- (4) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or
- (5) Any pollutant subject to a standard promulgated under Section 112 or other requirements established under Section 112 of the Act, including Sections 112(g), (j), and (r) of the Act, including the following:
  - (i) Any pollutant subject to requirements under Section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established



pursuant to Section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date eighteen (18) months after the applicable date established pursuant to Section 112(e) of the Act; and

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

### **Regulated Medical Waste (based on the Puerto Rico Medical Waste Regulation)**

A regulated medical waste is any solid waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, that is not excluded or exempted. The characteristics and types of activities are described in Appendix F of this regulation.

### **Regulated NSR pollutant**

- (1) For stationary sources located in a non-attainment area for a given regulated air pollutant:
  - (a) Nitrogen oxides or any VOCs.
  - (b) Any pollutant for which a national ambient air quality standard has been promulgated.
  - (c) Any pollutant that is identified under this paragraph as a constituent or precursor of a general pollutant listed under paragraph (1)(a) or (1)(b) of this definition, provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors identified by the DNER for purposes of new source review are the following:
    - (i) VOCs and nitrogen oxides are precursors to ozone in all ozone non-attainment areas.
    - (ii) Sulfur dioxide is a precursor to PM<sub>2.5</sub> in all PM<sub>2.5</sub> non-attainment areas.
    - (iii) Nitrogen oxides are a precursor to PM<sub>2.5</sub> in all PM<sub>2.5</sub> non-attainment areas.
  - (d) PM<sub>2.5</sub> emissions and PM<sub>10</sub> emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. After January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM<sub>2.5</sub> and PM<sub>10</sub> in non-attainment new source review permits. Compliance with emissions limitations for PM<sub>2.5</sub> and PM<sub>10</sub> issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of a permit or the Puerto Rico state implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this chapter unless the Puerto Rico state implementation plan required condensable particulate matter to be included.

- (2) For stationary sources located in an attainment area for a given regulated air pollutant, the following:
- (a) Any pollutant for which a national ambient air quality standard has been promulgated. This includes, but is not limited to, any of the following:
    - (i) PM<sub>2.5</sub> emissions, and PM<sub>10</sub> emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. After January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM<sub>2.5</sub> and PM<sub>10</sub> in PSD permits. Compliance with emissions limitations for PM<sub>2.5</sub> and PM<sub>10</sub> issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.
    - (ii) Any pollutant identified under this paragraph as a constituent or precursor to a pollutant for which a national ambient air quality standard has been promulgated. Precursors identified for purposes of new source review are the following:
      - (a) VOCs and nitrogen oxides are precursors to ozone in all ozone attainment and unclassifiable areas.
      - (b) Sulfur dioxide is a precursor to PM<sub>2.5</sub> in all attainment and unclassifiable areas.
      - (c) Nitrogen oxides are a precursor to PM<sub>2.5</sub> in all attainment and unclassifiable areas.
      - (d) VOCs are presumed not to be precursors to PM<sub>2.5</sub> in all attainment and unclassifiable areas, unless Puerto Rico demonstrates to the administrator's satisfaction, or the United States Environmental Protection Agency demonstrates that emissions of VOCs from sources in a specific area are a significant contributor to that area's ambient PM<sub>2.5</sub> concentrations.
  - (b) Any pollutant that is subject to any standard promulgated under Section 111 of the Clean Air Act.
  - (c) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Clean Air Act.
  - (d) Any pollutant that otherwise is subject to regulation under the Clean Air Act; except that any or all HAPs either listed in Section 112 of the Clean Air Act or added to the list pursuant to Section 112(b)(2) of the Clean Air Act, which have not been delisted pursuant to Section 112(b)(3) of the Clean Air Act, are not regulated NSR pollutants unless the listed HAP is also regulated as a constituent or precursor of a general pollutant listed under Section 108 of the Clean Air Act.

**Replacement unit**

Means an emissions unit for which all the following criteria are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

- (1) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.
- (2) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.
- (3) The replacement does not alter the basic design parameters of the process unit.
- (4) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, the emissions unit shall constitute a new emissions unit.

**Removal**

Means the taking out or stripping of asbestos or material containing asbestos.

**Renewal**

means the process by which a permit is reissued at the end of its term.

**Renovation**

Means the modifying of any existing structure or portion thereof where exposure to airborne asbestos may result.

**Requirements established by the DNER**

Methods, guidelines, procedures, parameters, limitations, criteria and any other applicable requirement that the DNER, after complying with all applicable rules and regulations, deems necessary to protect the environment, safety and human health.

**Resource Recovery Facility**

Any facility at which solid waste is processed for the purpose of extracting, converting to energy or otherwise separating and preparing solid waste for reuse or utilizing the solid wastes to provide more than 50% of the heat input.

## **Responsible official**

Means one of the following:

- (1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
  - (i) The facilities employ more than 250 persons or have gross annual sales lb\* or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
  - (ii) The delegation of authority to such representatives is approved in advance by the DNER.
- (2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively; or
- (3) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this Part, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA).

## **Retirement**

When used in reference to an emission unit (where “emission unit” includes a stationary, fossil-fuel-fired boiler, stationary, fossil-fuel-fired combustion turbine, or other stationary, fossil-fuel-fired combustion device), retirement shall mean to permanently shut down an emission unit such that the unit cannot physically or legally combust fuel, and to comply with applicable Commonwealth and federal requirements for permanently ceasing operation of the emission unit, including removing the unit from Puerto Rico’s air emissions inventory, and withdrawing and/or amending all applicable permits so as to reflect the permanent shut-down status of such emission unit.

## **Reviewing authority**

The State air pollution control agency, local agency, other State agency, Indian tribe, or other agency authorized by the Administrator to carry out a permit program under this section and 40 CFR §51.166, or the Administrator in the case of EPA-implemented permit programs under 40 CFR §52.21.

**Rubbish**

Solids not considered to be highly flammable or explosive (such as rags, old clothes, leather, leather, rubber, carpets, wood excelsior, paper, ashes, leaves, tree branches, yard trimmings, furniture, incinerator residue, street sweepings, tin cans, glass crockery, masonry, and other similar materials).

**Salvage Operation**

Any operation or activity from which is reclaimed any product or material, such as metals, chemicals, shipping containers or drums.

**San Juan Area SO<sub>2</sub> Non-Attainment Area**

Means the entire municipality of Cataño and partial municipalities of San Juan, Guaynabo, Bayamón and the Palo Seco and Sabana Seca Wards of the municipality of Toa Baja as defined in the Puerto Rico Non-Attainment State Implementation Plan Sulfur Dioxide National Air Quality Standard.

**Secondary Emissions**

Means emissions that occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this Rule, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the stationary source or major modification that causes the secondary emissions. Secondary emissions include emissions from any off-site support operation that would not be constructed or increase their emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions that come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train or from a vessel.

**Secretary**

Secretary of the Department of Natural and Environmental Resources

**Section 502(b)(10) changes**

Are changes that contravene an express permit term. Such changes do not include changes that:

- (1) would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), record-keeping, reporting or compliance certification requirements; or
- (2) are Title I modifications and changes to a federally enforceable emission limit, work practice or voluntary emission cap.

**Shutdown**

The cessation of the operation of a source or air pollution control equipment for any purpose.

**Significant air pollutant source or significant air pollutant source project**

Means any air contaminant source, or air contaminant source project, that emits the following:

- (1) Equal or greater than one hundred tons per year of any of the following air contaminants:
  - (a) PM<sub>10</sub>.
  - (b) PM<sub>2.5</sub>.
  - (c) Sulfur dioxide.
  - (d) Nitrogen oxides.
  - (e) VOCs.
- (2) Equal or greater than one hundred tons per year of carbon monoxide.
- (3) Equal or greater than two tons per year of lead.

## Significant

- (1) in reference to a net emissions increase or the potential of a stationary source to emit any of the following air pollutants, a rate of emissions that would equal or exceed any of the following rates:

Air Pollutant	Emission Rate (Tons/Yr)
Carbon monoxide	100
Nitrogen oxides	40
Sulfur dioxide	40
Particulate matter	25
PM <sub>10</sub>	15
PM <sub>2.5</sub>	10 (of direct PM <sub>2.5</sub> emissions); 40 (sulfur dioxide emissions); 40 (nitrogen oxides emissions); or 40 (VOC emissions), to the extent that any such pollutant is defined as a precursor for PM <sub>2.5</sub> .
Ozone (VOCs or nitrogen oxides)	40
Lead	0.6
Fluorides (excluding hydrogen fluoride)	3
Sulfuric acid mist	7
Hydrogen sulfide	10
Total Reduced Sulfur (including H <sub>2</sub> S)	10
Reduced Sulfur Compound (including H <sub>2</sub> S)	10
Non-Methane Organic Compounds from municipal waste landfills	50

- (a) Municipal waste combustor organic (measured as total tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2 grams per year (0.007055 pounds per year).
- (b) Municipal waste combustor metals (measured as particulate matter): fourteen megagrams per year (fifteen tons per year).
- (c) Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): thirty-six megagrams per year (forty tons per year).

- (2) In reference to a net emissions increase or the potential of a stationary source to emit a regulated NSR pollutant that the air pollutant and emission rate table in paragraph (1) of this definition does not list, any emission rate.
- (3) Notwithstanding paragraph (1) of this definition, "significant" means any emission rate or any net emissions increase associated with a major stationary source or major modification that would be constructed within ten kilometers of a Class I area, and have an impact on such area equal to or greater than one microgram per cubic meter (24-hour average).

**Significant Air Quality Impact Levels (for Class II and Class III Areas as defined in the Code of Federal Regulations- 40 CFR Part 52.21)**

An air quality impact equal to or greater than:

Air Pollutant	Annual	Averaging Time (Hours)			
		24	8	3	1
Sulfur Dioxide	1.0 µg/m <sup>3</sup>	5.0 µg/m <sup>3</sup>		25 µg/m <sup>3</sup>	7.8 µg/m <sup>3</sup>
PM10	1.0 µg/m <sup>3</sup>	5.0 µg/m <sup>3</sup>			
PM2.5	0.2 µg/m <sup>3</sup>	1.2 µg/m <sup>3</sup>			
Nitrogen oxide	1.0 µg/m <sup>3</sup>				7.5 µg/m <sup>3</sup>
Carbon Monoxide			500 µg/m <sup>3</sup>		2000 µg/m <sup>3</sup>
Ozone			2 µg/m <sup>3</sup>		

**Significant emissions increase**

Means, for a regulated NSR pollutant, an increase in emissions that is significant as defined in this rule for that pollutant.

**Significant Source**

A major stationary source or major modification that would exceed any of the significance levels defined in this regulation.

**Source**

Any structure, building, facility or installation (or combination thereof), which is located on one or more contiguous or adjacent properties under common ownership or operation, which emits or may emit any air pollutants.

**Stack**

Any chimney, flue, conduit or duct arranged to exhaust emissions into the ambient air.



## **Standards Conditions**

A temperature of 25° centigrade (77° Fahrenheit) and a pressure of 760 mm Hg (one atmosphere).

## **Standards of Performance for New Stationary Sources (SPNSS)**

The performance standards adopted by the US Environmental Protection Agency for new stationary sources as defined in 40 CFR 60.

## **Stationary source**

Any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

## **Surplus**

Means emission reductions made below an applicable source baseline which conform to the following:

- (1) Are below allowable emission rates.
- (2) DNER or USEPA has not relied on the emission reduction in a required attainment demonstration of a national ambient air quality standard or a demonstration of reasonable further progress.
- (3) The director has not relied on the emission reduction in issuing any permit under this chapter.
- (4) Is not required by any applicable laws.

Emission reductions can be used for offsets or emission reduction credits to the extent allowed under state or federal law.

## **Temporary clean coal technology demonstration project**

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

## **Temporary source**

Means any new source of air contaminants or modification of an air contaminant source, which will cease operation, be relocated, or obtain a new permanent permit-to-install within two years of beginning operation.

**Title V permit or permit (unless the context suggests otherwise)**

Means any permit or group of permits covering a Title V source that is issued, renewed, amended, or revised pursuant to Part VI of this Regulation.

**Title V program or permit program**

Means a program approved by the Administrator under Title V of the Act.

**Title V source**

Means any source subject to the permitting requirements of Part VI, as provided in sections (a) and (b) of Rule 601.

**Toxic or Hazardous Substances**

For the purpose of this regulations means either of the followings:

- (A) any chemical substance causing adverse effects on living organisms following ingestion, inhalation, topical or other parenteral exposure. An adverse effect includes any alteration in structure or function that is clearly deleterious to the organism causing that the body's normal compensatory and protective mechanisms become overwhelmed, resulting in irreversible or only partially reversible functional changes. For regulation purposes, toxic substances are classified henceforth on the basis of their adverse health effects in a biologic system. A toxic substance might be classified as a chemical carcinogen, genotoxic agent, developmental toxicant, reproductive toxicant, systemic toxicant, and/or sensory irritant. A chemical carcinogen is a type of toxic substance that has the ability to induce neoplasms in animals or humans. A genotoxic agent is a substance that may cause heritable changes or damage leading to heritable changes in genetic material. A developmental toxicant is a substance that may cause adverse effects on the developing organism from exposure prior to conception (either parent), during prenatal development, or postnatally to the time of sexual maturation. A reproductive toxicant is a substance that may induce a dysfunction affecting the processes of gametogenesis from its earliest stage to implantation of the conceptus in the endometrium. A systemic toxicant is a substance that may produce adverse effects on the function of various organ systems exclusive of cancer, genotoxicity, and developmental/reproductive toxicity. A sensory irritant is defined as a chemical which when inhaled via the nose will stimulate trigeminal nerve endings, evoke a burning sensation of the nasal passages, and inhibit respiration; most will induce coughing from laryngeal stimulation; also, are capable of stimulating

trigeminal nerve endings of the cornea and induce tearing; at high concentrations, particularly on moist facial skin, sensory irritants are capable of inducing a burning sensation; some have odorant and/or gustatory qualities; most will induce bronchoconstriction, usually at concentrations in the air higher than required for stimulation of nerve endings in the nasal passages.

- (B) Any air pollutants listed pursuant to Section 112(b) of the Clean Air Act Amendments of 1990.
- (C) Any air pollutants not listed pursuant to Section 112(b) of the Clean Air Act Amendments of 1990, but identified by the DNER through emission inventories or by other means and that is in conformity with the part (A) of this definition.

#### **ULSD**

Ultra Low Sulfur Diesel or ULSD means diesel fuel having sulfur content of 0.0015 percent (15 ppm) of sulfur by weight or less.

#### **Volatile Organic Compounds (VOC)**

Any chemical substance which contains carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates and ammonium carbonate determined to have photochemical reactivity. This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: Methane;ethane;methylene chloride (dichloromethane); 1, 1, 1-trichloroethane (methyl chloroform);1,1,1-trichloro-2,2,2-trifluoroethane(CFC-113); trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12) chlorodifluoromethane (CFC-22), trifluoromethane (CFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); Chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b), 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125; 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC143a); 1,1-difluoroethane (HFC-152a); and perfluorocarbon compounds which fall into these classes:

- (i) cyclic branched, or linear, completely fluorinated alkanes;
- (ii) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (iii) cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and
- (iv) sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

**Worst-case operational scenario**

For Title V sources, the operational scenario under which the emissions of individual pollutants would be at the maximum levels allowable under the applicable requirements for the particular source.

$\mu\text{g}/\text{m}^3$

Means microgram per cubic meter

## **RULE 210: NON-ATTAINMENT PROVISIONS**

**Rule 210A – Non-attainment provisions - review of new major stationary sources and major modifications at existing major stationary sources - stationary source applicability and exemptions.**

**(A) Start construction limitation.**

No owner or operator of a new major stationary source or major modification at an existing major stationary source located in a non-attainment area shall begin actual construction of such major stationary source or major modification unless, at a minimum, Rules 210A to 210G of the RCAP have been met and the owner or operator of the stationary source has obtained a valid Location Approval according to Rule 201 and a construction permit according to Rule 203.

**(B) Air pollutants covered.**

Rules 210A to 210G shall apply to any new major stationary source and any major modification at an existing major stationary source with respect to each regulated NSR pollutant that the stationary source would emit, except as this Rule would otherwise allow.

**(C) Attainment/non-attainment applicability.**

Except as provided in Rules 210A and 210C of the RCAP, Rules 210A to 210G of the RCAP apply only to any new major stationary source or major modification at an existing major stationary source that would be constructed in an area designated under 40 CFR 81.355 as non-attainment for an air pollutant for which the stationary source or modification is major.

**(D) Secondary emissions.**

If a major stationary source is subject to this Rule on the basis of the direct emissions from the major stationary source, the applicable conditions of this Rule shall also be met for secondary emissions. However, secondary emissions may be exempt from LAER requirements and compliance certification requirements under paragraphs (A)(1) and (A)(2) of Rule 210B. Consideration of the indirect impacts of motor vehicles and aircraft traffic regulated under Title II of the Clean Air Act (motor vehicles and aircraft) is not required under this Rule.

**Rule 210B – Non-attainment provisions - conditions for approval.**

**(A) Conditions for a construction permit approval.**

If the DNER finds that a new major stationary source or major modification at an existing major stationary source for which a construction permit application has been submitted would be constructed in an area designated in 40 CFR 81.355 as non-attainment for an air pollutant for which the major stationary source or major modification is major, approval may be granted only if the following conditions are met:

(1) Lowest achievable emission rate (LAER).

A new major stationary source or major modification at an existing major stationary source is required to meet an emission limitation that specifies the LAER for such stationary source.

Any permits issued without an enforceable numerical emission standard must contain enforceable conditions to ensure that the design characteristics or equipment will be properly maintained, or that the operational conditions will be properly performed, so as to continuously achieve the assumed degree of control.

LAER is required only for those non-attainment air pollutants for which the new major stationary source emits equal or greater than the major new source threshold for the non-attainment pollutant or an existing major source for the non-attainment pollutant has a major modification that equals or exceeds the significant emission rate for that non-attainment pollutant, although the DNER may choose to require LAER for air pollutants that do not exceed these values.

The new emission limitations for the new stationary source as well as any existing stationary sources affected must be federally enforceable.

(2) Compliance certification.

The applicant shall certify that all existing major stationary sources owned or operated by the applicant, or any entity controlling, controlled by, or under common control with the applicant, in Puerto Rico as the proposed major stationary source or major modification are in compliance with all applicable emission limitations and standards under the Clean Air Act, or are in compliance with an expeditious schedule which is federally enforceable or contained in a court decree.

(3) Emission offsets. (a) Emission reductions (offsets) from existing air contaminant sources in the area of the proposed major stationary source, whether or not under the same ownership, are required such that there will be reasonable progress, as determined by the DNER, toward attainment of the applicable national ambient air quality standard.

(b) Reserved

(c) Emission offsets must meet the baseline limitations of Rule 210D of the RCAP, the location limitations of Rule 210E of the RCAP, and the offset ratio limitations of Rule 210F of the RCAP.

(d) Emission offsets are required only for those non-attainment air pollutants for which the new major stationary source is major and for major modifications at existing major sources for which the increased non-attainment emissions equal or exceed the significant emission rates.

(e) The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset in accordance with Section 173 of the Clean Air Act shall be determined by summing the difference between the allowable emissions after the major modification and the actual emissions before the modification for each emissions unit.

(4) Net air quality benefit.

The emission offsets must provide a positive net air quality benefit in the affected area pursuant to Rule 210E of the RCAP. Atmospheric dispersion modeling is not necessary for VOCs and nitrogen oxides in ozone non-attainment areas. Instead, complying with the requirements of

paragraphs (A)(1) to (A)(3) of this Rule and Rule 210E of the RCAP will be considered adequate to meet this condition.

(5) Reasonable further progress.

Construction permits may be issued if the DNER determines that, by the time the source is to commence operation, sufficient offsetting emissions reductions have been obtained, such that total allowable emissions from existing sources in the applicable non-attainment areas, from new or modified sources which are not major emitting facilities, and from the proposed source will be sufficiently less than the total emissions from existing sources prior to the application for such permit to construct or modify so as to represent reasonable further progress as defined in Section 171 of the Clean Air Act.

(B) Exemptions from certain conditions.

(1) Fuel switch exemption.

The DNER may exempt the following major stationary sources or major modifications from the limitation required under Rule 210C of the RCAP or the emission offsets required under paragraphs (A)(3) and (A)(4) of this Rule:

- (1) Major stationary sources that must switch fuels due to lack of adequate fuel supplies or where a major stationary source is required to be modified as a result of new United States Environmental Protection Agency regulations and no exemption from such regulation is available to the major stationary source.

Such exemptions may be granted only if the following applies:

- (a) The applicant demonstrates that it made its best efforts to obtain sufficient emission offsets and that such efforts were unsuccessful.
- (b) The applicant has secured all available emission offsets; and
- (c) The applicant will continue to seek the necessary emission offsets and apply them when they become available.

(2) Temporary stationary sources/portable facilities/construction emissions:

The DNER may exempt the following major stationary sources or major modifications from the emission offsets required under paragraphs (A)(3) and (A)(4) of this Rule:

- (a) Portable facilities that will be relocated outside of the non-attainment area after no more than 90 days.
- (b) Emissions generated from the construction phase of a new major stationary source.

**Rule 210C – Non-attainment provisions - stationary sources located in designated attainment or unclassifiable areas which would cause or contribute to a violation of a national ambient air quality standard.**

**(A) Applicability.**

This Rule applies only to new major stationary sources or major modifications at existing major stationary sources that will be located in an area designated in 40 CFR 81.355 as attainment, attainment/unclassifiable, unclassifiable/attainment or unclassifiable if the emissions from the major stationary source or major modification would exceed the following significance levels at any locality that does not meet the national ambient air quality standard: Averaging Time (Hours)

Air Pollutant	Annual	Averaging Time (Hours)			
		24	8	3	1
Sulfur Dioxide	1.0 µg/m <sup>3</sup>	5.0 µg/m <sup>3</sup>		25 µg/m <sup>3</sup>	
PM10	1.0 µg/m <sup>3</sup>	5.0 µg/m <sup>3</sup>			
PM2.5	0.2 µg/m <sup>3</sup>	1.2 µg/m <sup>3</sup>			
Nitrogen oxide	1.0 µg/m <sup>3</sup>				7.5 µg/m <sup>3</sup>
Carbon Monoxide			500 µg/m <sup>3</sup>		2000 µg/m <sup>3</sup>

(B) A proposed major source or major modification subject to Rule 210C(A) shall reduce the impact of its emissions upon air quality by obtaining sufficient emission reductions to, at a minimum, compensate for its adverse ambient impact where the major source or major modification would otherwise cause or contribute to a violation of any national ambient air quality standard. In the absence of such emission reductions, the DNER shall deny the proposed construction.

(C) The requirements of Rule 210C(B) shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as non-attainment pursuant to section 107 of the Clean Air Act.

**Rule 210D – Non-attainment provisions - baseline for determining credit for emission and air quality offsets.**

**(A) Applicability.**

This Rule applies to any new major stationary source or major modification at an existing major stationary source that will be constructed in an area designated in 40 CFR 81.355 as non-attainment for an air pollutant for which the major stationary source or major modification is major.



(B) Baseline for determining credit for emission offsets.

(1) The baseline for determining credit for emission offsets shall be the emission limit under the Puerto Rico state implementation plan in effect at the time the application to construct or modify a source is filed. Thus, credit for emission offset purposes may be allowed for existing control that goes beyond that required by the Puerto Rico state implementation plan. Where the Puerto Rico state implementation plan does not contain an emission limitation for that source or source category, the emission offset baseline involving such sources shall be the actual emissions determined in accordance with the following:

(a) The baseline emissions for existing sources providing the offsets shall be calculated using the actual emissions definition specified in Rule 102 of the RCAP. The DNER shall allow a pounds per hour averaging period for determining emission offsets when a ton per year averaging period results in a significant over or underestimation of emission offset credits.

(b) Where the emission limits under the Puerto Rico state implementation plan allow greater emissions than the potential to emit of the source, emission offset credit will be allowed only for control below this potential.

(2) The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within a designated non-attainment area for which the preconstruction review program was adopted.

(C) Old growth cushion.

Only those emissions that have been set aside for new source growth in the most recent Puerto Rico state implementation plan can be used by a major stationary source or major modification to offset emissions. Emissions reserved for new source growth in past Puerto Rico state implementation plans cannot be used by a major stationary source or major modification to offset emissions.

(D) Combustion of fuels.

Generally, the emissions for determining emission offset credit involving an existing fuel combustion stationary source will be the allowable emissions under the Puerto Rico state implementation plan for the type of fuel being burned at the time the major stationary source application is filed (i.e., if the existing owner or operator of the stationary source has switched to a different type of fuel at some earlier date, any resulting emission reduction [either actual or allowable] shall not be used for emission offset credit). If the owner or operator of the existing stationary source commits to switch to a cleaner fuel at some future date, emission offset credit based on the allowable emissions for the fuel involved is not acceptable unless the permit is conditioned to require the use of specific alternative control measures that would achieve the same degree of emission reductions should the stationary source be switched back to a dirtier fuel at some later date. The use of a specific alternative control measure will not apply when the need to switch to a dirtier fuel is caused by a natural disaster, emergency, force majeure, supply disruption, or other extraordinary event outside of the facility's control.

The applicant must provide information to the DNER that documents that long-term supplies, at least one year, of the new fuel are available. Documentation may consist of fuel supply contracts or documents showing on-site inventories.

(E) Operating hours and stationary source shutdown.

(1) The owner or operator of a stationary source may be credited with emission reductions achieved by shutting down an existing stationary source or permanently curtailing production or operating hours below baseline levels if the following requirements are met:

(a) Such reductions are surplus, permanent, quantifiable, and federally enforceable or legally and practicably enforceable by the state.

(b) The shutdown or curtailment occurred after the last day of the base year used for the Puerto Rico state implementation planning process. For purposes of this paragraph, the DNER may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the most recent attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units.

(2) Emission reductions that do not meet the requirements of paragraph (E)(1) of this Rule may be credited if the shutdown or curtailment occurred on or after the date the major stationary source application is filed, or, if the applicant can establish that the proposed major stationary source is a replacement for the shutdown or curtailed stationary source and the cutoff date provisions of paragraph (E)(1)(b) of this Rule are observed.

(F) Credit for volatile organic compound (VOC) substitution.

No emission offset credit may be allowed for replacing one VOC with another of lesser reactivity, except for those compounds listed in Table 1 of the United States Environmental Protection Agency's "Recommended Policy on Control of Volatile Organic Compounds".

(G) Banking of emission offset credit.

The DNER may allow the owner of an existing stationary source that reduces its own emissions to bank any resulting reductions beyond those required by the Puerto Rico state implementation plan for use under this ruling, even if none of the offsets are applied immediately to a new major stationary source permit. The DNER may allow these banked offsets to be used, as long as these banked emissions are consistent with the Puerto Rico state implementation plan control strategy. The DNER may not approve the construction of a major stationary source using banked offsets if the new major stationary source would interfere with the Puerto Rico state implementation plan control strategy or if such use would violate any other condition set forth for use of offsets.

(H) Offset credit for meeting new source performance standards or national emission standards for hazardous air pollutants.

Where a stationary source is subject to an emission limitation established in a New Source Performance Standard or a National Emission Standard for Hazardous Air Pollutants, (i.e., requirements under Sections 111 and 112, respectively, of the Clean Air Act), and a different Puerto Rico State implementation plan limitation, the more stringent limitation shall be used as a baseline for determining credit for emission offsets. The difference in emissions between the Puerto Rico state implementation plan and the New Source Performance Standard or a National Emission Standard for Hazardous Air Pollutants, for such stationary source may not be used as offset credit.

(I) All emission reductions claimed as offset credit shall be federally enforceable.

**Rule 210E – Non-attainment provisions - location of offsetting emissions.**

(A) Applicability.

This Rule applies to any major stationary source or major modification that is to be constructed in an area designated in 40 CFR 81.355 as non-attainment for an air pollutant for which the major stationary source or major modification is major.

(B) All regulated NSR pollutants as defined under Rule 102 of the RCAP.

The owner or operator shall obtain creditable emission reductions of any regulated NSR pollutant from the same source or other sources in the same non-attainment area, except that the DNER may allow the owner or operator of a major stationary source to obtain such emission reductions in another non-attainment area if the following requirements are met:

- (1) The other non-attainment area has an equal or higher non-attainment classification, provided that the higher offset ratio is utilized, than the non-attainment area in which the major stationary source is located, and;
- (2) Emissions from such other non-attainment area contribute to a violation of the national ambient air quality standard in the non-attainment area in which the major stationary source is located.

(C) Sulfur dioxide, particulate matter, PM<sub>10</sub>, PM<sub>2.5</sub>, lead and carbon monoxide.

Since the air quality impact of sulfur dioxide, particulate matter, PM<sub>10</sub>, PM<sub>2.5</sub>, lead and carbon monoxide is site dependent, simple area wide mass emission offsets may not be appropriate. For these air pollutants, the DNER may require atmospheric dispersion modeling to ensure that the emission offsets provide a positive net air quality benefit. This modeling shall be conducted in accordance with the EPA's guidance.

**Rule 210F – Non-attainment provisions - offset ratio requirements.**

(A) In meeting the emissions offset in Rules 210A to 210G of the RCAP, the following shall occur:

- (1) The ratio of total actual emissions reductions to the emissions increase shall be at least greater than 1.0 to 1.0 unless an alternative ratio is provided for the applicable non-

attainment area in paragraphs (C) and (D) of this Rule or in any non-attainment area rule in Part IV of the RCAP.

(2) The emissions offsets obtained shall be for the same regulated NSR pollutant.

(B) Offsets may be obtained from areas that have a higher non-attainment classification, provided the higher offset ratio is utilized, than the non-attainment area in which the major stationary source is to be located.

(C) Ozone non-attainment area offset requirements for VOC and nitrogen oxides are as follows:

(2) Marginal areas, the minimum required offset ratio is 1.1 to 1.0.

(3) Moderate areas, the minimum required offset ratio is 1.15 to 1.0.

(4) Serious areas, the minimum required offset ratio is 1.2 to 1.0.

(5) Severe areas, the minimum required offset ratio is 1.3 to 1.0.

(6) Extreme areas, the minimum required offset ratio is 1.5 to 1.0.

(D) Reserved

(E) Nitrogen oxides waiver.

Paragraph (A) of this Rule shall not apply in areas designated non-attainment for ozone that have been granted a nitrogen oxide waiver under Section 182(f) of the Clean Air Act.

#### **Rule 210G- Non-attainment provisions - administrative procedures for emission offsets.**

(A) Procedures for emission offsets.

Emission offsets shall be proposed by the owner or operator of the proposed major stationary source. The emission reduction committed to must be enforceable by the DNER and under the Clean Air Act, and must be accomplished by the new major stationary source's start-up date. Where the new major stationary source is a replacement for a major stationary source that is being shut down in order to provide the necessary offsets, the DNER may allow up to 180 days for shakedown of the new major stationary source before the existing major stationary source is required to cease operation.

(1) Major stationary source initiated emission offsets.

The owner or operator of a major stationary source may propose emission offsets that involve the following:

(a) Reductions from stationary sources controlled by the major stationary source owner or operator (internal emission offsets).

(b) Reductions from neighboring stationary sources (external emission offsets). The owner or operator of the major stationary source does not have to investigate all possible emission offsets. As long as the emission offsets obtained represent reasonable progress toward attainment (in the DNER's judgment), they will be acceptable to the DNER. The DNER shall review and approve the emission offsets to assure that the emission offsets will be as effective as proposed by the

owner or operator of the major stationary source. An internal emission offset will be considered enforceable if it is made a Puerto Rico state implementation plan requirement by inclusion as a condition of the new major stationary source permit and the permit is forwarded to the United States Environmental Protection Agency. An external emission offset will not be enforceable unless the affected stationary source providing the emission reductions is subject to a new Puerto Rico state implementation plan requirement or federally enforceable construction permit condition or a permit condition legally and practicably enforceable by DNER to ensure that its emissions will be reduced by a specified amount in a specified time.

## RULE 425 - PROVISIONS FOR SO<sub>2</sub> NON-ATTAINMENT AREAS

### I. Applicability

This Subpart applies to the following sources:

- 1) PREPA San Juan (Mercado Central Ave. Lot 28, Zona Portuaria Puerto Nuevo, San Juan)
- 2) PREPA Palo Seco (Road PR 165 Km. 30.8, Toa Baja)
- 3) PREPA Aguirre (Road PR 3 Km. 152.7 Aguirre, Salinas)
- 4) Any other major source in or nearby the San Juan or Guayama-Salinas SO<sub>2</sub> non-attainment areas that has not undergone a major modification or construction of a new emission unit subject to Rule 210; in which case, the SO<sub>2</sub> emission limit will be determined by a lowest achievable emission rate (LAER) analysis pursuant to Rule 210.

The limitations set forth applies to current and future owners and operators of the aforementioned sources.

### II. Emission Limitations for PREPA San Juan and PREPA Palo Seco

The owner or operator of a stationary emission source at PREPA San Juan and PREPA Palo Seco must comply with the following emission limitations:

#### (A) San Juan SO<sub>2</sub> Non-Attainment Area Emission Limit -Interim Plan (Fuel switching to Ultra Low Sulfur Diesel)

- (1) No owner or operator of any combustion turbine units located at the PREPA San Juan or Palo Seco facilities shall cause or permit the burning of any fuel oil above a maximum sulfur content of 0.0015 percent by weight (15ppm), by no later than February 1, 2023, as established as follow:

Table 1: PREPA San Juan and PREPA Palo Seco Fuel Switching to Ultra Low Sulfur Diesel

Facility	Units	Compliance Start Date	Projected Fuel Conversion
PREPA San Juan	SJ5/SJ6	2/1/2023	ULSD
PREPA Palo Seco	PSGT 1-1	2/1/2023	ULSD
PREPA Palo Seco	PSGT 1-2	2/1/2023	ULSD
PREPA Palo Seco	PSGT 2-1	2/1/2023	ULSD
PREPA Palo Seco	Mobile Pac 1	2/1/2023	ULSD
PREPA Palo Seco	Mobile Pac 2	2/1/2023	ULSD
PREPA Palo Seco	Mobile Pac 3	2/1/2023	ULSD

(B) San Juan SO<sub>2</sub> Non-Attainment Area Emission Limits-Final Plan (IRP Emission Units Retirements)

(1) The emission units from PREPA Palo Seco shall be retired by the dates in Table 2 unless an alternative date is authorized by the PREB. This alternative date shall be no later than December 31, 2025.

(2)

PREPA must submit a revision of the construction and operation emission source permits and provide DNER a copy of PREB's alternative retirement date authorization and an explanation of why an alternative date is necessary.

Table 2: PREPA Palo Seco Emission Units Retirement Schedule

Facility	Units	Retirements Date <sup>1</sup>
PREPA Palo Seco	PS1	6/30/2023
PREPA Palo Seco	PS2 *	6/30/2023
PREPA Palo Seco	PS3	12/31/2024
PREPA Palo Seco	PS4	12/31/2025
PREPA Palo Seco	PSGT 2-2 *	6/30/2023
PREPA Palo Seco	PSGT 3-1	6/30/2023
PREPA Palo Seco	PSGT 3-2 *	6/30/2023

\* The PS2, PSGT 2-2 and PSGT 3-2 units were permanently shut down and out of use on November 9, 2022 to generate netting credits for the MobilePac units according to EPA's determination regarding the PSD/SO<sub>2</sub> NNSR Non-Applicability Analysis per 40CFR Part 52.21 and 40 CFR Part 51, Appendix S and DNER's emission source construction permit PFE-70-0120-0010-II-C.

(3) The following PREPA Palo Seco emission units will stay operating after the IRP emission units retirements, with the emission limits presented below:

---

1 Dates were provided by the Puerto Rico Energy Bureau via letter to DNER on October 18, 2022 and updated on November 15, 2022. According to the letter, these dates are estimated "based on capacity balance and planned." If PREB issues any order or IRP amendment requiring retirement of these units prior to the dates provided herein, PREPA must comply with such order or IRP amendment.

Table 3: PREPA Palo Seco Emission Limits

Power Block/Boiler Units	Stack	PTE 100% load in ULSD 0.0015%/wt (Lb/hr SO <sub>2</sub> )
PB1	PSGT 1-1	0.5
	PSGT 1-2	0.5
PB2	PSGT 2-1	0.5
PS MP1	PSMP1-1	0.4
PSMP2	PSMP2-1	0.4
PS MP3	PSMP3-1	0.4

- (4) The emission units from PREPA San Juan shall be retired by the dates in Table 4 unless an alternative date is authorized by the PREB. This alternative date shall be no later than December 31, 2025.
- (5) PREPA must submit a revision of the construction and operation emission source permits and provide DNER a copy of PREB's alternative retirement date authorization and an explanation of why an alternative date is necessary.

Table 4: PREPA San Juan Emission Units Retirement Schedule

Facility	Units	Retirements Date <sup>2</sup>
PREPA San Juan	SJ7	6/30/2023
PREPA San Juan	SJ8	6/30/2023
PREPA San Juan	SJ9	12/31/2024
PREPA San Juan	SJ10	6/30/2023

- (6) The following PREPA San Juan emission units will stay operating after the IRP emission units retirements, with the emission limits presented below:

<sup>2</sup> Dates were provided by the Puerto Rico Energy Bureau via letter to DNER on October 18, 2022 and updated on November 15, 2022. According to the letter, these dates are estimated "based on capacity balance and planned." If PREB issues any order or IRP amendment requiring retirement of these units prior to the dates provided herein, PREPA must comply with such order or IRP amendment.



Table 5: PREPA San Juan Emission Limits

PREPA San Juan	Stack	PTE. 100% load Natural Gas* (Lb/hr SO <sub>2</sub> )	Sulfur Content in LNG
SJ 5+6	SJ5&6	9.8	1 gr/100 dscf

\* The units SJ5&6 have been operating as dual-fuel units since late 2019 and shall be switched to ULSD in no later than 2/1/2023. PRDNER used the most conservative rate or LNG 100% load.

### III. Emission Limitations for PREPA Aguirre

The owner or operator of an emission source at PREPA Aguirre must comply with the following emission limitations:

(A) Guayama - Salinas SO<sub>2</sub> Non-Attainment Area Emission Limit -Interim Plan (Fuel switching to Ultra Low Sulfur Diesel)

(1) No owner or operator of any combustion turbine units located at the PREPA Aguirre facility shall cause or permit the burning of any fuel oil above a maximum sulfur content of 0.0015 percent by weight (15 ppm), by no later than February 1, 2023, as follow:

Table 6: PREPA Aguirre Fuel Switching to Ultra Low Sulfur Diesel

Facility	Units	Compliance Start Date	Projected Fuel Conversion
PREPA Aguirre	AGGT2-1	2/1/2023	ULSD
PREPA Aguirre	AGGT2-2	2/1/2023	ULSD
PREPA Aguirre	CC1-1HRSG	2/1/2023	ULSD
PREPA Aguirre	CC1-2HRSG	2/1/2023	ULSD
PREPA Aguirre	CC1-3HRSG	2/1/2023	ULSD
PREPA Aguirre	CC 1-4HRSG	2/1/2023	ULSD
PREPA Aguirre	CC 2-1HRSG	2/1/2023	ULSD
PREPA Aguirre	CC2-2HRSG	2/1/2023	ULSD
PREPA Aguirre	CC2-3HRSG	2/1/2023	ULSD
PREPA Aguirre	CC2-4HRSG	2/1/2023	ULSD

(B) Guayama - Salinas SO<sub>2</sub> Non-Attainment Area Emission Limit -Final Plan (IRP Emission Units Retirements)

- (1) The emission units from PREPA Aguirre shall be retired by the dates in Table 7 unless an alternative date is authorized by the PREB. This alternative date shall be no later than December 31, 2029.
- (2) PREPA must submit a revision of the construction and operation emission source permits and provide DNER a copy of PREB's alternative retirement date authorization and an explanation of why an alternative date is necessary.

Table 7: PREPA Aguirre Emission Units Retirement Schedule

Facility	Units	Retirements Date <sup>3</sup>
PREPA Aguirre	AG1	12/31/2025
PREPA Aguirre	AG2	12/31/2026
PREPA Aguirre	CC1-1HRSG	12/31/2028
PREPA Aguirre	CC1-2HRSG	12/31/2028
PREPA Aguirre	CC1-3HRSG	12/31/2028
PREPA Aguirre	CC 1-4HRSG	12/31/2028
PREPA Aguirre	CC 2-1HRSG	12/31/2029
PREPA Aguirre	CC2-2HRSG	12/31/2029
PREPA Aguirre	CC2-3HRSG	12/31/2029
PREPA Aguirre	CC2-4HRSG	12/31/2029

- (2) The following PREPA Aguirre emission units will stay operating after the IRP emission units retirements, with the emission limits presented below:

---

<sup>3</sup> Dates were provided by the Puerto Rico Energy Bureau via letter to DNER on October 18, 2022 and updated on November 15, 2022. According to the letter, these dates are estimated "based on capacity balance and planned." If PREB issues any order or IRP amendment requiring retirement of these units prior to the dates provided herein, PREPA must comply with such order or IRP amendment.

Table 2: PREPA Aguirre Emission Limits

Power Block/Boiler Units	Stack *	PTE. 100% load in ULSD 0.0015%/wt (Lb/hr SO <sub>2</sub> )
AGGT2	AGGT2-1	0.46
	AGGT2-2	0.46

\*According to IRP, only gas turbines AGGT2-1, 2-2 will stay operating in PREPA Aguirre.

#### IV. Emission Limitations for San Juan and Guayama-Salinas Non-Attainment Areas

- (A) Any emission source, except PREPA emission units, within the boundaries of San Juan and Guayama-Salinas Non-Attainment Areas or nearby sources having a significant air quality impact on sulfur dioxide on a SO<sub>2</sub> Non-Attainment Area, shall comply with all the prohibitions provided in Rules 401 through 421 and meet the limitations specified in this subsection.
- (1) No owner or operator of any combustion units within the boundaries of San Juan and Guayama-Salinas Non-Attainment Areas, shall cause or permit the burning of any fuel oil above a maximum sulfur content of 0.0015 percent by weight (15 ppm) by no later than April 9, 2023.
  - (2) No owner or operator of any combustion units from a nearby sources having a significant air quality impact in the San Juan and Guayama-Salinas SO<sub>2</sub> Non-Attainment Areas shall cause or permit the burn of any fuel oil with a maximum sulfur content above 0.0015 percent by weight (15 ppm) by April 9, 2023.
  - (3) Notwithstanding the provisions of paragraphs IV(A)(1) to IV(A)(2) of this rule, the requirements of 40 CFR Part 60 shall be followed where applicable.
- (B) The owner or operator of any stationary source subject to the limitations of paragraph IV(A) that comply with the emission limits established by the date required in this Rule shall:
- (1) Certify in writing to the DNER that such source is in full compliance with all requirements of this rule. Such certification shall include the following:
    - a. Equipment description.
    - b. DNER permit number (if assigned).
    - c. All necessary data (consistent with the appropriate permit appendices) and calculations which confirm the compliance status.
    - d. The test method for determining compliance as specified in paragraph (V) of this rule, "Measurement methods and procedures", whichever is applicable.

(C) The owner or operator of any stationary source subject to the limitations of paragraph IV(A) that cannot comply with the emission limits established by the date required in this Rule shall:

(1) Submit for approval a compliance plan under Rule 205 in which the owner or operator of such stationary source demonstrates compliance with all applicable limitations specified in Rule 425 and provides for the implementation of RACT requirements, if applicable. The compliance plan shall be in writing and must include:

- (a) the name of the responsible official for compliance demonstration activities at the stationary source;
- (b) a description of the air pollution control system, specific control equipment, stacks, vents, raw materials, fuels, and other items or parameters which will be tested, monitored, sampled, analyzed, or measured to determine that the stationary source is in compliance on a continuous basis;
- (c) a description of the specific testing methods, monitoring techniques, sampling and analysis methods, and measurements that will be used to demonstrate compliance on a continuous basis;
- (d) a description of other relevant records or reports reasonably needed to demonstrate compliance on a continuous basis;
- (e) the frequency of testing, monitoring, sampling, analyzing, or measuring necessary to demonstrate compliance on a continuous basis.
- (f) the schedule and a detailed explanation when a physical modification of the stationary source is needed to achieve compliance.
- (g) In case of a non-permitted source, the compliance plan shall include the emission source permit application in accordance of Part II or Part VI of the RCAP, as applicable.
- (h) the date by which the source will achieve compliance with Rule 425.

(2) Implement the DNER's approved compliance plan and demonstrate final compliance with applicable limitations established in Rule 425.

(3) Certify compliance by a responsible official, who shall state, based on information and belief formed after reasonable inquiry, that the information certified is true and accurate.

## V. Measurement methods and procedures

- (A) Unless otherwise specified in paragraph V(B) of this rule, the non-continuous test methods used for determining compliance with the allowable emission limits in this rule shall be those specified in 40 CFR Part 60.
- (B) The test methods and procedures for PREPA to determine compliance with the allowable emission limit for any fuel, other than coal, shall be the following:
  - (1) On site fuel sampling of the ULSD to be fired at PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities and LNG at PREPA San Juan facility.
  - (2) Each batch of fuel that is received at the PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities should be sampled in accordance with USEPA Method 19, ASTM D2622, D4294, D5453, D7039, or other appropriate EPA or ASTM method.
  - (3) A representative and sufficient amount of a sample shall be obtained for each batch of fuel prior to use. This fuel sample shall be analyzed for:
    - a. Sulfur content (percent by weight)
    - b. Heat value
    - c. Density
  - (4) PREPA shall ensure that each of the affected units from PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities shall have a fuel monitor for each of the type of fuel burned. PREPA shall monitor and record the amount of each fuel type burned at each of the units on an hourly basis.
  - (5) Each sample shall be submitted in a timely manner to a qualified laboratory and an analysis obtained for the constituents/properties. PREPA shall maintain records of each laboratory analysis performed for a period of at least five (5) years.
  - (6) PREPA shall calculate and record SO<sub>2</sub> emissions for each unit on a monthly basis. In calculating the SO<sub>2</sub> emissions, PREPA shall assume that 100% of the sulfur in fuel is converted to SO<sub>2</sub>.
  - (7) PREPA shall maintain a monthly record of the following information for each unit:
    - a. Fuel used, including hourly usage and total fuel used for the month
    - b. Sulfur content of the fuel, fuel density, fuel heating value, and the basis for the sulfur content used (fuel analysis showing date sample collected, type of fuel, sulfur content, and fuel heating value)
    - c. SO<sub>2</sub> emission rates (lb/hr)
- (C) All data, calculations and reports from any performance test or fuel sample developed for the purpose of demonstrating compliance with this rule shall be retained for a minimum of five years and shall be available for inspection by DNER's representative.

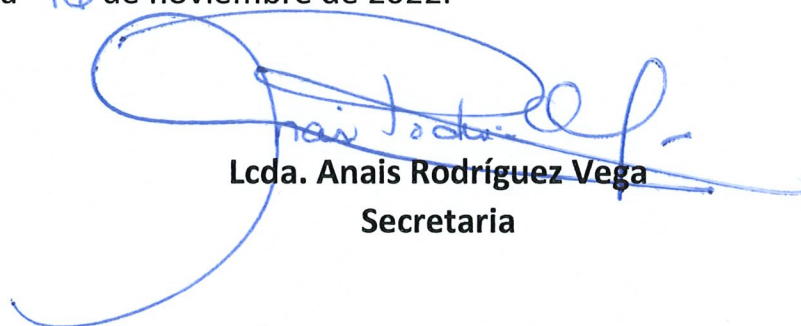
- (D) Any owner or operator of any sulfur dioxide emission source subject to this rule, shall document any compliance test or applicable emission tracking procedure, shall document compliance with any applicable emission rate limits and shall retain all data, calculations and reports from any performance test, fuel sample, or operating rate monitor utilized for the purpose of demonstrating compliance with the applicable emission limits, emission tracking requirements, or emission rate limits for a period of not less than five years and shall make such records available for inspection by and submittal to the DNER upon request.
- (E) Nothing in this rule shall be interpreted to prevent the DNER from issuing orders to require performance testing, or fuel sampling or to require record-keeping and reporting of emission information. Any such data may be used to further evaluate compliance with this rule.
- (F) Any owner or operator of any sulfur dioxide source subject to this rule, shall demonstrate compliance with the combined hourly emission limits by performing emission tests in accordance with V(A) and V(B) of this rule.

## **VI. Contingency Measures**

- (A) If emission sources do not achieve compliance with the emission limits established in Rule 425 (II), (III) and (IV) by the dates provided in these subparagraphs, it will be subject to a compliance inspection and enforcement action. This includes expedited procedures for establishing enforceable consent agreements pending the adoption of revised SIPs. Any source that is found in violation of any compliance plan approved by the DNER or any requirement within such plan will be subject to sanctions specified in Rule 115.
- (B) If a new measure/control is promulgated and scheduled to be implemented at the federal or state level, and that measure/control is determined to be sufficient to address a violation of the SO<sub>2</sub> NAAQS, additional local measures may be unnecessary. Furthermore, DNER will submit to U.S. EPA an analysis to demonstrate the proposed measures are adequate to return the area to attainment.
- (C) The DNER may require, any owner or operator responsible for any source of sulfur dioxide emissions which may be contributing to air pollution, to install, operate, and maintain monitoring devices; to maintain records; and file periodic reports to the DNER.
  - (1) The DNER may require the owner or operator to submit an “Ambient Air Quality Monitoring Plan”. Such plan shall include an air quality and meteorological measurement network consistent with the objective of obtaining an accurate assessment of the sulfur dioxide air quality and meteorology within the zone impacted by sulfur dioxide emissions from the source. The plan shall comply with the USEPA guidelines. The DNER may issue additional orders pursuant to this paragraph to require that a previously submitted plan be clarified, updated, corrected, supplemented, or otherwise amended.



Este Reglamento es aprobado por la Secretaria del Departamento de Recursos Naturales y Ambientales a tenor de las facultades que le han sido conferidas por la Ley Núm. 416, según enmendada, mejor conocida como “Ley sobre Política Pública Ambiental”, la Ley Núm. 38-2017, según enmendada, mejor conocida como “Ley de Procedimiento Administrativo Uniforme del Gobierno de Puerto Rico” y la Ley Núm. 23 de 20 de junio de 1972, según enmendada, mejor conocida como “Ley Orgánica del Departamento de Recursos Naturales y Ambientales”. En San Juan Puerto Rico a 16 de noviembre de 2022.

A handwritten signature in blue ink, appearing to read 'Anaís Rodríguez Vega', is written over the printed name and title. The signature is stylized with a large loop at the beginning and a long horizontal stroke extending to the right.

**Lcda. Anaís Rodríguez Vega**  
**Secretaria**

