APPENDIX A

40 CFR 60.8 Performance tests.

1. Within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility and at such other times as may be required by the Administrator under section 114 of the Act, the owner or operator of such facility shall conduct performance tests(s) and furnish the Administrator a written report of the results of such performance tests(s).
[40 CFR 60.8(a)]

2. Performance tests shall be conducted and data reduced in accordance with the test methods and procedures contained in each applicable subpart unless the Administrator (1) specifies or approves, in specific cases, the use of a reference method with minor changes in methodology, (2) approves the use of an equivalent method, (3) approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance, (4) waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the affected facility is in compliance with the standard, or (5) approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors. Nothing in this paragraph shall be construed to abrogate the Administrator's authority to require testing under section 114 of the Act.
[40 CFR 60.8(b)]

3. Performance tests shall be conducted under such conditions as the Administrator shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of the performance tests. Operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test nor shall emissions in excess of the level of the applicable emission limit during periods of startup, shutdown, and malfunction be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.
[40 CFR 60.8(c)]

4. The owner or operator of an affected facility shall provide the Administrator at least 30 days prior notice of any performance test, except as specified under other subparts, to afford the Administrator the opportunity to have an observer present.
[40 CFR 60.8(d)]

5. The owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:

   (a) Sampling ports adequate for test methods applicable to such facility. This includes (i) constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by applicable test methods and procedures and (ii) providing a stack or duct free of cyclonic flow during performance tests, as demonstrated by applicable test methods and procedures;

   (b) Safe sampling platform(s);

   (c) Safe access to sampling platform(s); and

   (d) Utilities for sampling and testing equipment.
[40 CFR 60.8(e)]

6. Unless otherwise specified in the applicable subpart, each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three runs shall apply. In the event that a sample is

accidentally lost or conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances, beyond the owner or operator's control, compliance may, upon the Administrator's approval, be determined using the arithmetic mean of the results of the two other runs.
[40 CFR 60.8(f)]

40 CFR 60.9 Availability of information.

1. The availability to the public of information provided to, or otherwise obtained by, the Administrator under this part shall be governed by part 2 of this chapter. (Information submitted voluntarily to the Administrator for the purposes of 40 CFR 60.5 and 40 CFR 60.6 is governed by 2.201 through 2.213 of this chapter and not by 2.301 of this chapter.)
[40 CFR 60.9]

40 CFR 60.10 State authority.

1. The provisions of 40 CFR 60 shall not be construed in any manner to preclude any State or political subdivision thereof from:

   (a) Adopting and enforcing any emission standard or limitation applicable to an affected facility, provided that such emission standard or limitation is not less stringent than the standard applicable to such facility.

   (b) Requiring the owner or operator of an affected facility to obtain permits, licenses, or approvals prior to initiating construction, modification, or operation of such facility.

   [40 CFR 60.10]

40 CFR 60.11 Compliance with standards and maintenance requirements.

1. Compliance with standards in this part, other than opacity standards, shall be determined only by performance tests established by 40 CFR 60.8, unless otherwise specified in the applicable standard.
[40 CFR 60.11(a)]

2. Compliance with opacity standards in this part shall be determined by conducting observations in accordance with Reference Method 9 in appendix A of this part, any alternative method that is approved by the Administrator, or as provided in 40 CFR 60.11(e)(5). For purposes of determining initial compliance, the minimum total time of observations shall be 3 hours (30 6-minute averages) for the performance test or other set of observations (meaning those fugitive-type emission sources subject only to an opacity standard.)
[40 CFR 60.11(b)]

3. The opacity standards set forth in this part shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable standard.
[40 CFR 60.11(c)]

4. At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.
[40 CFR 60.11(d)]

5. (a) For the purpose of demonstrating initial compliance, opacity observations shall be conducted concurrently with the initial performance test required in 40 CFR 60.8 unless one of the following conditions apply. If no performance test under 40 CFR 60.8 is required, then opacity observations shall be conducted within 60 days after achieving the maximum production rate at which the affected facility will be operated but no later than 180 days after initial startup of the facility. If visibility or other conditions prevent the opacity observations from being conducted concurrently with the initial performance test required under 40 CFR 60.8, the source owner or operator shall reschedule the opacity observations as soon after the initial performance test as possible, but not later than 30 days thereafter, and shall advise the Administrator of the rescheduled date. In these cases, the 30-day prior notification to the Administrator required in 40 CFR 60.7(a)(6) shall be waived. The rescheduled opacity observations shall be conducted (to the extent possible) under the same operating conditions that existed during the initial performance test conducted under 40 CFR 60.8. The visible emissions observer shall determine whether visibility or other conditions prevent the opacity observations from being made concurrently with the initial performance test in accordance with procedures contained in Reference Method 9 of appendix A of this part. Opacity readings of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. The owner or operator of an affected facility shall make available, upon request by the Administrator, such records as may be necessary to determine the conditions under which the visual observations were made and shall provide evidence indicating proof of current visible observer emission certification. Except as provided in 40 CFR 60.11(e)(5), the results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the source shall meet the burden of proving that the instrument used meets (at the time of the alleged violation) Performance Specification 1 in appendix B of 40 CFR 60, has been properly maintained and (at the time of the alleged violation) that the resulting data have not been altered in any way.

(b) Except as provided in 40 CFR 60.11(e)(3), the owner or operator of an affected facility to which an opacity standard in this part applies shall conduct opacity observations in accordance with 40 CFR 60.11(b), shall record the opacity of emissions, and shall report to the Administrator the opacity results along with the results of the initial performance test required under 40 CFR 60.8. The inability of an owner or operator to secure a visible emissions observer shall not be considered a reason for not conducting the opacity observations concurrent with the initial performance test.

(c) The owner or operator of an affected facility to which an opacity standard in this part applies may request the Administrator to determine and to record the opacity of emissions from the affected facility during the initial performance test and at such times as may be required. The owner or operator of the affected facility shall report the opacity results. Any request to the Administrator to determine and to record the opacity of emissions from an affected facility shall be included in the notification required in 40 CFR 60.7(a)(6). If, for some reason, the Administrator cannot determine and record the opacity of emissions from the affected facility during the performance test, then the provisions of 40 CFR 60.7(e)(1) shall apply.

(d) The owner or operator of an affected facility using a continuous opacity monitor (transmissometer) shall record the monitoring data produced during the initial performance test required by 40 CFR 60.8 and shall furnish the Administrator a written report of the monitoring results along with Method 9 and 40 CFR 60.8 performance test results.

(e) The owner or operator of an affected facility subject to an opacity standard may submit, for compliance purposes, continuous opacity monitoring system (COMS) data results produced during any performance test required under 40 CFR 60.8 in lieu of Method 9 observation data. If an owner or operator elects to submit COMS data for compliance with the opacity standard, he shall notify the Administrator of that decision, in writing, at least 30 days before any performance test required under 40 CFR 60.8 is conducted. Once the owner or operator of an affected facility has notified the Administrator to that effect, the COMS data results will be used to determine opacity compliance during subsequent tests required under 40 CFR 60.8 until the owner or operator notifies the Administrator, in writing, to the contrary. For the purpose of determining compliance with the opacity standard during a performance test required under 40 CFR 60.8 using COMS data, the minimum total time of COMS data collection shall be averages of all 6-minute continuous periods within the duration of the mass emission performance test. Results of the COMS opacity determinations shall be submitted along with the results of the performance test required under 40 CFR 60.8. The owner or operator of an affected facility using a COMS for compliance purposes is responsible for demonstrating that the COMS meets the requirements specified in 40 CFR 60.13(c), that the COMS has been properly maintained and operated, and that the resulting data have not been altered in any way. If COMS data results are submitted for compliance with the opacity standard for a period of time during which Method 9 data indicates noncompliance, the Method 9 data will be used to determine opacity compliance.

(f) Upon receipt from an owner or operator of the written reports of the results of the performance tests required by 40 CFR 60.8, the opacity observation results and observer certification required by 40 CFR 60.11(e)(1), and the COMS results, if applicable, the Administrator will make a finding concerning compliance with opacity and other applicable standards. If COMS data results are used to comply with an opacity standard, only those results are required to be submitted along with the performance test results required by 40 CFR 60.8. If the Administrator finds that an affected facility is in compliance with all applicable standards for which performance tests are conducted in accordance with 40 CFR 60.8 of this part but during the time such performance tests are being conducted fails to meet any applicable opacity standard, the shall notify the owner or operator and advise him that he may petition the Administrator within 10 days of receipt of notification to make appropriate adjustment to the opacity standard for the affected facility.

(g) The Administrator will grant such a petition upon a demonstration by the owner or operator that the affected facility and associated air pollution control equipment was operated and maintained in a manner to minimize the opacity of emissions during the performance tests; that the performance tests were performed under the conditions established by the Administrator; and that the affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard.

(h) The Administrator will establish an opacity standard for the affected facility meeting the above requirements at a level at which the source will be able, as indicated by the performance and opacity tests, to meet the opacity standard at all times during which the source is meeting the mass or concentration emission standard. The Administrator will promulgate the new opacity standard in the Federal Register.

[40 CFR 60.11(e)]

6. Special provisions set forth under an applicable subpart of this part shall supersede any conflicting provisions of this section.
[40 CFR 60.11(f)]

40 CFR 60.12 Circumvention.

1. No owner or operator subject to the provisions of this part shall build, erect, install, or use any article, machine, equipment or process, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere.
[40 CFR 60.12]

40 CFR 60.14 Modification.

1. Except as provided under 40 CFR 60.14(e) and 40 CFR 60.14(f), any physical or operational change to an existing facility which results in an increase in the emission rate to the atmosphere of any pollutant to which a standard applies shall be considered a modification within the meaning of section 111 of the Act. Upon modification, an existing facility shall become an affected facility for each pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere.
[40 CFR 60.14(a)]

2. Emission rate shall be expressed as kg/hr (lbs./hour) of any pollutant discharged into the atmosphere for which a standard is applicable. The Administrator shall use the following to determine emission rate:

   (a) Emission factors as specified in the latest issue of "Compilation of Air Pollutant Emission Factors", EPA Publication No. AP-42, or other emission factors determined by the Administrator to be superior to AP-42 emission factors, in cases where utilization of emission factors demonstrate that the emission level resulting from the physical or operational change will either clearly increase or clearly not increase;

   (b) Material balances, continuous monitor data, or manual emission tests in cases where utilization of emission factors as referenced in 40 CFR 60.14(b)(1) does not demonstrate to the Administrator's satisfaction whether the emission level resulting from the physical or operational change will either clearly increase or clearly not increase, or where an owner or operator demonstrates to the Administrator's satisfaction that there are reasonable grounds to dispute the result obtained by the Administrator utilizing emission factors as referenced in 40 CFR 60.14(b)(1). When the emission rate is based on results from manual emission tests or continuous monitoring systems, the procedures specified in 40 CFR 60 appendix C of 40 CFR 60 shall be used to determine whether an increase in emission rate has occurred. Tests shall be conducted under such conditions as the Administrator shall specify to the owner or operator based on representative performance of the facility. At least three valid test runs must be conducted before and at least three after the physical or operational change. All operating parameters which may affect emissions must be held constant to the maximum feasible degree for all test runs.

   [40 CFR 60.14(b)]

   (c) The addition of an affected facility to a stationary source as an expansion to that source or as a replacement for an existing facility shall not by itself bring within the applicability of this part any other facility within that source.

   [40 CFR 60.14(c)]

   (d) [Reserved]

4. The following shall not, by themselves, be considered modifications under this part:

(a) Maintenance, repair, and replacement which the Administrator determines to be routine for a source category, subject to the provisions of 40 CFR 60.14(c) and 40 CFR 60.15;

(b) An increase in production rate of an existing facility, if that increase can be accomplished without a capital expenditure on that facility;

(c) An increase in the hours of operation;

(d) Use of an alternative fuel or raw material if, prior to the date any standard under this part becomes applicable to that source type, as provided by 40 CFR 60.1, the existing facility was designed to accommodate that alternative use. A facility shall be considered to be designed to accommodate an alternative fuel or raw material if that use could be accomplished under the facility's construction specifications as amended prior to the change. Conversion to coal required for energy considerations, as specified in section 111(a)(8) of the Act, shall not be considered a modification.

(e) The addition or use of any system or device whose primary function is the reduction of air pollutants, except when an emission control system is removed or is replaced by a system which the Administrator determines to be less environmentally beneficial.

(f) The relocation or change in ownership of an existing facility.
[40 CFR 60.14(e)]

5. Special provisions set forth under an applicable subpart of this part shall supersede any conflicting provisions of this section.
[40 CFR 60.14(f)]

6. Within 180 days of the completion of any physical or operational change subject to the control measures specified in 40 CFR 60.14(a), compliance with all applicable standards must be achieved.
[40 CFR 60.14(g)]

40 CFR 60.92 Standard for particulate matter.

1. On and after the date on which the performance test required to be conducted by 40 CFR 60.8 is completed, no owner or operator subject to the provisions of this subpart shall discharge or cause the discharge into the atmosphere from any affected facility any gases which:

(a) Contain particulate matter in excess of 90 mg/dscm (0.04 gr/dscf); and
[40 CFR 60.92(a)(1)].

(b) Exhibit 20 percent opacity or greater.
[40 CFR 60.92(a)(2)]

40 CFR 60.93 Test methods and procedures.

1. In conducting the performance tests required in 40 CFR 60.8, the owner or operator shall use as reference methods and procedures the test methods in appendix A of this part or other methods and procedures as specified in this section, except as provided in 40 CFR 60.8(b).
[40 CFR 60.92(a)]

2. The owner or operator shall determine compliance with the particulate matter standards in 40 CFR 60.92 as follows:

(a) Method 5 shall be used to determine the particulate matter concentration. The sampling time and sample volume for each run shall be at least 60 minutes and 0.90 dscm (31.8 dscf); and

[40 CFR 60.92(b)(1)]

(b) Method 9 and the procedures in 40 CFR 60.11 shall be used to determine opacity.

[40 CFR 60.92(a)(2)]

40 CFR 60.672 Standard for particulate matter for nonmetallic mineral emission units.

1. Particulate matter emissions from any transfer point on belt conveyors or from any other affected emission unit shall not exceed:

   (a) 0.05 gram per dry standard cubic meter (g/dscm); or

   (b) 7 percent opacity, unless the stack emissions are discharged from an affected emission unit using a wet scrubbing control device.

   [40 CFR 60.672(a)(1) and (2)]

2. If any transfer point on a conveyor belt or any other affected emission unit is enclosed in a building, then each enclosed affected emission unit must be in compliance with the emission limits in 40 CFR 60.672(a), 40 CFR 60.672(b) and 40 CFR 60.672(c), or the building enclosing any transfer point on a conveyor belt or any other affected emission unit or emission units must be in compliance with the following emission limits:

   (a) The owner or operator shall not cause to be discharged into the atmosphere any particulate matter fugitive emissions, except emissions from a vent as defined in 40 CFR 60.671; and

   (b) The owner or operator shall not cause to be discharged into the atmosphere from any vent of any building enclosing any transfer point on a conveyor belt or any other affected facility emissions which exceed the stack emissions limits in 40 CFR 60.672(a), which are:

      (1) 0.05 g/dscm; or

      (2) 7 percent opacity, unless the stack emissions are discharged from an affected emission unit using a wet scrubbing control device.

   [40 CFR 60.672(e)(1) and (2)]

40 CFR 60.673 Reconstruction.

1. The cost of replacement of ore-contact surfaces on processing equipment shall not be considered in calculating either the “fixed capital cost of the new components” or the “fixed capital cost that would be required to construct a comparable new emissions unit” under 40 CFR 60.15. Ore-contact surfaces are crushing surfaces; screen meshes, bars, and plates; conveyor belts; and elevator buckets.
   [40 CFR 60.673(a)]

2. Under 40 CFR 60.15, the “fixed capital cost of the new components” includes the fixed capital cost of all depreciable components (except components specified in 40 CFR

60.673(a)) which are or will be replaced pursuant to all continuous programs of component replacement commenced within any 2-year period following August 31, 1983.
[40 CFR 60.673(b)]

40 CFR 60.674 Monitoring of operations.

1. The owner or operator of any affected emission unit which uses a wet scrubber to control emissions shall install, calibrate, maintain and operate the following monitoring devices:

   (a) A device for the continuous measurement of the pressure loss of the gas stream through the scrubber. The monitoring device must be certified by the manufacturer to be accurate within ± 250 pascals (± 1 inch water gauge) pressure and must be calibrated on an annual basis in accordance with manufacturer's instructions.

   (b) A device for the continuous measurement of the scrubbing liquid flow rate to the wet scrubber. The monitoring device must be certified by the manufacturer to be accurate within ± 5 percent of design scrubbing liquid flow rate and must be calibrated on an annual basis in accordance with manufacturer's instructions.

   [40 CFR 60.674(a) and (b)]

40 CFR 60.675 Test methods and procedures.

1. In conducting the performance tests required in 40 CFR 60.8, the owner or operator shall use as reference methods and procedures the test methods in appendix A of this part or other methods an procedures as specified in this section, except as provided in 40 CFR 60.8(b). Acceptable alternative methods and procedures are given in paragraph (e) of this section.
   [40 CFR 60.675(a)]

2. In determining compliance with 40 CFR 60.672(e), the owner or operator shall use Method 22 to determine fugitive emissions. The performance test shall be conducted while all affected emission units inside the building are operating. The performance test for each building shall be at least 75 minutes in duration, with each side of the building and the roof being observed for at least 15 minutes.
   [40 CFR 60.675(d)]

40 CFR 60.676 Reporting and record keeping.

1 Each owner or operator seeking to comply with 40 CFR 60.670(d) shall submit to the Administrator the following information about the existing emission unit being replaced and the replacement piece of equipment:

   (a) For a crusher, grinding mill, bucket elevator, bagging operation, or enclosed truck or rail car loading station:

      (1) The rated capacity in tons per hour of the existing emission unit being replaced; and

(2) The rated capacity in tons per hour of the replacement equipment.

[40 CFR 60.676(a)(1)(i) and (ii)]

(b) For a screening operation:

(1) The total surface area of the top screen of the existing screening operation being replaced; and

(2) The total surface area of the top screen of the replacement screening operation.

[40 CFR 60.676(a)(2)(i) and (ii)]

(c) For a conveyor belt:

(1) The width of the existing belt being replaced; and

(2) The width of the replacement conveyor belt.

[40 CFR 60.676(a)(3)(i) and (ii)]

(d) For a storage bin:

(1) The rated capacity in tons of the existing storage bin being replaced; and

(2) The rated capacity in tons of replacement storage bins.

[40 CFR 60.676(a)(4)(i) and (ii)]

2. The owner or operator shall submit written reports of the results of all performance tests conducted to demonstrate compliance with the standards set forth in 40 CFR 60.672, including reports of opacity observations made using Method 9 to demonstrate compliance with 40 CFR 60.672(b) and 40 CFR 60.672(c) and reports of observations using Method 22 to demonstrate compliance with 40 CFR 60.672(e).
[40 CFR 60.676(f)]

3. The requirements of this paragraph remain in force until and unless the Agency, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In that event, owner or operators within the State will be relieved of the obligation to comply with 40 CFR 60.676(c), 40 CFR 60.676(d), 40 CFR 60.676(e) and 40 CFR 60.676(f), provided that they comply with requirements established by the State. Compliance with 40 CFR 60.676(b) will still be required.
[40 CFR 60.676(j)]