



Jeb Bush
Governor

Department of Environmental Protection

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Colleen M. Castille
Secretary

NOTICE OF PERMIT

ELECTRONIC MAIL

kgarrett@cmineralsinc.com

Aerated Concrete Corporation of America
1616 South 14th Street
Leesburg, FL 34748

Attention: Kyle Garrett,
Vice President

Orange County - AP
Aerated Concrete Plant; Wallboard Mfg. Plant; Steam Boiler

Dear Mr. Garrett:

Enclosed is Permit Number 0950251-007-AO to operate the above-referenced source issued pursuant to Section(s) 403.087, Florida Statutes.

A person whose substantial interests are affected by this permit may petition for an administrative proceeding (hearing) in accordance with Section 120.57, Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within 14 days of receipt of this Permit. Petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Section 120.57, Florida Statutes.

The petition shall contain the following information:

- (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department permit file number and the county in which the project is proposed;
- (b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action;
- (d) A statement of the material facts disputed by petitioner, if any;
- (e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action;

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- (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action; and
- (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action.

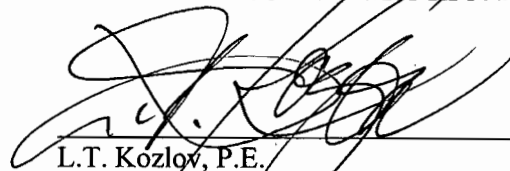
If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this permit. Persons whose substantial interests will be affected by any decision of the Department with regard to the application have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 14 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-5.207, F.A.C.

This permit is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition and conforms to Rule 62-103.070, F.A.C. Upon timely filing of a petition or a request for an extension of time this permit will not be effective until further Order of the Department.

When the Order (Permit) is final, any party to the Order has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date the Final Order is filed with the Clerk of the Department.

Executed in Orlando, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



L.T. Kozlov, P.E.
Program Administrator
Air Resources Management

Date: 6-26-06

FILED, on this date, pursuant to Section 120.52, F. S., with the designated Department Clerk, receipt of which is hereby acknowledged.

Diana Jones 06/27/2006
Clerk Date

03
LTK/jt 77

Copy provided to:
Fawn W. Bergen, P.E. (fbergen@kooglerassociates.com)
Hamp Pridgen, OCEPD (hamp.pridgen@ocfl.net)
Caroline Shine, FDEP

CERTIFICATE OF SERVICE

This is to certify that this NOTICE OF PERMIT and all copies were mailed before the close of business
on 6/27/06 to the listed persons, by [Signature]



Jeb Bush
Governor

Department of Environmental Protection

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Colleen M. Castille
Secretary

Permittee:

Aerated Concrete Corporation of America
1616 South 14th Street
Leesburg, Florida 34748

Attn: Kyle Garrett, Vice President

Facility Number: 0950251
Permit Number: 0950251-007-AO
Expiration Date: June 15, 2011
County: Orange

Latitude/Longitude:
28° 41' 42"N/ 81° 33' 55"W
Project: Aerated Concrete Plant; Wallboard
Manufacturing Plant; and a Steam Boiler

This permit is issued under the provisions of Chapter(s) 403, Florida Statutes, and Florida Administrative Code Rule(s) 62-210. The above named permittee is hereby authorized to perform the work or operate the facility shown on the application and approved drawing(s), plans, and other documents attached hereto or on file with the department and made a part hereof and specifically described as follows:

The permittee may operate an Aerated Concrete Plant; Wallboard Manufacturing Plant; and a Steam Boiler. The aerated concrete plant blends raw materials to create aerated concrete. The aerated concrete is molded into blocks or panels that are cured in autoclaves. The steam for the autoclaves is produced by a Cleaver-Brooks, Model D52, steam boiler. The wallboard manufacturing plant cuts large aerated concrete cakes into sheets of various sizes and applies paper to both sides for use as wallboard. The aerated concrete cakes are manufactured by the existing aerated concrete production process. Particulate emissions generated by the manufacture of the wallboard is controlled by a cyclone and a fabric filter dust collector (baghouse).

The manufacturing process includes the following production steps:

- Sand is dumped by delivery trucks into a hopper;
- Sand is conveyed by a belt conveyor to the sand storage silo;
- Sand is crushed with water in two Marcey ball mills to produce a slurry;
- Sand slurry is pumped to the material pre-mixer;
- Sand slurry is blended with other raw materials (water, cement, lime, gypsum, aluminum paste, and recycled process fines) to produce aerated concrete;
- Aerated concrete is molded into blocks or panels which are cured in an autoclave;

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The following emissions sources are all enclosed within a building:

- Sand delivery hopper
- Sand Storage Silo
- Two Marcey ball mills
- Two cement storage silos with one baghouse;
- Two lime storage silos with one baghouse;
- One gypsum storage silo and one fines storage silo with one baghouse;
- One cement weigh hopper;
- One lime weigh hopper; and
- One material pre-mixer with one baghouse.

Emissions from the two cement storage silos are controlled by a MAC, Model 96AVS16, baghouse with an air-to-cloth ratio of 5.0, 1200 ACFM, and a manufacturer's rated efficiency of 99.9 percent.

Emissions from the two lime storage silos are controlled by a MAC, Model 96AVS16, baghouse with an air-to-cloth ratio of 5.0, 1200 ACFM, and a manufacturer's rated efficiency of 99.9 percent.

Emissions from the gypsum and fines storage silos are controlled by a MAC, Model 96AVS16, baghouse with an air-to-cloth ratio of 5.0, 1200 ACFM, and a manufacturer's rated efficiency of 99.9 percent.

Emissions from the cement and lime weigh hoppers and the material pre-mixer are controlled by a Werhahn Engineering Dust Collector, Model 97-134-WH-1, 14,700 ACFM, with a manufacturer's rated efficiency of 99.9 percent.

The facility is located at 3351 North U.S. Highway 441 in Plymouth, Orange County, Florida.

GENERAL CONDITIONS:

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to Sections 403.141, 403.727, or 403.859 through 403.861, Florida Statutes (F.S.) The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.
2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.
3. As provided in subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit.
4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.
5. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.
6. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup and auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.
7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:
 - (a) Have access to and copy any records that must be kept under conditions of this permit;
 - (b) Inspect the facility, equipment, practices, or operations regulated or required under this permit; and
 - (c) Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

Reasonable time may depend on the nature of the concern being investigated.

8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:
 - (a) A description of and cause of noncompliance; and
 - (b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.

GENERAL CONDITIONS:

9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Section 403.111 and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.
10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.
11. This permit is transferable only upon Department approval in accordance with Rule 62-4.120 and 162-30.300, Florida Administrative Code (F.A.C.), as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.
12. This permit or a copy thereof shall be kept at the work site of the permitted activity.
13. This permit also constitutes:
 - (X) Determination of Best Available Control Technology (BACT)
 - () Determination of Prevention of Significant Deterioration (PSD)
 - () Certification of compliance with State Water Quality Standards (Section 401, PL 92-500)
 - (X) Compliance with New Source Performance Standards
14. The permittee shall comply with the following:
 - (a) Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.
 - (b) The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring information) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.
 - (c) Records of monitoring information shall include:
 1. The date, exact place, and time of sampling or measurements;
 2. The person responsible for performing the sampling or measurements;
 3. The date's analyses were performed;
 4. The person responsible for performing the analyses;
 5. The analytical techniques or methods used;
 6. The results of such analyses.
15. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law, which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

SPECIFIC CONDITIONS:

1. The facility is subject to the following provisions of 40 CFR 60, Subchapter C - Air Programs, Subpart A – General Provisions, the complete text of which is provided in Appendix A:
 - a) 40 CFR 60.7 – Notification and record keeping;
 - b) 40 CFR 60.8 – Performance tests;
 - c) 40 CFR 60.9 – Availability of information;
 - d) 40 CFR 60.10 – State authority;
 - e) 40 CFR 60.11 – Compliance with standards and maintenance requirements;
 - f) 40 CFR 60.12 – Circumvention; and
 - g) 40 CFR 60.14 – Modification;
2. The facility is subject to the provisions of 40 CFR 60, Subchapter C – Air Programs, Subpart OOO – Standards of Performance for Nonmetallic Mineral Processing Plants, the complete text of which is provided in Appendix A.

OPERATING CONDITIONS

3. The aerated concrete plant, the boiler, and the aerated concrete wallboard manufacturing plant are each permitted to operate continuously, per the applications.
[Rule 62-210.200, (Potential to emit, PTE), F.A.C.]
4. The only fuels authorized to be burned in the boiler are no. 2 fuel oil, natural gas or propane, per the application.
[Rule 62-210.200, (PTE), F.A.C.]
5. The maximum permitted heat input to the boiler is 315,360 MMBTU per twelve consecutive months, per the application.
[Rule 62-210.200, (PTE), F.A.C.]
6. No person shall circumvent any pollution control device or allow the emissions of air pollutants without the applicable air pollution control device operating properly.
[Rule 62-210.650, F.A.C.]

EMISSIONS LIMITS

7. Visible emissions for the boiler shall not exceed 20 percent opacity except for one 2-minute period per hour during which opacity shall not exceed 40 percent.
[Rule 62-296.406(1)(a), F.A.C.]
8. The silos, hopper and other storage or conveying equipment shall be controlled to the extent necessary to limit visible emissions to 5 percent opacity. Visible emissions from the aerated concrete wallboard manufacturing plant shall not exceed 5 percent opacity.
[Rule 62-296.414(1), F.A.C.]
9. BACT Determined by DEP:

The amount of particulate and sulfur dioxide emissions from the boiler shall be limited by the firing of new no. 2 fuel oil containing no more than 0.05 percent sulfur by weight or by the firing of natural gas or propane.
[Rule 62-296.406(2) &(3), F.A.C.]
10. No person shall cause, suffer, allow or permit the discharge of air pollutants, which cause or contribute to an objectionable odor. An objectionable odor is any odor present in the outdoor atmosphere, which by itself or in combination with other odors, is or may be harmful or injurious to human health or welfare, which unreasonably interferes with the comfortable use and enjoyment of life or property, or which creates a nuisance.
[Rules 62-296.320(2), 62-296.401(1)(b) and 62-210.200(203), F.A.C.]

COMPLIANCE TESTING

11. Each dust collector exhaust point, which includes each baghouse exhaust point, shall be tested for visible emissions at least ninety (90) days prior to the permit expiration date by a certified observer in accordance with DEP Method 9 for a minimum of 30 minutes, or, if the operation is normally completed within less than 30 minutes and does not recur within that time, the test shall last for the length of the silo loading operation.
[Rules 62-296.414(3) and 62-297.310(4)(a)2.a., F.A.C.]
12. The boiler shall be tested by a certified observer in accordance with DEP Method 9 at least ninety (90) days prior to the permit expiration date. The DEP Method 9 test shall consist of a sixty-minute visible emission test.
[Rule 62-297.401, F.A.C.]
13. Pursuant to Rule 62-297.620(4), F.A.C., the EPA Method 5 and Method 22 tests for particulate matter emissions from the aerated concrete plant and the aerated concrete wallboard manufacturing plant are waived, and an alternate limit of 5 percent opacity is substituted to provide reasonable assurance that the source is properly maintained to meet the emissions limits established in 40 CFR 60.672(a)(1). The 5 percent opacity limit now becomes the compliance limit for the duration of this permit. If at any time in the duration of this permit the Department has reason to believe that the particulate emissions limit is not being met, it shall require that compliance be demonstrated by the EPA Method 5 and Method 22 tests for particulate emissions.

14. The type of fuel and the heat input to the boiler must be entered on the visible emission test report.
15. At least 15 days prior to the date on which each formal compliance test is due to begin, the permittee shall provide written notification of the tests to the Orange County Environmental Protection Division. The notification must include the following information: the date, time, and location of each test; the name and telephone number of the facility's contact person who will be responsible for coordinating the test; and the name, company and telephone number of the person conducting the test.
[Rule 62-297.310(7)(a)9, F.A.C.]
16. The maximum production rate (operation rate) is 80 tons of aerated concrete per hour, the maximum heat input (operation rate) to the boiler is 36 MMBTU per hour, and the maximum production rate of aerated concrete wallboard is 11 tons per hour. Testing of emissions shall be conducted with the emissions sources operating at permitted capacity. Permitted capacity is defined as 90 to 100 percent of the maximum operation rate allowed by the permit. If it is impractical to test at permitted capacity, an emissions source may be tested at less than the minimum permitted capacity; in this case, subsequent emissions source operation is limited to 110 percent of the test load until a new test is conducted. Once a source is so limited, operation at higher capacities is allowed for no more than 15 consecutive days for the purpose of additional compliance testing to regain the authority to operate at the permitted capacity.
[Rule 62-297.310(2), F.A.C.]
17. Reports of the required compliance tests shall be filed with the Orange County Environmental Protection Division as soon as practical, but no later than 45 days after the last test is completed.
[Rule 62-297.570(2), F.A.C.]

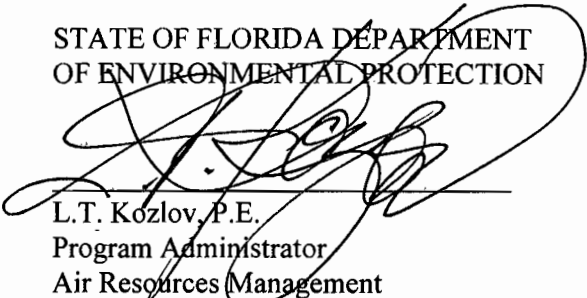
RECORDKEEPING

18. Pursuant to Rule 62-4.070(3), F.A.C., a monthly log shall be kept for this facility to document compliance with the limitations of Specific Conditions 5 and 9. The log shall be completed by the end of the following month and retained on file at the facility for at least three years.
19. The owner or operator shall maintain records on site to demonstrate that each shipment of new no. 2 fuel oil has 0.05 percent or less sulfur, and that the sulfur content was determined by ASTM methods ASTM D4057-88 and ASTM D129-91, ASTM D2622-94 or ASTM D4294-90, adopted and incorporated by reference in Rule 62-297.440(1), F.A.C.
[Rule 62-4.070(3), F.A.C.]

PERMIT APPLICATION

20. At least sixty days prior to the expiration date of this operation permit, the permittee shall submit to this office four air permit application copies, DEP Form No. 62-210.900(3), along with the processing fee established in Rule 62-4.050(4), F.A.C.
[Rule 62-4.090(1), F.A.C.]

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


L.T. Kozlov, P.E.
Program Administrator
Air Resources Management

Issued: 6-26-06

APPENDIX A**40 CFR 60.7 Notification and record keeping.**

The owner or operator subject to the provisions of this part shall furnish the Administrator written notification as follows:

1. A notification of the date construction (or reconstruction as defined under 40 CFR 60.15) of an affected facility is commenced postmarked no later than 30 days after such date. This requirement shall not apply in the case of mass-produced facilities which are purchased in completed form.
[40 CFR 60.7(a)(1)]
2. [Reserved]
3. A notification of the actual date of initial startup of an affected facility postmarked within 15 days after such date.
[40 CFR 60.7(a)(3)]
4. A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in 40 CFR 60.14(e). This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Administrator may request additional relevant information subsequent to this notice.
[40 CFR 60.7(a)(4)]
5. A notification of the anticipated date for conducting the opacity observations required by 40 CFR 60.11(E)(1) of this part. The notification shall also include, if appropriate, a request for the Administrator to provide a visible emissions reader during a performance test. The notification shall be postmarked not less than 30 days prior to such date.
[40 CFR 60.7(a)(6)]
6. The owner or operator subject to the provisions of this part shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.
[40 CFR 60.7(b)]

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 60.672 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 and 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.
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(a)]

[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.
 - (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.
 - (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)(1)(i) and (ii)]

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

[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)]