Department of Environmental Protection

Jeb Bush
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

David B. Struhs
Secretary

June 1, 2000

This is to acknowledge receipt of the original of the final permit for Suwannee American Cement Company, Inc., file nos. PSD-FL-259 and 1210465-001-AC, for Fred Koester of Suwannee American Cement Company, Inc. This copy was received by hand delivery in lieu of receipt via Certified U.S. Mail.

Received by:

Chip Mack 6-1-00

Fred Koester, President
Suwannee American Cement Company, Inc.

Department of Environmental Protection

Jeb Bush
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

David B. Struhs
Secretary

May 31, 2000

This is to acknowledge receipt of the copy of the final permit for Suwannee American Cement Company, Inc., file nos. PSD-FL-259 and 1210465-001-AC, for Larry Sellers of Holland & Knight LLP. This copy was received by hand delivery in lieu of receipt via U.S. Mail.

Received by:

5/31/00

For Larry Sellers
Holland & Knight LLP

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF FINAL PERMIT

In the Matter of an
Application for Permit by:

Fred W. Koester, President
Suwannee American Cement Company, Inc.
PO Box 410
Branford, Florida 32008

DEP File No. 1210465-001-AC, PSD-FL-259
Branford Plant, Portland Cement Plant
Suwannee County

Enclosed is Final Permit Number 1210465-001-AC. This permit authorizes Suwannee American Cement Company, Inc. to construct a portland cement plant located at US Highway 27 and County Road 49, Suwannee County. This permit is issued pursuant to Chapter 403, Florida Statutes.

Any party to this order has the right to seek judicial review of it under section 120.68 of the Florida Statutes, by filing a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department of Environmental Protection in the Office of General Counsel, Mail Station #35, 3900 Commonwealth Boulevard, 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 must be filed within thirty days after this order is filed with the clerk of the Department.

Executed in Tallahassee, Florida.

Lisa Polak Edgar

Lisa Polak Edgar
Deputy Secretary

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this Notice of Final Permit (including the Final permit) was sent by certified mail (*) and copies were mailed by U.S. Mail before the close of business on 6-1-00 to the person(s) listed:

Mr. Fred W. Koester *
Mr. Larry Sellers
Mr. Frank Darabi, P.E.
Mr. Steve Cullen, P.E.
Mr. Ernest E. Frye, Director, NE District
Mr. Gregg Worley, EPA
Mr. John Bunyak, NPS
Mr. Jim Stevenson, DEP
Mr. Tom Workman, DEP
Mr. Mark Latch, DEP
Ms. December McSherry
Mr. Svenn Lindskold
Mr. Tom Greenhalgh
Mr. Dave Bruderly
Mr. Chris Bird, Alachua Co. DER
Mr. John Mousa, Alachua Co. DER
Ms. Penny Wheat, Chair, Alachua Co. Board of Co. Commissioners
Mr. J. Calvin Gaddy
Ms. Patrice Boyes, Esq.
Ms. Kathy Cantwell
Mr. Ralph Ashodian
Ms. Virginia Seacrist
Dr. Bob and Lynn Milner
Ms. Linda Pollini
Helen Beaty
Bessie Robinson
Mr. Craig Pittman, St. Petersburg Times

Clerk Stamp

FILING AND ACKNOWLEDGMENT FILED, on this date, pursuant to §120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Joni Tober (Clerk) 6-1-00 (Date)

FINAL DETERMINATION

Suwannee American Cement Company, Inc.
Branford Plant
DEP File No. 1210465-001-AC, PSD-FL-259

The Department distributed a public notice package on November 19, 1999 to allow the applicant to construct portland cement plant at US Highway 27 and County Road 49, Suwannee County. The Public Notice of Intent to Issue was published in the Suwannee Democrat on November 24, 1999, in the Gainesville Sun on November 24, 1999, and in the Branford News on November 25, 1999.

PUBLIC COMMENTS

Prior to the Department's decision of June 21, 1999 to deny the permit, the Department received hundreds of comments from the general public regarding this project by mail, electronic mail, and telephone. From the Department's issuance of the intent to issue of November 19, 1999 until the close of the public comment period on December 27, 1999, the Department received over four hundred more public comments. Public comments have continued to be received and filed for the record from the close of the public comment period until today. The Department reviewed all comments that were received and considered the comments, to the extent allowed by statute and rule, in making its determination. Because of the volume of comments, and because it is possible to categorize the comments, they will not be addressed individually in this document. Because the comments received prior to denial and after the subsequent decision to issue a draft permit are substantially similar, the comments from each period are summarized together. The comments and the Department's responses are summarized below.

Many comments were related to general dislike of the project and the desire that the plant be placed in another location. Commentors stated the area does not need a cement plant, that the area has too many cement plants, that Florida has too much concrete now, and that the plant should be moved somewhere else. At least one commentor stated that the applicant does not have the right to emit pollution that will affect others. Others commented that they were concerned about noise from the plant and that lights from the plant will ruin the night sky. At least one commentor expressed concern that the nighttime operation of the plant will have a detrimental impact on nocturnal creatures. Several people suggested that a moratorium should be imposed on construction of cement plants in the state or that the Department should postpone a decision until a study can be conducted of the impact of the plant on the area's growth and economy. Many commentors expressed concern that this plant will spur other industrial development in the area. One commentor was critical of the growth assessment performed by the applicant. Others commented that the plant is an improper land use and does not conform to the requirements of Suwannee County's comprehensive plan. Other comments suggested that the plant will lower property values in the area. Several commentors suggested that the applicant be required to find another location for the plant. Many commented that the plant will destroy the rural character of the area and will ruin the pristine nature of the area and the springs and rivers. Some commentors expressed concern that mining at the quarry will affect the flow and water quality of local springs. Many people expressed concern that the plant will ruin the Ichetucknee Springs State Park, will affect the experience of visitors to the park, and will ruin the character of the park and decrease attendance at the park. Others stated that the plant and stacks will be visible from the park, from elsewhere in the area and from US Highway 27 and will be an eyesore. Many were concerned that the plant will ruin the ecotourism industry and harm the area's economy related to tourism.

The Department agreed with the applicant's growth assessment. Modeling shows that the ambient impact of the emissions from the plant will not be significant at the park, and, as discussed below, impacts are well within state and federal requirements everywhere surrounding the plant. The Department believes that the plant will not be readily visible from the park or from most locations within the area because of the screening provided by trees and other vegetation on the lands of the park and

those surrounding the plant site. It appears that the other comments, many related to local governmental action, are beyond the scope of the Department's authority for this permitting action.

A great many comments were related to concerns that the emissions from the facility will endanger the environment or public health. Commentors were concerned that nitrate deposition will negatively affect water quality of ground water and the rivers in the area, that mercury deposition will negatively affect the rivers and worsen fishing advisories, and that the plant will threaten or destroy the water quality of the rivers and the Floridan aquifer. Some commented that the plant will emit noxious odors and that the plant will cover the area around the plant in dust. One or more commentors suggested that emissions will harm agricultural commodities. Comments related to public health were that the emission and ambient standards of the PSD program are not strict enough to protect public health and the environment, that the emissions will aggravate asthma and other respiratory ailments, that the long-term effects of exposure to the emissions are unknown or that there is not enough information to make a decision about the effects of the emissions, and that no level of emissions is safe. Some comments were specifically related to emissions of dioxin, particularly that the dioxin emission limits will not be protective of public health, and that the applicant did not meet the federal requirements for dioxin emissions.

The regulation of emissions from stationary sources at this facility is clearly within the scope of the Department's authority. The Department's review must be undertaken with respect to the standards provided by statute and rule. The emissions from this project, as limited in the draft permit, will provide that the facility will meet the emission and ambient standards of the PSD program, as well as other Department rules, and federal NSPS and NESHAP requirements. The ambient standards are established to be protective of public health and public welfare, including those receptors that are most sensitive. The applicant has accepted limits on level of mercury that may be introduced into the process in the raw materials and fuels to assure that emissions of mercury do not exceed the PSD significant emission rate; the Department does not have authority to further limit emissions of mercury, except as provided by order as described below in the Administrative Proceedings *section. The Department's criteria for issuance of a permit are that the applicant provide reasonable assurance that construction or operation of the installation will not emit or cause pollution in contravention of Department standards or rules. Given that the emissions meet applicable state and federal standards and impacts will be far below all applicable requirements, and given the conditions in the draft permit, that criteria has been met. The Department does not have discretionary authority to compel an applicant to exceed the requirements of statute and rule.*

Many commentors expressed distrust of the applicant because of the applicant's past environmental compliance with the applicant's other businesses, and distrust of the Department to enforce the rules and conditions of any permit because of reductions of penalties imposed on one or more of the applicant's, other businesses permitted by the Department.

The Department does have the authority to take into consideration a permit applicant's violation of any Department rules at any installation when determining whether the applicant has provided reasonable assurances that Department standards will be met. The Department also has the authority to issue any permit with specific conditions necessary to provide reasonable assurance that Department rules can be met. Although the Department originally denied the permit based upon its review of the compliance history of the applicant's related businesses, the Department believes that the applicant has adequately addressed this issue. The Department has included stringent permit conditions to further provide reasonable assurance that Department rules will be met. The Department is the state's environmental regulatory agency and it will enforce its rules and permit conditions as required by statute and rule.

Many comments referred to the fuels proposed by the plant and particular objections were raised regarding the applicant's proposal to fire tires. Some comments were that firing tires will increase

emissions and cause smoke and odors. Other comments were that coal is not an appropriate fuel for the plant, that coal is a dirty fuel, and that the plant should only fire natural gas. Others referred to the plant as a hazardous waste incinerator.

These comments seem to be based on misperceptions about the nature of the emissions when firing tires and coal. Emissions of NOx, for example, will be lower when firing coal and tires compared with firing natural gas. The plant's design is such that it can meet the emission limits imposed by rule and statute when firing coal and tires, and emissions of NOx are lower when firing these fuels instead of natural gas. The Department encourages the reuse of discarded tires for heat recovery, and cement plants in Florida and elsewhere in the country typically burn tires and tire derived fuel to provide heat for the pyroprocessing system. The applicant did not seek authorization to burn hazardous wastes, and none of the fuels allowed are characterized as hazardous waste by rule or statute.

Comments were received that stated that radioactive phosphate mining wastes, "slag", from mining operations of 1890 to 1918 were stockpiled or disposed on or near the site and that these materials should not be used for making cement.

The applicant's engineers reviewed this comment and stated to the Department that these wastes do not appear to be present on the site now, but that if any of these wastes are discovered, they will not be used to make cement. The regulation of these wastes is within the authority of the Department of Health, and this comment was referred to DOH for review and appropriate action.

Many people expressed concern that the additional truck traffic related to the facility will create a safety hazard on area roadways. Many comments were related to emissions from the truck fleet that will serve the facility and particularly stated that emissions from trucks would be significant and should be considered in the review of the permit application, and that the truck emissions are harmful to public health and should be regulated by the Department. At least one commentor suggested the facility's truck fleet should be fueled with compressed natural gas instead of diesel fuel to reduce emissions. Other comments were that the applicant provided no estimate of tailpipe emissions from off-road equipment at the site and that the MACT analysis did not address toxic emissions from trucks and equipment.

These comments are beyond the scope of the Department's authority for this permitting action. The Department's PSD permit process addresses emissions from the stationary sources at the facility, not the vehicle fleet. The MACT requirements are specified by rule and do not address mobile sources for this type of facility. Vehicle traffic and public safety are within the authority of the local government.

One commentor provided several comments related to the information in the applicant's request. Those comments not included in the discussion above are summarized here. This commentor stated that the applicant has not proposed to use the lowest emitting and most efficient technology to make cement and reduce pollution, and offered the example of a Texas plant that is co-located with a steel mill as an example of an energy efficient concept. This commentor also suggested that the plant use pure oxygen for combustion to achieve a lower NOx rate, and in another comment suggested that location of a cryogenic air plant to provide this oxygen was feasible for this project and should be required. Another comment was that acid gas control should be required to mitigate an "acid gas problem".

The commentor also stated that site specific ambient monitoring should have been required because the commentor asserted that data from Alachua and Hamilton counties is not representative of Suwannee County. The commentor suggested that the plant will cause a violation of the $PM_{2.5}$ annual NAAQS.

The applicant is not required by Department rule to propose the lowest emitting technologies ever developed. The applicant must comply with the requirements for Best Available Control Technology (BACT) for those pollutants subject to regulation under PSD. BACT is the maximum degree of reduction of each pollutant emitted which the Department, on a case by case basis, taking into account energy,

environmental and economic impacts, and other costs, determines is achievable through application of production processes and available methods, systems and techniques for control of each such pollutant. BACT requires the application of commercially available technology that is demonstrated for the given industry or a similar process, that is cost effective. The Department's BACT determination does not require the technologies proposed by the commentor. The suggestion of firing pure oxygen is addressed in more detail in the BACT determination. Note that the preheater/precalciner process proposed by the applicant is the most efficient technology for the manufacture of portland cement.

The Department concluded that the ambient monitoring data provided are sufficiently representative of Suwannee County, so no site specific preconstruction air quality monitoring was required. The Department has not adopted the federal NAAQS for $PM_{2.5}$. Furthermore, the federal NAAQS for $PM_{2.5}$ has been invalidated by a federal circuit court, and the US Supreme Court has recently agreed to review the decision. However, to be responsive to the comment, the Department estimated the total impact for $PM_{2.5}$ for this project and found it to be lower than the federal annual NAAQS. Based on AP-42 emission factors for portland cement plants, the Department estimates that direct $PM_{2.5}$ emissions will be approximately 75% of the PM_{10} emissions and the maximum predicted annual impact for $PM_{2.5}$ will be 2.2 $\mu g/m^3$. The Department has ambient monitoring data for $PM_{2.5}$ available from three long-term monitoring sites: Everglades, Chassahowitzka, and Okefenokee. These sites have average measured values of 9.8, 10.4, and 12 $\mu g/m^3$, respectively. When the maximum predicted annual impact is added to the recently high Okefenokee value of 12.4 ug/m3, the resulting total impact is less than the federal NAAQS of 15 $\mu g/m^3$. The commentor assumed a background concentration for $PM_{2.5}$ of 13.65 $\mu g/m^3$, that is not based on any direct measurement of $PM_{2.5}$ in Florida.

Many comments were received in favor of the project stating generally that the commentor was in support of the plant, that the plant was needed in the area, that it would provide growth and employment, and that those opposed to the plant were primarily from outside of the county. Some commented that it should be permitted if it meets state standards. More than one commentor stated that the Department should not let rhetoric in opposition to the project outweigh the fact that the project will meet the state standards.

While these comments show that there is not unanimous opposition to the project, they were not pertinent to the Department's technical review of the application.

Several commentors stated that the Department's reversal of its decision for the air construction permit from denial to issuance is inconsistent.

The Department denied the permit because it did not have reasonable assurance regarding compliance with Department rules. The applicant has addressed the Department's concerns and the Department is now required to issue the permit as required by statute and rule.

Several people commented that citizens were denied access to settlement negotiations with the Anderson companies.

All negotiations between the Department and the Anderson companies were part of settlement discussions related to litigation and as such are not open to the public.

Several people commented that citizens were denied the opportunity to participate in a hearing scheduled in December.

The hearing referred to by the commentors was an administrative hearing related to legal action from certain petitioners, and was not a forum to receive public comment, nor a Department hearing. This hearing was scheduled by the Division of Administrative Hearings and was cancelled as a result of a decision by the Administrative Law Judge assigned to this case, not as a result of Department action.

Further, any involvement in this hearing by the public would have been at the sole discretion of the Administrative Law Judge, not at the discretion of the Department.

At least one commentor suggested that purchase of the Kirby mine by the state is not a protective action because it does not presently affect the Ichetucknee Springs. Others commented that the purchase of the Kirby mine will effectively only move the environmental impacts because the cement plant will be supplied by an expansion of another existing mining operation adjacent to the cement plant site. Comments were also received characterizing the proposed state acquisition of the Anderson Columbia property along the Blackwater River as a trade for the right to pollute at the cement plant site.

The Department believes that the purchase of the Kirby mine site and the Blackwater River property are environmentally beneficial actions. For example, the quarry, which poses the single greatest threat to the integrity of the Ichetucknee Springs and river system, was permitted to operate for approximately 30 more years. Although the sale of these properties is part of a settlement agreement with the Anderson companies and the Department believes that the settlement achieves effective environmental protection, that agreement is not part of the air construction permit.

Commentors suggested that an environmental study of the cement plant funded by the Anderson trust fund be conducted prior to the issuance of the construction permit. Other comments were concerned with the effects of the use of explosives at the mining operation that will support the plant.

The trust fund to be established by the Anderson companies as part of the Department's settlement will be directed toward ongoing scientific research and public education on the Ichetucknee Springs and surrounding environment. The Department of Environmental Protection and the Suwannee River Water Management District will direct the management of the fund. The Department is required to issue permits in accordance with its specific authority, and the Department does not have the authority to require a broad environmental study of this plant either prior to issuance of a permit, or as a condition of the air construction permit. The Department believes it has carefully and appropriately determined that the impacts from the air emissions will conform to state and federal standards. These standards are formulated to be protective of public health and the environment. The mining techniques are beyond the scope of the Department's authority for this permitting action.

Several commentors characterized the Department's settlement with the Anderson companies as a betrayal of the public trust. Some comments stated the Department "sold out" and favored "corporate greed." Several comments were received regarding the conduct of the public officials involved in the decision making for this project.

The Department believes its settlement of litigation with the Anderson companies resulted in broad environmental protection and avoided litigation with an uncertain outcome for Florida's citizens. As part of the executive branch of Florida's government, the Department can only conduct it business in accordance with its specific statutory and rule authority. The Department believes the settlement is consistent with the Department's authority, that its actions were conducted in accordance with the rules that govern the agency, that the net result is more environmentally beneficial than what could have been achieved through even successful litigation, and issuance of this air construction permit is in accordance with Florida law.

The Department's Division of Recreation and Parks commented that the Department should require the applicant to monitor the ambient air at the Ichetucknee Springs State Park, monitor the quality of rainfall quarterly, and perform a water quality analysis of every spring feeding the Ichetucknee River and several points along the river.

The Department determined that postconstruction ambient monitoring for the regulated pollutant PM_{10} is warranted as provided by Rule 62-212.400(5)(g), F.A.C. The applicant will provide and maintain two

such monitors at locations to be determined by the Department. The applicant agreed to begin operation of the monitors within 120 days of issuance of the air construction permit. This will provide information regarding the air quality in the area before the plant begins construction and operation. Deposition is monitored by the US Forest Service, which maintains a nationwide network of such monitors. The Department does not have any standards for quality of deposition and does not operate such monitors, and it determined that requiring the applicant to perform such monitoring appears to be beyond the scope of the Department's authority for this permitting action. Requiring the applicant to perform the suggested water quality monitoring in an air permit appears to be beyond the scope of the Department's authority for this permitting action.

Various technical comments were received from the US Fish and Wildlife Service and the National Park Service.

These comments have been considered by the Department in making its BACT determination and reviewing the applicant's air quality analyses.

USEPA Region 4 staff provided one comment on the draft PSD permit. EPA staff suggested that the Department limit mercury emissions to 20 pounds per year instead of limiting mass input to 184 pounds per year, based on the difference between EPA's published emission factors for mercury emissions from cement plants using a baghouse for control versus an electrostatic precipitator. EPA staff suggested that the limit address emissions of mercury rather than input of mercury, and the compliance method be emissions test rather than measurement of mercury content in the raw feed and fuels. The applicant's engineering consultant commented that EPA's published emission factors are based on very limited test data and suggested that the difference in emission rate is due to variability in the mercury input to the tested plants rather than a difference in control device removal efficiency for mercury. The applicant's consultant suggested that essentially all of the mercury input to the pyroprocessing system will ultimately be emitted because all dust captured by the particulate matter control equipment is returned to the processing system.

The Department agrees with the applicant's consultant that most or all of the mercury input to the system will be eventually emitted because the plant is designed to recycle particulate matter captured by the in-line kiln/raw mill baghouse. Given this, the Department's limitation of the mercury input to the pyroprocessing system will directly limit emissions of mercury. The Department believes the requirement to monitor the level of mercury in the raw feed and fuels will provide a more effective means of periodically determining mercury input, and consequently worst-case emissions, than will an emissions test, so the Department favors the input limitation and compliance requirement. The Department's rule authority to limit mercury emissions is limited to assuring that the emission rate does not equal or exceed the PSD significant emission rate of 200 pounds per year, which the draft permit's initial input limit of 184 pounds per year achieves. The issue of mercury emissions and compliance monitoring was subject to further deliberation as part of the administrative hearing in the action brought by Florida Chapter of the Sierra Club and Save Our Suwannee, Inc The Administrative Law Judge agreed with the Department's assessment that limiting and monitoring mercury content of feed materials and fuels is sufficient to limit mercury emissions. The applicant agreed during the course of the administrative hearing in this case to reduce the allowable mercury input from 184 to 97 pounds per year.

The Department received several requests from the general public for another public meeting. Some of the requests specifically referred to the desire of the public to have the Department account for its so called "reversal" of its position from denial to issuance.

The Department held a public meeting in Branford on March 25, 1999 which formally opened the first public comment period for this project, and this period ran until the Department's announcement on June

21, 1999 of the Department's intent to deny the permit. The Department received hundreds of comments regarding this project at the public meeting and during the first public comment period. The current public comment period began with the Department's notice of intent to issue the permit, and the Department has received numerous comments during this period. None of these comments raised any technical issues pursuant to the Department's statutory or rule authority or suggested that a public meeting was needed to address technical issues. Note that the Department's position regarding the technical merits of the project never changed from the time of the March 25th public meeting. The Department has documented that its decision to issue the permit was a result of receiving additional assurances from the applicant that it would comply with the proposed permit conditions, and the Department believes it now has the reasonable assurance required to issue a permit. Because the comments received during the current public comment period are not substantially different from those of the first public comment period, the Department does not believe another public meeting is warranted. The Department has considered all comments received in making its final determination, as required by law.

ADMINISTRATIVE PROCEEDINGS

Petitions for administrative hearings were filed by Florida Chapter of the Sierra Club and Save Our Suwannee, Inc. in one petition, by Thomas Greenhalgh in a second petition, and by two other parties, Mary Woodhouse and Robert Tyler in another petition. All actions sought an order denying the permit. Mr. Greenhalgh's petition was dismissed with leave to amend. Mr. Greenhalgh elected not to pursue the matter, and his case was closed. An administrative hearing in the matter of Sierra Club and Save our Suwannee was held in Gainesville on February 14, 2000. The Administrative Law Judge presiding over this hearing issued a recommended order on April 5, 2000, recommending that a final order be entered by the Department granting the permit pursuant to the provisions of the draft permit amended to reflect that emissions of mercury will be limited to 97 pounds per year. A final order requiring issuance of a final permit as recommended in the April 5th recommended order was issued by the Department on May 22, 2000. The Administrative Law Judge presiding over the matter of Woodhouse and Tyler issued a recommended order on April 27, 2000, recommending that this petition be dismissed with prejudice. A final order dismissing this petition was issued by the Department on May 24, 2000. Accordingly, the Department is hereby issuing the final permit to the applicant, with mercury emissions limited as required by the May 22nd final order.

CONCLUSION

The final action of the Department is to issue the permit with the changes described above.

Department of Environmental Protection

Jeb Bush
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

David B. Struhs
Secretary

PERMITTEE

Suwannee American Cement Company, Inc.
Branford Plant
PO Box 410
Branford, Florida 32008

Permit No.	1210465-001-AC, PSD-FL-259
Project	Portland Cement Plant
SIC No.	3241
Expires:	May 30, 2003

Authorized Representative:

Fred W. Koester, President

PROJECT AND LOCATION

This permit authorizes Suwannee American Cement Company, Inc. to construct a dry process, preheater/precalciner type portland cement plant to be located at US Highway 27 at County Road 49, Suwannee County. The UTM coordinates are: Zone 17; 321.4 km E and 3315.9 km N.

STATEMENT OF BASIS

This construction permit is issued under the provisions of Chapter 403 of the Florida Statutes (F.S.), and the Florida Administrative Code (F.A.C.) Chapters 62-4, 62-204, 62-210, 62-212, 62-296, and 62-297. The above named permittee is authorized to construct the emissions units in accordance with the conditions of this permit and as described in the application, approved drawings, plans, and other documents on file with the Department of Environmental Protection (Department).

APPENDICES

The attached appendices are a part of this permit:

Appendix A	BACT Determination
Appendix B	NSPS General Provisions
Figure 1	Summary Report--Gaseous and Opacity Excess Emission & Monitoring System Performance
Appendix C	NESHAP General Provisions
Appendix GC	General Permit Conditions

Lisa Polak Edgar

Lisa Polak Edgar
Deputy Secretary

FACILITY DESCRIPTION

This facility will consist of a portland cement plant and associated quarry, and raw material and cement handling operations. The plant will combine raw materials and utilize a preheater/precalciner kiln with in-line raw mill to produce clinker. The clinker will be milled and combined with gypsum to produce portland cement. The plant will have a capacity of 178 tons per hour of material fed to the preheater (dry basis), 105 tons per hour of clinker production, and 150 tons per hour of portland cement production. Annual production will be limited (on a rolling 12-month basis) to 1,427,880 tons per year of material fed to the preheater (dry basis), 839,500 tons per year of clinker production, and 1,191,360 tons per year of portland cement production. Fuels allowed to be used in the pyroprocessing system are natural gas, coal, petroleum coke, whole tires and tire derived fuel (TDF). The plant may include a tire gasification system that will utilize heat from the pyroprocessing system to reduce tires to gas, coke and wire which will be utilized in the kiln and pyroprocessing system in an enclosed process. The plant will also include a coal processing operation that will crush coal and petroleum coke and will have an annual processing capacity of 127,896 tons of coal and petroleum coke.

PROJECT DETAILS

This permitting action is to allow for the construction of a portland cement plant. Emissions units addressed by this permit are:

EMISSIONS UNIT NO.	EMISSIONS UNIT DESCRIPTION
001	1000 TPH primary crusher and associated unenclosed belt conveyors to raw material storage – fugitive emissions
002	Raw material processing operations controlled by baghouses
003	Raw material processing – unenclosed conveyor transfer points – D conveyors
004	In line kiln/raw mill controlled by baghouse – main stack
005	Clinker cooler controlled by ESP
006	Clinker and cement processing operations controlled by baghouses
007	Clinker and cement processing – unenclosed conveyor transfer points – M conveyors
008	Coal mill and coal transfer system controlled by baghouses
009	Unenclosed coal conveying equipment – S conveyors
010	Natural gas fired emergency generator set [1]

[1] Emissions unit 010 is exempt from permitting (exempt emissions unit) pursuant to Rule 62-210.300(3)(a)20, F.A.C., provided that total fuel consumption by the generator is limited to 4.4 million cubic feet per year of natural gas. The owner or operator should maintain records of annual fuel consumption of the generator to verify that this emissions unit remains exempt. This emissions unit is subject to the facility-wide specific conditions of section II of this permit. Estimated maximum potential emissions from the generator set are: NOx, 8.5 lb/hr, CO 4.1 lb/hr, and VOC 0.5 lb/hr.

REGULATORY CLASSIFICATION

This facility is classified as a Major or Title V Source of air pollution because emissions of at least one regulated air pollutant, such as particulate matter (PM/PM_{10}), sulfur dioxide (SO_2), nitrogen oxides (NOx), carbon monoxide (CO), or volatile organic compounds (VOC) exceeds 100 tons per year (TPY).

This facility is within an industry included in the list of the 28 Major Facility Categories per Table 62-212.400-1, F.A.C. Because emissions are greater than 100 TPY for at least one criteria pollutant, the facility is also a Major Facility with respect to Rule 62-212.400, Prevention of Significant Deterioration (PSD).

The proposed project is subject to the provisions of Rule 62-212.400, F.A.C., Prevention of Significant Deterioration (PSD), because it is a new major facility.

The applicant stated that this facility is a major source of hazardous air pollutants (HAPs), because the plant may be a major source of hydrochloric acid. As provided by the federal requirements, the applicant may perform stack testing to confirm whether the facility is or is not a major source of hydrochloric acid.

The emissions units included in this project are subject to regulation under the New Source Performance Standards, 40 CFR 60 Subpart A, General Provisions, Subpart F, Standards of Performance for Portland Cement Plants, Subpart Y Standards of Performance for Coal Preparation Plants, and Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants (all revised as of July 1, 1997). Some of these emissions units are also subject to 40 CFR 63 Subpart LLL, National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry (40 CFR 63.1340 – 63.1359), revised as of May 14, 1999 and 40 CFR 63 Subpart A, revised as of February 12, 1999. These emissions units are also subject to the requirements of the state rules as indicated in this permit, particularly Rule 62-212.400, F.A.C., Prevention of Significant Deterioration, effective February 5, 1998. Some emissions units are subject to Rule 62-296.701, F.A.C., Portland Cement Plants, effective March 2, 1999.

RELEVANT DOCUMENTS

The documents listed below are the basis of the permit. They are specifically related to this permitting action. These documents are on file with the Department.

- Permit application and report
- Department's requests for additional information of December 29, 1998, January 8th, February 16th, March 26th and April 19, 1999, and Department's letter to the applicant of April 22, 1999
- Applicant's additional information received February 25th, March 19th, April 21st, May 4th, May 27th and May 28, 1999.
- EPA's comments received December 22, 1998
- FWS and NPS comments and technical reviews received December 18, 1998, January 4th, February 10th, March 26th, April 16th and May 28, 1999
- Denial of permit by Department on June 22, 1999 (applicant requested administrative hearing on denial on July 7, 1999)
- Additional information and comments on the preliminary draft permit and related documents from Koogler & Associates dated November 8, 1999
- Revised permit application and modeling information received from Koogler & Associates by electronic mail on November 11th, by mail and electronic mail November 12th, and by facsimile on November 15, 1999
- Department's Technical Evaluation and Preliminary Determination, and BACT Determination
- Department's Notice of Intent to Issue mailed November 19, 1999

- Public Notice of Intent to Issue published in the Suwannee Democrat on November 24, 1999, in the Gainesville Sun on November 24, 1999, and in the Branford News on November 25, 1999
- Final Order dated May 19, 2000, OGC Case No. 99-1116, DOAH Case No. 99-3096, in the matter of Florida Chapter of the Sierra Club and Save Our Suwannee, Inc. vs. Suwannee American Cement Company, Inc. and Department of Environmental Protection
- Final Order dated May 24, 2000, OGC Case No. 99-2231, DOAH Case No. 00-0702, in the matter of Mary Woodhouse and Robert Tyler vs. Suwannee American Cement Company, Inc. and Department of Environmental Protection

The following specific conditions apply to all emissions units at this facility addressed by this permit.

ADMINISTRATIVE

1. Regulating Agencies: All documents related to applications for permits to modify this PSD permit should be submitted to the Bureau of Air Regulation (BAR), Florida Department of Environmental Protection at Mail Station #5505, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, phone number 850/488-0114. All applications for operation permits, and documents related to reports, tests, minor modifications and notifications shall be submitted to the Department's Northeast District office at 7825 Baymeadows Way, Suite 200B, Jacksonville, Florida 32256-7590, and phone number 904-448-4300.

2. General Conditions: The owner and operator is subject to and shall operate under the attached General Permit Conditions G.1 through G.15 listed in Appendix GC of this permit. General Permit Conditions are binding and enforceable pursuant to Chapter 403 of the Florida Statutes. [Rule 62-4.160, F.A.C.]

3. Terminology: The terms used in this permit have specific meanings as defined in the corresponding chapters of the Florida Administrative Code.

4. Applicable Regulations, Forms and Application Procedures: Unless otherwise indicated in this permit, the construction and operation of the subject emissions unit shall be in accordance with the capacities and specifications stated in the application. The facility is subject to all applicable provisions of Chapter 403, F.S. and Florida Administrative Code Chapters 62-4, 62-110, 62-204, 62-212, 62-213, 62-296, 62-297 and the Code of Federal Regulations Title 40, Part 60 and Part 63, adopted by reference in the Florida Administrative Code (F.A.C.) regulations. The permittee shall use the applicable forms listed in Rule 62-210.900, F.A.C. and follow the application procedures in Chapter 62-4, F.A.C. Issuance of this permit does not relieve the facility owner or operator from compliance with any applicable federal, state, or local permitting or regulations. [Rules 62-204.800, 62-210.300 and 62-210.900, F.A.C.]

5. New or Addjtional Conditions: Pursuant to Rule 62-4.080, F.A.C., for good cause shown and after notice and an administrative hearing, if requested, the Department may require the permittee to conform to new or additional conditions. The Department shall allow the permittee a reasonable time to conform to the new or additional conditions, and on application of the permittee, the Department may grant additional time. [Rule 62-4.080, F.A.C.]

6. Expiration: This air construction permit shall expire on May 30, 2003. The permittee, for good cause, may request that this construction and PSD permit be extended. Such a request shall be submitted to the Department's Bureau of Air Regulation prior to 60 days before the expiration of the permit. [Rules 62-210.300(1), 62-4.070(4), 62-4.080, and 62-4.210, F.A.C]

   PSD Expiration: Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, or if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified. [40 CFR 52.21(r)(2)]

BACT Determination: In conjunction with extension of the 18 month periods to commence or continue construction, or extension of the permit expiration date, the permittee may be required to demonstrate the adequacy of any previous determination of Best Available Control Technology (BACT) for the source. [40 CFR 52.21(j)(4)]

7. Modifications: No emissions unit or facility subject to this permit shall be constructed or modified without obtaining an air construction permit from the Department. Such permit must be obtained prior to the beginning of construction or modification. [Rules 62-210.300(1) and 62-212.300(1)(a), F.A.C.]

8. Title V Operation Permit Required: This permit authorizes construction and/or installation of the permitted emissions units and initial operation to determine compliance with Department rules. A Title V operation permit is required for regular operation of the permitted emissions units. The owner or operator shall apply for a Title V operation permit at least ninety days prior to expiration of this permit, but no later than 180 days after commencing operation. To apply for a Title V operation permit, the applicant shall submit the appropriate application form, compliance test results, and such additional information as the Department may by law require. The application shall be submitted to the Department's Northeast District office. [Rules 62-4.030, 62-4.050, 62-4.220, and 62-213.420, F.A.C.]

EMISSION LIMITING STANDARDS

9. General Visible Emissions Standard: Except for emissions units that are subject to a particulate matter or opacity limit set forth or established by rule and reflected by conditions in this permit, no person shall cause, let, permit, suffer, or allow to be discharged into the atmosphere the emissions of air pollutants from any activity, the density if which is equal to or greater than that designated as Number 1 on the Ringelmann Chart (20% opacity). The test method for visible emissions shall be EPA Method 9, incorporated and adopted by reference in Chapter 62-297, F.A.C. Test procedures shall meet all applicable requirements of Chapter 62-297, F.A.C. [Rule 62-296.320(4)(b)1, F.A.C.]

10. Unconfined Emissions of Particulate Matter: [Rule 62-296.320(4)(c), F.A.C. and BACT]

    (a) No person shall cause, let, permit, suffer or allow the emissions of unconfined particulate matter from any activity, including vehicular movement; transportation of materials; construction, alteration, demolition or wrecking; or industrially related activities such as loading, unloading, storing or handling; without taking reasonable precautions to prevent such emissions.

    (b) Any permit issued to a facility with emissions of unconfined particulate matter shall specify the reasonable precautions to be taken by that facility to control the emissions of unconfined particulate matter.

    (c) Reasonable precautions include the following:

    - Paving and maintenance of roads, parking areas and yards.
    - Application of water or chemicals to control emissions from such activities as demolition of buildings, grading roads, construction, and land clearing.
    - Application of asphalt, water, chemicals or other dust suppressants to unpaved roads, yards, open stock piles and similar activities.

- Removal of particulate matter from roads and other paved areas under the control of the owner or operator of the facility to prevent reentrainment, and from buildings or work areas to prevent particulate from becoming airborne.
- Landscaping or planting of vegetation.
- Use of hoods, fans, filters, and similar equipment to contain, capture and/or vent particulate matter.
- Confining abrasive blasting where possible.
- Enclosure or covering of conveyor systems.

Additional reasonable precautions applicable to this facility are:

- All materials, coal and petroleum coke at the plant shall be stored under roof on compacted clay or concrete, or in enclosed vessels.
- Water supply lines, hoses and sprinklers shall be located near all materials, coal and petroleum coke stockpiles.
- All plant operators shall be trained in basic environmental compliance and shall perform visual inspections of materials, coal and petroleum coke regularly and before handling. If the visual inspections indicate a lack of surface moisture, the materials, coal and petroleum coke shall be wetted with sprinklers. Such wetting shall continue until the potential for unconfined particulate matter emissions are minimized.
- Water spray bars shall be located at each unenclosed material and fuel conveyor, and the spray bars shall be used to wet the materials and fuel if inherent moisture and moisture from wetting the storage piles are not sufficient to prevent unconfined particulate matter emissions.
- The manufacturing area and the access roadways for the facility shall be paved with asphalt or concrete.
- Bulk transport trucks leaving the plant shall travel through a tire wash, designed to remove particulate matter from vehicle tires, before traveling on the facility's access roadways.

(d) In determining what constitutes reasonable precautions for a particular source, the Department shall consider the cost of the control technique or work practice, the environmental impacts of the technique or practice, and the degree of reduction of emissions expected from a particular technique or practice.

11. General Pollutant Emission Limiting Standards: [Rule 62-296.320(1)(a)&(2), F.A.C.]

(a) No person shall store, pump, handle, process, load, unload or use in any process or installation, volatile organic compounds or organic solvents without applying known and existing vapor emission control devices or systems deemed necessary and ordered by the Department.

(b) No person shall cause, suffer, allow or permit the discharge of air pollutants which cause or contribute to an objectionable odor.

[Note: An objectionable odor is defined in Rule 62-210.200(203), F.A.C., as 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.]

OPERATIONAL REQUIREMENTS

12. Plant Operation - Problems: If temporarily unable to comply with any of the conditions of the permit due to breakdown of equipment or destruction by hazard of fire, wind or by other cause, the permittee shall immediately notify the Department's district office. The notification shall include pertinent information as to the cause of the problem, and what steps are being taken to correct the problem and to prevent its recurrence, and where applicable, the owner's intent toward reconstruction of destroyed facilities. Such notification does not release the permittee from any liability for failure to comply with Department rules. [Rule 62-4.130, F.A.C.]

13. Circumvention: No person shall circumvent any air pollution control device or allow the emission of air pollutants without the applicable air pollution control device operating properly. [Rule 62-210.650, F.A.C.]

14. Excess Emissions: The following excess emissions provisions can not be used to vary any NSPS or NESHAP requirements from any subpart of 40 CFR 60 or 40 CFR 63.

    Excess emissions resulting from malfunction of the emissions units of this permit shall be permitted providing (1) best operational practices to minimize emissions are adhered to and (2) the duration of excess emissions shall be minimized but in no case exceed one hour in any 24 hour period. The emission limits established pursuant to the State Implementation Plan, including those limits established as BACT, shall apply at all other times including startup and shutdown. The averages determined by the CEM and COM systems shall include all emissions including those measured during periods of startup, shutdown and malfunction. [Rules 62-4.070(3) and 62-210.700(1) and (5), F.A.C.]

    Excess emissions which are caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure which may reasonably be prevented during start-up, shutdown, or malfunction shall be prohibited. [Rule 62-210.700(4), F.A.C.]

    [Note: Malfunction is defined at Rule 62-210.200(179), F.A.C., to mean "any unavoidable mechanical and/or electrical failure of air pollution control equipment or process equipment or of a process resulting in operation in an abnormal or unusual manner." Allowable excess emissions for NOx from emissions unit 004 (limited by BACT) are specified in specific condition 15 of subsection B of section III of this permit.]

COMPLIANCE MONITORING AND TESTING REQUIREMENTS

15. Required Number of Test Runs: For mass emission limitations, a compliance test shall consist of three complete and separate determinations of the total air pollutant emission rate through the test section of the stack or duct and three complete and separate determinations of any applicable process variables corresponding to the three distinct time periods during which the stack emission rate was measured; provided, however, that three complete and separate determinations shall not be required if the process variables are not subject to variation during a compliance test, or if three determinations are not necessary in order to calculate the unit's emission rate. The three required test runs shall be completed within one consecutive five-day period. [Rule 62-297.310(1), F.A.C.]

16. Operating Rate During Testing: Unless otherwise stated in the applicable emission limiting standard rule, testing of emissions shall be conducted with the emissions unit operation 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 unit may be tested at less than the minimum permitted capacity; in this case, subsequent emissions unit operation is limited to 110 percent of the test load until a new test is conducted. Once the unit 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. Calculation of Emission Rate: The indicated emission rate or concentration shall be the arithmetic average of the emission rate or concentration determined by each of the three separate test runs unless otherwise specified in a particular test method or applicable rule. [Rule 62-297.310(3), F.A.C.]

18. Test Procedures shall meet all applicable requirements of Rule 62-297.310(4), F.A.C. [Rule 62-297.310(4), F.A.C.]

19. Determination of Process Variables: [Rule 62-297.310(5), F.A.C.]

    (a) Required Equipment. The owner or operator of an emissions unit for which compliance tests are required shall install, operate, and maintain equipment or instruments necessary to determine process variables, such as process weight input or heat input, when such data are needed in conjunction with emissions data to determine the compliance of the emissions unit with applicable emission limiting standards.

    (b) Accuracy of Equipment. Equipment or instruments used to directly or indirectly determine process variables, including devices such as belt scales, weight hoppers, flow meters, and tank scales, shall be calibrated and adjusted to indicate the true value of the parameter being measured with sufficient accuracy to allow the applicable process variable to be determined within 10% of its true value.

20. Required Stack Sampling Facilities: Sampling facilities include sampling ports, work platforms, access to work platforms, electrical power, and sampling equipment support. All stack sampling facilities must meet any Occupational Safety and Health Administration (OSHA) Safety and Health Standards described in 29 CFR Part 1910, Subparts D and E. Sampling facilities shall also conform to the requirements of Rule 62-297.310(6), F.A.C. [Rule 62-297.310(6), F.A.C.]

21. Test Notification: The owner or operator shall notify the Department's district office at least 15 days prior to the date on which each formal compliance test is to begin. Notification shall include the date, time, and place of each such test, and the test contact person who will be responsible for coordinating and having such test conducted for the owner or operator. [Rule 62-297.310(7)(a)9., F.A.C. and 40 CFR 60.8]

    [Note: The federal requirements of 40 CFR 60.8 require 30 days notice of the initial test and any tests required under section 114 of the Clean Air Act, but the Department rules require 15 days notice for the annual compliance tests. Unless otherwise advised by the Department, provide 15 days notice prior to conducting annual tests, except for the initial test when 30 days notice is required.]

22. Special Compliance Tests: When the Department, after investigation, has good reason (such as complaints, increased visible emissions or questionable maintenance of control equipment) to believe that any applicable emission standard contained in a Department rule or in a permit issued

pursuant to those rules is being violated, it shall require the owner or operator of the facility to conduct compliance tests which identify the nature and quantity of pollutant emissions from the emissions units and to provide a report on the results of said tests to the Department. [Rule 62-297.310(7)(b), F.A.C.]

REPORTING AND RECORD KEEPING REQUIREMENTS

23. Duration of Record Keeping: 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. 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 instrumentation) 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 five years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule. [Rules 62-4.160(14)(a)&(b)and 62-213.440(1)(b)2.b., F.A.C.]

24. Test Reports: The owner or operator of an emissions unit for which a compliance test is required shall file a report with the Department on the results of each such test. The required test report shall be filed with the Department as soon as practical but no later than 45 days after the last sampling run of each test is completed. The test report shall provide sufficient detail on the emissions unit tested and the test procedures used to allow the Department to determine if the test was properly conducted and the test results properly computed. As a minimum, the test report, other than for an EPA or DEP Method 9 test, shall provide the applicable information listed in Rule 62-297.310(8)(c),F.A.C. [Rule 62-297.310(8),F.A.C.]

25. Excess Emissions Report: If excess emissions occur, the owner or operator shall notify the Department within one working day of: the nature, extent, and duration of the excess emissions; the cause of the excess emissions; and the actions taken to correct the problem. In addition, the Department may request a written summary report of the incident. Pursuant to the New Source Performance Standards, excess emissions shall also be reported in accordance with 40 CFR 60.7, Subpart A. [Rule 62-4.130, F.A.C.]

26. Excess Emissions Report - Malfunctions: In case of excess emissions resulting from malfunctions, each owner or operator shall notify the Department in accordance with Rule 62-4.130, F.A.C. A full written report on the malfunctions shall be submitted in a quarterly report. [Rule 62-210.700(6), F.A.C.]

    [Note: A quarterly written report is hereby requested by the Department for every quarter that the facility is in operation. If no malfunctions occurred during a quarter, a written report stating that no malfunctions occurred shall be submitted.]

27. Annual Operating Report for Air Pollutant Emitting Facility: The Annual Operating Report for Air Pollutant Emitting Facility shall be completed each year and shall be submitted to the Department's Northeast District office by March 1 of the following year. [Rule 62-210.370(3),F.A.C.]

AMBIENT MONITORING AND MODELING REQUIREMENTS

28. Ambient Monitoring Required: The owner or operator shall install and operate two ambient monitoring devices for suspended particulate matter less than 10 microns (PM_{10}) at offsite locations (sites) to be determined by the Department. The devices shall be installed and operational within 120 days of final issuance of this permit. These devices shall operate continuously with access to the instrument provided to the Ambient Monitoring Section (AMS) of the Department's Bureau of Ambient Monitoring and Mobile Sources(BAMMS) by means of telephone. The monitoring devices shall be located as designated by the Department. The monitoring devices shall be of those designated as an EPA equivalent method and must be year 2000 compliant. The monitoring equipment shall be operated as long as required by the Department, however the owner or operator may petition the Department to review the monitoring requirements after five years of operation, and every five years thereafter. Requests for review shall be directed to the AMS.

    Ambient monitoring activities required by this permit for PM_{10} shall be conducted in such a manner so as to meet the Department's minimum quality assurance requirements as delineated in 40 CFR Parts 50 and 58.14; Part 58, Appendices A, C, D and E; and the Department's *State-Wide Quality Assurance Air Program Plan* (*Plan*). Changes to the *Plan* will be distributed by the BAMMS to the owner or operator. The owner or operator shall comply with *Plan* changes as soon as practicable, but no later than upon renewal of this permit.

    The owner or operator shall, within 90 days of the effective permit date, submit to the Department for review and approval standard operating procedures for each monitor, calibrator and ancillary piece of equipment utilized in the production of the required ambient air quality data.

    The owner or operator shall submit the verified monitoring data and quality assurance results to BAMMS within ninety (90) days after the end of each calendar quarter in an electronic medium and format: either Aerometric Information Retrieval System (AIRS) or other EPA acceptable electronic format for the monitoring data, and the Precision and Accuracy Data (PAData) or other EPA acceptable electronic format for the quality assurance data, as specified by the Department.

    The owner or operator shall allow Department auditors, with a minimum of seven (7) days prior notification, access to the monitoring locations for the purpose of the performance of accuracy audits which may be completed in lieu of, or in addition to, the owner or operator's quarterly accuracy audits as specified in 40 CFR, Part 58, Appendix A, 3.2 and 3.4. The owner or operator shall also submit to an annual systems audit as specified in 40 CFR Part 58, Appendix A, 2.5. The systems audit, which reviews the quality assurance and monitoring effort for the preceding year, shall be conducted between February and June of the year following the year in which the audited data were produced. In addition, the Department staff shall be allowed access to the monitoring locations, with a minimum of seven (7) days prior notification, on an annual basis, for the purpose of determining compliance with the siting requirements as specified in 40 CFR Part 58, Appendix E.
    [Rule 62-212.400(5)(g), F.A.C.]

29. Property Fencing: The owner or operator shall fence the entire property perimeter to conform to the boundaries used for modeling the fenceline receptors shown in the applicant's submittal to the Department received by electronic mail November 11, 1999. Such fencing shall be sufficient to prevent access onto the facility property from the general public. Gates may be installed at entry and

exit points as long as the owner or operator controls entry onto the facility from the general public at these points. [Rules 62-4.070(3) and 62-212.400(5)(d), F.A.C.]

ADDITIONAL OPERATIONAL REQUIREMENTS

30. Experience of Facility Personnel: The owner shall staff the facility with trained and experienced managers, supervisors and operators. Trained supervisors and operators shall be on duty at the plant at all times. The plant manager shall have at least 10 years of cement industry experience and shall also have experience as a cement plant manager. [Rule 62-4.070(3), F.A.C.]

31. Third Party Audit: The owner or operator shall contract with an independent third party, acceptable to the Department, knowledgeable in the processes and control equipment used at this plant, to perform an audit of the maintenance records and physical condition of the plant process equipment and emission control equipment. This audit will be conducted once each year for a minimum of five years from the start of operation of the plant. The auditor shall make a report to the owner or operator on the condition of the process and emission control equipment, and the adequacy of the owner or operator's maintenance program and activities. One copy of the annual report shall be forwarded to the Department's Northeast District office for review, within 45 days of completion of each audit. After five years of reports that show the process and emission control equipment is being properly maintained, the Department shall evaluate the need to continue this requirement. [Rule 62-4.070(3), F.A.C.]

SUBSECTION A.

The following specific conditions apply to the following emissions units after construction

EMISSIONS UNIT NO.	EMISSIONS UNIT DESCRIPTION
001	1000 TPH primary crusher and associated unenclosed belt conveyors to raw material storage – fugitive emissions

[Note: Emissions unit 001 is subject to 40 CFR 60 Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants (40 CFR 60.670 – 60.676) and 40 CFR 60 Subpart A, revised as of July 1, 1997. This emissions unit is also subject to the requirements of the state rules as indicated in this permit.

The numbering of the original rules in the following conditions has been preserved for ease of reference to the rules. Inapplicable paragraphs have been omitted for clarity and brevity. The term "Administrator" when used in 40 CFR 60 shall mean the Secretary or the Secretary's designee.]

STATE REQUIREMENTS

OPERATIONAL REQUIREMENTS

1. Hours of Operation: This emissions unit may operate continuously, i.e., 8,760 hours per year. [Rule 62-210.200, F.A.C., Definitions -- potential to emit (PTE)]

2. Process Rate Limitation: The crusher shall not process more than 139,917 tons of raw material in any month. [Rule 62-210.200, F.A.C., Definitions -- potential to emit (PTE)]

   [Note: This process rate is based on an estimated moisture content of raw material of 15% and includes the weight of this moisture. This monthly limit corresponds to an annual limit of 1,679,000 tons per year. The applicant has estimated that the potential to emit from crushing, transfer and unloading operations is: PM 0.8, and PM_{10} 0.7 tons per year.]

COMPLIANCE MONITORING AND TESTING REQUIREMENTS

3. Visible Emission Tests Required: The owner or operator shall demonstrate compliance with the visible emission limits of specific condition 6 of this subsection annually, using the methods specified in this subsection. [Rule 62-297.310(7)(a)4.a., F.A.C.]

REPORTING AND RECORD KEEPING REQUIREMENTS

4. Records: The owner or operator shall make and maintain records showing the monthly processing rate of the crusher. Records of the processing rate for each month shall be made no later than 10 days following the end of the month. [Rule 62-4.070(3), F.A.C.]

FEDERAL NSPS REQUIREMENTS

APPLICABILITY AND DEFINITIONS

5. Pursuant to 40 CFR 60.670 Applicability and Designation of Affected Facility:

(a)(1) The provisions of 40 CFR 60 Subpart OOO are applicable to the following affected facilities in fixed or portable nonmetallic mineral processing plants: each crusher or belt conveyor. [40 CFR 60.670]

Belt conveyor and crusher are defined at 40 CFR 60.671. The definitions are applicable to this project but have been omitted for brevity. See the Code of Federal Regulations for the text of this section.

EMISSION LIMITATIONS AND PERFORMANCE STANDARDS

6. Pursuant to 40 CFR 60.672 Standard for Particulate Matter:

(b) On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup as required under 40 CFR 60.11, no owner or operator shall cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any fugitive emissions which exhibit greater than 10 percent opacity, except as provided in paragraph (c) and (d) of this section.

(c) On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup as required under 40 CFR 60.11, no owner or operator shall cause to be discharged into the atmosphere from any crusher, at which a capture system is not used, fugitive emissions which exhibit greater than 15 percent opacity.

(d) Truck dumping of nonmetallic minerals into any screening operation, feed hopper, or crusher is exempt from the requirements of this section.
[40 CFR 60.672 (b), (c) & (d)]

COMPLIANCE MONITORING AND TESTING REQUIREMENTS

7. Pursuant to 40 CFR 60.675 Test Methods and Procedures:

(a) 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 40 CFR 60 Appendix A 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.

(c)(1) In determining compliance with the particulate matter standards in 40 CFR 60.672 (b) and (c), the owner or operator shall use Method 9 and the procedures in 40 CFR 60.11, with the following additions:

(i) The minimum distance between the observer and the emissions source shall be 4.57 meters (15 feet).

(ii) The observer shall, when possible, select a position that minimizes interference from other fugitive emissions units (e.g., road dust). The required observer position relative to the sun (Method 9, Section 2.1) must be followed.

(iii) For affected emissions units using wet dust suppression for particulate matter control, a visible mist is sometimes generated by the spray. The water mist must not be confused with particulate matter emissions and is not to be considered a visible emission. When a water mist of this nature is present, the observation of emissions is to be made at a point in the plume where the mist is no longer visible.

(3) When determining compliance with the fugitive emissions standard for any affected facility described under Section 60.672(b) of this subpart, the duration of the Method 9 observations may be reduced from 3 hours (thirty 6-minute averages) to 1 hour (ten 6-minute averages) only if the following conditions apply:

(i) There are no individual readings greater than 10 percent opacity; and

(ii) There are no more than 3 readings of 10 percent for the 1-hour period.

(4) When determining compliance with the fugitive emissions standard for any crusher at which a capture system is not used as described under Section 60.672(c) of this subpart, the duration of the Method 9 observations may be reduced from 3 hours (thirty 6-minute averages) to 1 hour (ten 6-minute averages) only if the following conditions apply:

(i) There are no individual readings greater than 15 percent opacity; and

(ii) There are no more than 3 readings of 15 percent for the 1-hour period.

(e) The owner or operator may use the following as alternatives to the reference methods and procedures specified in this section:

(1) For the method and procedure of 40 CFR 60.675(c), if emissions from two or more facilities continuously interfere so that the opacity of fugitive emissions from an individual affected facility cannot be read, either of the following procedures may be used:

(i) Use for the combined emission stream the highest fugitive opacity standard applicable to any of the individual affected facilities contributing to the emissions stream.

(ii) Separate the emissions so that the opacity of emissions from each affected facility can be read.

(g) If, after 30 days notice for an initially scheduled performance test, there is a delay (due to operation problems, etc.) in conducting any rescheduled performance test required in this section, the owner or operator of an affected facility shall submit a notice to the Administrator at least 7 days prior to any rescheduled performance test.

[40 CFR 60.675(a); (c)(1), (3) and (4); (e)(1); and (g)]

REPORTING AND RECORD KEEPING REQUIREMENTS

8. Pursuant to 40 CFR 60.676 Reporting and Recordkeeping:

(f) The owner or operator of any affected facility 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 (c).

(h) The subpart A requirement under 40 CFR 60.7(a)(2) for notification of the anticipated date of initial startup of an affected facility shall be waived for owners or operators of affected facilities regulated under this subpart.

(i) A notification of the actual date of initial startup of each affected facility shall be submitted to the Administrator.

(1) For a combination of affected facilities in a production line that begin actual initial startup on the same day, a single notification of startup may be submitted by the owner or operator to the Administrator. The notification shall be postmarked within 15 days after such date and shall include a description of each affected facility, equipment manufacturer, and serial number of the equipment, if available.

[40 CFR 60.676(f), (h), and (i)]

SUBSECTION B.

The following specific conditions apply to the following emissions units after construction

EMISSIONS UNIT NO.	EMISSIONS UNIT DESCRIPTION
002	Raw material processing operations controlled by baghouses
003	Raw material processing – unenclosed conveyor transfer points – D conveyors
004	In line kiln/raw mill controlled by baghouse – main stack
005	Clinker cooler controlled by ESP
006	Clinker and cement processing operations controlled by baghouses
007	Clinker and cement processing – unenclosed conveyor transfer points – M conveyors

[Note: Emissions units 002, 003, 004, 005, 006, and 007 are subject to 40 CFR 60 Subpart F, Standards of Performance for Portland Cement Plants (40 CFR 60.60 – 60.66) and 40 CFR 60 Subpart A, revised as of July 1, 1997. These emissions units are also subject to 40 CFR 63 Subpart LLL, National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry (40 CFR 63.1340 – 63.1359), revised as of May 14, 1999 and 40 CFR 63 Subpart A, revised as of February 12, 1999. These emissions units are also subject to the requirements of the state rules as indicated in this permit, particularly Rule 62-212.400, F.A.C., Prevention of Significant Deterioration, effective February 5, 1998. Emissions units 004 and 005 are subject to Rule 62-296.701, F.A.C., Portland Cement Plants, effective March 2, 1999.

The Department adopted the provisions of 40 CFR 63 Subpart LLL by reference into Rule 62-204.800, F.A.C., effective October 1, 1999. The provisions are included in this permit.

The numbering of the original rules in the following conditions has been preserved for ease of reference to the rules. Inapplicable paragraphs have been omitted for clarity and brevity. The term "Administrator" when used in 40 CFR 60 shall mean the Secretary or the Secretary's designee.]

STATE REQUIREMENTS

OPERATIONAL REQUIREMENTS

1. Hours of Operation: This emissions unit may operate continuously, i.e., 8,760 hours per year. [Rule 62-210.200, F.A.C., Definitions -- potential to emit (PTE)]
2. Fuels: Fuels fired in the pyroprocessing system (kiln and calciner) shall not exceed a total maximum heat input of 364 million Btu per hour (mmBtu/hr) and shall consist only of natural gas, coal, petroleum coke, whole tires and tire derived fuel. Usage of tires and tire derived fuel shall be in compliance with the following limits and conditions:
   a. Whole tires and tire derived fuel may be fired directly in the pyroprocessing system at a rate not to exceed a maximum heat input of 10% of the total pyroprocessing heat input, not to exceed 36.4 mmBtu/hr at any time. The remaining 90% of the total pyroprocessing heat input shall be derived from firing natural gas, coal or petroleum coke. Tires and tire derived fuel fired in this manner shall be fed into the kiln system at the transition section between the base of the precalciner and the point where gases exit the kiln. The tire feeder mechanism shall be designed with a double airlock.

b. Whole tires and tire derived fuel may be fed into the tire gasification system at a rate not to exceed a maximum heat input of 40% of the total pyroprocessing heat input, not to exceed 145.6 mmBtu/hr at any time. The remaining 60% of the total pyroprocessing heat input shall be derived from firing natural gas, coal or petroleum coke. The tire feeder mechanism for the tire gasification system shall have an airlock. The tire gasification system shall convey solid byproducts into the pyroprocessing system via a ram system.

c. Tires and tire derived fuel shall be fired in either manner a. or b. above, but not both at any given time.

[Rules 62-4.070(3) and 62-210.200, F.A.C., Definitions -- potential to emit (PTE), F.A.C.]

3. Fuels and Materials Not Allowed: The owner or operator shall not introduce hazardous wastes, petroleum contaminated soil or materials, used oil, oil fuels, solid fuels other than those allowed by this permit, or solid wastes other than tires and tire derived fuel into any part of the process or emission control equipment. [Rule 62-4.070(3), F.A.C.]

4. Process Rate Limitations: The kiln shall not process more than 178 tons of dry preheater feed per hour and shall not produce more than 105 tons of clinker per hour. The facility shall not produce more than 150 tons of cement per hour. Process and production rates shall be further limited to 1,427,880 tons of dry preheater feed in any consecutive 12-month period, 839,500 tons of clinker in any consecutive 12-month period, and 1,191,360 tons of portland cement in any consecutive 12-month period. [Rule 62-210.200, F.A.C., Definitions -- potential to emit (PTE)]

5. Air Heater: The permittee may install an air heater associated with the raw mill, fired only with natural gas, with a maximum rated heat input capacity of 32 mmBtu/hr. [Rule 62-4.070(3), F.A.C.]

   [Note: Emissions from the air heater are included in the emission limitations of emissions unit 004, specified in specific condition 15 of this subsection. Estimated maximum potential emissions from the air heater alone are: NOx, 3.12 lb/hr, CO 2.62 lb/hr, SO_2, 0.02 lb/hr, and VOC 0.08 lb/hr.]

6. Final Construction Schedule: The permittee shall provide to the Department a final construction schedule after selection of the contractor and before commencement of construction. [Rule 62-212.400(5)(h)2., F.A.C.]

7. Cement Kiln Dust: Cement kiln dust shall be recirculated in the process and shall not be directly discharged from process or emission control equipment. Cement kiln dust removed from process equipment during maintenance and repair shall be confined and controlled at all times and shall be managed in accordance with the applicable provisions of 40 CFR 261. [Rule 62-4.070(3), F.A.C.]

   [Note: 40 CFR 261 has been omitted for brevity. See the Code of Federal Regulations for the text of this section.]

8. Tires and TDF Management: Tires and tire derived fuel shall be stored, handled and managed in accordance with the provisions of Rule 62-711, F.A.C. [Rule 62-4.070(3), F.A.C.]

   [Note: Rule 62-711, F.A.C., has been omitted for brevity. See the Florida Administrative Code for the text of this rule.]

9. Continuous Monitor Data Retrieval System: The owner or operator, at its sole expense, shall provide to the Department, at the Department's chosen site, one personal computer equipped with a modem

and software, and corresponding hardware at the owner's facility, to enable the Department at any time to connect to the CEM system and allow the Department access to data from the continuous monitors for SO_2, NOx and VOC expressed in terms of the units of the emission limiting standards of this permit, data from the continuous opacity monitor systems, and data from the monitor for the temperature at the inlet to the in-line kiln/raw mill particulate matter control device. The computer and software shall provide the Department with a numerical and graphical display of these data in real time pursuant to the averaging requirements of this permit, and shall allow the Department to electronically store and retrieve such data, and print such data as the Department may select. The software shall also allow the Department to review the exception log for any previous period of time accessible through the CEMS data management system. The owner or operator shall also, at its sole expense, provide for 24 months after initiating plant operation software development support at the Department's chosen site to allow the Department to specify and receive timely programming of the data retrieval software to allow the Department to change the format and provide additional formats of the reports it receives. The owner or operator shall also at its sole expense, if technically feasible, post the above data to an Internet site accessible to the Department and public at any time via standard Internet browser software. [Rule 62-4.070(3), F.A.C.]

10. O&M Plan for Baghouses and ESP: The owner or operator shall prepare an operation and maintenance plan (O&M plan) to address operation and regular, routine inspection and maintenance of the electrostatic precipitator for the clinker cooler (emissions unit 005), and the baghouses for emissions units 002, 004 and 006. The O&M plan shall address the schedule for inspection of this equipment and required preventive maintenance and shall require records of the condition of the equipment upon each inspection and any maintenance activities performed. The O&M plan shall be submitted to the Department's Northeast District office prior to expiration of this permit. [Rule 62-4.070(3), F.A.C.]

COMBUSTION AND PROCESS CONTROL TECHNOLOGY

11. Combustion and Process Control Technology: The owner or operator shall install and operate multistage combustion, with a separate line combustion chamber at the precalciner, for control of NOx emissions. The owner or operator shall control emissions of CO and VOC through control of the combustion process. The owner or operator shall control emissions of SO_2 through design and control of the clinker production process. [Rules 62-4.070(3) and 62-212.400, F.A.C., and BACT]

EMISSION LIMITATIONS AND PERFORMANCE STANDARDS

[Note: The emission limits for particulate matter and visible emissions imposed by Rule 62-212.400 and BACT are as stringent or more stringent than the limits imposed by the applicable NSPS or NESHAP rules. However, the BACT requirements do not waive or vary any monitoring or record keeping requirements of the NSPS and NESHAP rules.]

12. Emissions Limited and Subject to Revision for SO_2 and NOx: Emissions from the facility shall not exceed the limitations specified in this permit. Based on results of compliance tests and continuous monitoring data, the Department may revise the emission limits for sulfur dioxide and nitrogen oxides downward to make these limits more stringent provided that overall control attained for all air pollutants including SO_2, NOx, VOC and CO is optimized. Such revision shall be based on data that represents a full range of operating conditions and a representative period of time. Such revision, if

required by the Department, shall be in the form of a federally enforceable permit and shall be publicly noticed by the permittee. [Rules 62-4.070(3) and 62-212.400(7)(a), F.A.C.]

13. Mercury into the Pyroprocessing System Limited: The total mass of mercury compounds introduced into the pyroprocessing system, expressed as Hg, in raw mill feed and fuels shall not exceed 97 pounds per consecutive 12-month period. [62-4.070(3), F.A.C.]

14. Emissions Unit 002: Emissions unit 002 shall have the following emission points:

EMISSION POINT	DESCRIPTION
E-28	Dust collector for drops to homogenizing silo
G-07	Dust collector for homogenizing silo
H-08	Dust collector for raw meal transport system

Particulate matter (PM) emissions from each emission point of emissions unit 002 shall not exceed 0.01 grains/dscf, and PM_{10} emissions shall not exceed 0.0085 grains/dscf. Particulate matter emissions from each emission point of this emissions unit shall be controlled by a baghouse. Visible emissions from each emission point of this emissions unit shall not exceed 5% opacity.

Initial and annual compliance testing for PM emissions from this emissions unit is waived, and an alternative standard of 5% opacity is imposed, pursuant to Rule 62-297.620(4), F.A.C. If the Department has reason to believe that the particulate weight emission standard is not being met, it shall require that compliance be demonstrated using EPA Method 5, as described in 40 CFR 60 Appendix A (1997 version).

[Note: These emission limits effectively limit annual emissions of PM for all emission points in this emission unit to 6.2 tons per year. PM_{10} emissions are estimated to equal 85% of PM emissions, or 5.3 tons per year. The particulate weight emission standards and the visible emissions limit of 5% opacity are BACT.]

[Rules 62-4.070(3), 62-210.700(5), 62-212.400 and 62-297.620(4), F.A.C., BACT and applicant request]

[Note: Emissions units 003 and 007 are subject to the visible emissions limits of the NSPS and NESHAP described elsewhere in this subsection.]

15. Emissions Unit 004: Emissions unit 004 shall have one emission point, the stack of the in-line kiln/raw mill, designated by the applicant as E-21. Particulate matter emissions from this emissions unit shall be controlled by a baghouse.

Emissions from emissions unit 004, the in-line kiln/raw mill, shall not exceed the following limits for the following pollutants: [Emissions from the natural gas fired air heater are included in the limits below]

POLLUTANT	EMISSION LIMIT		AVERAGING TIME	BASIS
PM	0.13 lb/ton of dry preheater feed	23.1 lb/hour	3 hours [3]	BACT
PM_{10}	0.11 lb/ton of dry preheater feed	19.6 lb/hour	3 hours [3]	BACT
SO_2	0.27 lb/ton of clinker	28.4 lb/hour	3 hours [4]	BACT
NOx	2.9 lb/ton of clinker [1]	304.5 lb/hour [1]	24 hours [4]	BACT
CO	3.6 lb/ton of clinker	378.0 lb/hour	3 hours [5]	BACT
VOC	0.12 lb/ton of clinker [2]	12.6 lb/hour [2]	30 days [6]	BACT
VE	10% opacity		6 minutes [7]	BACT

[1] NOx emissions shall not exceed 3.8 lb/ton of clinker and 399.0 lb/hour during the first 12 months after initial startup. After 12 months after initial plant startup, emissions of NOx shall not exceed the limits shown in the table. Emissions of NOx up to 600 lb/hr for up to one hour in duration shall be allowed for each startup of the pyroprocessing system which occurs when there is no material in the kiln.

[2] VOC emissions shall be expressed as propane.

[3] The averaging times for PM and PM_{10} correspond to the required length of sampling for the initial and subsequent emission tests.

[4] The averaging time for NOx shall be a rolling average that shall be recomputed every hour from the individual hourly averages for the current hour and the preceding 23 hours. The averaging time for SO_2 shall be a rolling average that shall be recomputed every hour from the individual hourly averages for the current hour and the preceding two hours. Each hourly average shall be computed from a minimum of one measurement every minute.

[5] The averaging time for CO corresponds to the required length of sampling for the initial and subsequent emission tests.

[6] The averaging time for VOC shall be a 30-day block average that shall be computed from a minimum of one measurement every minute.

[7] The averaging time for visible emissions shall be a 6-minute block average that shall be computed from a minimum of one measurement every 15 seconds. The 6 minute block averages shall start at the beginning of each hour.

[Note: These emission limits, along with annual production limits, effectively limit annual emissions to: PM, 92.8; PM_{10}, 78.4; SO_2, 113.4; NOx, 1217.5; CO, 1511.1; and VOC, 50.4 tons per year. First year NOx emissions are effectively limited to 1595.4 tons per year. NOx emissions are estimated assuming that two startups as specified occur per year, each resulting in maximum allowable excess emissions. Mercury introduced into the pyroprocessing system is limited pursuant to specific condition 13 of this subsection of this permit; annual emissions of mercury are effectively limited by this condition to 97 pounds per year.]

[Rules 62-4.070(3) and 62-212.400, F.A.C., and BACT]

No owner or operator of a Portland Cement kiln shall cause, permit, or allow the emission of particulate matter in excess of 0.50 pounds per ton to the kiln (dry basis, excluding fuel), or visible emissions the density of which is greater than 20 percent opacity. [Rule 62-296.701(2)(a), F.A.C.]

[Note: The BACT emission limits of this permit (table above) are more stringent than the limits imposed by this rule.]

16. Emissions Unit 005: Emissions unit 005 shall have one emission point, the stack of the clinker cooler, designated by the applicant as K-15. Particulate matter emissions from this emissions unit shall be controlled by an electrostatic precipitator.

Emissions from emissions unit 005, the clinker cooler, shall not exceed the following limits for the following pollutants:

POLLUTANT	EMISSION LIMIT		AVERAGING TIME	BASIS
PM	0.07 lb/ton of dry preheater feed	12.5 lb/hour	3 hours [1]	BACT
PM_{10}	0.06 lb/ton of dry preheater feed	10.7 lb/hour	3 hours [1]	BACT
VE	10% opacity		6 minutes [2]	BACT

[1] The averaging times for PM and PM_{10} correspond to the required length of sampling for the initial and subsequent emission tests.

[2] The averaging time for visible emissions shall be a 6-minute block average computed from a minimum of one measurement every 15 seconds. The 6 minute block averages shall start at the beginning of each hour.

[Note: These emission limits, along with annual production limits, effectively limit annual emissions to: PM, 49.9 and PM_{10}, 42.9 tons per year.]

[Rules 62-4.070(3), 62-210.700(5) and 62-212.400, F.A.C., and BACT]

No owner or operator of a Portland Cement clinker cooler shall cause, permit, or allow the emission of particulate matter in excess of 0.25 pounds per ton of feed to the kiln (dry basis, excluding fuel), or visible emissions the density of which is greater than 20 percent opacity. [Rule 62-296.701(2)(b), F.A.C.]

[Note: The BACT emission limits of this permit (table above) are more stringent than the limits imposed by this rule.]

17. Emissions Unit 006: Emissions unit 006 shall have the following emission points:

EMISSION POINT	DESCRIPTION
L-03	Dust collector for clinker transport system
L-06	Dust collector for clinker storage system
M-08	Dust collector for clinker transport system
N-09	Dust collector for finish mill air separator
N-12	Dust collector for finish mill vent

(Table continued below)

EMISSION POINT	DESCRIPTION
N-91	Dust collector for clinker grinding (finish mill)
Q-14	Dust collector for cement loading system
Q-17	Dust collector for cement loading system
Q-25	Dust collector for cement storage silo
Q-26	Dust collector for cement storage silo
R-12	Dust collector for cement packing operation

Particulate matter (PM) emissions from each emission point of emissions unit 006 shall not exceed 0.01 grains/dscf, and PM_{10} emissions shall not exceed 0.0085 grains/dscf. Particulate matter emissions from each emission point of this emissions unit shall be controlled by a baghouse. Visible emissions from each emission point of this emissions unit shall not exceed 5% opacity.

For emission points N-09 and N-12, after initial testing that demonstrates compliance with the PM limit of this condition is completed, subsequent compliance testing for PM emissions from these emission points is waived, and an alternative standard of 5% opacity is imposed, pursuant to Rule 62-297.620(4), F.A.C. For the other emission points of emissions unit 006, initial and annual compliance testing for PM emissions from these emission points is waived, and an alternative standard of 5% opacity is imposed, pursuant to Rule 62-297.620(4), F.A.C. If the Department has reason to believe that the particulate weight emission standard is not being met, it shall require that compliance be demonstrated using EPA Method 5, as described in 40 CFR 60 Appendix A (1997 version).

[Note: These emission limits effectively limit annual emissions of PM for all emission points in this emission unit to 68.4 tons per year. PM_{10} emissions are estimated to equal 85% of PM emissions, or 58.1 tons per year. The particulate weight emission standard and the visible emissions limit of 5% opacity are BACT.]

[Rules 62-4.070(3), 62-210.700(5), 62-212.400 and 62-297.620(4), F.A.C., BACT and applicant request]

COMPLIANCE MONITORING AND TESTING REQUIREMENTS

18. Continuous Emission Monitoring Systems: The owner or operator shall install, calibrate, maintain, and operate a continuous emission monitoring (CEM) system in the in-line kiln/raw mill stack to measure and record the emissions of NOx, SO_2, and VOC from the in-line kiln/raw mill, in a manner sufficient to demonstrate compliance with the emission limits of this permit. Compliance with the emission limit for NOx shall be based on a 24-hour rolling average that shall be recomputed every hour from the individual hourly averages for the current hour and the preceding 23 hours, and compliance with the emission limit for SO_2 shall be based on a rolling three-hour average that shall be recomputed every hour from the individual hourly averages for the current hour and the preceding two hours; each hourly average shall be computed from a minimum of one measurement every minute. Compliance with the emission limit for VOC shall be based on a 30 day block average that shall be computed from a minimum of one measurement every minute. The CEM system shall express the results in units of pounds per ton of clinker produced, and pounds per hour. [Rule 62-4.070(3), F.A.C., and BACT]

[Note: Continuous opacity monitor (COM) systems shall be installed, operated, and maintained at the kiln/raw mill baghouse stack and the outlet of the clinker cooler ESP pursuant to 40 CFR 60.63. A continuous emission monitor for emissions of total hydrocarbon is required pursuant to 40 CFR 63.1349 and 63.1450. A continuous monitor for the temperature at the inlet to the in-line kiln/raw mill baghouse is required pursuant to 40 CFR 63.1349 and 63.1450.]

19. CEM System Requirements: The selection, installation, calibration, maintenance, operation, record keeping, and reporting of the CEM system shall comply with the requirements of 40 CFR 60.7 and 60.13, and 40 CFR 60 Appendix B, Performance Specifications, and Appendix F, Quality Assurance Procedures. [Rules 62-4.070(3), 62-210.800 and 62-297.520, F.A.C., and BACT]

    [Note: 40 CFR 60 Appendix B and Appendix F have been omitted for brevity. See the Code of Federal Regulations for the text of these sections.]

20. Emission Tests Required – Emissions Units 002 and 006: The owner or operator shall demonstrate compliance with the visible emissions standard for emissions units 002 and 006 annually using EPA Method 9, as described in 40 CFR 60 Appendix A (1997 version). The owner or operator shall demonstrate compliance with the particulate matter (PM) limits of this permit for emissions units 002 and 006, as required by this permit, using EPA Method 5, as described in 40 CFR 60 Appendix A (1997 version). Testing emissions units 002 and 006 for PM_{10} is not required if the particulate matter test(s) demonstrate compliance with the PM limits. Should PM_{10} testing be required, compliance shall be demonstrated using EPA Method 201 of 40 CFR 51, Appendix M (1997 version). [Rules 62-297.310 and 62-297.620(4), F.A.C., and BACT]

21. Visible Emission Tests Required – Emissions Units 003 and 007: The owner or operator shall, for emissions units 003 and 007, demonstrate compliance with the visible emission limits of specific conditions 29(c) and 39 of this subsection annually, using the methods specified in this subsection. [Rule 62-297.310(7)(a)4.a., F.A.C.]

22. Emission Tests Required – Emissions Units 004 and 005: In addition to the continuous monitoring requirements of this permit, the owner or operator shall demonstrate compliance with the emission limits of this permit for emissions units 004 and 005 initially and annually using the test methods of 40 CFR 60 Appendix A and 40 CFR 61 Appendix B (1997 versions) specified below. The tests conducted annually for the relative accuracy test audit (RATA) for the CEM system may be used to satisfy this requirement provided the owner or operator satisfies the prior notification requirements and emission testing requirements of this permit for performance and compliance tests.

POLLUTANT	TEST METHOD
PM	Method 5 [1]
PM_{10}	Method 5, assuming all PM measured is PM_{10}
SO_2	Method 6 or 6C
NOx	Method 7 or 7E [2]
VE	Method 9
CO	Method 10
VOC	Method 25 or 25A

Notes to previous table:

[1] The minimum sample volume shall be 30 dry standard cubic feet.
[2] NOx emissions testing shall be conducted with the air heater in operating at the highest heat input possible during the test.

Each test shall be conducted while all continuous monitoring systems are functioning properly, and with all process units operating at their permitted capacity.

Separate emission tests of emissions unit 004 shall be conducted for the above pollutants upon initial operation under the following fuel firing scenarios:

PRIMARY FUEL	SECONDARY FUEL
Coal	Tires and tire derived fuel directly into the pyroprocessing system
Coal	Tires and tire derived fuel into the tire gasification system
Petroleum Coke	Tires and tire derived fuel directly into the pyroprocessing system
Petroleum Coke	Tires and tire derived fuel into the tire gasification system

Subsequent annual testing under these fuel firing scenarios is not required for any firing scenario that is used for less than 400 hours in the previous year, as documented by fuel firing records.

An initial test of emissions unit 004 shall be conducted for mercury using either Method 29 or Method 101A. No subsequent emissions testing for mercury is required. If Method 29 is utilized, the owner or operator is not required to report results for other metals.

[Rules 62-4.070(3), 62-296.701(4)(a), (c) and (d), and 62-297.310(7), F.A.C. and BACT]

[Note: 40 CFR 60 Appendix A has been omitted for brevity. See the Code of Federal Regulations for the text of this section.]

23. CO Process Monitors: The owner or operator shall install and maintain one or more process monitors for carbon monoxide that will continuously monitor carbon monoxide content in the process gases to enable the operator to properly operate the pyroprocessing system while minimizing emissions of CO, VOC and NOx. The data from the process monitors shall be available at the facility for Department inspection. The owner or operator shall, upon request of the Department during inspection, provide the Department with sufficient process information to allow the Department to estimate emissions of CO from the process monitor data, in units of pounds of CO per ton of clinker and pounds per hour. [Rule 62-4.070(3), F.A.C.]

REPORTING AND RECORD KEEPING REQUIREMENTS

24. Records of Process and Production Rates: The owner or operator shall make and maintain records of the process rate of dry preheater feed in units of tons per hour and tons per consecutive 12-month period, and the production rate of clinker and cement in units of tons per hour and tons per consecutive 12-month period. The clinker production rate shall be directly measured independent of preheater feed. The owner or operator shall make and maintain records of the production of portland cement in units of tons per consecutive 12-month period. Records in units of tons per hour shall be based on either hourly averages or daily averages and shall be completed no later than the day following the day of the record. Records in units of tons per consecutive 12-month period shall be

made from monthly records of process and production rates for the past 12 months, and shall be completed no later than the 10th day of each month. [Rule 62-4.070(3), F.A.C. and BACT]

25. Records of Fuels and Heat Input: The owner or operator shall record the fuel firing rate continuously. The owner or operator shall maintain records of the quantity and representative analysis of fuels purchased, and such records shall include the sulfur content, heat content and, for coal and petroleum coke, the proximate and ultimate analyses.

    The owner or operator shall make and maintain records of heat input to the pyroprocessing system on a block-hour basis, starting at the beginning of each hour, by multiplying the hourly average fuel firing rate by the heating value representative of that fuel from the records of fuel analysis. Such records shall be completed for each block-hour, within 15 minutes of the end of each block-hour.

    [Rule 62-4.070(3), F.A.C.]

26. Records of Startup, Shutdown and Malfunction: The owner or operator shall make and maintain records of periods of startup, shutdown and malfunction. These records shall show the dates, times and duration of these episodes and shall document suspected cause of each episode, corrective actions taken by the owner or operator and actions taken to reduce excess emissions. [Rule 62-4.070(3), F.A.C.]

27. Material Balance Records of Mercury: The owner or operator shall demonstrate compliance with the mercury throughput limitation by material balance and making and maintaining records of monthly and rolling 12-month mercury throughput. The owner or operator shall, for each month of sampling required by this condition, perform daily sampling of the preheater feed material from the blend silo, coal, petroleum coke, tires and tire derived fuel, and shall composite the daily samples each month, and shall analyze the monthly composite sample to determine mercury content of these materials for the month. The owner or operator shall determine the mass of mercury introduced into the pyroprocessing system (in units of pounds per month) from the total of the product of the mercury content from the monthly composite analysis and the mass of each material or fuel used during the month. The consecutive 12-month record shall be determined from the individual monthly records for the current month and the preceding eleven months and shall be expressed in units of pounds of mercury per consecutive 12-month period. Such records shall be completed no later than 25 days following the month of the records. To determine the mercury content of the feed material and fuels to be used in the monthly calculation, sampling and analysis shall be performed in accordance with the following schedule:

    i. For the first quarter of the operation of the plant, sample for each month of the quarter and analyze each month's composite sample.

    ii. For the next three quarters, sample for one month of each quarter and analyze that month's composite sample.

    iii. For each year thereafter, sample for one month of each year and analyze that month's composite sample, except as follows.

        a. If there is a change in feed material or fuels utilized from those previously sampled and analyzed, the frequency shall revert to ii, above, for the next three quarters.

b. If the monthly composite analysis shows a total monthly mercury throughput of greater than 6.2 pounds per month of mercury introduced into the pyroprocessing system, the frequency shall revert to ii, above, for the next three quarters or until the monthly throughput is less than or equal to 6.2 pounds per month, whichever is longer.

[Rule 62-4.070(3), F.A.C.]

FEDERAL NSPS REQUIREMENTS

APPLICABILITY AND DEFINITIONS

28. Pursuant to 40 CFR 60.60 Applicability and Designation of Affected Facility:

(a) The provisions of 40 CFR 60 Subpart F are applicable to the following affected facilities in portland cement plants: Kiln, clinker cooler, raw mill system, finish mill system, raw mill dryer, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems.
[40 CFR 60.60]

These terms are defined at 40 CFR 60.61. The definitions are applicable to this project but have been omitted for brevity. See the Code of Federal Regulations for the text of this section.

EMISSION LIMITATIONS AND PERFORMANCE STANDARDS

29. Pursuant to 40 CFR 60.62 Standard for Particulate Matter:

(a) 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 shall cause to be discharged into the atmosphere from any kiln any gases which:

(1) Contain particulate matter in excess of 0.15 kg per metric ton of feed (dry basis) to the kiln (0.30 lb per ton).

(2) Exhibit greater than 20 percent opacity.

(b) 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 shall cause to be discharged into the atmosphere from any clinker cooler any gases which:

(1) Contain particulate matter in excess of 0.050 kg per metric ton of feed (dry basis) to the kiln (0.10 lb per ton).

(2) Exhibit 10 percent opacity, or greater.

(c) 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 shall cause to be discharged into the atmosphere from any affected facility other than the kiln and clinker cooler any gases which exhibit 10 percent opacity, or greater.
[40 CFR 60.62(a), (b) and (c)]

[Note: Emissions units 002, 003, 006 and 007 are subject to the visible emissions limit of paragraph (c) of this condition. The BACT emission limits of this permit for emissions units 002 and 006 are as stringent or are more stringent than the emission limits imposed by this rule.]

COMPLIANCE MONITORING AND TESTING REQUIREMENTS

30. Pursuant to 40 CFR 60.63 Monitoring of Operations:

(a) The owner or operator shall record the daily production rates and kiln feed rates.
(b) Each owner or operator shall install, calibrate, maintain, and operate in accordance with 40 CFR 60.13 a continuous opacity monitoring system to measure the opacity of emissions discharged into the atmosphere from any kiln or clinker cooler.
(d) For the purpose of reports under 40 CFR 60.65, periods of excess emissions that shall be reported are defined as all 6-minute periods during which the average opacity exceeds that allowed by 40 CFR 60.62(a)(2) or 40 CFR 60.62(b)(2).

[40 CFR 60.63 (a), (b) and (d)]

31. Pursuant to 40 CFR 60.64 Test Methods and Procedures:

(a) 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).

(b) The owner or operator shall determine compliance with the particulate matter standard in 40 CFR 60.62 as follows:

(1) The emission rate (E) of particulate matter shall be computed for each run using the following equation:

$E = (c_s Q_{sd})/(P K)$

where:

E = emission rate of particulate matter, kg/metric ton (lb/ton) of kiln feed.

c_s = concentration of particulate matter, g/dscm (g/dscf).

Q_{sd} = volumetric flow rate of effluent gas, dscm/hr (dscf/hr).

P = total kiln feed (dry basis) rate, metric ton/hr (ton/hr).

K = conversion factor, 1000 g/kg (453.6 g/lb).

(2) Method 5 shall be used to determine the particulate matter concentration (c_s) and the volumetric flow rate (Q_{sd}) of the effluent gas. The sampling time and sample volume for each run shall be at least 60 minutes and 0.85 dscm (30.0 dscf) for the kiln and at least 60 minutes and 1.15 dscm (40.6 dscf) for the clinker cooler.

(3) Suitable methods shall be used to determine the kiln feed rate (P), except fuels, for each run. Material balance over the production system shall be used to confirm the feed rate.

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

[40 CFR 60.64(a) and (b)]

REPORTING AND RECORD KEEPING REQUIREMENTS

32. Pursuant to 40 CFR 60.65 Recordkeeping and Reporting:

(a) Each owner or operator required to install a continuous opacity monitoring system under 40 CFR 60.63(b) shall submit reports of excess emissions as defined in 40 CFR 60.63(d). The content of these reports must comply with the requirements in 40 CFR 60.7(c). Notwithstanding the provisions of 40 CFR 60.7(c), such reports shall be submitted semiannually.

(b) Each owner or operator monitoring visible emissions under 40 CFR 60.63(c) shall submit semi-annual reports of observed excess emissions as defined in 40 CFR 60.63(d).

(c) Each owner or operator of facilities subject to the provisions of 40 CFR 60.63(c) shall submit semi-annual reports of the malfunction information required to be recorded by 40 CFR 60.7(b). These reports shall include the frequency, duration, and cause of any incident resulting in deenergization of any device controlling kiln emissions or in the venting of emissions directly to the atmosphere.

[40 CFR 60.65(a), (b) and (c)]

FEDERAL NESHAP REQUIREMENTS

GENERAL

33. Pursuant to 40 CFR 63.1340 Applicability and Designation of Affected Sources:

(a) Except as specified in paragraphs (b) and (c) of this section, the provisions of this subpart apply to each new portland cement plant which is a major source or an area source as defined in 40 CFR 63.2.

(b) The affected sources subject to this subpart are:

(1) Each in-line kiln/raw mill at any major or area source;

(2) Each clinker cooler at any portland cement plant which is a major source;

(4) Each finish mill at any portland cement plant which is a major source;

(6) Each raw material, clinker, or finished product storage bin at any portland cement plant which is a major source;

(7) Each conveying system transfer point at any portland cement plant which is a major source;

(8) Each bagging system at any portland cement plant which is a major source; and

(9) Each bulk loading or unloading system at any portland cement plant which is a major source.

[Note: This part of the permit was drafted with the assumption that the portland cement plant will be a major source, not an area source. Should the owner or operator determine pursuant to 40 CFR 63.1352 that this portland cement plant is not a major source as defined in 40 CFR 63.2, the provisions of 40 CFR 63 Subpart LLL shall not apply to any source except for the in-line kiln/raw mill as provided by 40 CFR 63.1340, and the conditions of this permit that are pursuant to 40 CFR 63 Subpart LLL shall not apply to any source except for the in-line kiln/raw mill. Except for the in-

line kiln/raw mill, the emission limits for the clinker cooler and other sources pursuant to 40 CFR 63 Subpart LLL are as equal to those of 40 CFR 60 Subpart F.]

(c) For portland cement plants with on-site nonmetallic mineral processing facilities, the first affected source in the sequence of materials handling operations subject to this subpart is the raw material storage, which is just prior to the raw mill. The primary and secondary crushers and any other equipment of the on-site nonmetallic mineral processing plant which precedes the raw material storage are not subject to this subpart. Furthermore, the first conveyor transfer point subject to this subpart is the transfer point associated with the conveyor transferring material from the raw material storage to the raw mill.

(d) The owner or operator of any affected source subject to the provisions of this subpart is subject to title V permitting requirements.

The terms used in this rule are defined at 40 CFR 63.1341 Definitions, the text of which is reproduced below.

All terms used in this subpart that are not defined below have the meaning given to them in the CAA and in subpart A of this part.

Bagging system means the equipment which fills bags with portland cement.

Clinker cooler means equipment into which clinker product leaving the kiln is placed to be cooled by air supplied by a forced draft or natural draft supply system.

Continuous monitor means a device which continuously samples the regulated parameter specified in 40 CFR 63.1350 of this subpart without interruption, evaluates the detector response at least once every 15 seconds, and computes and records the average value at least every 60 seconds, except during allowable periods of calibration and except as defined otherwise by the continuous emission monitoring system performance specifications in appendix B to part 60 of this chapter.

Conveying system means a device for transporting materials from one piece of equipment or location to another location within a facility. Conveying systems include but are not limited to the following: feeders, belt conveyors, bucket elevators and pneumatic systems.

Conveying system transfer point means a point where any material including but not limited to feed material, fuel, clinker or product, is transferred to or from a conveying system, or between separate parts of a conveying system.

Dioxins and furans (D/F) means tetra-, penta-, hexa-, hepta-, and octa- chlorinated dibenzo dioxins and furans.

Facility means all contiguous or adjoining property that is under common ownership or control, including properties that are separated only by a road or other public right-of-way.

Feed means the prepared and mixed materials, which include but are not limited to materials such as limestone, clay, shale, sand, iron ore, mill scale, cement kiln dust and flyash, that are fed to the kiln. Feed does not include the fuels used in the kiln to produce heat to form the clinker product.

Finish mill means a roll crusher, ball and tube mill or other size reduction equipment used to grind clinker to a fine powder. Gypsum and other materials may be added to and blended with clinker in a finish mill. The finish mill also includes the air separator associated with the finish mill.

In-line kiln/raw mill means a system in a portland cement production process where a dry kiln system is integrated with the raw mill so that all or a portion of the kiln exhaust gases are used to perform the drying operation of the raw mill, with no auxiliary heat source used. In this system the kiln is capable of operating without the raw mill operating, but the raw mill cannot operate without the kiln gases, and consequently, the raw mill does not generate a separate exhaust gas stream.

Kiln means a device, including any associated preheater or precalciner devices, that produces clinker by heating limestone and other materials for subsequent production of portland cement.

One-minute average means the average of thermocouple or other sensor responses calculated at least every 60 seconds from responses obtained at least once during each consecutive 15 second period.

Portland cement plant means any facility manufacturing portland cement.

Raw material dryer means an impact dryer, drum dryer, paddle-equipped rapid dryer, air separator, or other equipment used to reduce the moisture content of feed materials.

Raw mill means a ball and tube mill, vertical roller mill or other size reduction equipment, that is not part of an in-line kiln/raw mill, used to grind feed to the appropriate size. Moisture may be added or removed from the feed during the grinding operation. If the raw mill is used to remove moisture from feed materials, it is also, by definition, a raw material dryer. The raw mill also includes the air separator associated with the raw mill.

Rolling average means the average of all one-minute averages over the averaging period.

Run average means the average of the one-minute parameter values for a run.

TEQ means the international method of expressing toxicity equivalents for dioxins and furans as defined in U.S. EPA, Interim Procedures for Estimating Risks Associated with Exposures to Mixtures of Chlorinated Dibenzo-p-dioxins and -dibenzofurans (CDDs and CDFs) and 1989 Update, March 1989.
[40 CFR 63.1340 and 63.1341]

EMISSION STANDARDS AND OPERATING LIMITS

34. Pursuant to 40 CFR 63.1342 Standards: General:

(a) [Note: Table 1 of this subpart has not been reproduced in this permit for brevity. Refer to the Code of Federal Regulations for this table. See 40 CFR 63 Subpart A, General Provisions, indicating the applicability of the general provisions requirements to subpart LLL. This subpart is attached to this permit as Appendix B.]

(b) Table 1 of this section provides a summary of emission limits and operating limits of this subpart.

Table 1 to 40 CFR 63.1342. Emission Limits and Operating Limits.

AFFECTED SOURCE	POLLUTANT OR OPACITY	EMISSION AND OPERATING LIMIT
All in-line kiln/raw mills	PM	0.15 kg/Mg of feed (dry basis)
	Opacity	20 percent
All in-line kiln/raw mills	D/F	0.20 ng TEQ/dscm or 0.40 ng TEQ/dscm when the average of the performance test run average particulate matter control device (PMCD) inlet temperatures is 204° C or less. [Corrected to 7 percent oxygen] Operate such that the three-hour rolling average PMCD inlet temperature is no greater than the temperature established at performance test.
In-line kiln/raw mills	THC	50 ppmvd, as propane, corrected to 7 percent oxygen
Clinker coolers	PM	0.050 kg/Mg of feed (dry basis)
	Opacity	10 percent
Finish mills	Opacity	10 percent
All material handling points	Opacity	10 percent

[Note: Emissions units 002, 003, 006 and 007 are subject to the visible emissions limit for material handling points. The BACT emission limits of this permit for emissions unit 004 are as stringent or are more stringent than the emission limits imposed by this rule for PM, opacity and THC. The BACT emission limits of this permit for emissions unit 005 are as stringent or are more stringent than the emission limits imposed by this rule. The BACT emission limits of this permit for emissions unit 002 and 006 are as stringent or are more stringent than the emission limits imposed by this rule.]
[40 CFR 63.1342]

35. Pursuant to 40 CFR 63.1343 Standards for Kilns and In-line Kiln/raw Mills:

(a) *General.* The provisions in this section apply to each in-line kiln/raw mill.

(c) No owner or operator of an inline kiln/raw mill shall cause to be discharged into the atmosphere from these affected sources any gases which:

(1) Contain particulate matter in excess of 0.15 kg per Mg (0.30 lb per ton) of feed (dry basis) to the kiln.

(2) Exhibit opacity greater than 20 percent.

(3) Contain D/F in excess of:

(i) 0.20 ng per dscm (8.7×10^{-11} gr per dscf)(TEQ) corrected to seven percent oxygen; or

(ii) 0.40 ng per dscm (1.7×10^{-10} gr per dscf)(TEQ) corrected to seven percent oxygen, when the average of the performance test run average temperatures at the inlet to the particulate matter control device is 204° C (400° F) or less.

(4) Contain total hydrocarbon (THC), from the main exhaust of the in-line kiln/raw mill, in excess of 50 ppmvd as propane, corrected to seven percent oxygen.
[40 CFR 63.1343]

[Note: The BACT emission limits of this permit for emissions unit 004 are as stringent or are more stringent than the emission limit imposed by this rule for PM, opacity and THC.]

36. Pursuant to 40 CFR 63.1344 Operating Limits for Kilns and In-line kiln/raw Mills:

(a) The owner or operator of an in-line kiln/raw mill subject to a D/F emission limitation under 40 CFR 63.1343 must operate the in-line kiln/raw mill, such that,

(1) When the raw mill of the in-line kiln/raw mill is operating, the applicable temperature limit for the main in-line kiln/raw mill exhaust, specified in paragraph (b) of this section and established during the performance test when the raw mill was operating is not exceeded.

(2) When the raw mill of the in-line kiln/raw mill is not operating, the applicable temperature limit for the main in-line kiln/raw mill exhaust, specified in paragraph (b) of this section and established during the performance test when the raw mill was not operating, is not exceeded.

(b) The temperature limit for affected sources meeting the limits of paragraph (a) of this section or paragraphs (a)(1) through (a)(3) of this section is determined in accordance with 40 CFR 63.1349(b)(3)(iv).
[40 CFR 63.1344]

37. Pursuant to 40 CFR 63.1345 Standards for Clinker Coolers:

(a) No owner or operator of clinker cooler shall cause to be discharged into the atmosphere from the clinker cooler any gases which:

(1) Contain particulate matter in excess of 0.050 kg per Mg (0.10 lb per ton) of feed (dry basis) to the kiln.

(2) Exhibit opacity greater than ten percent.

(b) [Reserved]
[40 CFR 63.1345]

[Note: The BACT emission limits of this permit for emissions units 005 are as stringent or are more stringent than the emission limit imposed by this rule.]

[Note: 40 CFR 63.1346 is not applicable to this project.]

38. Pursuant to 40 CFR 63.1347 Standards for Raw and Finish Mills:

The owner or operator of each raw mill or finish mill shall not cause to be discharged from the mill sweep or air separator air pollution control devices of these affected sources any gases which exhibit opacity in excess of ten percent. [40 CFR 63.1347]

[Note: The BACT emission limits of this permit for emissions unit 006 are as stringent or are more stringent than the emission limit of this condition.]

39. Pursuant to 40 CFR 63.1348 Standards for Affected Sources Other Than Kilns; In-Line Kiln/Raw Mills; Clinker Coolers; New and Reconstructed Raw Material Dryers; and Raw and Finish Mills:

The owner or operator of each new or existing raw material, clinker, or finished product storage bin; conveying system transfer point; bagging system; and bulk loading or unloading system; shall not cause to be discharged any gases from these affected sources which exhibit opacity in excess of ten percent. [40 CFR 63.1348]

[Note: Emissions units 002, 003, 006 and 007 are subject to the visible emissions limit of this condition. The BACT emission limits of this permit for emissions units 002 and 006 are as stringent or are more stringent than the emission limit of this condition.]

MONITORING AND COMPLIANCE PROVISIONS

40. Pursuant to 40 CFR 63.1349 Performance Testing Requirements:

(a) The owner or operator of an affected source subject to this subpart shall demonstrate initial compliance with the emission limits of 40 CFR 63.1343 and 40 CFR 63.1345 through 63.1348 using the test methods and procedures in paragraph (b) of this section and 40 CFR 63.7. Performance test results shall be documented in complete test reports that contain the information required by paragraphs (a)(1) through (a)(10) of this section, as well as all other relevant information. The plan to be followed during testing shall be made available to the Administrator prior to testing, if requested.

(1) A brief description of the process and the air pollution control system;

(2) Sampling location description(s);

(3) A description of sampling and analytical procedures and any modifications to standard procedures;

(4) Test results;

(5) Quality assurance procedures and results;

(6) Records of operating conditions during the test, preparation of standards, and calibration procedures;

(7) Raw data sheets for field sampling and field and laboratory analyses;

(8) Documentation of calculations;

(9) All data recorded and used to establish parameters for compliance monitoring; and

(10) Any other information required by the test method.

(b) Performance tests to demonstrate initial compliance with this subpart shall be conducted as specified in paragraphs (b)(1) through (b)(4) of this section.

(1) The owner or operator of an in-line kiln/raw mill subject to limitations on particulate matter emissions shall demonstrate initial compliance by conducting separate performance tests as specified in paragraphs (b)(1)(i) through (b)(1)(iv) of this section while the raw mill of the in-line kiln/raw mill is under normal operating conditions and while the raw mill of the in-line kiln/raw mill is not operating. The owner or operator of a clinker cooler subject to limitations on particulate matter emissions shall demonstrate initial compliance by conducting a performance test as specified in paragraphs (b)(1)(i) through (b)(1)(iii) of this section. The opacity exhibited during the period of the Method 5 of Appendix A to part 60 of this chapter performance tests required by paragraph (b)(1)(i) of this section shall be determined as required in paragraph (b)(1)(v) of this section.

(i) EPA Method 5 of appendix A to part 60 of this chapter shall be used to determine PM emissions. Each performance test shall consist of three separate runs under the conditions that exist when the affected source is operating at the highest load or capacity level reasonably expected to occur. Each run shall be conducted for at least one hour, and the minimum sample volume shall be 0.85 dscm (30 dscf). The average of the three runs shall be used to determine compliance. A determination of the particulate matter collected in the impingers ("back half") of the Method 5 particulate sampling train is not required to demonstrate initial compliance with the PM standards of this subpart. However this shall not preclude the permitting authority from requiring a determination of the "back half" for other purposes.

(ii) Suitable methods shall be used to determine the inline kiln/raw mill feed rate, except for fuels, for each run.

(iii) The emission rate, E, of PM shall be computed for each run using equation 1:

$E = (c_s Q_{sd}) / P$ **(Eq 1)**

Where: E = emission rate of particulate matter, kg/Mg of kiln feed.

c_s = concentration of PM, kg/dscm.

Q_{sd} = volumetric flow rate of effluent gas, dscm/hr.

P = total kiln feed (dry basis), Mg/hr.

(v) The opacity exhibited during the period of the Method 5 performance tests required by paragraph (b)(1)(i) of this section shall be determined through the use of a continuous opacity monitor (COM). The maximum six-minute average opacity during the three Method 5 test runs shall be determined during each Method 5 test run, and used to demonstrate initial compliance with the applicable opacity limits of 40 CFR 63.1343(b)(2), 40 CFR 63.1343(c)(2), or 40 CFR 63.1345(a)(2).

(2) The owner or operator of any affected source subject to limitations on opacity under this subpart that is not subject to paragraph (b)(1) of this section shall demonstrate initial compliance with the affected source opacity limit by conducting a test in accordance with Method 9 of appendix A to part 60 of this chapter. The performance test shall be conducted under the conditions that

exist when the affected source is operating at the highest load or capacity level reasonably expected to occur. The maximum six-minute average opacity exhibited during the test period shall be used to determine whether the affected source is in initial compliance with the standard. The duration of the Method 9 performance test shall be 3-hours (30 6-minute averages), except that the duration of the Method 9 performance test may be reduced to 1-hour if the conditions of paragraphs (b)(2)(i) through (ii) of the section apply:

(i) There are no individual readings greater than 10 percent opacity;

(ii) There are no more than three readings of 10 percent for the first 1-hour period.

(3) The owner or operator of an affected source subject to limitations on D/F emissions shall demonstrate initial compliance with the D/F emission limit by conducting a performance test using Method 23 of appendix A to part 60 of this chapter. The owner or operator of an in-line kiln/raw mill shall demonstrate initial compliance by conducting separate performance tests while the raw mill of the in-line kiln/raw mill is under normal operating conditions and while the raw mill of the in-line kiln/raw mill is not operating.

(i) Each performance test shall consist of three separate runs; each run shall be conducted under the conditions that exist when the affected source is operating at the highest load or capacity level reasonably expected to occur. The duration of each run shall be at least three hours and the sample volume for each run shall be at least 2.5 dscm (90 dscf). The concentration shall be determined for each run and the arithmetic average of the concentrations measured for the three runs shall be calculated and used to determine compliance.

(ii) The temperature at the inlet to the in-line kiln/raw mill PMCD must be continuously recorded during the period of the Method 23 test, and the continuous temperature record(s) must be included in the performance test report.

(iii) One-minute average temperatures must be calculated for each minute of each run of the test.

(iv) The run average temperature must be calculated for each run, and the average of the run average temperatures must be determined and included in the performance test report and will determine the applicable temperature limit in accordance with 40 CFR 63.1344(b).

(4) The owner or operator of an affected source subject to limitations on emissions of THC shall demonstrate initial compliance with the THC limit by operating a continuous emission monitor in accordance with Performance Specification 8A of appendix B to part 60 of this chapter. The duration of the performance test shall be three hours, and the average THC concentration (as calculated from the one-minute averages) during the three hour performance test shall be calculated. The owner or operator of an in-line kiln/raw mill shall demonstrate initial compliance by conducting separate performance tests while the raw mill of the in-line kiln/raw mill is under normal operating conditions and while the raw mill of the in-line kiln/raw mill is not operating.

(c) Except as provided in paragraph (e) of this section, performance tests required under paragraphs (b)(1) and (b)(2) of this section shall be repeated every five years, except that the owner or operator of an in-line kiln/raw mill or clinker cooler is not required to repeat the initial performance test of opacity for the in-line kiln/raw mill or clinker cooler.

(d) Performance tests required under paragraph (b)(3) of this section shall be repeated every 30 months.

(e) The owner or operator is required to repeat the performance tests for kilns or in-line kiln/raw mills as specified in paragraphs (b)(1) and (b)(3) of this section within 90 days of initiating any significant change in the feed or fuel from that used in the previous performance test.

(f) Table 1 of this section provides a summary of the performance test requirements of this subpart. [40 CFR 63.1345]

Table 1 to 40 CFR 63.1349. Summary of Performance Test Requirements.

AFFECTED SOURCE AND POLLUTANT	PERFORMANCE TEST
In-line kiln/raw mill [b, c] PM	EPA Method 5 [a]
In-line kiln/raw mill [b, c] Opacity	COM if feasible [d, e]
In-line kiln/raw mill [b, c, f, g] D/F	EPA Method 23 [h]
In-line kiln/raw mill [c] THC	THC CEM (EPA PS-8A) [i]
Clinker cooler PM	EPA Method 5 [a]
Clinker cooler opacity	COM [d, j]
Raw and finish mill opacity	EPA Method 9 [a, j]
Materials handling processes (raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging, and bulk loading and unloading systems) opacity	EPA Method 9 [a, j]

[a] Required initially and every 5 years thereafter.
[b] Includes main exhaust.
[c] In-line kiln/raw mill to be tested with and without raw mill in operation.
[d] Must meet COM performance specification criteria.
[e] Opacity limit is 20 percent.
[f] [This note is not applicable to this facility.]
[g] Temperature determined separately with and without the raw mill operating.
[h] Required initially and every 30 months thereafter.
[i] EPA Performance Specification (PS)-8A of appendix B to 40 CFR part 60.
[j] Opacity limit is 10 percent.

[40 CFR 63.1349]

41. Pursuant to 40 CFR 63.1350 Monitoring Requirements:

(a) The owner or operator of each portland cement plant shall prepare for each affected source subject to the provisions of this subpart, a written operations and maintenance plan. The plan shall be submitted to the Administrator for review and approval as part of the application for a part 70 permit and shall include the following information:

(1) Procedures for proper operation and maintenance of the affected source and air pollution control devices in order to meet the emission limits and operating limits of 40 CFR 40 CFR 63.1343 through 63.1348;

(2) Corrective actions to be taken when required by paragraph (e) of this section;

(3) Procedures to be used during an inspection of the components of the combustion system of each in-line kiln raw mill located at the facility at least once per year; and

(4) Procedures to be used to periodically monitor affected sources subject to opacity standards under 63.1348. Such procedures must include the provisions of paragraphs (a)(4)(i) through (a)(4)(iv) of this section.

(i) The owner or operator must conduct a monthly 1-minute visible emissions test of each affected source in accordance with Method 22 of Appendix A to part 60 of this chapter. The test must be conducted while the affected source is in operation.

(ii) If no visible emissions are observed in six consecutive monthly tests for any affected source, the owner or operator may decrease the frequency of testing from monthly to semi-annually for that affected source. If visible emissions are observed during any semi-annual test, the owner or operator must resume testing of that affected source on a monthly basis and maintain that schedule until no visible emissions are observed in six consecutive monthly tests.

(iii) If no visible emissions are observed during the semi-annual test for any affected source, the owner or operator may decrease the frequency of testing from semi-annually to annually for that affected source. If visible emissions are observed during any annual test, the owner or operator must resume testing of that affected source on a monthly basis and maintain that schedule until no visible emissions are observed in six consecutive monthly tests.

(iv) If visible emissions are observed during any Method 22 test, the owner or operator must conduct a 6-minute test of opacity in accordance with Method 9 of appendix A to part 60 of this chapter. The Method 9 test must begin within one hour of any observation of visible emissions.

(b) Failure to comply with any provision of the operations and maintenance plan developed in accordance with paragraph (a) of this section shall be a violation of the standard.

(c) The owner or operator of an in-line kiln/raw mill shall monitor opacity at each point where emissions are vented from these affected sources in accordance with paragraphs (c)(1) through (c)(3) of this section.

(1) The owner or operator shall install, calibrate, maintain, and continuously operate a continuous opacity monitor (COM) located at the outlet of the PM control device to continuously monitor the opacity. The COM shall be installed, maintained, calibrated, and operated as required by

subpart A, general provisions of this part, and according to PS-1 of appendix B to part 60 of this chapter.

(3) To remain in compliance, the opacity must be maintained such that the 6-minute average opacity for any 6-minute block period does not exceed 20 percent. If the average opacity for any 6-minute block period exceeds 20 percent, this shall constitute a violation of the standard.

(d) The owner or operator of a clinker cooler shall monitor opacity at each point where emissions are vented from the clinker cooler in accordance with paragraphs (d)(1) through (d)(3) of this section.

(1) The owner or operator shall install, calibrate, maintain, and continuously operate a COM located at the outlet of the clinker cooler PM control device to continuously monitor the opacity. The COM shall be installed, maintained, calibrated, and operated as required by subpart A, general provisions of this part, and according to PS-1 of appendix B to part 60 of this chapter.

(3) To remain in compliance, the opacity must be maintained such that the 6-minute average opacity for any 6-minute block period does not exceed 10 percent. If the average opacity for any 6-minute block period exceeds 10 percent, this shall constitute a violation of the standard.

(e) The owner or operator of a finish mill shall monitor opacity by conducting daily visual emissions observations of the mill sweep and air separator PMCDs of these affected sources, in accordance with the procedures of Method 22 of appendix A of part 60 of this chapter. The Method 22 test shall be conducted while the affected source is operating at the highest load or capacity level reasonably expected to occur within the day. The duration of the Method 22 test shall be six minutes. If visible emissions are observed during any Method 22 visible emissions test, the owner or operator must:

(1) Initiate, within one-hour, the corrective actions specified in the site specific operating and maintenance plan developed in accordance with paragraphs (a)(1) and (a)(2) of this section; and

(2) Within 24 hours of the end of the Method 22 test in which visible emissions were observed, conduct a visual opacity test of each stack from which visible emissions were observed in accordance with Method 9 of appendix A of part 60 of this chapter. The duration of the Method 9 test shall be thirty minutes.

(f) The owner or operator of an affected source subject to a limitation on D/F emissions shall monitor D/F emissions in accordance with paragraphs (f)(1) through (f)(6) of this section.

(1) The owner or operator shall install, calibrate, maintain, and continuously operate a continuous monitor to record the temperature of the exhaust gases from the in-line kiln/raw mill at the inlet to, or upstream of, the in-line kiln/raw mill PM control devices.

(i) The recorder response range must include zero and 1.5 times either of the average temperatures established according to the requirements in 40 CFR 63.1349(b)(3)(iv).

(ii) The reference method must be a National Institute of Standards and Technology calibrated reference thermocouple-potentiometer system or alternate reference, subject to approval by the Administrator.

(2) The owner or operator shall monitor and continuously record the temperature of the exhaust gases from the in-line kiln/raw mill at the inlet to the in-line kiln/raw mill PMCD.

(3) The three-hour rolling average temperature shall be calculated as the average of 180 successive one-minute average temperatures.

(4) Periods of time when one-minute averages are not available shall be ignored when calculating three-hour rolling averages. When one-minute averages become available, the first one-minute average is added to the previous 179 values to calculate the three-hour rolling average.

(5) When the operating status of the raw mill of the in-line kiln/raw mill is changed from off to on, or from on to off the calculation of the three-hour rolling average temperature must begin anew, without considering previous recordings.

(6) The calibration of all thermocouples and other temperature sensors shall be verified at least once every three months.

(h) The owner or operator of an affected source subject to a limitation on THC emissions under this subpart shall comply with the monitoring requirements of paragraphs (h)(1) through (h)(3) of this section to demonstrate continuous compliance with the THC emission standard:

(1) The owner or operator shall install, operate and maintain a THC continuous emission monitoring system in accordance with Performance Specification 8A, of appendix B to part 60 of this chapter and comply with all of the requirements for continuous monitoring systems found in the general provisions, subpart A of this part.

(2) The owner or operator is not required to calculate hourly rolling averages in accordance with section 4.9 of Performance Specification 8A.

(3) Any thirty-day block average THC concentration in any gas discharged from the main exhaust of an in-line kiln/raw mill, exceeding 50 ppmvd, reported as propane, corrected to seven percent oxygen, is a violation of the standard.

(i) The owner or operator of any kiln or in-line kiln/raw mill subject to a D/F emission limit under this subpart shall conduct an inspection of the components of the combustion system of each kiln or in-line kiln raw mill at least once per year.

(j) The owner or operator of an affected source subject to a limitation on opacity 40 CFR 63.1348 shall monitor opacity in accordance with the operation and maintenance plan developed in accordance with paragraph (a) of this section.

(k) The owner or operator of an affected source subject to a particulate matter standard under 40 CFR 63.1343 shall install, calibrate, maintain and operate a particulate matter continuous emission monitoring system (PM CEMS) to measure the particulate matter discharged to the atmosphere. The compliance deadline for installing the PM CEMS and all requirements relating to performance of the PM CEMS and implementation of the PM CEMS requirement is deferred pending further rulemaking.

(l) An owner or operator may submit an application to the Administrator for approval of alternate monitoring requirements to demonstrate compliance with the emission standards of this subpart,

except for emission standards for THC, subject to the provisions of paragraphs (l)(1) through (l)(6) of this section.

(1) The Administrator will not approve averaging periods other than those specified in this section, unless the owner or operator documents, using data or information, that the longer averaging period will ensure that emissions do not exceed levels achieved during the performance test over any increment of time equivalent to the time required to conduct three runs of the performance test.

(2) If the application to use an alternate monitoring requirement is approved, the owner or operator must continue to use the original monitoring requirement until approval is received to use another monitoring requirement.

(3) The owner or operator shall submit the application for approval of alternate monitoring requirements no later than the notification of performance test. The application must contain the information specified in paragraphs (l)(3)(i) through (l)(3)(iii) of this section:

(i) Data or information justifying the request, such as the technical or economic infeasibility, or the impracticality of using the required approach;

(ii) A description of the proposed alternative monitoring requirement, including the operating parameter to be monitored, the monitoring approach and technique, the averaging period for the limit, and how the limit is to be calculated; and

(iii) Data or information documenting that the alternative monitoring requirement would provide equivalent or better assurance of compliance with the relevant emission standard.

(4) The Administrator will notify the owner or operator of the approval or denial of the application within 90 calendar days after receipt of the original request, or within 60 calendar days of the receipt of any supplementary information, whichever is later. The Administrator will not approve an alternate monitoring application unless it would provide equivalent or better assurance of compliance with the relevant emission standard. Before disapproving any alternate monitoring application, the Administrator will provide:

(i) Notice of the information and findings upon which the intended disapproval is based; and

(ii) Notice of opportunity for the owner or operator to present additional supporting information before final action is taken on the application. This notice will specify how much additional time is allowed for the owner or operator to provide additional supporting information.

(5) The owner or operator is responsible for submitting any supporting information in a timely manner to enable the Administrator to consider the application prior to the performance test. Neither submittal of an application, nor the Administrator's failure to approve or disapprove the application relieves the owner or operator of the responsibility to comply with any provision of this subpart.

(6) The Administrator may decide at any time, on a case-by-case basis that additional or alternative operating limits, or alternative approaches to establishing operating limits, are necessary to demonstrate compliance with the emission standards of this subpart.

(m) A summary of the monitoring requirements of this subpart is given in Table 1 to this section.

Table 1 to 40 CFR 63.1350. Monitoring Requirements.

AFFECTED SOURCE/POLLUTANT OR OPACITY	MONITOR TYPE/ OPERATION/PROCESS	MONITORING REQUIREMENTS
All affected sources	Operations and maintenance plan	Prepare written plan for all affected sources and control devices
All in-line kiln raw mills/opacity	Continuous opacity monitor, if applicable	Install, calibrate, maintain and operate in accordance with general provisions and with PS-1
	Method 9 opacity test, if applicable	Daily test of at least 30-minutes, while kiln is at highest load or capacity level
In-line kiln raw mills/particulate matter	Particulate matter continuous emission monitoring system	Deferred
In-line kiln raw mills/ D/F	Combustion system inspection	Conduct annual inspection of components of combustion system
	Continuous temperature monitoring at PMCD inlet	Install, operate, calibrate and maintain continuous temperature monitoring and recording system; calculate three-hour rolling averages; verify temperature sensor calibration at least quarterly
In-line kiln raw mills/THC	Total hydrocarbon continuous emission monitor	Install, operate, and maintain THC CEM in accordance with PS-8A; calculate 30-day block average THC concentration
Clinker coolers/opacity	Continuous opacity monitor, if applicable	Install, calibrate, maintain and operate in accordance with general provisions and with PS-1
	Method 9 opacity test, if applicable	Daily test of at least 30-minutes, while kiln is at highest load or capacity level.
Finish mills at major sources/opacity	Method 22 visible emissions test	Conduct daily 6-minute Method 22 visible emissions test while mill is operating at highest load or capacity level; if visible emissions are observed, initiate corrective action within one hour and conduct 30-minute Method 9 test within 24 hours

AFFECTED SOURCE/POLLUTANT OR OPACITY	MONITOR TYPE/ OPERATION/PROCESS	MONITORING REQUIREMENTS
Raw material, clinker, finished product storage bins; conveying system transfer points; bagging systems; and bulk loading and unloading systems at major sources/opacity	Method 22 visible emissions test	As specified in operation and maintenance plan

[40 CFR 63.1350]

42. Pursuant to 40 CFR 63.1351 Compliance Dates:

(b) The compliance date for an owner or operator of an affected source subject to the provisions of this subpart that commences new construction or reconstruction after March 24, 1998 is June 14, 1999 or immediately upon startup of operations, whichever is later. [40 CFR 63.1351]

43. Pursuant to 63.1352 Additional Test Methods:

(a) Owners or operators conducting tests to determine the rates of emission of hydrogen chloride (HCl) from in-line kiln/raw mills at portland cement manufacturing facilities, for use in applicability determinations under 40 CFR 63.1340 are permitted to use Method 320 or Method 321 of appendix A of this part.

(b) Owners or operators conducting tests to determine the rates of emission of hydrogen chloride (HCl) from in-line kiln/raw mills at portland cement manufacturing facilities, for use in applicability determinations under 40 CFR 63.1340 are permitted to use Methods 26 or 26A of appendix A to part 60 of this chapter, except that the results of these tests shall not be used to establish status as an area source.

(c) Owners or operators conducting tests to determine the rates of emission of specific organic HAP from in-line kiln/raw mills at portland cement manufacturing facilities, for use in applicability determinations under 40 CFR 63.1340 of this subpart are permitted to use Method 320 of appendix A to this part, or Method 18 of appendix A to part 60 of this chapter.
[40 CFR 63.1352]

[Note: Because these tests are not required to be conducted by this permit, they have been omitted for brevity. See the appropriate sections of the Code of Federal Regulations for these test methods.]

NOTIFICATION, REPORTING AND RECORDKEEPING

44. Pursuant to 40 CFR 63.1353 Notification Requirements:

(a) The notification provisions of 40 CFR part 63, subpart A that apply and those that do not apply to owners and operators of affected sources subject to this subpart are listed in Table 1 of this subpart. If any State requires a notice that contains all of the information required in a notification listed in this section, the owner or operator may send the Administrator a copy of the notice sent to the State to satisfy the requirements of this section for that notification.

(b) Each owner or operator subject to the requirements of this subpart shall comply with the notification requirements in 40 CFR 63.9 as follows:

(1) Initial notifications as required by 40 CFR 63.9(b) through (d). For the purposes of this subpart, a Title V or 40 CFR part 70 permit application may be used in lieu of the initial notification required under 40 CFR 63.9(b), provided the same information is contained in the permit application as required by 40 CFR 63.9(b), and the State to which the permit application has been submitted has an approved operating permit program under part 70 of this chapter and has received delegation of authority from the EPA. Permit applications shall be submitted by the same due dates as those specified for the initial notification.

(2) Notification of performance tests, as required by 40 CFR 40 CFR 63.7 and 63.9(e).

(3) Notification of opacity and visible emission observations required by 40 CFR 63.1349 in accordance with 40 CFR 40 CFR 63.6(h)(5) and 63.9(f).

(4) Notification, as required by 40 CFR 63.9(g), of the date that the continuous emission monitor performance evaluation required by 40 CFR 63.8(e) of this part is scheduled to begin.

(5) Notification of compliance status, as required by 40 CFR 63.9(h).
[40 CFR 63.1353]

45. Pursuant to 40 CFR 63.1354 Reporting Requirements:

(a) The reporting provisions of subpart A of this part that apply and those that do not apply to owners or operators of affected sources subject to this subpart are listed in Table 1 of this subpart. If any State requires a report that contains all of the information required in a report listed in this section, the owner or operator may send the Administrator a copy of the report sent to the State to satisfy the requirements of this section for that report.

[Note: Table 1 of this subpart has not been reproduced in this permit for brevity. Refer to the Code of Federal Regulations for this table. See the attached provisions of 40 CFR 63 Subpart A General Provisions, attached to this permit as Appendix B, for the proper reporting provisions for this facility.]

(b) The owner or operator of an affected source shall comply with the reporting requirements specified in 40 CFR 63.10 of the general provisions of this part 63, subpart A as follows:

(1) As required by 40 CFR 63.10(d)(2), the owner or operator shall report the results of performance tests as part of the notification of compliance status.

(2) As required by 40 CFR 63.10(d)(3), the owner or operator of an affected source shall report the opacity results from tests required by 40 CFR 63.1349.

(3) As required by 40 CFR 63.10(d)(4), the owner or operator of an affected source who is required to submit progress reports as a condition of receiving an extension of compliance under 40 CFR 63.6(i) shall submit such reports by the dates specified in the written extension of compliance.

(4) As required by 40 CFR 63.10(d)(5), if actions taken by an owner or operator during a startup, shutdown, or malfunction of an affected source (including actions taken to correct a malfunction) are consistent with the procedures specified in the source's startup, shutdown, and malfunction plan specified in 40 CFR 63.6(e)(3), the owner or operator shall state such information in a semiannual report. Reports shall only be required if a startup, shutdown, or malfunction occurred during the reporting period. The startup, shutdown, and malfunction report may be submitted simultaneously with the excess emissions and continuous monitoring system performance reports; and

(5) Any time an action taken by an owner or operator during a startup, shutdown, or malfunction (including actions taken to correct a malfunction) is not consistent with the procedures in the startup, shutdown, and malfunction plan, the owner or operator shall make an immediate report of the actions taken for that event within 2 working days, by telephone call or facsimile (FAX) transmission. The immediate report shall be followed by a letter, certified by the owner or operator or other responsible official, explaining the circumstances of the event, the reasons for not following the startup, shutdown, and malfunction plan, and whether any excess emissions and/or parameter monitoring exceedances are believed to have occurred.

(6) As required by 40 CFR 63.10(e)(2), the owner or operator shall submit a written report of the results of the performance evaluation for the continuous monitoring system required by 40 CFR 63.8(e). The owner or operator shall submit the report simultaneously with the results of the performance test.

(7) As required by 40 CFR 63.10(e)(2), the owner or operator of an affected source using a continuous opacity monitoring system to determine opacity compliance during any performance test required under 40 CFR 63.7 and described in 40 CFR 63.6(d)(6) shall report the results of the continuous opacity monitoring system performance evaluation conducted under 40 CFR 63.8(e).

(8) As required by 40 CFR 63.10(e)(3), the owner or operator of an affected source equipped with a continuous emission monitor shall submit an excess emissions and continuous monitoring system performance report for any event when the continuous monitoring system data indicate the source is not in compliance with the applicable emission limitation or operating parameter limit.

(9) The owner or operator shall submit a summary report semiannually which contains the information specified in 40 CFR 63.10(e)(3)(vi). In addition, the summary report shall include:

(i) All exceedances of maximum control device inlet gas temperature limits specified in 40 CFR 63.1344(a) and (b);

(ii) All failures to calibrate thermocouples and other temperature sensors as required under 40 CFR 63.1350(f)(7) of this subpart; and

(iv) The results of any combustion system component inspections conducted within the reporting period as required under 40 CFR 63.1350(i).

(v) All failures to comply with any provision of the operation and maintenance plan developed in accordance with 40 CFR 63.1350(a).

(10) If the total continuous monitoring system downtime for any CEM or any continuous monitoring system (CMS) for the reporting period is ten percent or greater of the total operating time for the reporting period, the owner or operator shall submit an excess emissions and continuous monitoring system performance report along with the summary report.

[40 CFR 63.1354]

46. Pursuant to 40 CFR 63.1355 Recordkeeping Requirements:

(a) The owner or operator shall maintain files of all information (including all reports and notifications) required by this section recorded in a form suitable and readily available for inspection and review as required by 40 CFR 63.10(b)(1). The files shall be retained for at least five years following the date of each occurrence, measurement, maintenance, corrective action, report, or record. At a minimum, the most recent two years of data shall be retained on site. The remaining three years of data may be retained off site. The files may be maintained on microfilm, on a computer, on floppy disks, on magnetic tape, or on microfiche.

(b) The owner or operator shall maintain records for each affected source as required by 40 CFR 63.10(b)(2) and (b)(3) of this part; and

(1) All documentation supporting initial notifications and notifications of compliance status under 40 CFR 63.9 of this part;

(2) All records of applicability determination, including supporting analyses; and

(3) If the owner or operator has been granted a waiver under 40 CFR 63.8(f)(6), any information demonstrating whether a source is meeting the requirements for a waiver of recordkeeping or reporting requirements.

(c) In addition to the recordkeeping requirements in paragraph (b) of this section, the owner or operator of an affected source equipped with a continuous monitoring system shall maintain all records required by 40 CFR 63.10(c).

[40 CFR 63.1355]

OTHER

47. Pursuant to 40 CFR 63.1356 Exemption from New Source Performance Standards:

(a) Except as provided in paragraph (a)(1) of this section, any affected source subject to the provisions of this subpart is exempted from any otherwise applicable new source performance standard contained in 40 CFR part 60, subpart F.

(1) In-line kiln/raw mills, as applicable under 40 CFR 60.60(b), located at area sources are subject to PM and opacity limits and associated reporting and recordkeeping, under 40 CFR part 60, subpart F.

[40 CFR 63.1356]

48. Pursuant to 40 CFR 63.1357 Temporary, Conditioned Exemption from Particulate Matter and Opacity Standards:

(a) Subject to the limitations of paragraphs (b) through (f) of this section, an owner or operator conducting PM CEMS correlation tests (that is, correlation with manual stack methods) is exempt from:

(1) Any particulate matter and opacity standards of part 60 or part 63 of this chapter that are applicable to cement kilns and in-line kiln/raw mills.

(2) Any permit or other emissions or operating parameter or other limitation on workplace practices that are applicable to cement kilns and in-line kiln raw mills to ensure compliance with any particulate matter and opacity standards of this part or part 60 of this chapter.

(b) The owner or operator must develop a PM CEMS correlation test plan. The plan must be submitted to the Administrator for approval at least 90 days before the correlation test is scheduled to be conducted. The plan must include:

(1) The number of test conditions and the number of runs for each test condition;

(2) The target particulate matter emission level for each test condition;

(3) How the operation of the affected source will be modified to attain the desired particulate matter emission rate; and

(4) The anticipated normal particulate matter emission level.

(c) The Administrator will review and approve or disapprove the correlation test plan in accordance with 40 CFR 63.7(c)(3)(i) and (iii). If the Administrator fails to approve or disapprove the correlation test plan within the time period specified in 40 CFR 63.7(c)(3)(iii), the plan shall be considered approved, unless the Administrator has requested additional information.

(d) The stack sampling team must be on-site and prepared to perform correlation testing no later than 24 hours after operations are modified to attain the desired particulate matter emissions concentrations, unless the correlation test plan documents that a longer period is appropriate.

(e) The particulate matter and opacity standards and associated operating limits and conditions will not be waived for more than 96 hours, in the aggregate, for a correlation test, including all runs and conditions.

(f) The owner or operator must return the affected source to operating conditions indicative of compliance with the applicable particulate matter and opacity standards as soon as possible after correlation testing is completed.

[40 CFR 63.1357]

49. Pursuant to 40 CFR 63.1358 Delegation of Authority:

(a) In delegating implementation and enforcement authority to a State under subpart E of this part, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

(b) Authority which will not be delegated to States:

(1) Approval of alternative non-opacity emission standards under 40 CFR 63.6(g).

(2) Approval of alternative opacity standards under 40 CFR 63.6(h)(9).

(3) Approval of major changes to test methods under 40 CFR 40 CFR 63.7(e)(2)(ii) and 63.7(f). A major change to a test method is a modification to a federally enforceable test method that uses unproven technology or procedures or is an entirely new method (sometimes necessary when the required test method is unsuitable).

(4) Approval of major changes to monitoring under 40 CFR 63.8(f). A major change to monitoring is a modification to federally enforceable monitoring that uses unproven technology or procedures, is an entirely new method (sometimes necessary when the required monitoring is unsuitable), or is a change in the averaging period.

(5) Waiver of recordkeeping under 40 CFR 63.10(f).
[40 CFR 63.1358]

SUBSECTION C.

The following specific conditions apply to the following emissions units after construction:

EMISSIONS UNIT NO.	EMISSIONS UNIT DESCRIPTION
008	Coal mill and coal transfer system controlled by baghouses
009	Unenclosed coal conveying equipment – S conveyors

[Note: Emissions units 009 and 008 are subject to 40 CFR 60 Subpart Y, Standards of Performance for Coal Preparation Plants (40 CFR 60.250 – 60.254) and 40 CFR 60 Subpart A, revised as of July 1, 1997. These emissions units are also subject to the requirements of the state rules as indicated in this permit, particularly the requirements of Rule 62-212.400, F.A.C., Prevention of Significant Deterioration, effective February 5, 1998.

The numbering of the original rules in the following conditions has been preserved for ease of reference to the rules. Inapplicable paragraphs have been omitted for clarity and brevity. The term "Administrator" when used in 40 CFR 60 shall mean the Secretary or the Secretary's designee.]

STATE REQUIREMENTS

OPERATIONAL REQUIREMENTS

1. Hours of Operation: This emissions unit may operate continuously, i.e., 8,760 hours per year. [Rule 62-210.200, F.A.C., Definitions -- potential to emit (PTE)]

2. Process Rate Limitation: The coal mill shall not crush more than 10,658 tons of coal and petroleum coke in any month. [Rule 62-210.200, F.A.C., Definitions -- potential to emit (PTE)]

   [Note: This monthly limit corresponds to an annual limit of 127,896 tons per year.]

3. O&M Plan for Baghouses: The owner or operator shall prepare an operation and maintenance plan (O&M Plan) to address operation and regular, routine inspection and maintenance of the baghouses for emissions unit 008. The O&M plan shall address the schedule for inspection of this equipment and required preventive maintenance and shall require records of the condition of the equipment upon each inspection and any maintenance activities performed. The O&M plan shall be submitted to the Department's Northeast District office prior to expiration of this permit. [Rule 62-4.070(3), F.A.C.]

EMISSION LIMITATIONS AND PERFORMANCE STANDARDS

4. Emissions Unit 008: Emissions unit 008 shall have the following emission points:

EMISSION POINT	DESCRIPTION
S-17	Coal mill
S-21	Dust collector for coal transfer system.

Particulate matter emissions from all emission points in this emissions unit shall be controlled by baghouses.

Particulate matter (PM) emissions from each emission point of emissions unit 008 shall not exceed 0.01 grains/dscf, and PM_{10} emissions shall not exceed 0.01 grains/dscf. Particulate matter emissions

from each emission point of this emissions unit shall be controlled by a baghouse. Visible emissions from each emission point of this emissions unit shall not exceed 5% opacity.

For emission point S-17, after initial testing that demonstrates compliance with the PM limit of this condition is completed, subsequent compliance testing for PM emissions from this emission point is waived, and an alternative standard of 5% opacity is imposed, pursuant to Rule 62-297.620(4), F.A.C. For the other emission point of emissions unit 008, initial and annual compliance testing for PM emissions from this emission point is waived, and an alternative standard of 5% opacity is imposed, pursuant to Rule 62-297.620(4), F.A.C. If the Department has reason to believe that the particulate weight emission standard is not being met, it shall require that compliance be demonstrated using EPA Method 5, as described in 40 CFR 60 Appendix A (1997 version).

[Note: These emission limits effectively limit annual emissions of PM for all emission points in this emission unit to 7.9 tons per year. PM_{10} emissions are estimated to equal PM emissions, or 7.9 tons per year. The particulate weight emission standard and the visible emissions limit of 5% opacity are BACT.]

[Rules 62-4.070(3), 62-210.700(5), 62-212.400 and 62-297.620(4), F.A.C., BACT and applicant request]

[Note: Emissions unit 009 is subject to the visible emissions limits of the NSPS described elsewhere in this subsection.]

COMPLIANCE MONITORING AND TESTING REQUIREMENTS

5. Emission Tests Required – Emissions Unit 008: The owner or operator shall demonstrate compliance with the visible emissions standard for emissions unit 008 annually using EPA Method 9, as described in 40 CFR 60 Appendix A (1997 version). The owner or operator shall demonstrate initial compliance with the particulate matter (PM) limits of this permit for emission point S-17 of emissions unit 008 using EPA Method 5, as described in 40 CFR 60 Appendix A (1997 version). Should subsequent particulate matter (PM) testing be required for either emission point of emissions unit 008, compliance shall be demonstrated using EPA Method 5. Testing for PM_{10} is not required, because all PM emissions shall be assumed to be PM_{10}.

   [Rules 62-4.070(3), 62-297.310 and 62-297.620(4), F.A.C. and BACT]

6. Visible Emission Tests Required – Emissions Unit 009: The owner or operator shall, for emissions unit 009, demonstrate compliance with the visible emission limits of specific condition 9(c) of this subsection annually, using the methods specified in this subsection. [Rule 62-297.310(7)(a)4.a., F.A.C.]

REPORTING AND RECORD KEEPING REQUIREMENTS

7. Records of Process Rates: The owner or operator shall make and maintain records showing the monthly processing rate of coal and petroleum coke crushed in the coal mill. Records of the processing rate for each month shall be completed no later than 10 days following the end of the month. [Rule 62-4.070(3), F.A.C.]

FEDERAL NSPS REQUIREMENTS

APPLICABILITY AND DEFINITIONS

8. Pursuant to 40 CFR 60.250 Applicability and Designation of Affected Facility:

   (a) The provisions of this subpart are applicable to any of the following affected facilities in coal preparation plants which process more than 200 tons per day: Thermal dryers, pneumatic coal-cleaning equipment (air tables), coal processing and conveying equipment (including breakers and crushers), and coal storage systems.
   [40 CFR 60.250]

   [Note: The coal mill, emission point S-17 of emissions unit 008, is subject to the requirements for thermal dryers. Emissions unit 009 is subject to the requirements for coal processing and conveying equipment. Both emission points of emissions unit 008 are also subject to the emission limits for coal processing and conveying equipment, but the BACT limits are as stringent or more stringent than the limits imposed by this rule.]

   These terms are defined at 40 CFR 60.251. The definitions are applicable to this project but have been omitted for brevity. See the Code of Federal Regulations for the text of this section.

EMISSION LIMITATIONS AND PERFORMANCE STANDARDS

9. Pursuant to 40 CFR 60.252 Standards for particulate matter:

   (a) On and after the date on which the performance test required to be conducted by 40 CFR 60.8 is completed, an owner or operator shall not cause to be discharged into the atmosphere from any thermal dryer gases which:

   (1) Contain particulate matter in excess of 0.070 g/dscm (0.031 gr/dscf).

   (2) Exhibit 20 percent opacity or greater.

   (c) On and after the date on which the performance test required to be conducted by 40 CFR 60.8 is completed, an owner or operator shall not cause to be discharged into the atmosphere from any coal processing and conveying equipment or coal storage system, gases which exhibit 20 percent opacity or greater.
   [40 CFR 60.252(a) and (c)]

COMPLIANCE MONITORING AND TESTING REQUIREMENTS

10. Pursuant to 40 CFR 60.253 Monitoring of operations:

   (a) The owner or operator of any thermal dryer shall install, calibrate, maintain, and continuously operate monitoring devices as follows:

   (1) A monitoring device for the measurement of the temperature of the gas stream at the exit of the thermal dryer on a continuous basis. The monitoring device is to be certified by the manufacturer to be accurate within ±3° Fahrenheit.

   (b) All monitoring devices under paragraph (a) of this section are to be recalibrated annually in accordance with procedures under 40 CFR 60.13(b).
   [40 CFR 60.253(a) and (b)]

11. Pursuant to 40 CFR 60.254 Test methods and procedures:

(a) 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).

(b) The owner or operator shall determine compliance with the particular matter standards in 40 CFR 60.252 as follows:

(1) 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 0.85 dscm (30 dscf). Sampling shall begin no less than 30 minutes after startup and shall terminate before shutdown procedures begin.

(2) Method 9 and the procedures in 40 CFR 60.11 shall be used to determine opacity.
[40 CFR 60.254(a) and (b)]

The BACT determination is attached to this permit following this page.

Suwannee American Cement Company, Inc.
Branford Plant
PSD-FL-259 and 1210465-001-AC
Suwannee County

1. BACKGROUND

The Suwannee American Cement Company, Inc. plans to construct a dry process, preheater/precalciner type portland cement plant to be located at US Highway 27 at County Road 49, Suwannee County.

This facility will consist of a portland cement plant and associated quarry, and raw material and cement handling operations. The plant will combine raw materials and utilize a preheater/precalciner kiln with in-line raw mill to produce clinker. The clinker will be milled and combined with gypsum to produce portland cement. The plant will have a capacity of 178 tons per hour of material fed to the preheater (dry basis), 105 tons per hour of clinker production, and 150 tons per hour of portland cement production. Annual production will be limited (on a rolling 12-month basis) to 1,427,880 tons per year of material fed to the preheater (dry basis), 839,500 tons per year of clinker production, and 1,191,360 tons per year of portland cement production. Fuels allowed to be used in the pyroprocessing system are natural gas, coal, petroleum coke, whole tires and tire derived fuel (TDF). The plant may include a tire gasification system that will utilize heat from the pyroprocessing system to decompose tires to gas, coke and wire which will be utilized in the kiln and pyroprocessing system in an enclosed process. The plant will also include a coal processing operation that will crush coal and petroleum coke and will have an annual processing capacity of 127,896 tons of coal and petroleum coke. Fuel usage will be 14.6 tons per hour of coal, based on a heat content of 12,500 Btu per pound, or 13.0 tons per hour of petroleum coke, based on a heat content of 14,000 Btu per pound. At 40% of maximum heat input, usage of tires will be 5.2 tons per hour, based on a heat content of 14,000 Btu per pound.

Emissions units addressed by this permitting action are:

EMISSIONS UNIT NO.	EMISSIONS UNIT DESCRIPTION
001	1000 TPH primary crusher and associated unenclosed belt conveyors to raw material storage – fugitive emissions
002	Raw material processing – baghouses for transfer points
003	Raw material processing – unenclosed conveyor transfer points
004	In line kiln/raw mill – main stack controlled by baghouse
005	Clinker cooler controlled by ESP
006	Clinker and cement processing – baghouses for transfer points
007	Clinker and cement processing – unenclosed conveyor transfer points
008	Coal mill and coal transfer system baghouses
009	Unenclosed coal conveying equipment
010	Natural gas fired emergency generator set [1]

[1] Emissions unit 010 is exempt from permitting (exempt emissions unit) pursuant to Rule 62-210.300(3)(a)20, F.A.C., provided that total fuel consumption by the generator is limited to 4.4 million cubic feet per year of natural gas. Estimated maximum potential emissions from the generator set are: NOx, 8.5 lb/hr, CO 4.1 lb/hr, and VOC 0.5 lb/hr.

This facility is classified as a Major or Title V Source of air pollution because emissions of at least one regulated air pollutant, such as particulate matter (PM/PM_{10}), sulfur dioxide (SO_2), nitrogen oxides (NOx), carbon monoxide (CO), or volatile organic compounds (VOC) will exceed 100 tons per year (TPY).

This facility is within an industry included in the list of the 28 Major Facility Categories per Table 62-212.400-1, F.A.C. Because emissions will be greater than 100 TPY for at least one criteria pollutant, the facility is also a Major Facility with respect to Rule 62-212.400, Prevention of Significant Deterioration (PSD).

The proposed project is subject to the provisions of Rule 62-212.400, F.A.C., Prevention of Significant Deterioration (PSD), because it will be a new major facility. This review consisted of a determination of Best Available Control Technology (BACT) and an analysis of the air quality impact of the increased emissions.

The proposed project is subject to preconstruction review requirements under the provisions of Chapter 403, Florida Statutes, and Chapters 62-4, 62-204, 62-210, 62-212, 62-214, 62-296, and 62-297 of the Florida Administrative Code (F.A.C.).

This facility is located in an area designated, in accordance with Rule 62-204.340, F.A.C., as attainment for the criteria pollutants ozone, carbon monoxide, sulfur dioxide, and nitrogen dioxide, and designated as unclassifiable for PM_{10}.

The applicant stated that this facility is a major source of hazardous air pollutants (HAPs), because the plant may be a major source of hydrochloric acid. As provided by the federal requirements, the applicant may perform stack testing to confirm whether the facility is or is not a major source of hydrochloric acid.

The emissions units included in this project are subject to regulation under the New Source Performance Standards, 40 CFR 60 Subpart A, General Provisions, Subpart F, Standards of Performance for Portland Cement Plants, Subpart Y Standards of Performance for Coal Preparation Plants, and Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants (all revised as of July 1, 1997). Some of these emissions units are also subject to 40 CFR 63 Subpart LLL, National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry (40 CFR 63.1340 – 63.1359), revised as of May 14, 1999 and 40 CFR 63 Subpart A, revised as of February 12, 1999. These emissions units are also subject to the requirements of the state rules as indicated in this permit, particularly Rule 62-212.400, F.A.C., Prevention of Significant Deterioration, effective February 5, 1998. Some emissions units are subject to Rule 62-296.701, F.A.C., Portland Cement Plants, effective March 2, 1999. Additionally the permit references the test methods of 40 CFR 60, Appendix A, Test Methods; 40 CFR 63, Appendix A, Test Methods; 40 CFR 51, Appendix M, Recommended Test Methods for State Implementation Plans; 40 CFR 61, Appendix B, Test Methods.

Particulate matter emissions from the in-line kiln/raw mill will be controlled by a baghouse and from the clinker cooler will be controlled by an electrostatic precipitator. Particulate matter emissions from other sources will be controlled by baghouses. Sulfur dioxide emissions are limited by the process. NOx emissions will be controlled by multistage combustion. Carbon monoxide and VOC emissions will be limited by process control.

The total annual air pollutant potential emissions in tons per year from the facility (not including the emergency generator set – emissions unit 010 – will be:

POLLUTANT	PSD SIGNIFICANCE LEVELS [1]	MAXIMUM EMISSIONS	SUBJECT TO PSD REVIEW?
PM	25	226.0	Yes
PM_{10}	15	193.3	Yes
SO_2	40	113.4	Yes
NOx	40	1217.5 [2]	Yes
CO	100	1511.1	Yes
VOC	40	50.4	Yes

[1] Florida Administrative Code 212.400-2.

2 Emissions of NOx for the first year of operation will be 1595.4 tons per year. NOx emissions shown in the table are emissions after the first year of operation. Excess emissions resulting from two startup procedures per year are included in these estimates.

Maximum emissions of mercury will be 97 pounds per year. Control of mercury emissions will result from limiting the mass of mercury introduced into the pyroprocessing system from the preheater feed and fuels. Maximum emissions of dioxin will be 0.002 pounds per year. Dioxin emissions will be controlled by limiting the temperature of the inlet of the baghouse for the in-line kiln/raw mill pursuant to federal NESHAP regulation. Mercury and dioxin are not subject to PSD review.

Emissions of PM and PM_{10} from the unenclosed conveying equipment are expected to be insignificant because of inherent moisture and moisture applied to comply with the reasonable precautions for control of unconfined particulate matter emissions.

2. DATE OF RECEIPT OF A BACT APPLICATION

November 30, 1998
Additional information received February 25, 1999; March 19, 1999; April 21, 1999; May 4, 1999 May 27, 1999 and May 28, 1999.
Additional information and comments on the preliminary draft permit and related documents were received from Koogler & Associates dated November 8, 1999.
Revised permit application and modeling information were received from Koogler & Associates by electronic mail on November 11, 1999.

3. BACT DETERMINATION REQUESTED BY THE APPLICANT

The applicant proposed BACT for the PSD pollutants to be control equipment for particulate matter, process control for SO_2, multistage combustion with a separate line combustion chamber for NOx, and combustion control for CO and VOC.

4. REVIEWER

Joseph Kahn, P.E., prepared BACT determination

5 DETAILED PROCESS DESCRIPTION

The project is a dry process preheater/precalciner type portland cement plant. Portland cement is a fine powder, usually gray in color, that consists of a mixture of dicalcium silicate, tricalcium silicate, tricalcium aluminate, and tetracalcium aluminoferrate, and small amounts of magnesium oxide, sodium, potassium and sulfur, to which one or more forms of calcium sulfate have been added. About 95% of the cement production in the U.S. is portland cement. Masonry cement represents the balance of the domestic cement production.

The proposed preheater/precalciner process is a dry manufacturing process in which thermal efficiency and production capacity have been improved by adding process vessels arranged vertically before the kiln, wherein the hot gases pass counter to the material flow, effecting heat transfer through the intimate contact between the two streams. The improved heat transfer allows the kiln length to be reduced. This arrangement also allows the hot gases from the preheater tower to be used to dry raw materials in the raw mill. In the preheater/precalciner process, fuel combustion is divided between the kiln and a preheater vessel below the preheater tower. This arrangement provides for greater thermal efficiency than the preheater process. A relatively new innovation is the use of a separate line combustion chamber for the preheater burner, so called because it is installed to the side (separate) of the material flow through the precalciner region. This device aids in the control of NOx emissions. The applicant proposed to use the

dry preheater/precalciner process, with a separate line combustion chamber for the calciner burner, in an in-line arrangement with the raw mill.

The process for this plant is discussed in more detail below.

Limestone will be mined primarily below the water table. The overburden, consisting of sand and clay, will be removed from the limestone surface and stockpiled in the vicinity of the crusher. The crusher will be portable, and will be relocated periodically in accordance with the mining plan. The overburden and the limestone will be fed into the crusher with front end loaders in the ratios dictated by the target chemical composition of the desired raw mix. The quarry mix will be delivered to a covered storage hall by a conveyor belt system. The quarry mix will have a moisture content of 10-20%. The storage hall will have space devoted to storage of the other raw materials: iron ore and coal ash, sand, and limestone. The other raw materials will be transported to the facility by truck.

Fugitive emissions from raw material handling and conveying will be minimized by inherent moisture and by the application of water for suppression of unconfined emissions of particulate matter. Unpaved roads will be sprayed by a water truck as required to prevent unconfined particulate matter emissions. Material stockpiles at the plant will be covered to limit particulate matter generated by wind erosion.

The quarry mix and other raw materials will be conveyed to the raw mill feed bin with a capacity of 90 short tons. Raw materials will be fed from the raw mill feed bin to the raw mill. The raw mill will grind and mix the raw materials, and dry the raw materials with the hot gases from the pyroprocessing system. Emissions from the raw mill (and in-line kiln) will be controlled by a baghouse. The baghouse is kept under slight negative pressure with an induced draft fan discharging into a stack. The baghouse catch (kiln dust) and the raw mill product will be conveyed to the homogenization silo of 8,000 tons capacity. (Because the baghouse catch is re-introduced to the process, this cement plant will not generate cement kiln dust (CKD) as a waste product.) Other enclosed emission sources will be controlled by baghouses (fabric filters).

The kiln feed from the homogenization silo will be conveyed to the preheater by means of an airlift. The feed will enter the top stage of the preheater or, during wet material conditions, drop into the next lower stage of the preheater to increase the gas temperature to the raw mill. Gases from the pyroprocessing system will flow counter to the material direction to the raw mill and the baghouse.

Coal and petroleum coke will be burned in the precalciner separate line combustion chamber near the inlet to the kiln as well as at the main burner at the discharge end of the kiln. Natural gas will be used as a startup and supplemental fuel and to fire a small supplementary air heater for the raw mill. The plant will also burn tires and tire derived fuel either directly at the transition from the preheater to the kiln feed end, or via a tire gasification system, as described previously. Combustion air for the precalciner will be provided through a tertiary air duct from the clinker cooler. Multi-stage combustion will control NOx emissions.

The pyroprocessing system will transform the raw meal from the homogenization silo into clinker. The pyroprocessing system will produce 105 tons per hour of clinker, from 178 tons of dry preheater feed per hour. This amount of clinker will produce 150 tons of cement per hour. The plant will be limited by permit to an annual production rate of 839,500 tons of clinker and 1,191,360 tons of portland cement.

After discharge from the kiln, the clinker will be cooled with ambient air in a reciprocating grate cooler equipped with an electrostatic precipitator (ESP) and ID fan for particulate control. A portion of the clinker cooler gases will be ducted to the coal mill to dry the coal. These gases will then exhaust through the coal mill fabric filter into another stack. A portion of the clinker cooler gases will be ducted to the precalciner, the precalciner combustion chamber and the tire gasification system, if installed.

The clinker will be conveyed to one of two clinker silos with a capacity of 25,000 short tons each. The clinker will be withdrawn from the silos by vibrating feeders, and discharged onto the finish mill feed belt. Enclosed clinker handling operations and storage silos will be controlled with baghouses.

Gypsum and limestone will be received by truck and stored under cover in stockpiles. Each material will be transferred by a front end loader to feed hoppers, and conveyed to the finish mill. The finish mill can produce up to 150 tons per hour of cement.

All enclosed sources associated with the finish milling operation will be controlled with baghouses. Fugitive emissions from gypsum and limestone handling and conveying associated with the finish milling operation will be minimized by inherent moisture and by the application of water for suppression of unconfined emissions of particulate matter.

Finished cement will be stored in five concrete silos. Cement will be withdrawn from the silos and loaded into tanker trailers for bulk shipment or into bags which will be cleaned and placed on pallets for shipment. All product will be transported by truck.

All enclosed sources associated with the cement handling operation will be controlled with baghouses.

Coal and petroleum coke will be received by truck. These will drop into a hopper and be conveyed to a bucket elevator at a rate of 200 TPH. The bucket elevator will discharge either into a covered storage facility or onto a belt and then to a bin. Coal and petroleum coke in covered storage will be reclaimed by a front end loader through unloading system. Coal and petroleum coke will be metered from the bin to a vertical mill, for milling and drying with hot gases from the clinker cooler. The milled fuels will be stored in a pulverized fuel storage bin for pneumatic conveyance to the main burner and precalciner burner.

All enclosed sources associated with the coal and petroleum coke handling and milling operation will be controlled with baghouses. Fugitive emissions from coal and petroleum coke handling and conveying will be minimized by inherent moisture and by the application of water for suppression of unconfined emissions of particulate matter.

6. BACT Determination Procedure

In accordance with Chapter 62-212, F.A.C., this BACT determination is based on the maximum degree of reduction of each pollutant emitted which the Department of Environmental Protection (Department), on a case by case basis, taking into account energy, environmental and economic impacts, and other costs, determines is achievable through application of production processes and available methods, systems, and techniques for control of each such pollutant. In addition, Rule 62-212.400(6)(a), F.A.C., states that in making the BACT determination, the Department shall give consideration to:

1. Any Environmental Protection Agency determination of BACT pursuant to Section 169 of the Clean Air Act, and any emission limitation contained in 40 CFR Part 60 (Standards of Performance for New Stationary Sources) or 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants).
2. All scientific, engineering, and technical material and other information available to the Department.
3. The emission limiting standards or BACT determination of any other state.
4. The social and economic impact of the application of such technology.

The EPA currently directs that BACT should be determined using the "top-down" approach. In this approach, available control technologies are ranked in order of control effectiveness for the emissions unit under review. The most stringent alternative is evaluated first. That alternative is selected as BACT unless the alternative is found to not be achievable based on technical considerations or energy, environmental or economic impacts. If this alternative is eliminated for these reasons, the next most stringent alternative is considered. This top-down approach is continued until BACT is determined. In general EPA has identified five key steps in the top-down BACT process: Identify alternative control

technologies; eliminate technically infeasible options; rank remaining control technologies by control effectiveness; evaluate most effective controls; select BACT.

BACT evaluation should be performed for each emissions source and pollutant under consideration. All of the combustion emissions from the plant are associated with the in-line kiln/raw mill. BACT for particulate matter can be treated separately for the in-line kiln/raw mill, clinker cooler, the enclosed material handling processes and the unenclosed conveyors.

The Department will consider the control or reduction of "non-regulated" air pollutants when determining the BACT limit for regulated pollutants, and will weigh control of non-regulated air pollutants favorably when considering control technologies for regulated pollutants. The Department will also favorably consider control technologies that utilize pollution prevention strategies. These approaches are consistent with EPA's consideration of environmental impacts.

The EPA has determined that a BACT determination shall not result in a selection of a control technology which would not meet any applicable emission limitation under 40 CFR Part 60 (Standards of Performance for New Stationary Sources) or 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants). This project is subject to such standards as described above.

In addition to the information submitted by the applicant and that information mentioned above, the Department may rely upon other available information in making its BACT determination. For this project, the Department relied upon information from the EPA Publication: Alternative Control Techniques Document – NOx Emissions from Cement Manufacturing, March 1994. The Department also relied upon recent BACT determinations it made for similar facilities and information in EPA's BACT/LAER Clearinghouse, and BACT guidelines for the California Air Resources Board, South Coast Air Quality Management District, and Bay Area Air Quality Management District.

7. BACT Pollutant Analysis and Department's Determination

For this project the PSD pollutants of concern are PM, PM_{10}, SO_2, NOx, CO and VOC. The applicant proposed control strategies for these pollutants for the emission sources at this facility. The applicant's proposal and the Department's BACT for each pollutant and source is discussed below.

Nitrogen Oxides (NOx)

Emissions of NOx from cement plants result from fuel combustion in the pyroprocessing system. Oxides of nitrogen (NOx) are generated during fuel combustion by oxidation of chemically bound nitrogen in the fuel (fuel NOx) and by oxidation of elemental nitrogen in the combustion air (thermal NOx). The thermal NOx reaction occurs in regions of high temperature associated with the combustion of fuel. As flame temperature increases, the amount of thermal NOx increases. Fuel type affects the quantity and type of NOx generated. Pipeline natural gas is low in nitrogen. However it causes higher flame temperatures and generates more thermal NOx than coal, which has higher fuel nitrogen content, but exhibits lower flame temperatures.

The emissions of NOx can potentially be reduced at cement plants by two methods: Minimizing the quantity of NOx generated during combustion through combustion process controls and modifications; or reducing the quantity of NOx in the flue gas stream through flue gas controls.

A review of the EPA's BACT/LAER Clearinghouse indicates that NOx emissions at all operating facilities are minimized by combustion process control.

The applicant proposed that NOx emissions at this facility will be controlled through multistage combustion with a separate line combustion chamber (MSC-CC). The applicant considered other possible control methods, and rejected Selective Catalytic Reduction and Low NOx burners as not feasible for this project. The applicant performed a control cost analysis for Selective Non-catalytic

Reduction (SNCR) and MSC-CC. MSC-CC is the more cost effective control technology at $360 per ton of NOx controlled, versus $1251 for SNCR. The applicant did not reject SNCR based on cost alone, but further because MSC-CC will result in a higher level of control guaranteed by the plant manufacturer, because the plant will be more energy efficient using the MSC process, and because of concerns about handling the non-catalytic reactant. Possible reactants considered by the applicant were ammonia water and anhydrous ammonia, both of which present concerns over transport, handling and storage at the proposed location. Ammonia slip is another concern, and is a consideration of the Department. MSC-CC is also a pollution prevention technique. The Department also considered another SNCR reagent, cyanuric acid, that is listed as a control technology in the Bay Area BACT guideline. This reactant will decompose to isocyanic acid at 320°C, well below the required temperature for reaction. Cyanide compounds are classified as hazardous air pollutants pursuant to Department rule, and the Department rejects this reagent on this basis. Also, SNCR systems using this reagent are not likely to be less expensive than SNCR systems using ammonia.

MSC works by staging the introduction of fuel, combustion air, and raw meal in a manner to reduce NOx formation and reduce NOx to nitrogen. NOx formed in the kiln's sintering zone is chemically reduced by maintaining a reducing atmosphere at the kiln feed end by firing fuel in this region. The reducing atmosphere is maintained in the calciner region by controlling combustion air such that the calcining fuel is first burned under reducing conditions to reduce NOx, then under oxidizing conditions to complete the combustion reaction. Controlling the introduction of raw meal allows for control over temperature in the calciner. Through these mechanisms, both fuel NOx and thermal NOx are controlled. The combustion chamber allows for improved control over introduction of tertiary air in the calciner region, helping to promote the proper reducing environment for NOx control.

One public commentor suggested combusting the fuels in the pyroprocessing system with pure oxygen, presumably to reduce the formation of thermal NOx. The pure oxygen would be supplied from a liquid air fractionation plant which would be located at or near the facility. The Department considered this suggestion but rejected it for the following reasons. The facility will have large combustion air requirements and would require large volumes of pure oxygen to offset the air required, at a significant cost; this technology has not been demonstrated to be feasible for the production of cement or for similar pyroprocessing processes; oxygen actively supports combustion to the extent that it is explosive on contact with heat or oxidizable materials, thus presenting a safety hazard; and use of pure oxygen will do nothing to prevent the formation of fuel NOx. This suggestion can best be characterized as speculative, and extensive redesign and pilot study of the entire pyroprocessing system would be required to accomplish pure oxygen firing, if it is possible at all; such a change would completely alter the mass and heat transfer characteristics of the plant. MSC-CC is an effective control technology that will reduce both thermal NOx and fuel NOx.

Except for emissions during startup of the kiln, the applicant has proposed a NOx emission rate of 3.0 pounds per ton of clinker produced. The applicant advised that excess emissions of NOx during a startup of the pyroprocessing system when there is no material in the kiln may be as high as 600 pounds per hour for up to an hour.

We note that no plant has been constructed in the U.S. with SNCR as a control technology. The Department's research of EPA's BACT/LAER Clearinghouse found one plant achieving a permitted limit less than 2.8 pounds per ton of clinker: A Lone Star facility in California that uses a preheater/precalciner design, and meets a limit of 2.5 lb/ton clinker. In its previous BACT determinations for Florida Rock Industries and Florida Crushed Stone, the Department determined that this value is equal to 2.8 lb/ton clinker when corrected for the additional heat requirement necessary to process the higher moisture limestone mined in Florida. The proposed plant will utilize rock with a higher moisture content than the Florida Rock Industries plant, so the applicant proposed a higher NOx limit than the BACT limit of 2.8 lb/ton clinker imposed for Florida Rock Industries. The three factors most affecting NOx emissions at

portland cement plants are fuel volatility, burnability of the material mix and moisture content. The Department considered these factors in previous BACT determinations for cement plants, and in making its determination for this plant, and concluded that moisture content is the factor that warrants most consideration in setting BACT for NOx for cement plants.

The dry process with preheater/precalciner proposed by the applicant is the most energy-efficient process for the production of portland cement. Therefore, one would expect the increased efficiency and consequent lower fuel consumption to result in the lowest possible emissions compared to wet process or other dry process operations, all else being equal. Additionally, the lower flame temperature realized when burning coal compared with burning natural gas, as well as documented NOx reductions from tire burning (tires have a higher heat content and lower nitrogen content than coal), are further reasons to expect the lowest possible emission rate among kilns employing the preheater/precalciner design. MSC-CC is a pollution prevention technique that is integrated into the energy efficient design of the preheater/precalciner process.

The Department agrees with the applicant that MSC-CC is the most cost effective control technology and is BACT for NOx for this project. However, considering the additional benefits that will be derived from the separate line combustion chamber, the Department has determined that the emission limit for this control technology at this facility shall be 2.9 pounds of NOx per ton of clinker produced, and 304.5 pounds per hour. The Department has determined that the appropriate averaging time for this emission limit at this facility shall be a rolling 24 hour period.

The applicant requested a higher limit for NOx for two years after startup, to allow time for adjustment of the plant controls to assure that compliance with the BACT limit will be attained. The Department commented to the applicant that although the temporary exemption language of Department rules provides for exemption from certain PSD requirements for emissions lasting up to two years, such time period for NOx seems excessive given the plant manufacturer's experience with the startup of similar facilities, and the experience it will gain with the startup of the similar Florida Rock plant (which is scheduled to begin operation prior to completion of this facility). The applicant subsequently revised its request to a period of one year after startup, and the Department agrees that such a period is reasonable. During first year after startup, the kiln shall not exceed a NOx limit of 3.8 lb/ton clinker, and 399.0 pounds per hour; the limit of 2.9 lb/ton clinker (304.5 lb/hr) shall be imposed thereafter. Emissions of NOx up to 600 lb/hr for up to one hour in duration shall be allowed for startup of the pyroprocessing system when there is no material in the kiln. (Assuming that two of these startups occur per year, excess NOx emissions will be 591 pounds per year greater than allowable.)

Sulfur Dioxide (SO_2)

Sulfur dioxide is generated from volatilization and subsequent oxidation of sulfur compounds in the raw materials within the preheater and precalciner regions, and by oxidation of sulfur compounds in the fuel during combustion. Sulfur dioxide at this facility will be generated through these mechanisms. The sulfur content of both raw materials and fuels varies based on the raw materials and fuels available at a given location, and consequently sulfur dioxide emissions vary with these factors. As is typical of conditions in Florida, the limestone, which is the principal raw material, will be low in sulfur compounds. Sulfur compounds present in the other raw materials such as the iron sources, which represent a small proportion of the total raw materials, will most significantly contribute to sulfur dioxide emissions.

Most of the sulfur dioxide formed subsequently reacts with alkaline compounds present in the pyroprocessing environment to form alkali sulfates, which become incorporated in the cement clinker. The amount of sulfur dioxide released in the flue gases will vary with the amount of excess alkali available for absorption. The pyroprocessing system is very alkaline, and will be quite effective at removing sulfur dioxide formed from fuel sulfur. A significant proportion of sulfur dioxide from sulfur in raw materials will be removed through intimate contact with the incoming alkaline raw materials which

flow counter to the gas flow. Further contact is achieved in the raw mill where the flue gases are used to dry incoming material feed.

Control for sulfur dioxide applicable to the project are use of low sulfur raw materials; process control to assure a sufficiently alkaline environment is present for reaction with sulfur dioxide formed during pyroprocessing, and to assure intimate contact between flue gases and incoming materials; and flue gas controls – principally scrubbers.

The applicant proposes to limit sulfur dioxide emissions through process control. This will be accomplished by taking advantage of the alkaline environment in the kiln, preheater/precalciner, and raw mill to effect substantial removal of sulfur dioxide. Ultimately, the sulfur is incorporated into the clinker, thus minimizing the amount emitted to the atmosphere. The applicant proposed a sulfur dioxide limit of 0.28 pounds per ton of clinker produced.

Several cement plants in the U.S. use scrubbers for control of sulfur dioxide, ammonia and visible plumes that occur at some plants. Many more plants use process control for sulfur dioxide control. The Department investigated the applicability of a dry circulating scrubber for sulfur dioxide control for this project, and requested comments from the applicant. The applicant provided information regarding control cost for wet scrubbing, and discussed problems with installing the dry circulating bed system at this facility. The applicant demonstrated that wet scrubbing is not cost effective, having estimated a control cost for wet scrubbing of $29,700 per ton. Despite the problems pointed out by the applicant, the Department estimated the control cost for the dry circulating scrubber, assuming, to simplify the cost estimate, the originally proposed ESP for the in-line kiln/raw mill could be used for reagent recovery. (The applicant has changed the design to use a baghouse for particulate control for the in-line kiln/raw mill.) Based on a capital cost estimate of $8 million and 20 year depreciation period and estimated 90% efficiency, provided by Ken Olen, Ph.D., the control cost was estimated to be $7,400 per ton. It is possible that an additional ESP would be required to effect proper operation of the dry circulating scrubber at this facility, raising this cost estimate substantially. The applicant's engineer commented by letter dated November 8, 1999 that he believes that such additional equipment is necessary. The Department agrees with the applicant that flue gas controls are not cost effective for this project, and are not required as BACT.

The Department believes that process control is the appropriate technology for control of sulfur dioxide emissions for this project and is BACT. The Department considered imposing limitations on the sulfur content of the fuels and the raw materials used, but determined that such limits are not required. Fuel sulfur is largely irrelevant because of the substantial exposure and contact between sulfur dioxide formed from fuel sulfur and the alkaline materials. Sulfur limits on the raw materials are not needed because the primary raw material, limestone, will be naturally low in sulfur. The other raw materials will be obtained by the applicant, which will acquire materials with regard to the alkali available in the process for control of sulfur dioxide formed from volatilization and oxidation of sulfur compounds in these materials. The Department will require a continuous emission monitor system for sulfur dioxide, which will offer a continuous demonstration of compliance with the emission limit, as well as process control data for the plant operators. The use of a CEM system ensures that process control will be effective, and eliminates the need for a limit on sulfur in raw materials.

The Department has determined that BACT for sulfur dioxide is process control. The BACT sulfur dioxide emission limit for this plant shall be 0.27 pounds/ton of clinker produced, and 28.4 pounds per hour, based on a rolling 3-hour averaging time. Process control will allow for sulfur dioxide emissions to be minimized by maintaining a sufficient alkaline environment in the pyroprocessing system and by intimate contact between raw materials and exhaust gases. The sulfur dioxide that would result from fuel sulfur, as well as that resulting from volatilization and oxidation of sulfur from raw materials, will be controlled in this manner.

Particulate Matter (PM and PM_{10})

Particulate matter results from the various physical and chemical processes at a cement manufacturing plant such as: quarrying and crushing, material transfer and storage, grinding and blending, clinker production, finish grinding, and packaging and loading. As is typical of cement plants, the largest emission source of particulate matter at this facility will be the pyroprocessing system that includes the in-line kiln/raw mill and clinker cooler. At this facility, all cement kiln dust (CKD) captured in the in-line kiln/raw mill baghouse will be returned to the pyroprocessing system as raw material. Emissions from enclosed fuel and material handling and storage operations represent another significant source of emissions at this facility. Unenclosed sources represent the smallest sources of emissions, given the use of proper controls. The limestone will primarily be mined below the water table and have an average moisture of 10-20%. The quarrying activities and associated crushing and transport will involve moist or wet raw materials with negligible unconfined emissions.

Common control devices for controlling emissions of particulate matter at cement plants are fabric filters (baghouses) and electrostatic precipitators (ESPs). Baghouses and ESPs are generally considered equivalent for particulate control. Both types of devices can achieve removal efficiencies of over 99%. ESPs and baghouses are used extensively as control devices at cement plants. ESPs are generally specified for kiln and clinker cooler exhaust gases because of their ability to operate effectively at varying temperatures, although baghouses are also used at some facilities for this purpose. Both types of control equipment provide for the recovery and recycling of CKD back into the process stream. ESPs offer the advantage of having no fabric filters that will wear and break and require routine replacement, while baghouses offer the advantage of providing for "passive" control in the event of an electrical power failure. A review of the BACT/LAER Clearinghouse shows that baghouses and ESPs are widely used to control particulate matter from process emission units at cement plants. Both offer an essentially equivalent level of control and are commonly accepted as BACT. Baghouses are also generally used to control particulate emissions from most other material processing operations at cement plants.

Common controls to limit particulate emissions from fugitive sources (such as roadways, stockpiles, and material processing and conveying equipment) include application of water for dust suppression, removal of dust, application of water and other dust suppressants, paving of roads and covering of stockpiles to reduce wind erosion. These methods of controlling fugitive particulate matter emissions are generally considered to be BACT for most material handling operations and unpaved roads.

The applicant proposed respective PM and PM_{10} emission limits of 0.20 and 0.17 pounds per ton of dry preheater feed for the in-line kiln/raw mill, and 0.10 and 0.085 pounds per ton of dry preheater feed for the clinker cooler. After comment from the Department that lower limits are found in the BACT/LAER Clearinghouse, the applicant revised the PM_{10} limits to 0.11 and 0.06 pounds per ton of dry preheater feed (equivalent to 19.6 and 10.7 lb/hr at maximum process rate) for the in-line kiln/raw mill and clinker cooler, respectively. The applicant originally proposed to achieve these limits using an ESP for the in-line kiln/raw mill and an ESP for the clinker cooler, with other enclosed sources controlled by baghouses. The applicant later revised its design to use a baghouse for the in-line kiln/raw mill.

The Department agrees with the applicant's proposal, but has instituted additional limits for PM of 0.13 and 0.07 pounds per ton of dry preheater feed (and 23.1 and 12.5 lb/hr) for the in-line kiln/raw mill and clinker cooler, respectively. BACT is the use of a baghouse to control particulate matter emissions from the in-line kiln/raw mill and an ESP to control particulate matter emissions from the clinker cooler to the PM and PM_{10} limits noted above. Visible emissions from these sources shall not exceed 10 percent opacity. BACT for other enclosed emission sources will be control of particulate matter emissions using baghouses to meet respective PM and PM_{10} emission limits of 0.01 and 0.0085 grains per dry standard cubic foot. Visible emissions from these sources shall not exceed 5 percent opacity.

BACT for unenclosed sources is generally control of particulate matter emissions by inherent or applied moisture. Unpaved roads will be sprayed with water or dust suppressants to prevent unconfined particulate matter emissions. Material and fuel storage piles will be stored under roof or in enclosed vessels. Storage piles shall be shaped, compacted and oriented to minimize wind erosion. Storage piles shall be wetted with devices located near such piles when visual inspection determines wetting is needed. Water spray bars shall be located at each unenclosed conveyor and used for wetting of materials and fuel if inherent or previously-applied moisture is insufficient to prevent unconfined PM emissions. Paving of the manufacturing area and access roadways is required. Bulk transport trucks leaving the plant must travel through a tire wash prior to traveling on access roadways.

The Department believes that these controls and emission limits constitute BACT for particulate matter.

Carbon Monoxide (CO) and Volatile Organic Compounds (VOC)

Carbon monoxide is a pollutant formed by the incomplete combustion of carbon in the fuels fired during pyroprocessing. When insufficient oxygen is provided or poor combustion conditions occur, more CO and less CO_2 is formed than under ideal conditions. VOC is also a pollutant formed by the incomplete combustion of fuel.

Emissions of CO and VOC are controlled by utilization of proper combustion practices to maximize the oxidation of carbon to CO_2 instead of CO, and by flue gas controls. No add-on controls for CO or VOC have been demonstrated for cement plants. The high temperatures and control of excess air, process temperatures and fuel typically results in simultaneous optimization for control of CO, VOC and NOx. CO and NOx generally show an inverse relationship in cement plants as in many combustion processes, so reduction of NOx results in higher CO emissions. The applicant proposed combustion control as BACT for CO and VOC from this plant, and proposed emission limits of 3.6 and 0.12 pounds per ton of clinker produced for CO and VOC, respectively.

The Department agrees with the applicant. BACT for CO and VOC shall be combustion control. The emission limit for CO shall be 3.6 pounds per ton of clinker produced, and 378.0 pounds per hour, based on a 3 hour average. The averaging time is that of the annual test. A CEM will not be required for CO. However, the facility will install process monitors for CO to provide for the use of CO as a short-term measure of the efficacy of combustion control. The emission limit for VOC shall be 0.12 pounds per ton of clinker produced, and 12.6 pounds per hour, based on a 30 day averaging time. This averaging time is consistent with the NESHAP requirements.

Based on the information provided by the applicant and the informed judgement of the Department, BACT for PM, PM_{10}, SO_2, NOx, CO and VOC for the emission sources at this facility is determined to be the control technologies and emission limits discussed above.

8. COMPLIANCE

The compliance methods are briefly summarized here. Except for PM, PM_{10} and CO, compliance with the emission and process limitations for the in-line kiln/raw mill shall be demonstrated on a regular basis through a variety of continuous monitoring systems, and by record keeping for some production parameters. Compliance with the visible emissions limitation for the clinker cooler shall be regularly demonstrated using COM system clinker cooler stack. Annual emission tests will be required for all emission-limited pollutants, including visible emissions, from the in-line kiln/raw mill and the clinker cooler. Tests conducted for the annual RATA can satisfy the annual test requirements for the in-line kiln/raw mill. Initial compliance testing to demonstrate compliance with the emission limits for the three largest process sources controlled by baghouses will be required; thereafter, no subsequent tests will be required if these sources meet a visible emissions limit of 5% opacity. Initial and annual tests for the other process sources controlled by baghouses is not required if these sources meet a visible emissions limit of 5% opacity. The opacity limit for the clinker cooler is 10%. Compliance with the mercury

throughput limitation will be demonstrated via sampling and analysis of the materials and fuels. Compliance with the dioxin emissions limit of the NESHAP shall be demonstrated via testing, and continuous monitoring of the temperature at the inlet of the baghouse for the in-line kiln/raw mill, in accordance with that rule.

The Department will require that the data from continuous monitors for emissions be available to the Department via a data retrieval system to one of the Department's offices. This data will also be posted to an Internet site by the permittee, if technically feasible.

[Note: The numbering of the original rules in the following conditions has been preserved for ease of reference to the rules. Inapplicable paragraphs have been omitted for clarity and brevity. The term "Administrator" when used in 40 CFR 60 shall mean the Secretary or the Secretary's designee.]

1. Pursuant to 40 CFR 60.1 Applicability:

   (a) Except as provided in 40 CFR 60 subparts B and C, the provisions of this part apply to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication in this part of any standard (or, if earlier, the date of publication of any proposed standard) applicable to that facility.

   (b) Any new or revised standard of performance promulgated pursuant to section 111(b) of the Act shall apply to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication in this part of such new or revised standard (or, if earlier, the date of publication of any proposed standard) applicable to that facility.

   (c) In addition to complying with the provisions of this part, the owner or operator of an affected facility may be required to obtain an operating permit issued to stationary sources by an authorized State air pollution control agency or by the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to Title V of the Clean Air Act (CAA) as amended November 15, 1990 (42 U.S.C. 7661).

   [40 CFR 60.1]

2. Pursuant to 40 CFR 60.2 Definitions:

   The owner or operator shall comply with all applicable provisions of 40 CFR 60.2. The text of this section has been omitted from this permit for brevity. See the Code of Federal Regulations for the text of this section.

3. Pursuant to 40 CFR 60.3 Units and Abbreviations:

   The owner or operator shall comply with all applicable provisions of 40 CFR 60.3. The text of this section has been omitted from this permit for brevity. See the Code of Federal Regulations for the text of this section.

4. Pursuant to 40 CFR 60.4 Address:

   The owner or operator shall comply with all applicable provisions of 40 CFR 60.4. The text of this section has been omitted from this permit for brevity. See the Code of Federal Regulations for the text of this section.

   [Note: The Department has not adopted the provisions of 40 CFR 60.4 pursuant to Rule 62-204.800(7)(d), F.A.C. They are included in this permit to advise the permittee of their applicability.]

5. Pursuant to 40 CFR 60.5 Determination of Construction or Modification:

   The owner or operator shall comply with all applicable provisions of 40 CFR 60.4. The text of this section has been omitted from this permit for brevity. See the Code of Federal Regulations for the text of this section.

6. Pursuant to 40 CFR 60.6 Review of Plans:

The owner or operator shall comply with all applicable provisions of 40 CFR 60.4. The text of this section has been omitted from this permit for brevity. See the Code of Federal Regulations for the text of this section.

7. Pursuant to 40 CFR 60.7 Notification and Recordkeeping:

(a) Any owner or operator subject to the provisions of 40 CFR 60 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.

(2) A notification of the anticipated date of initial startup of an affected facility postmarked not more than 60 days nor less than 30 days prior to such date.

(3) A notification of the actual date of initial startup of an affected facility postmarked within 15 days after such date.

(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.

(5) A notification of the date upon which demonstration of the continuous monitoring system performance commences in accordance with 40 CFR 60.13(c). Notification shall be postmarked not less than 30 days prior to such date.

(6) 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.

(7) A notification that continuous opacity monitoring system data results will be used to determine compliance with the applicable opacity standard during a performance test required by 40 CFR 60.8 in lieu of Method 9 observation data as allowed by 40 CFR 60.11(e)(5) of 40 CFR 60. This notification shall be postmarked not less than 30 days prior to the date of the performance test.

(b) The owner or operator subject to the provisions of 40 CFR 60 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.

(c) The owner or operator required to install a continuous monitoring system (CMS) or monitoring device shall submit an excess emissions and monitoring systems performance report (excess emissions are defined in applicable subparts) and/or a summary report form (see 40 CFR 60.7(d)) to the Administrator semiannually, except when: more frequent reporting is specifically required by an applicable subpart; or the CMS data are to be used directly for compliance determination, in which case quarterly reports shall be submitted; or the Administrator, on a case-by-case basis, determines that more frequent reporting is necessary to accurately assess the compliance status of the source. All reports shall be postmarked by the 30th day following the end of each calendar half (or quarter, as appropriate). Written reports of excess emissions shall include the following information:

(1) The magnitude of excess emissions computed in accordance with 40 CFR 60.13(h), any conversion factor(s) used, and the date and time of commencement and completion of each time period of excess emissions. The process operating time during the reporting period.

(2) Specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the affected facility. The nature and cause of any malfunction (if known), the corrective action taken or preventative measures adopted.

(3) The date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments.

(4) When no excess emissions have occurred or the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be stated in the report.

(d) The summary report form shall contain the information and be in the format shown in Figure 1 unless otherwise specified by the Administrator. One summary report form shall be submitted for each pollutant monitored at each affected facility.

(1) If the total duration of excess emissions for the reporting period is less than 1 percent of the total operating time for the reporting period and CMS downtime for the reporting period is less than 5 percent of the total operating time for the reporting period, only the summary report form shall be submitted and the excess emission report described in 40 CFR 60.7(c) need not be submitted unless requested by the Administrator.

(2) If the total duration of excess emissions for the reporting period is 1 percent or greater of the total operating time for the reporting period or the total CMS downtime for the reporting period is 5 percent or greater of the total operating time for the reporting period, the summary report form and the excess emission report described in 40 CFR 60.7(c) shall both be submitted.

[See Attached Figure 1-Summary Report-Gaseous and Opacity Excess Emission and Monitoring System Performance]

(e)(1) Notwithstanding the frequency of reporting requirements specified in paragraph (c) of this section, an owner or operator who is required by an applicable subpart to submit excess emissions and monitoring systems performance reports (and summary reports) on a quarterly (or more frequent) basis may reduce the frequency of reporting for that standard to semiannual if the following conditions are met:

(i) For one full year (e.g., four quarterly or twelve monthly reporting periods) the affected facility's excess emissions and monitoring systems reports submitted to comply with a standard under this part continually demonstrate that the facility is in compliance with the applicable standard;

(ii) The owner or operator continues to comply with all recordkeeping and monitoring requirements specified in this subpart and the applicable standard; and

(iii) The Administrator does not object to reduced frequency of reporting for the affected facility, as provided in paragraph (e)(2) of this section.

(f) The owner or operator subject to the provisions of 40 CFR 60 shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by 40 CFR 60 recorded in a permanent form suitable for inspection. The file shall be retained for at least three years following the date of such measurements, maintenance, reports, and records.

(g) If notification substantially similar to that in 40 CFR 60.7(a) is required by any other State or local agency, sending the Administrator a copy of that notification will satisfy the requirements of 40 CFR 60.7(a).

(h) Individual subparts of this part may include specific provisions which clarify or make inapplicable the provisions set forth in this section.

[40 CFR 60.7]

[Note: 40 CFR 60.670(f) and Table 1 note an exception to 40 CFR 60.7(a)(2) that the report of anticipated date of initial startup of is not required pursuant to 40 CFR 60.676(h).]

8. Pursuant to 40 CFR 60.8 Performance Tests:

(a) 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 test(s) and furnish the Administrator a written report of the results of such performance test(s).

(b) 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.

(c) 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.

(d) 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.

(e) The owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows: (1) 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. (2) Safe sampling platform(s). (3) Safe access to sampling platform(s). (4) Utilities for sampling and testing equipment.

(f) 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]

[Note: See the note for specific condition 21 of Section II of this permit regarding the proper advance notification of compliance tests.]

[Note: The Department has not adopted the provisions of 40 CFR 60.8(b)(2) and (3) pursuant to Rule 62-204.800(7)(d), F.A.C. They are included in this permit to advise the permittee of their applicability.]

[Note: 40 CFR 60.670(f) and Table 1 note an exception to 40 CFR 60.8(d) that after 30 days notice for an initially scheduled performance test, any rescheduled performance test requires 7 days notice, not 30 days pursuant to 40 CFR 60.675(g).]

9. Pursuant to 40 CFR 60.9 Availability of Information:

The owner or operator shall comply with all applicable provisions of 40 CFR 60.9. The text of this section has been omitted from this permit for brevity. See the Code of Federal Regulations for the text of this section.

10. Pursuant to 40 CFR 60.10 State Authority:

The owner or operator shall comply with all applicable provisions of 40 CFR 60.10. The text of this section has been omitted from this permit for brevity. See the Code of Federal Regulations for the text of this section.

11. Pursuant to 40 CFR 60.11 Compliance with Standards and Maintenance Requirements:

(a) Compliance with standards in 40 CFR 60, other than opacity standards, shall be determined only by performance tests established by 40 CFR 60.8, unless otherwise specified in the applicable standard.

(b) Compliance with opacity standards in 40 CFR 60 shall be determined by conducting observations in accordance with Reference Method 9 in appendix A of 40 CFR 60, 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).

(c) The opacity standards set forth in 40 CFR 60 shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable standard.

(d) 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.

(e)(1) 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 B 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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 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.

(6) 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.

(7) 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.

(8) 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.

(f) Special provisions set forth under an applicable subpart of 40 CFR 60 shall supersede any conflicting provisions of paragraphs (a) through (e) of 40 CFR 60.11.

(g) For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in 40 CFR 60, nothing in 40 CFR 60 shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed.

[40 CFR 60.11]

[Note: The Department has not adopted the provisions of 40 CFR 60.11(e) pursuant to Rule 62-204.800(7)(d), F.A.C. They are included in this permit to advise the permittee of their applicability.]

[Note: 40 CFR 60.670(f) and Table 1 note an exception to 40 CFR 60.11(b) that under certain conditions Method 9 observation may be reduced from 3 hours to 1 hour pursuant to 40 CFR 60.675(c)(3) and (c)(4).]

12. Pursuant to 40 CFR 60.12 Circumvention:

No owner or operator subject to the provisions of 40 CFR 60.12 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]

13. Pursuant to 40 CFR 60.13 Monitoring Requirements:

(a) For the purposes of this section, all continuous monitoring systems required under applicable subparts shall be subject to the provisions of this section upon promulgation of performance specifications for continuous monitoring systems under appendix B of 40 CFR 60 and, if the continuous monitoring system is used to demonstrate compliance with emission limits on a continuous basis, appendix F to 40 CFR 60, unless otherwise specified in an applicable subpart or by the Administrator. Appendix F is applicable December 4, 1987.

(b) All continuous monitoring systems and monitoring devices shall be installed and operational prior to conducting performance tests under 40 CFR 60.8. Verification of operational status shall, as a minimum, include completion of the manufacturer's written requirements or recommendations for installation, operation, and calibration of the device.

(c) If the owner or operator of an affected facility elects to submit continuous opacity monitoring system (COMS) data for compliance with the opacity standard as provided under 40 CFR 60.11(e)(5), he/she shall conduct a performance evaluation of the COMS as specified in Performance Specification 1, appendix B, of 40 CFR 60 before the performance test required under 40 CFR 60.8 is conducted. Otherwise, the owner or operator of an affected facility shall conduct a performance evaluation of the COMS or continuous emission monitoring system (CEMS) during any performance test required under 40 CFR 60.8 or within 30 days thereafter in accordance with the applicable performance specification in appendix B of 40 CFR 60. The owner or operator of an affected facility shall conduct COMS or CEMS performance evaluations at such other times as may be required by the Administrator under section 114 of the Act.

(1) The owner or operator of an affected facility using a COMS to determine opacity compliance during any performance test required under 40 CFR 60.8 and as described in 40 CFR 60.11(e)(5), shall furnish the Administrator two or, upon request, more copies of a written report of the results of the COMS performance evaluation described in 40 CFR 60.13(c) at least 10 days before the performance test required under 40 CFR 60.8 is conducted.

(2) Except as provided in 40 CFR 60.13(c)(1), the owner or operator of an affected facility shall furnish the Administrator within 60 days of completion two or, upon request, more copies of a written report of the results of the performance evaluation.

(d)(1) Owners and operators of all continuous emission monitoring systems installed in accordance with the provisions of this part shall check the zero (or low-level value between 0 and 20 percent of span value) and span (50 to 100 percent of span value) calibration drifts at least once daily in

accordance with a written procedure. The zero and span shall, as a minimum, be adjusted whenever the 24-hour zero drift or 24-hour span drift exceeds two times the limits of the applicable performance specifications in appendix B. The system must allow the amount of excess zero and span drift measured at the 24-hour interval checks to be recorded and quantified, whenever specified. For continuous monitoring systems measuring opacity of emissions, the optical surfaces exposed to the effluent gases shall be cleaned prior to performing the zero and span drift adjustments except that for systems using automatic zero adjustments. The optical surfaces shall be cleaned when the cumulative automatic zero compensation exceeds 4 percent opacity.

(2) Unless otherwise approved by the Administrator, the following procedures shall be followed for continuous monitoring systems measuring opacity of emissions. Minimum procedures shall include a method for producing a simulated zero opacity condition and an upscale (span) opacity condition using a certified neutral density filter or other related technique to produce a known obscuration of the light beam. Such procedures shall provide a system check of the analyzer internal optical surfaces and all electronic circuitry including the lamp and photo detector assembly.

(e) Except for system breakdowns, repairs, calibration checks, and zero and span adjustments required under 40 CFR 60.13(d), all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements as follows:

(1) All continuous monitoring systems referenced by 40 CFR 60.13(c) for measuring opacity of emissions shall complete a minimum of one cycle of sampling and analyzing for each successive 10-second period and one cycle of data recording for each successive 6-minute period.

(2) All continuous monitoring systems referenced by 40 CFR 60.13(c) for measuring emissions, except opacity, shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

(f) All continuous monitoring systems or monitoring devices shall be installed such that representative measurements of emissions or process parameters from the affected facility are obtained. Additional procedures for location of continuous monitoring systems contained in the applicable Performance Specifications of appendix B of 40 CFR 60 shall be used.

(g) When the effluents from a single affected facility or two or more affected facilities subject to the same emission standards are combined before being released to the atmosphere, the owner or operator may install applicable continuous monitoring systems on each effluent or on the combined effluent. When the affected facilities are not subject to the same emission standards, separate continuous monitoring systems shall be installed on each effluent. When the effluent from one affected facility is released to the atmosphere through more than one point, the owner or operator shall install an applicable continuous monitoring system on each separate effluent unless the installation of fewer systems is approved by the Administrator. When more than one continuous monitoring system is used to measure the emissions from one affected facility (e.g., multiple breechings, multiple outlets), the owner or operator shall report the results as required from each continuous monitoring system.

(h) Owners or operators of all continuous monitoring systems for measurement of opacity shall reduce all data to 6-minute averages and for continuous monitoring systems other than opacity to 1-hour averages for time periods as defined in 40 CFR 60.2. Six-minute opacity averages shall be calculated from 36 or more data points equally spaced over each 6-minute period. For continuous monitoring systems other than opacity, 1-hour averages shall be computed from four or more data points equally spaced over each 1-hour period. Data recorder during periods of continuous monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in the data averages computed under this paragraph. An arithmetic or integrated average of all data may be used. The data may be recorded in reduced or non reduced form (e.g., ppm pollutant and percent O2 or ng/J of pollutant). All excess emissions shall be converted into units of the standard using the applicable conversion procedures specified in subparts. After conversion into units of the standard, the data may be rounded to the same number of significant digits as used in the applicable subparts to specify the emission limit (e.g., rounded to the nearest 1 percent opacity).

(i) After receipt and consideration of written application, the Administrator may approve alternatives to any monitoring procedures or requirements of this part including, but not limited to the following:

(1) Alternative monitoring requirements when installation of a continuous monitoring system or monitoring device specified by this part would not provide accurate measurements due to liquid water or other interferences caused by substances with the effluent gases.

(2) Alternative monitoring requirements when the affected facility is infrequently operated.

(3) Alternative monitoring requirements to accommodate continuous monitoring systems that require additional measurements to correct for stack moisture conditions.

(4) Alternative locations for installing continuous monitoring systems or monitoring devices when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements.

(5) Alternative methods of converting pollutant concentration measurements to units of the standards.

(6) Alternative procedures for performing daily checks of zero and span drift that do not involve use of span gases or test cells.

(7) Alternatives to the A.S.T.M. test methods or sampling procedures specified by any subpart.

(8) Alternative continuous monitoring systems that do not meet the design or performance requirements in Performance Specification 1, appendix B, but adequately demonstrate a definite and consistent relationship between its measurements and the measurements of opacity by a system complying with the requirements in Performance Specification 1. The Administrator may require that such demonstration be performed for each affected facility.

(9) Alternative monitoring requirements when the effluent from a single affected facility or the combined effluent from two or more affected facilities are released to the atmosphere through more than one point.

(j) An alternative to the relative accuracy test specified in Performance Specification 2 of appendix B may be requested as follows:

(1) An alternative to the reference method tests for determining relative accuracy is available for sources with emission rates demonstrated to be less than 50 percent of the applicable standard. A source owner or operator may petition the Administrator to waive the relative accuracy test in section 7 of Performance Specification 2 and substitute the procedures in section 10 if the results of a performance test conducted according to the requirements in 40 CFR 60.8 of this subpart or other tests performed following the criteria in 40 CFR 60.8 demonstrate that the emission rate of the pollutant of interest in the units of the applicable standard is less than 50 percent of the applicable standard. For sources subject to standards expressed as control efficiency levels, a source owner or operator may petition the Administrator to waive the relative accuracy test and substitute the procedures in section 10 of Performance Specification 2 if the control device exhaust emission rate is less than 50 percent of the level needed to meet the control efficiency requirement. The alternative procedures do not apply if the continuous emission monitoring system is used to determine compliance continuously with the applicable standard. The petition to waive the relative accuracy test shall include a detailed description of the procedures to be applied. Included shall be location and procedure for conducting the alternative, the concentration or response levels of the alternative RA materials, and the other equipment checks included in the alternative procedure. The Administrator will review the petition for completeness and applicability. The determination to grant a waiver will depend on the intended use of the CEMS data (e.g., data collection purposes other than NSPS) and may require specifications more stringent than in Performance Specification 2 (e.g., the applicable emission limit is more stringent than NSPS).

(2) The waiver of a CEMS relative accuracy test will be reviewed and may be rescinded at such time following successful completion of the alternative RA procedure that the CEMS data indicate the source emissions approaching the level of the applicable standard. The criterion for reviewing the waiver is the collection of CEMS data showing that emissions have exceeded 70 percent of the applicable standard for seven, consecutive, averaging periods as specified by the applicable regulation(s). For sources subject to standards expressed as control efficiency levels, the criterion for reviewing the waiver is the collection of CEMS data showing that exhaust emissions have exceeded 70 percent of the level needed to meet the control efficiency requirement for seven, consecutive, averaging periods as specified by the applicable regulation(s) [e.g., 40 CFR 60.45(g)(2) and 40 CFR 60.45(g)(3), 40 CFR 60.73(e), and 40 CFR 60.84(e)]. It is the responsibility of the source operator to maintain records and determine the level of emissions relative to the criterion on the waiver of relative accuracy testing. If this criterion is exceeded, the owner or operator must notify the Administrator within 10 days of such occurrence and include a description of the nature and cause of the increasing emissions. The Administrator will review the notification and may rescind the waiver and require the owner or operator to conduct a relative accuracy test of the CEMS as specified in section 7 of Performance Specification 2.

[40 CFR 60.13]

14. Pursuant to 40 CFR 60.14 Modification:

(a) 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.

(b) 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:

(1) 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.

(2) 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.

(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.

(d) [Reserved]

(e) The following shall not, by themselves, be considered modifications under this part:

(1) 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.

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

(3) An increase in the hours of operation.

(4) 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.

(5) 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.

(6) The relocation or change in ownership of an existing facility.

(f) Special provisions set forth under an applicable subpart of this part shall supersede any conflicting provisions of this section.

(g) 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.

(h) No physical change, or change in the method of operation, at an existing electric utility steam generating unit shall be treated as a modification for purposes of this section provided that such change does not increase the maximum hourly emissions of any pollutant regulated under this section above the maximum hourly emissions achievable at that unit during the five years prior to the change.

[40 CFR 60.14]

15. Pursuant to 40 CFR 60.15 Reconstruction:

(a) An existing facility, upon reconstruction, becomes an affected facility, irrespective of any change in emission rate.

(b) "Reconstruction" means the replacement of components of an existing facility to such an extent that:

(1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, and

(2) It is technologically and economically feasible to meet the applicable standards set forth in this part.

(c) "Fixed capital cost'" means the capital needed to provide all the depreciable components.

(d) If an owner or operator of an existing facility proposes to replace components, and the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, he shall notify the Administrator of the proposed replacements. The notice must be postmarked 60 days (or as soon as practicable) before construction of the replacements is commenced and must include the following information:

(1) Name and address of the owner or operator.

(2) The location of the existing facility.

(3) A brief description of the existing facility and the components which are to be replaced.

(4) A description of the existing air pollution control equipment and the proposed air pollution control equipment.

(5) An estimate of the fixed capital cost of the replacements and of constructing a comparable entirely new facility.

(6) The estimated life of the existing facility after the replacements.

(7) A discussion of any economic or technical limitations the facility may have in complying with the applicable standards of performance after the proposed replacements.

(e) The Administrator will determine, within 30 days of the receipt of the notice required by 40 CFR 60.15(d) and any additional information he may reasonably require, whether the proposed replacement constitutes reconstruction.

(f) The Administrator's determination under 40 CFR 60.15(e) shall be based on:

(1) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility;

(2) The estimated life of the facility after the replacements compared to the life of a comparable entirely new facility;

(3) The extent to which the components being replaced cause or contribute to the emissions from the facility; and

(4) Any economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.

(g) Individual subparts of this part may include specific provisions which refine and delimit the concept of reconstruction set forth in this section.

[40 CFR 60.15]

16. Pursuant to 40 CFR 60.16 Priority List:

The owner or operator shall comply with all applicable provisions of 40 CFR 60.16. The text of this section has been omitted from this permit for brevity. See the Code of Federal Regulations for the text of this section.

[Note: The Department has not adopted the provisions of 40 CFR 60.16 pursuant to Rule 62-204.800(7)(d), F.A.C. They are included in this permit to advise the permittee of their applicability.]

17. Pursuant to 40 CFR 60.17 Incorporations by Reference:

The owner or operator shall comply with all applicable provisions of 40 CFR 60.17. The text of this section has been omitted from this permit for brevity. See the Code of Federal Regulations for the text of this section.

[Note: The Department has not adopted the provisions of 40 CFR 60.17 pursuant to Rule 62-204.800(7)(d), F.A.C. They are included in this permit to advise the permittee of their applicability.]

18. Pursuant to 40 CFR 60.19 General notification and reporting requirements:

(a) For the purposes of 40 CFR 60, time periods specified in days shall be measured in calendar days, even if the word "calendar" is absent, unless otherwise specified in an applicable requirement.

(b) For the purposes of 40 CFR 60, if an explicit postmark deadline is not specified in an applicable requirement for the submittal of a notification, application, report, or other written communication to the Administrator, the owner or operator shall postmark the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be delivered or postmarked on or before 15 days following the end of the event. The use of reliable non-Government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery agreed to by the permitting authority, is acceptable.

(c) Notwithstanding time periods or postmark deadlines specified in 40 CFR 60 for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(d) If an owner or operator of an affected facility in a State with delegated authority is required to submit periodic reports under 40 CFR 60 to the State, and if the State has an established timeline for the submission of periodic reports that is consistent with the reporting frequency(ies) specified for such facility under 40 CFR 60, the owner or operator may change the dates by which periodic reports under 40 CFR 60 shall be submitted (without changing the frequency of reporting) to be consistent with the State's schedule by mutual agreement between the owner or operator and the State. The allowance in the previous sentence applies in each State beginning 1 year after the affected facility is required to be in compliance with the applicable subpart in 40 CFR 60. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(e) If an owner or operator supervises one or more stationary sources affected by standards set under this part and standards set under part 61, part 63, or both such parts of this chapter, he/she may arrange by mutual agreement between the owner or operator and the Administrator (or the State with an approved permit program) a common schedule on which periodic reports required by each applicable standard shall be submitted throughout the year. The allowance in the previous sentence applies in each State beginning 1 year after the stationary source is required to be in compliance with the applicable subpart in this part, or 1 year after the stationary source is required to be in compliance with the applicable 40 CFR part 61 or part 63 of this chapter

standard, whichever is latest. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(f)(1)(i) Until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (f)(2) and (f)(3) of this section, the owner or operator of an affected facility remains strictly subject to the requirements of 40 CFR 60.

(ii) An owner or operator shall request the adjustment provided for in paragraphs (f)(2) and (f)(3) of this section each time he or she wishes to change an applicable time period or postmark deadline specified in 40 CFR 60.

(2) Notwithstanding time periods or postmark deadlines specified in 40 CFR 60 for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practicable before the subject activity is required to take place. The owner or operator shall include in the request whatever information he or she considers useful to convince the Administrator that an adjustment is warranted.

(3) If, in the Administrator's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(4) If the Administrator is unable to meet a specified deadline, he or she will notify the owner or operator of any significant delay and inform the owner or operator of the amended schedule.

[40 CFR 60.19]

FIGURE 1--SUMMARY REPORT--GASEOUS AND OPACITY EXCESS EMISSION AND MONITORING SYSTEM PERFORMANCE

[Note: This form is referenced in 40 CFR 60.7, Subpart A-General Provisions]

Pollutant *(Circle One)*: SO_2 NOx TRS H_2S CO Opacity

Reporting period dates: From _____ to _____

Company: _____

Emission Limitation: _____

Address: _____

Monitor Manufacturer and Model No.: _____

Date of Latest CMS Certification or Audit: _____

Process Unit(s) Description: _____

Total source operating time in reporting period [1]: _____

Emission data summary [1]	CMS performance summary [1]
1. Duration of excess emissions in reporting period due to:	1. CMS downtime in reporting period due to:
a. Startup/shutdown ..... ____	a. Monitor equipment malfunctions ... ___
b. Control equipment problems ..... ____	b. Non-Monitor equipment malfunctions _ .....
c. Process problems ..... ____	c. Quality assurance calibration ..... ___
d. Other known causes ..... ____	d. Other known causes ..... ___
e. Unknown causes ..... ____	e. Unknown causes ..... ___
2. Total duration of excess emissions ..... ____	2. Total CMS Downtime ..... ___
3. [Total duration of excess emissions] x (100) / [Total source operating time] ..... ____ % [2]	3. [Total CMS Downtime] x (100) / [Total source operating time] ..... ____ % [2]

[1] For opacity, record all times in minutes. For gases, record all times in hours.

[2] For the reporting period: If the total duration of excess emissions is 1 percent or greater of the total operating time or the total CMS downtime is 5 percent or greater of the total operating time, both the summary report form and the excess emission report described in 40 CFR 60.7(c) shall be submitted.

Note: On a separate page, describe any changes since last quarter in CMS, process or controls.

I certify that the information contained in this report is true, accurate, and complete.

Name: _____

Signature: _____

Title: _____

Date: _____

1. Pursuant to 40 CFR 63 Subpart A:

   The owner or operator shall comply with all applicable provisions of 40 CFR 63 Subpart A, which are attached to this permit following this page.

[Note: The numbering of the original rules this appendix has been preserved for ease of reference to the rules. Inapplicable paragraphs have been omitted for clarity and brevity. The term "Administrator" when used in 40 CFR 63 shall mean the Secretary or the Secretary's designee.]

40 CFR 63.1 Applicability.

(a) *General.*

(1) Terms used throughout this part are defined in § 63.2 or in the Clean Air Act (Act) as amended in 1990, except that individual subparts of this part may include specific definitions in addition to or that supersede definitions in § 63.2.

(2) This part contains national emission standards for hazardous air pollutants (NESHAP) established pursuant to section 112 of the Act as amended November 15, 1990. These standards regulate specific categories of stationary sources that emit (or have the potential to emit) one or more hazardous air pollutants listed in this part pursuant to section 112(b) of the Act. This section explains the applicability of such standards to sources affected by them. The standards in this part are independent of NESHAP contained in 40 CFR part 61. The NESHAP in part 61 promulgated by signature of the Administrator before November 15, 1990 (i.e., the date of enactment of the Clean Air Act Amendments of 1990) remain in effect until they are amended, if appropriate, and added to this part.

(3) No emission standard or other requirement established under this part shall be interpreted, construed, or applied to diminish or replace the requirements of a more stringent emission limitation or other applicable requirement established by the Administrator pursuant to other authority of the Act (including those requirements in part 60 of this chapter), or a standard issued under State authority.

(4) The provisions of this subpart (i.e., subpart A of this part) apply to owners or operators who are subject to subsequent subparts of this part, except when otherwise specified in a particular subpart or in a relevant standard. The general provisions in subpart A eliminate the repetition of requirements applicable to all owners or operators affected by this part. The general provisions in subpart A do not apply to regulations developed pursuant to section 112(r) of the amended Act, unless otherwise specified in those regulations.

(5) [Reserved]

(6) To obtain the most current list of categories of sources to be regulated under section 112 of the Act, or to obtain the most recent regulation promulgation schedule established pursuant to section 112(e) of the Act, contact the Office of the Director, Emission Standards Division, Office of Air Quality Planning and Standards, U.S. EPA (MD–13), Research Triangle Park, North Carolina 27711.

(7) Subpart D of this part contains regulations that address procedures for an owner or operator to obtain an extension of compliance with a relevant standard through an early reduction of emissions of hazardous air pollutants pursuant to section 112(i)(5) of the Act.

(8) Subpart E of this part contains regulations that provide for the establishment of procedures consistent with section 112(l) of the Act for the approval of State rules or programs to implement and enforce applicable Federal rules promulgated under the authority of section 112. Subpart E also establishes procedures for the review and withdrawal of section 112 implementation and enforcement authorities granted through a section 112(l) approval.

(9) [Reserved]

(10) For the purposes of this part, time periods specified in days shall be measured in calendar days, even if the word "calendar" is absent, unless otherwise specified in an applicable requirement.

(11) For the purposes of this part, if an explicit postmark deadline is not specified in an applicable requirement for the submittal of a notification, application, test plan, report, or other written communication to the Administrator, the owner or operator shall postmark the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be postmarked on or before 15 days following the end of the

event. The use of reliable non-Government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery agreed to by the permitting authority, is acceptable.

(12) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. Procedures governing the implementation of this provision are specified in § 63.9(i).

(13) Special provisions set forth under an applicable subpart of this part or in a relevant standard established under this part shall supersede any conflicting provisions of this subpart.

(14) Any standards, limitations, prohibitions, or other federally enforceable requirements established pursuant to procedural regulations in this part [including, but not limited to, equivalent emission limitations established pursuant to section 112(g) of the Act] shall have the force and effect of requirements promulgated in this part and shall be subject to the provisions of this subpart, except when explicitly specified otherwise.

(b) *Initial applicability determination for this part.*

(1) **[Not applicable. 40 CFR 63.1340 of 40 CFR 63 Subpart LLL specifies applicability.]**

(2) In addition to complying with the provisions of this part, the owner or operator of any such source may be required to obtain an operating permit issued to stationary sources by an authorized State air pollution control agency or by the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to title V of the Act (42 U.S.C. 7661). For more information about obtaining an operating permit, see part 70 of this chapter.

(3) An owner or operator of a stationary source that emits (or has the potential to emit, without considering controls) one or more hazardous air pollutants who determines that the source is not subject to a relevant standard or other requirement established under this part, shall keep a record of the applicability determination as specified in § 63.10(b)(3) of this subpart.

(c) *Applicability of this part after a relevant standard has been set under this part.*

(1) If a relevant standard has been established under this part, the owner or operator of an affected source shall comply with the provisions of this subpart and the provisions of that standard, except as specified otherwise in this subpart or that standard.

(2) If a relevant standard has been established under this part, the owner or operator of an affected source may be required to obtain a title V permit from the permitting authority in the State in which the source is located. Emission standards promulgated in this part for area sources will specify whether -

(i) **[Not applicable]**;

(ii) **[Not applicable]**; or

(iii) Area sources affected by that emission standard are immediately subject to the requirement to apply for and obtain a title V permit in all States. If a standard fails to specify what the permitting requirements will be for area sources affected by that standard, then area sources that are subject to the standard will be subject to the requirement to obtain a title V permit without deferral. If the owner or operator is required to obtain a title V permit, he or she shall apply for such permit in accordance with part 70 of this chapter and applicable State regulations, or in accordance with the regulations contained in this chapter to implement the Federal title V permit program (42 U.S.C. 7661), whichever regulations are applicable.

(3) [Reserved]

(4) If the owner or operator of an existing source obtains an extension of compliance for such source in accordance with the provisions of subpart D of this part, the owner or operator shall comply with all requirements of this subpart except those requirements that are specifically overridden in the extension of compliance for that source.

(5) If an area source that otherwise would be subject to an emission standard or other requirement established under this part if it were a major source subsequently increases its emissions of hazardous air pollutants (or its potential to emit hazardous air pollutants) such that the source is a major source that is subject to the emission standard or other requirement, such source also shall be subject to the notification requirements of this subpart.

(d) [Reserved]

(e) *Applicability of permit program before a relevant standard has been set under this part.* After the effective date of an approved permit program in the State in which a stationary source is (or would be) located, the owner or operator of such source may be required to obtain a title V permit from the permitting authority in that State (or revise such a permit if one has already been issued to the source) before a relevant standard is established under this part. If the owner or operator is required to obtain (or revise) a title V permit, he/she shall apply to obtain (or revise) such permit in accordance with the regulations contained in part 70 of this chapter and applicable State regulations, or the regulations codified in this chapter to implement the Federal title V permit program (42 U.S.C. 7661), whichever regulations are applicable.

40 CFR 63.2 Definitions. [Additional definitions in 40 CFR 63.1341 of 40 CFR 63 Subpart LLL.]

The terms used in this part are defined in the Act or in this section as follows:

Act means the Clean Air Act (42 U.S.C. 7401 et seq., as amended by Pub. L. 101–549, 104 Stat. 2399).

Actual emissions is defined in subpart D of this part for the purpose of granting a compliance extension for an early reduction of hazardous air pollutants.

Administrator means the Administrator of the United States Environmental Protection Agency or his or her authorized representative (e.g., a State that has been delegated the authority to implement the provisions of this part).

Affected source, for the purposes of this part, 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 requirement 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 this part, is separate and distinct from any other use of that term in EPA regulations such as those implementing title IV of the Act. Sources regulated under part 60 or part 61 of this chapter are not affected sources for the purposes of part 63.

Alternative emission limitation means conditions established pursuant to sections 112(i)(5) or 112(i)(6) of the Act by the Administrator or by a State with an approved permit program.

Alternative emission standard means an alternative means of emission limitation that, after notice and opportunity for public comment, has been demonstrated by an owner or operator to the Administrator's satisfaction to achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such pollutant achieved under a relevant design, equipment, work practice,

or operational emission standard, or combination thereof, established under this part pursuant to section 112(h) of the Act.

Alternative test method means any method of sampling and analyzing for an air pollutant that is not a test method in this chapter and that has been demonstrated to the Administrator's satisfaction, using Method 301 in Appendix A of this part, to produce results adequate for the Administrator's determination that it may be used in place of a test method specified in this part.

Approved permit program means a State permit program approved by the Administrator as meeting the requirements of part 70 of this chapter or a Federal permit program established in this chapter pursuant to title V of the Act (42 U.S.C. 7661).

Area source means any stationary source of hazardous air pollutants that is not a major source as defined in this part.

Commenced means, with respect to construction or reconstruction of a stationary source, that an owner or operator has undertaken a continuous program of construction or reconstruction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or reconstruction.

Compliance date means the date by which an affected source is required to be in compliance with a relevant standard, limitation, prohibition, or any federally enforceable requirement established by the Administrator (or a State with an approved permit program) pursuant to section 112 of the Act.

Compliance plan means a plan that contains all of the following:

(1) A description of the compliance status of the affected source with respect to all applicable requirements established under this part;

(2) A description as follows:

(i) For applicable requirements for which the source is in compliance, a statement that the source will continue to comply with such requirements;

(ii) For applicable requirements that the source is required to comply with by a future date, a statement that the source will meet such requirements on a timely basis;

(iii) For applicable requirements for which the source is not in compliance, a narrative description of how the source will achieve compliance with such requirements on a timely basis;

(3) A compliance schedule, as defined in this section; and

(4) A schedule for the submission of certified progress reports no less frequently than every 6 months for affected sources required to have a schedule of compliance to remedy a violation.

Compliance schedule means:

(1) In the case of an affected source that is in compliance with all applicable requirements established under this part, a statement that the source will continue to comply with such requirements; or

(2) In the case of an affected source that is required to comply with applicable requirements by a future date, a statement that the source will meet such requirements on a timely basis and, if required by an applicable requirement, a detailed schedule of the dates by which each step toward compliance will be reached; or

(3) In the case of an affected source not in compliance with all applicable requirements established under this part, a schedule of remedial measures, including an enforceable sequence of actions or operations with milestones and a schedule for the submission of certified progress reports, where applicable, leading to compliance with a relevant standard, limitation, prohibition, or any federally enforceable requirement established pursuant to section 112 of the Act for which the affected source is not in compliance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of

compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.

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

Continuous emission monitoring system (CEMS) means the total equipment that may be required to meet the data acquisition and availability requirements of this part, used to sample, condition (if applicable), analyze, and provide a record of emissions.

Continuous monitoring system (CMS) is a comprehensive term that may include, but is not limited to, continuous emission monitoring systems, continuous opacity monitoring systems, continuous parameter monitoring systems, or other manual or automatic monitoring that is used for demonstrating compliance with an applicable regulation on a continuous basis as defined by the regulation.

Continuous opacity monitoring system (COMS) means a continuous monitoring system that measures the opacity of emissions.

Continuous parameter monitoring system means the total equipment that may be required to meet the data acquisition and availability requirements of this part, used to sample, condition (if applicable), analyze, and provide a record of process or control system parameters.

Effective date means:

(1) With regard to an emission standard established under this part, the date of promulgation in the FEDERAL REGISTER of such standard; or

(2) With regard to an alternative emission limitation or equivalent emission limitation determined by the Administrator (or a State with an approved permit program), the date that the alternative emission limitation or equivalent emission limitation becomes effective according to the provisions of this part. The effective date of a permit program established under title V of the Act (42 U.S.C. 7661) is determined according to the regulations in this chapter establishing such programs.

Emission standard means a national standard, limitation, prohibition, or other regulation promulgated in a subpart of this part pursuant to sections 112(d), 112(h), or 112(f) of the Act.

Emissions averaging is a way to comply with the emission limitations specified in a relevant standard, whereby an affected source, if allowed under a subpart of this part, may create emission credits by reducing emissions from specific points to a level below that required by the relevant standard, and those credits are used to offset emissions from points that are not controlled to the level required by the relevant standard.

EPA means the United States Environmental Protection Agency.

Equivalent emission limitation means the maximum achievable control technology emission limitation (MACT emission limitation) for hazardous air pollutants that the Administrator (or a State with an approved permit program) determines on a case-by-case basis, pursuant to section 112(g) or section 112(j) of the Act, to be equivalent to the emission standard that would apply to an affected source if such standard had been promulgated by the Administrator under this part pursuant to section 112(d) or section 112(h) of the Act.

Excess emissions and continuous monitoring system performance report is a report that must be submitted periodically by an affected source in order to provide data on its compliance with relevant emission limits, operating parameters, and the performance of its continuous parameter monitoring systems.

Existing source means any affected source that is not a new source.

Federally enforceable means all limitations and conditions that are enforceable by the Administrator and citizens under the Act or that are enforceable under other statutes administered by the Administrator. Examples of federally enforceable limitations and conditions include, but are not limited to:

(1) Emission standards, alternative emission standards, alternative emission limitations, and equivalent emission limitations established pursuant to section 112 of the Act as amended in 1990;

(2) New source performance standards established pursuant to section 111 of the Act, and emission standards established pursuant to section 112 of the Act before it was amended in 1990;

(3) All terms and conditions in a title V permit, including any provisions that limit a source's potential to emit, unless expressly designated as not federally enforceable;

(4) Limitations and conditions that are part of an approved State Implementation Plan (SIP) or a Federal Implementation Plan (FIP);

(5) Limitations and conditions that are part of a Federal construction permit issued under 40 CFR 52.21 or any construction permit issued under regulations approved by the EPA in accordance with 40 CFR part 51;

(6) Limitations and conditions that are part of an operating permit issued pursuant to a program approved by the EPA into a SIP as meeting the EPA's minimum criteria for Federal enforceability, including adequate notice and opportunity for EPA and public comment prior to issuance of the final permit and practicable enforceability;

(7) Limitations and conditions in a State rule or program that has been approved by the EPA under subpart E of this part for the purposes of implementing and enforcing section 112; and

(8) Individual consent agreements that the EPA has legal authority to create.

Fixed capital cost means the capital needed to provide all the depreciable components of an existing source.

Fugitive emissions means those emissions from a stationary source that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. Under section 112 of the Act, all fugitive emissions are to be considered in determining whether a stationary source is a major source.

Hazardous air pollutant means any air pollutant listed in or pursuant to section 112(b) of the Act.

Issuance of a part 70 permit will occur, if the State is the permitting authority, in accordance with the requirements of part 70 of this chapter and the applicable, approved State permit program. When the EPA is the permitting authority, issuance of a title V permit occurs immediately after the EPA takes final action on the final permit.

Lesser quantity means a quantity of a hazardous air pollutant that is or may be emitted by a stationary source that the Administrator establishes in order to define a major source under an applicable subpart of this part.

Major source means 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 considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless the Administrator establishes a lesser quantity, or in the case of radionuclides, different criteria from those specified in this sentence.

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

New source means any affected source the construction or reconstruction of which is commenced after the Administrator first proposes a relevant emission standard under this part.

One-hour period, unless otherwise defined in an applicable subpart, means any 60-minute period commencing on the hour.

Opacity means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background. For continuous opacity monitoring systems, opacity means the fraction of incident light that is attenuated by an optical medium.

Owner or operator means any person who owns, leases, operates, controls, or supervises a stationary source.

Part 70 permit means any permit issued, renewed, or revised pursuant to part 70 of this chapter.

Performance audit means a procedure to analyze blind samples, the content of which is known by the Administrator, simultaneously with the analysis of performance test samples in order to provide a measure of test data quality.

Performance evaluation means the conduct of relative accuracy testing, calibration error testing, and other measurements used in validating the continuous monitoring system data.

Performance test means the collection of data resulting from the execution of a test method (usually three emission test runs) used to demonstrate compliance with a relevant emission standard as specified in the performance test section of the relevant standard.

Permit modification means a change to a title V permit as defined in regulations codified in this chapter to implement title V of the Act (42 U.S.C. 7661).

Permit program means a comprehensive State operating permit system established pursuant to title V of the Act (42 U.S.C. 7661) and regulations codified in part 70 of this chapter and applicable State regulations, or a comprehensive Federal operating permit system established pursuant to title V of the Act and regulations codified in this chapter.

Permit revision means any permit modification or administrative permit amendment to a title V permit as defined in regulations codified in this chapter to implement title V of the Act (42 U.S.C. 7661).

Permitting authority means:

(1) The State air pollution control agency, local agency, other State agency, or other agency authorized by the Administrator to carry out a permit program under part 70 of this chapter; or

(2) The Administrator, in the case of EPA-implemented permit programs under title V of the Act (42 U.S.C. 7661).

Potential to emit means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable.

Reconstruction means the replacement of components of an affected or a previously unaffected stationary source to such an extent that:

(1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new source; and

(2) It is technologically and economically feasible for the reconstructed source to meet the relevant standard(s) established by the Administrator (or a State) pursuant to section 112 of the Act. Upon reconstruction, an affected source, or a stationary source that becomes an affected source, is subject to relevant standards for new sources, including compliance dates, irrespective of any change in emissions of hazardous air pollutants from that source.

Regulation promulgation schedule means the schedule for the promulgation of emission standards under this part, established by the Administrator pursuant to section 112(e) of the Act and published in the FEDERAL REGISTER.

Relevant standard means:

(1) An emission standard;

(2) An alternative emission standard;

(3) An alternative emission limitation; or

(4) An equivalent emission limitation established pursuant to section 112 of the Act that applies to the stationary source, the group of stationary sources, or the portion of a stationary source regulated by such standard or limitation. A relevant standard may include or consist of a design, equipment, work practice, or operational requirement, or other measure, process, method, system, or technique (including prohibition of emissions) that the Administrator (or a State) establishes for new or existing sources to which such standard or limitation applies. Every relevant standard established pursuant to section 112 of the Act includes subpart A of this part and all applicable appendices of this part or of other parts of this chapter that are referenced in that standard.

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 and either:

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

(ii) The delegation of authority to such representative is approved in advance by the Administrator.

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively.

(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 the EPA).

(4) For affected sources (as defined in this part) applying for or subject to a title V permit: "responsible official" shall have the same meaning as defined in part 70 or Federal title V regulations in this chapter (42 U.S.C. 7661), whichever is applicable.

Run means one of a series of emission or other measurements needed to determine emissions for a representative operating period or cycle as specified in this part.

Shutdown means the cessation of operation of an affected source for any purpose.

Six-minute period means, with respect to opacity determinations, any one of the 10 equal parts of a 1-hour period.

Standard conditions means a temperature of 293 °K (68° F) and a pressure of 101.3 kilopascals (29.92 in. Hg).

Startup means the setting in operation of an affected source for any purpose.

State means all non-Federal authorities, including local agencies, interstate associations, and State-wide programs, that have delegated authority to implement:

(1) The provisions of this part and/or

(2) the permit program established under part 70 of this chapter. The term State shall have its conventional meaning where clear from the context.

Stationary source means any building, structure, facility, or installation which emits or may emit any air pollutant.

Test method means the validated procedure for sampling, preparing, and analyzing for an air pollutant specified in a relevant standard as the performance test procedure. The test method may include methods described in an appendix of this chapter, test methods incorporated by reference in this part, or methods validated for an application through procedures in Method 301 of appendix A of this part.

Title V permit means any permit issued, renewed, or revised pursuant to Federal or State regulations established to implement title V of the Act (42 U.S.C. 7661). A title V permit issued by a State permitting authority is called a part 70 permit in this part.

Visible emission means the observation of an emission of opacity or optical density above the threshold of vision.

40 CFR 63.3 Units and abbreviations.

Used in this part are abbreviations and symbols of units of measure. These are defined as follows:

(a) System International (SI) units of measure:

A = ampere
g = gram
Hz = hertz
J = joule
°K = degree Kelvin
kg = kilogram
l = liter
m = meter
m^3 = cubic meter
mg = milligram = 10^{-3} gram
ml = milliliter = 10^{-3} liter
mm = millimeter = 10^{-3} meter
Mg = megagram = 10^{6} gram = metric ton
MJ = megajoule
mol = mole
N = newton
ng = nanogram = 10^{-9} gram
nm = nanometer = 10^{-9} meter
Pa = pascal
s = second
V = volt
W = watt
Ω = ohm
µg = microgram = 10^{-6} gram
µl = microliter = 10^{-6} liter

(b) Other units of measure:

Btu = British thermal unit
°C = degree Celsius (centigrade)
cal = calorie
cfm = cubic feet per minute
cc = cubic centimeter
cu ft = cubic feet
d = day
dcf = dry cubic feet
dcm = dry cubic meter

dscf = dry cubic feet at standard conditions
dscm = dry cubic meter at standard conditions
eq = equivalent
°F = degree Fahrenheit
ft = feet
ft^2 = square feet
ft^3 = cubic feet
gal = gallon
gr = grain
g-eq = gram equivalent
g-mole = gram mole
hr = hour
in. = inch
in. H_2O = inches of water
K = 1,000
kcal = kilocalorie
lb = pound
lpm = liter per minute
meq = milliequivalent
min = minute
MW = molecular weight
oz = ounces
ppb = parts per billion
ppbw = parts per billion by weight
ppbv = parts per billion by volume
ppm = parts per million
ppmw = parts per million by weight
ppmv = parts per million by volume
psia = pounds per square inch absolute
psig = pounds per square inch gage
°R = degree Rankine
scf = cubic feet at standard conditions
scfh = cubic feet at standard conditions per hour
scm = cubic meter at standard conditions
sec = second
sq ft = square feet
std = at standard conditions
v/v = volume per volume
yd^2 = square yards
yr = year

(c) Miscellaneous:

act = actual
avg = average
I.D. = inside diameter
M = molar

N = normal
O.D. = outside diameter
% = percent

40 CFR 63.4 Prohibited activities and circumvention.

(a) *Prohibited activities.*

(1) No owner or operator subject to the provisions of this part shall operate any affected source in violation of the requirements of this part except under-

(i) An extension of compliance granted by the Administrator under this part; or

(ii) An extension of compliance granted under this part by a State with an approved permit program; or

(iii) An exemption from compliance granted by the President under section 112(i)(4) of the Act.

(2) No owner or operator subject to the provisions of this part shall fail to keep records, notify, report, or revise reports as required under this part.

(3) After the effective date of an approved permit program in a State, no owner or operator of an affected source in that State who is required under this part to obtain a title V permit shall operate such source except in compliance with the provisions of this part and the applicable requirements of the permit program in that State.

(4) [Reserved]

(5) An owner or operator of an affected source who is subject to an emission standard promulgated under this part shall comply with the requirements of that standard by the date(s) established in the applicable subpart(s) of this part (including this subpart) regardless of whether - (i) A title V permit has been issued to that source; or

(ii) If a title V permit has been issued to that source, whether such permit has been revised or modified to incorporate the emission standard.

(b) *Circumvention.* No owner or operator subject to the provisions of this part shall build, erect, install, or use any article, machine, equipment, or process to conceal an emission that would otherwise constitute noncompliance with a relevant standard. Such concealment includes, but is not limited to

(1) The use of diluents to achieve compliance with a relevant standard based on the concentration of a pollutant in the effluent discharged to the atmosphere;

(2) The use of gaseous diluents to achieve compliance with a relevant standard for visible emissions; and

(3) The fragmentation of an operation such that the operation avoids regulation by a relevant standard.

(c) *Severability.* Notwithstanding any requirement incorporated into a title V permit obtained by an owner or operator subject to the provisions of this part, the provisions of this part are federally enforceable.

40 CFR 63.5 Construction and reconstruction.

(a) *Applicability.*

(1) This section implements the preconstruction review requirements of section 112(i)(1) for sources subject to a relevant emission standard that has been promulgated in this part. In addition, this

section includes other requirements for constructed and reconstructed stationary sources that are or become subject to a relevant promulgated emission standard.

(2) After the effective date of a relevant standard promulgated under this part, the requirements in this section apply to owners or operators who construct a new source or reconstruct a source after the proposal date of that standard. New or reconstructed sources that start up before the standard's effective date are not subject to the preconstruction review requirements specified in paragraphs (b)(3), (d), and (e) of this section.

(b) *Requirements for existing, newly constructed, and reconstructed sources.*

(1) Upon construction an affected source is subject to relevant standards for new sources, including compliance dates. Upon reconstruction, an affected source is subject to relevant standards for new sources, including compliance dates, irrespective of any change in emissions of hazardous air pollutants from that source.

(2) [Reserved]

(3) After the effective date of any relevant standard promulgated by the Administrator under this part, whether or not an approved permit program is effective in the State in which an affected source is (or would be) located, no person may construct a new major affected source or reconstruct a major affected source subject to such standard, or reconstruct a major source such that the source becomes a major affected source subject to the standard, without obtaining written approval, in advance, from the Administrator in accordance with the procedures specified in paragraphs (d) and (e) of this section.

(4) After the effective date of any relevant standard promulgated by the Administrator under this part, whether or not an approved permit program is effective in the State in which an affected source is (or would be) located, no person may construct a new affected source or reconstruct an affected source subject to such standard, or reconstruct a source such that the source becomes an affected source subject to the standard, without notifying the Administrator of the intended construction or reconstruction. The notification shall be submitted in accordance with the procedures in § 63.9(b) and shall include all the information required for an application for approval of construction or reconstruction as specified in paragraph (d) of this section. For major sources, the application for approval of construction or reconstruction may be used to fulfill the notification requirements of this paragraph.

(5) After the effective date of any relevant standard promulgated by the Administrator under this part, whether or not an approved permit program is effective in the State in which an affected source is located, no person may operate such source without complying with the provisions of this subpart and the relevant standard unless that person has received an extension of compliance or an exemption from compliance under § 63.6(i) or § 63.6(j) of this subpart.

(6) After the effective date of any relevant standard promulgated by the Administrator under this part, whether or not an approved permit program is effective in the State in which an affected source is located, equipment added (or a process change) to an affected source that is within the scope of the definition of affected source under the relevant standard shall be considered part of the affected source and subject to all provisions of the relevant standard established for that affected source. If a new affected source is added to the facility, the new affected source shall be subject to all the provisions of the relevant standard that are established for new sources including compliance dates.

(c) [Reserved]

(d) *Application for approval of construction or reconstruction.* The provisions of this paragraph implement section 112(i)(1) of the Act.

(1) *General application requirements.*

(i) An owner or operator who is subject to the requirements of paragraph (b)(3) of this section shall submit to the Administrator an application for approval of the construction of a new major affected source, the reconstruction of a major affected source, or the reconstruction of a major source such that the source becomes a major affected source subject to the standard. The application shall be submitted as soon as practicable before the construction or reconstruction is planned to commence (but no sooner than the effective date of the relevant standard) if the construction or reconstruction commences after the effective date of a relevant standard promulgated in this part. The application shall be submitted as soon as practicable before startup but no later than 60 days after the effective date of a relevant standard promulgated in this part if the construction or reconstruction had commenced and initial startup had not occurred before the standard's effective date. The application for approval of construction or reconstruction may be used to fulfill the initial notification requirements of § 63.9(b)(5) of this subpart. The owner or operator may submit the application for approval well in advance of the date construction or reconstruction is planned to commence in order to ensure a timely review by the Administrator and that the planned commencement date will not be delayed.

(ii) A separate application shall be submitted for each construction or reconstruction. Each application for approval of construction or reconstruction shall include at a minimum:

(A) The applicant's name and address;

(B) A notification of intention to construct a new major affected source or make any physical or operational change to a major affected source that may meet or has been determined to meet the criteria for a reconstruction, as defined in § 63.2;

(C) The address (i.e., physical location) or proposed address of the source;

(D) An identification of the relevant standard that is the basis of the application;

(E) The expected commencement date of the construction or reconstruction;

(F) The expected completion date of the construction or reconstruction;

(G) The anticipated date of (initial) startup of the source;

(H) The type and quantity of hazardous air pollutants emitted by the source, reported in units and averaging times and in accordance with the test methods specified in the relevant standard, or if actual emissions data are not yet available, an estimate of the type and quantity of hazardous air pollutants expected to be emitted by the source reported in units and averaging times specified in the relevant standard. The owner or operator may submit percent reduction information if a relevant standard is established in terms of percent reduction.
However, operating parameters, such as flow rate, shall be included in the submission to the extent that they demonstrate performance and compliance; and

(I) [Reserved]

(J) Other information as specified in paragraphs (d)(2) and (d)(3) of this section.

(iii) An owner or operator who submits estimates or preliminary information in place of the actual emissions data and analysis required in paragraphs (d)(1)(ii)(H) and (d)(2) of this section shall submit the actual, measured emissions data and other correct information as soon as available but no later than with the notification of compliance status required in § 63.9(h) (see § 63.9(h)(5)).

(2) *Application for approval of construction.* Each application for approval of construction shall include, in addition to the information required in paragraph (d)(1)(ii) of this section, technical information describing the proposed nature, size, design, operating design capacity, and method of operation of the source, including an identification of each point of emission for each hazardous air pollutant that is emitted (or could be emitted) and a description of the planned air pollution control system

(equipment or method) for each emission point. The description of the equipment to be used for the control of emissions shall include each control device for each hazardous air pollutant and the estimated control efficiency (percent) for each
control device. The description of the method to be used for the control of emissions shall include an estimated control efficiency (percent) for that method. Such technical information shall include calculations of emission estimates in sufficient detail to permit assessment of the validity of the calculations. An owner or operator who submits approximations of control efficiencies under this subparagraph shall submit the actual control efficiencies as specified in paragraph (d)(1)(iii) of this section.

(3) *Application for approval of reconstruction.* Each application for approval of reconstruction shall include, in addition to the information required in paragraph (d)(1)(ii) of this section - (i) A brief description of the affected source and the components that are to be replaced;

(ii) A description of present and proposed emission control systems (i.e., equipment or methods). The description of the equipment to be used for the control of emissions shall include each control device for each hazardous air pollutant and the estimated control efficiency (percent) for each control device. The description of the method to be used for the control of emissions shall include an estimated control efficiency (percent) for that method. Such technical information shall include calculations of emission estimates in sufficient detail to permit assessment of the validity of the calculations;

(iii) An estimate of the fixed capital cost of the replacements and of constructing a comparable entirely new source;

(iv) The estimated life of the affected source after the replacements; and

(v) A discussion of any economic or technical limitations the source may have in complying with relevant standards or other requirements after the proposed replacements. The discussion shall be sufficiently detailed to demonstrate to the Administrator's satisfaction that the technical or economic limitations affect the source's ability to comply with the relevant standard and how they do so.

(vi) If in the application for approval of reconstruction the owner or operator designates the affected source as a reconstructed source and declares that there are no economic or technical limitations to prevent the source from complying with all relevant standards or other requirements, the owner or operator need not submit the information required in subparagraphs (d)(3) (iii) through (v) of this section, above.

(4) *Additional information.* The Administrator may request additional relevant information after the submittal of an application for approval of construction or reconstruction.

(e) *Approval of construction or reconstruction.*

(1) (i) If the Administrator determines that, if properly constructed, or reconstructed, and operated, a new or existing source for which an application under paragraph (d) of this section was submitted will not cause emissions in violation of the relevant standard(s) and any other federally enforceable requirements, the Administrator will approve the construction or reconstruction.

(ii) In addition, in the case of reconstruction, the Administrator's determination under this paragraph will be based on:

(A) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new source;

(B) The estimated life of the source after the re-placements compared to the life of a comparable entirely new source;

(C) The extent to which the components being replaced cause or contribute to the emissions from the source; and

(D) Any economic or technical limitations on compliance with relevant standards that are inherent in the proposed replacements.

(2) (i) The Administrator will notify the owner or operator in writing of approval or intention to deny approval of construction or reconstruction within 60 calendar days after receipt of sufficient information to evaluate an application submitted under paragraph (d) of this section. The 60-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete. The Administrator will notify the owner or operator in writing of the status of his/her application, that is, whether the application contains sufficient information to make a determination, within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted.

(ii) When notifying the owner or operator that his/her application is not complete, the Administrator will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 30 calendar days after he/she is notified of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

(3) Before denying any application for approval of construction or reconstruction, the Administrator will notify the applicant of the Administrator's intention to issue the denial together with

(i) Notice of the information and findings on which the intended denial is based; and

(ii) Notice of opportunity for the applicant to present, in writing, within 30 calendar days after he/she is notified of the intended denial, additional information or arguments to the Administrator to enable further action on the application.

(4) A final determination to deny any application for approval will be in writing and will specify the grounds on which the denial is based. The final determination will be made within 60 calendar days of presentation of additional information or arguments (if the application is complete), or within 60 calendar days after the final date specified for presentation if no presentation is made.

(5) Neither the submission of an application for approval nor the Administrator's approval of construction or reconstruction shall -

(i) Relieve an owner or operator of legal responsibility for compliance with any applicable provisions of this part or with any other applicable Federal, State, or local requirement; or

(ii) Prevent the Administrator from implementing or enforcing this part or taking any other action under the Act.

(f) *Approval of construction or reconstruction based on prior State preconstruction review.*

(1) The Administrator may approve an application for construction or reconstruction specified in paragraphs (b)(3) and (d) of this section if the owner or operator of a new or reconstructed source who is subject to such requirement demonstrates to the Administrator's satisfaction that the following conditions have been (or will be) met:

(i) The owner or operator of the new or reconstructed source has undergone a preconstruction review and approval process in the State in which the source is (or would be) located before the promulgation date of the relevant standard and has received a federally enforceable construction permit that contains a finding that the source will meet the relevant emission standard as proposed, if the source is properly built and operated; (ii) In making its finding, the State has considered factors substantially equivalent to those specified in paragraph (e)(1) of this section; and either

(iii) The promulgated standard is no more stringent than the proposed standard in any relevant aspect that would affect the Administrator's decision to approve or disapprove an application for approval of construction or reconstruction under this section; or

(iv) The promulgated standard is more stringent than the proposed standard but the owner or operator will comply with the standard as proposed during the 3-year period immediately following the effective date of the standard as allowed for in § 63.6(b)(3) of this subpart.

(2) The owner or operator shall submit to the Administrator the request for approval of construction or reconstruction under this paragraph no later than the application deadline specified in paragraph (d)(1) of this section (see also § 63.9(b)(2) of this subpart). The owner or operator shall include in the request information sufficient for the Administrator's determination. The Administrator will evaluate the owner or operator's request in accordance with the procedures specified in paragraph (e) of this section. The Administrator may request additional relevant information after the submittal of a request for approval of construction or reconstruction under this paragraph.

40 CFR 63.6 Compliance with standards and maintenance requirements.

(a) *Applicability.*

(1) The requirements in this section apply to owners or operators of affected sources for which any relevant standard has been established pursuant to section 112 of the Act unless -

(i) The Administrator (or a State with an approved permit program) has granted an extension of compliance consistent with paragraph (i) of this section; or

(ii) The President has granted an exemption from compliance with any relevant standard in accordance with section 112(i)(4) of the Act.

(2) If an area source that otherwise would be subject to an emission standard or other requirement established under this part if it were a major source subsequently increases its emissions of hazardous air pollutants (or its potential to emit hazardous air pollutants) such that the source is a major source, such source shall be subject to the relevant emission standard or other requirement.

(b) *Compliance dates for new and reconstructed sources.*

(1) Except as specified in paragraphs (b)(3) and (b)(4) of this section, the owner or operator of a new or reconstructed source that has an initial startup before the effective date of a relevant standard established under this part pursuant to section 112(d), 112(f), or 112(h) of the Act shall comply with such standard not later than the standard's effective date.

(2) Except as specified in paragraphs (b)(3) and (b)(4) of this section, the owner or operator of a new or reconstructed source that has an initial startup after the effective date of a relevant standard established under this part pursuant to section 112(d), 112(f), or 112(h) of the Act shall comply with such standard upon startup of the source.

(3) The owner or operator of an affected source for which construction or reconstruction is commenced after the proposal date of a relevant standard established under this part pursuant to section 112(d), 112(f), or 112(h) of the Act but before the effective date (that is, promulgation) of such standard shall comply with the relevant emission standard not later than the date 3 years after the effective date if:

(i) The promulgated standard (that is, the relevant standard) is more stringent than the proposed standard; and

(ii) The owner or operator complies with the standard as proposed during the 3-year period immediately after the effective date.

(4) The owner or operator of an affected source for which construction or reconstruction is commenced after the proposal date of a relevant standard established pursuant to section 112(d) of the Act but before the proposal date of a relevant standard established pursuant to section 112(f) shall comply with the emission standard under section 112(f) not later than the date 10 years after the date construction or reconstruction is commenced, except that, if the section 112(f) standard is promulgated more than 10 years after construction or reconstruction is commenced, the owner or operator shall comply with the standard as provided in paragraphs (b)(1) and (b)(2) of this section.

(5) The owner or operator of a new source that is subject to the compliance requirements of paragraph (b)(3) or paragraph (b)(4) of this section shall notify the Administrator in accordance with § 63.9(d) of this subpart.

(6) [Reserved]

(7) After the effective date of an emission standard promulgated under this part, the owner or operator of an unaffected new area source (i.e., an area source for which construction or reconstruction was commenced after the proposal date of the standard) that increases its emissions of (or its potential to emit) hazardous air pollutants such that the source becomes a major source that is subject to the emission standard, shall comply with the relevant emission standard immediately upon becoming a major source. This compliance date shall apply to new area sources that become affected major sources regardless of whether the new area source previously was affected by that standard. The new affected major source shall comply with all requirements of that standard that affect new sources.

(c) *Compliance dates for existing sources.*

(1) After the effective date of a relevant standard established under this part pursuant to section 112(d) or 112(h) of the Act, the owner or operator of an existing source shall comply with such standard by the compliance date established by the Administrator in the applicable subpart(s) of this part. Except as otherwise provided for in section 112 of the Act, in no case will the compliance date established for an existing source in an applicable subpart of this part exceed 3 years after the effective date of such standard.

(2) After the effective date of a relevant standard established under this part pursuant to section 112(f) of the Act, the owner or operator of an existing source shall comply with such standard not later than 90 days after the standard's effective date unless the Administrator has granted an extension to the source under paragraph (i)(4)(ii) of this section.

(3)–(4) [Reserved]

(5) After the effective date of an emission standard promulgated under this part, the owner or operator of an unaffected existing area source that increases its emissions of (or its potential to emit) hazardous air pollutants such that the source becomes a major source that is subject to the emission standard shall comply by the date specified in the standard for existing area sources that become major sources. If no such compliance date is specified in the standard, the source shall have a period of time to comply with the relevant emission standard that is equivalent to the compliance period specified in that standard for other existing sources. This compliance period shall apply to existing area sources that become affected major sources regardless of whether the existing area source previously was affected by that standard. Notwithstanding the previous two sentences, however, if the existing area source becomes a major source by the addition of a new affected source or by reconstructing, the portion of the existing facility that is a new affected source or a reconstructed source shall comply with all requirements of that standard that affect new sources, including the compliance date for new sources.

(d) [Reserved]

(e) *Operation and maintenance requirements.*

(1) (i) At all times, including periods of startup, shutdown, and malfunction, owners or operators shall operate and maintain any affected source, including associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by all relevant standards.

(ii) Malfunctions shall be corrected as soon as practicable after their occurrence in accordance with the startup, shutdown, and malfunction plan required in paragraph (e)(3) of this section.

(iii) Operation and maintenance requirements established pursuant to section 112 of the Act are enforceable independent of emissions limitations or other requirements in relevant standards.

(2) Determination of whether acceptable operation 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, review of operation and maintenance procedures (including the startup, shutdown, and malfunction plan required in paragraph (e)(3) of this section), review of operation and maintenance records, and inspection of the source.

(3) *Startup, shutdown, and malfunction plan.*

(i) The owner or operator of an affected source shall develop and implement a written startup, shutdown, and malfunction plan that describes, in detail, procedures for operating and maintaining the source during periods of startup, shutdown, and malfunction and a program of corrective action for malfunctioning process and air pollution control equipment used to comply with the relevant standard. As required under § 63.8(c)(1)(i), the plan shall identify all routine or otherwise predictable CMS malfunctions. This plan shall be developed by the owner or operator by the source's compliance date for that relevant standard. The plan shall be incorporated by reference into the source's title V permit. The purpose of the startup, shutdown, and malfunction plan is to -

(A) Ensure that, at all times, owners or operators operate and maintain affected sources, including associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by all relevant standards;

(B) Ensure that owners or operators are prepared to correct malfunctions as soon as practicable after their occurrence in order to minimize excess emissions of hazardous air pollutants; and

(C) Reduce the reporting burden associated with periods of startup, shutdown, and malfunction (including corrective action taken to restore malfunctioning process and air pollution control equipment to its normal or usual manner of operation).

(ii) During periods of startup, shutdown, and malfunction, the owner or operator of an affected source shall operate and maintain such source (including associated air pollution control equipment) in accordance with the procedures specified in the startup, shutdown, and malfunction plan developed under paragraph (e)(3)(i) of this section.

(iii) When actions taken by the owner or operator during a startup, shutdown, or malfunction (including actions taken to correct a malfunction) are consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, the owner or operator shall keep records for that event that demonstrate that the procedures specified in the plan were followed. These records may take the form of a "checklist," or other effective form of recordkeeping, that confirms conformance with the startup, shutdown, and malfunction plan for that event. In addition, the owner or operator shall keep records of these events as specified in

§ 63.10(b) (and elsewhere in this part), including records of the occurrence and duration of each startup, shutdown, or malfunction of operation and each malfunction of the air pollution control equipment. Furthermore, the owner or operator shall confirm that actions taken during the relevant reporting period during periods of startup, shutdown, and malfunction were consistent with the affected source's startup, shutdown and malfunction plan in the semiannual (or more frequent) startup, shutdown, and malfunction report required in § 63.10(d)(5).

(iv) If an action taken by the owner or operator during a startup, shutdown, or malfunction (including an action taken to correct a malfunction) is not consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, the owner or operator shall record the actions taken for that event and shall report such actions within 2 working days after commencing actions inconsistent with the plan, followed by a letter within 7 working days after the end of the event, in accordance with § 63.10(d)(5) (unless the owner or operator makes alternative reporting arrangements, in advance, with the Administrator
(see § 63.10(d)(5)(ii))).

(v) The owner or operator shall keep the written startup, shutdown, and malfunction plan on record after it is developed to be made available for inspection, upon request, by the Administrator for the life of the affected source or until the affected source is no longer subject to the provisions of this part. In addition, if the startup, shutdown, and malfunction plan is revised, the owner or operator shall keep previous (i.e., superseded) versions of the startup, shutdown, and malfunction plan on record, to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan.

(vi) To satisfy the requirements of this section to develop a startup, shutdown, and malfunction plan, the owner or operator may use the affected source's standard operating procedures (SOP) manual, or an Occupational Safety and Health Administration (OSHA) or other plan, provided the alternative plans meet all the requirements of this section and are made available for inspection when requested by the Administrator.

(vii) Based on the results of a determination made under paragraph (e)(2) of this section, the Administrator may require that an owner or operator of an affected source make changes to the startup, shutdown, and malfunction plan for that source. The Administrator may require reasonable revisions to a startup, shutdown, and malfunction plan, if the Administrator finds that the plan:

(A) Does not address a startup, shutdown, or malfunction event that has occurred;

(B) Fails to provide for the operation of the source (including associated air pollution control equipment) during a startup, shutdown, or malfunction event in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by all relevant standards; or

(C) Does not provide adequate procedures for correcting malfunctioning process and/or air pollution control equipment as quickly as practicable.

(viii) If the startup, shutdown, and malfunction plan fails to address or inadequately addresses an event that meets the characteristics of a malfunction but was not included in the startup, shutdown, and malfunction plan at the time the owner or operator
developed the plan, the owner or operator shall revise the startup, shutdown, and malfunction plan within 45 days after the event to include detailed procedures for operating and maintaining the source during similar malfunction events and a program of corrective action for similar malfunctions of process or air pollution control equipment.

(f) *Compliance with nonopacity emission standards* -

(1) *Applicability*. The nonopacity emission standards set forth in this part shall apply at all times except during periods of startup, shutdown, and malfunction, and as otherwise specified in an applicable subpart.

(2) *Methods for determining compliance*.

(i) The Administrator will determine compliance with nonopacity emission standards in this part based on the results of performance tests conducted according to the procedures in § 63.7, unless otherwise specified in an applicable subpart of this part.

(ii) The Administrator will determine compliance with nonopacity emission standards in this part by evaluation of an owner or operator's conformance with operation and maintenance requirements, including the evaluation of monitoring data, as specified in § 63.6(e) and applicable subparts of this part.

(iii) If an affected source conducts performance testing at startup to obtain an operating permit in the State in which the source is located, the results of such testing may be used to demonstrate compliance with a relevant standard if -

(A) The performance test was conducted within a reasonable amount of time before an initial performance test is required to be conducted under the relevant standard;

(B) The performance test was conducted under representative operating conditions for the source;

(C) The performance test was conducted and the resulting data were reduced using EPA-approved test methods and procedures, as specified in § 63.7(e) of this subpart; and

(D) The performance test was appropriately quality-assured, as specified in § 63.7(c) of this subpart.

(iv) The Administrator will determine compliance with design, equipment, work practice, or operational emission standards in this part by review of records, inspection of the source, and other procedures specified in applicable subparts of this part.

(v) The Administrator will determine compliance with design, equipment, work practice, or operational emission standards in this part by evaluation of an owner or operator's conformance with operation and maintenance requirements, as specified in paragraph (e) of this section and applicable subparts of this part.

(3) *Finding of compliance*. The Administrator will make a finding concerning an affected source's compliance with a nonopacity emission standard, as specified in paragraphs (f)(1) and (f)(2) of this section, upon obtaining all the compliance information required by the relevant standard (including the written reports of performance test results, monitoring results, and other information, if applicable) and any information available to the Administrator needed to determine whether proper operation and maintenance practices are being used.

(g) *Use of an alternative nonopacity emission standard.*

(1) If, in the Administrator's judgment, an owner or operator of an affected source has established that an alternative means of emission limitation will achieve a reduction in emissions of a hazardous air pollutant from an affected source at least equivalent to the reduction in emissions of that pollutant from that source achieved under any design, equipment, work practice, or operational emission standard, or combination thereof, established under this part pursuant to section 112(h) of the Act, the Administrator will publish in the FEDERAL REGISTER a notice permitting the use of the alternative emission standard for purposes of compliance with the promulgated standard. Any FEDERAL REGISTER notice under this paragraph shall be published only after the public is notified and given the opportunity to comment. Such notice will restrict the permission to the stationary source(s) or category(ies) of sources from which the

alternative emission standard will achieve equivalent emission reductions. The Administrator will condition permission in such notice on requirements to assure the proper operation and maintenance of equipment and practices required for compliance with the alternative emission standard and other requirements, including appropriate quality assurance and quality control requirements, that are deemed necessary.

(2) An owner or operator requesting permission under this paragraph shall, unless otherwise specified in an applicable subpart, submit a proposed test plan or the results of testing and monitoring in accordance with § 63.7 and § 63.8, a description of the procedures followed in testing or monitoring, and a description of pertinent conditions during testing or monitoring. Any testing or monitoring conducted to request permission to use an alternative nonopacity emission standard shall be appropriately quality assured and quality controlled, as specified in § 63.7 and § 63.8.

(3) The Administrator may establish general procedures in an applicable subpart that accomplish the requirements of paragraphs (g)(1) and (g)(2) of this section.

(h) *Compliance with opacity and visible emission standards* -

(1) *Applicability.* The opacity and visible emission standards set forth in this part shall apply at all times except during periods of startup, shutdown, and malfunction, and as otherwise specified in an applicable subpart.

(2) Methods for determining compliance.

(i) The Administrator will determine compliance with opacity and visible emission standards in this part based on the results of the test method specified in an applicable subpart. Whenever a continuous opacity monitoring system (COMS) is required to be installed to determine compliance with numerical opacity emission standards in this part, compliance with opacity emission standards in this part shall be determined by using the results from the COMS. Whenever an opacity emission test method is not specified, compliance with opacity emission standards in this part shall be determined by conducting observations in accordance with Test Method 9 in appendix A of part 60 of this chapter or the method specified in paragraph (h)(7)(ii) of this section. Whenever a visible emission test method is not specified, compliance with visible emission standards in this part shall be determined by conducting observations in accordance with Test Method 22 in appendix A of part 60 of this chapter.

(ii) [Reserved]

(iii) If an affected source undergoes opacity or visible emission testing at startup to obtain an operating permit in the State in which the source is located, the results of such testing may be used to demonstrate compliance with a relevant standard if -

(A) The opacity or visible emission test was conducted within a reasonable amount of time before a performance test is required to be conducted under the relevant standard;

(B) The opacity or visible emission test was conducted under representative operating conditions for the source;

(C) The opacity or visible emission test was conducted and the resulting data were reduced using EPA-approved test methods and procedures, as specified in § 63.7(e) of this subpart; and

(D) The opacity or visible emission test was appropriately quality-assured, as specified in § 63.7(c) of this section.

(3) [Reserved]

(4) *Notification of opacity or visible emission observations.* The owner or operator of an affected source shall notify the Administrator in writing of the anticipated date for conducting opacity or visible

emission observations in accordance with § 63.9(f), if such observations are required for the source by a relevant standard.

(5) *Conduct of opacity or visible emission observations.* When a relevant standard under this part includes an opacity or visible emission standard, the owner or operator of an affected source shall comply with the following:

(i) For the purpose of demonstrating initial compliance, opacity or visible emission observations shall be conducted concurrently with the initial performance test required in § 63.7 unless one of the following conditions applies:

(A) If no performance test under § 63.7 is required, opacity or visible emission observations shall be conducted within 60 days after achieving the maximum production rate at which a new or reconstructed source will be operated, but not later than 120 days after initial startup of the source, or within 120 days after the effective date of the relevant standard in the case of new sources that start up before the standard's effective date. If no performance test under § 63.7 is required, opacity or visible emission observations shall be conducted within 120 days after the compliance date for an existing or modified source; or

(B) If visibility or other conditions prevent the opacity or visible emission observations from being conducted concurrently with the initial performance test required under § 63.7, or within the time period specified in paragraph (h)(5)(i)(A) of this section, the source's owner or operator shall reschedule the opacity or visible emission observations as soon after the initial performance test, or time period, as possible, but not later than 30 days thereafter, and shall advise the Administrator of the rescheduled date. The rescheduled opacity or visible emission observations shall be conducted (to the extent possible) under the same operating conditions that existed during the initial performance test conducted under § 63.7. The visible emissions observer shall determine whether visibility or other conditions prevent the opacity or visible emission observations from being made concurrently with the initial performance test in accordance with procedures contained in Test Method 9 or Test Method 22 in appendix A of part 60 of this chapter.

(ii) **[Test duration specified in 40 CFR 63 Subpart LLL].**

(iii) **[Test duration specified in 40 CFR 63 Subpart LLL].**

(iv) [Reserved]

(v) Opacity readings of portions of plumes that contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity emission standards.

(6) *Availability of records.* The owner or operator of an affected source shall make available, upon request by the Administrator, such records that the Administrator deems necessary to determine the conditions under which the visual observations were made and shall provide evidence indicating proof of current visible observer emission certification.

(7) *Use of a continuous opacity monitoring system.*

(i) The owner or operator of an affected source required to use a continuous opacity monitoring system (COMS) shall record the monitoring data produced during a performance test required under § 63.7 and shall furnish the Administrator a written report of the monitoring results in accordance with the provisions of § 63.10(e)(4).

(ii) Whenever an opacity emission test method has not been specified in an applicable subpart, or an owner or operator of an affected source is required to conduct Test Method 9 observations (see appendix A of part 60 of this chapter), the owner or operator may submit, for compliance purposes, COMS data results produced during any performance test required under § 63.7 in lieu of Method 9 data. If the owner or operator elects to submit COMS data for compliance with the opacity emission standard, he or she shall notify the Administrator

of that decision, in writing, simultaneously with the notification under § 63.7(b) of the date the performance test is scheduled to begin. Once the owner or operator of an affected source has notified the Administrator to that effect, the COMS data results will be used to determine opacity compliance during subsequent performance tests required under § 63.7, unless the owner or operator notifies the Administrator in writing to the contrary not later than with the notification under § 63.7(b) of the date the subsequent performance test is scheduled to begin.

(iii) For the purposes of determining compliance with the opacity emission standard during a performance test required under § 63.7 using COMS data, the COMS data shall be reduced to 6-minute averages over the duration of the mass emission performance test.

(iv) The owner or operator of an affected source using a COMS for compliance purposes is responsible for demonstrating that he/she has complied with the performance evaluation requirements of § 63.8(e), that the COMS has been properly maintained, operated, and data quality-assured, as specified in § 63.8(c) and § 63.8(d), and that the resulting data have not been altered in any way.

(v) Except as provided in paragraph (h)(7)(ii) of this section, the results of continuous monitoring by a COMS that indicate that the opacity at the time visual observations were made was not in excess of the emission standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the affected source proves that, at the time of the alleged violation, the instrument used was properly maintained, as specified in § 63.8(c), and met Performance Specification 1 in appendix B of part 60 of this chapter, and that the resulting data have not been altered in any way.

(8) *Finding of compliance.* The Administrator will make a finding concerning an affected source's compliance with an opacity or visible emission standard upon obtaining all the compliance information required by the relevant standard (including the written reports of the results of the performance tests required by § 63.7, the results of Test Method 9 or another required opacity or visible emission test method, the observer certification required by paragraph (h)(6) of this section, and the continuous opacity monitoring system results, whichever is/are applicable) and any information available to the Administrator needed to determine whether proper operation and maintenance practices are being used.

(9) *Adjustment to an opacity emission standard.*

(i) If the Administrator finds under paragraph (h)(8) of this section that an affected source is in compliance with all relevant standards for which initial performance tests were conducted under § 63.7, but during the time such performance tests were conducted fails to meet any relevant opacity emission standard, the owner or operator of such source may petition the Administrator to make appropriate adjustment to the opacity emission standard for the affected source. Until the Administrator notifies the owner or operator of the appropriate adjustment, the relevant opacity emission standard remains applicable.

(ii) The Administrator may grant such a petition upon a demonstration by the owner or operator that -

(A) The affected source and its associated air pollution control equipment were operated and maintained in a manner to minimize the opacity of emissions during the performance tests;

(B) The performance tests were performed under the conditions established by the Administrator; and

(C) The affected source and its associated air pollution control equipment were incapable of being adjusted or operated to meet the relevant opacity emission standard.

(iii) The Administrator will establish an adjusted opacity emission standard for the affected source 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 emission standard at all times during which the

source is meeting the mass or concentration emission standard. The Administrator will promulgate the new opacity emission standard in the FEDERAL REGISTER.

(iv) After the Administrator promulgates an adjusted opacity emission standard for an affected source, the owner or operator of such source shall be subject to the new opacity emission standard, and the new opacity emission standard shall apply to such source during any subsequent performance tests.

(i) *Extension of compliance with emission standards.*

(1) Until an extension of compliance has been granted by the Administrator (or a State with an approved permit program) under this paragraph, the owner or operator of an affected source subject to the requirements of this section shall comply with all applicable requirements of this part.

(2) *Extension of compliance for early reductions and other reductions*

(i) *Early reductions.* Pursuant to section 112(i)(5) of the Act, if the owner or operator of an existing source demonstrates that the source has achieved a reduction in emissions of hazardous air pollutants in accordance with the provisions of subpart D of this part, the Administrator (or the State with an approved permit program) will grant the owner or operator an extension of compliance with specific requirements of this part, as specified in subpart D.

(ii) *Other reductions.* Pursuant to section 112(i)(6) of the Act, if the owner or operator of an existing source has installed best available control technology (BACT) (as defined in section 169(3) of the Act) or technology required to meet a lowest achievable emission rate (LAER) (as defined in section 171 of the Act) prior to the promulgation of an emission standard in this part applicable to such source and the same pollutant (or stream of pollutants) controlled pursuant to the BACT or LAER installation, the Administrator will grant the owner or operator an extension of compliance with such emission standard that will apply until the date 5 years after the date on which such installation was achieved, as determined by the Administrator.

(3) *Request for extension of compliance.* Paragraphs (i)(4) through (i)(7) of this section concern requests for an extension of compliance with a relevant standard under this part (except requests for an extension of compliance under paragraph (i)(2)(i) of this section will be handled through procedures specified in subpart D of this part).

(4) (i) (A) The owner or operator of an existing source who is unable to comply with a relevant standard established under this part pursuant to section 112(d) of the Act may request that the Administrator (or a State, when the State has an approved part 70 permit program and the source is required to obtain a part 70 permit under that program, or a State, when the State has been delegated the authority to implement and enforce the emission standard for that source) grant an extension allowing the source up to 1 additional year to comply with the standard, if such additional period is necessary for the installation of controls. An additional extension of up to 3 years may be added for mining waste operations, if the 1-year extension of compliance is insufficient to dry and cover mining waste in order to reduce emissions of any hazardous air pollutant. The owner or operator of an affected source who has requested an extension of compliance under this paragraph and who is otherwise required to obtain a title V permit shall apply for such permit or apply to have the source's title V permit revised to incorporate the conditions of the extension of compliance. The conditions of an extension of compliance granted under this paragraph will be incorporated into the affected source's title V permit according to the provisions of part 70 or Federal title V regulations in this chapter (42 U.S.C. 7661), whichever are applicable.

(B) Any request under this paragraph for an extension of compliance with a relevant standard shall be submitted in writing to the appropriate authority not later than 12 months before the affected source's compliance date (as specified in paragraphs (b) and (c) of this section) for sources

that are not including emission points in an emissions average, or not later than 18 months before the affected source's compliance date (as specified in paragraphs (b) and (c) of this section) for sources that are including emission points in an emissions average. Emission standards established under this part may specify alternative dates for the submittal of requests for an extension of compliance if alternatives are appropriate for the source categories affected by those standards, e.g., a compliance date specified by the standard is less than 12 (or 18) months after the standard's effective date.

(ii) The owner or operator of an existing source unable to comply with a relevant standard established under this part pursuant to section 112(f) of the Act may request that the Administrator grant an extension allowing the source up to 2 years after the standard's effective date to comply with the standard. The Administrator may grant such an extension if he/she finds that such additional period is necessary for the installation of controls and that steps will be taken during the period of the extension to assure that the health of persons will be protected from imminent endangerment. Any request for an extension of compliance with a relevant standard under this paragraph shall be submitted in writing to the Administrator not later than 15 calendar days after the effective date of the relevant standard.

(5) The owner or operator of an existing source that has installed BACT or technology required to meet LAER [as specified in paragraph (i)(2)(ii) of this section] prior to the promulgation of a relevant emission standard in this part may request that the Administrator grant an extension allowing the source 5 years from the date on which such installation was achieved, as determined by the Administrator, to comply with the standard. Any request for an extension of compliance with a relevant standard under this paragraph shall be submitted in writing to the Administrator not later than 120 days after the promulgation date of the standard. The Administrator may grant such an extension if he or she finds that the installation of BACT or technology to meet LAER controls the same pollutant (or stream of pollutants) that would be controlled at that source by the relevant emission standard.

(6) (i) The request for a compliance extension under paragraph (i)(4) of this section shall include the following information:

(A) A description of the controls to be installed to comply with the standard;

(B) A compliance schedule, including the date by which each step toward compliance will be reached. At a minimum, the list of dates shall include:

(*1*) The date by which contracts for emission control systems or process changes for emission control will be awarded, or the date by which orders will be issued for the purchase of component parts to accomplish emission control or process changes;

(*2*) The date by which on-site construction, installation of emission control equipment, or a process change is to be initiated;

(*3*) The date by which on-site construction, installation of emission control equipment, or a process change is to be completed; and

(*4*) The date by which final compliance is to be achieved;

(C) A description of interim emission control steps that will be taken during the extension period, including milestones to assure proper operation and maintenance of emission control and process equipment; and

(D) Whether the owner or operator is also requesting an extension of other applicable requirements (e.g., performance testing requirements).

(ii) The request for a compliance extension under paragraph (i)(5) of this section shall include all information needed to demonstrate to the Administrator's satisfaction that the installation of BACT or technology to meet LAER controls the same pollutant (or stream of pollutants) that would be controlled at that source by the relevant emission standard.

(7) Advice on requesting an extension of compliance may be obtained from the Administrator (or the State with an approved permit program).

(8) *Approval of request for extension of compliance.* Paragraphs (i)(9) through (i)(14) of this section concern approval of an extension of compliance requested under paragraphs (i)(4) through (i)(6) of this section.

(9) Based on the information provided in any request made under paragraphs (i)(4) through (i)(6) of this section, or other information, the Administrator (or the State with an approved permit program) may grant an extension of compliance with an emission standard, as specified in paragraphs (i)(4) and (i)(5) of this section.

(10) The extension will be in writing and will -

(i) Identify each affected source covered by the extension;

(ii) Specify the termination date of the extension;

(iii) Specify the dates by which steps toward compliance are to be taken, if appropriate;

(iv) Specify other applicable requirements to which the compliance extension applies (e.g., performance tests); and

(v) (A) Under paragraph (i)(4), specify any additional conditions that the Administrator (or the State) deems necessary to assure installation of the necessary controls and protection of the health of persons during the extension period; or

(B) Under paragraph (i)(5), specify any additional conditions that the Administrator deems necessary to assure the proper operation and maintenance of the installed controls during the extension period.

(11) The owner or operator of an existing source that has been granted an extension of compliance under paragraph (i)(10) of this section may be required to submit to the Administrator (or the State with an approved permit program) progress reports indicating whether the steps toward compliance outlined in the compliance schedule have been reached. The contents of the progress reports and the dates by which they shall be submitted will be specified in the written extension of compliance granted under paragraph (i)(10) of this section.

(12) (i) The Administrator (or the State with an approved permit program) will notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 30 calendar days after receipt of sufficient information to evaluate a request submitted under paragraph (i)(4)(i) or (i)(5) of this section. The 30-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete. The Administrator (or the State) will notify the owner or operator in writing of the status of his/her application, that is, whether the application contains sufficient information to make a determination, within 30 calendar days after receipt of the original
application and within 30 calendar days after receipt of any supplementary information that is submitted.

(ii) When notifying the owner or operator that his/her application is not complete, the Administrator will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 30 calendar days after he/she is notified of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

(iii) Before denying any request for an extension of compliance, the Administrator (or the State with an approved permit program) will notify the owner or operator in writing of the Administrator's (or the State's) intention to issue the denial, together with -

(A) Notice of the information and findings on which the intended denial is based; and

(B) Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after he/she is notified of the intended denial, additional information or arguments to the Administrator (or the State) before further action on the request.

(iv) The Administrator's final determination to deny any request for an extension will be in writing and will set forth the specific grounds on which the denial is based. The final determination will be made within 30 calendar days after presentation of additional information or argument (if the application is complete), or within 30 calendar days after the final date specified for the presentation if no presentation is made.

(13) (i) The Administrator will notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 30 calendar days after receipt of sufficient information to evaluate a request submitted under paragraph (i)(4)(ii) of this section. The 30-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete. The Administrator (or the State) will notify the owner or operator in writing of the status of his/her application, that is, whether the application contains sufficient information to make a determination, within 15 calendar days after receipt of the original application and within 15 calendar days after receipt of any supplementary information that is submitted.

(ii) When notifying the owner or operator that his/her application is not complete, the Administrator will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 15 calendar days after he/she is notified of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

(iii) Before denying any request for an extension of compliance, the Administrator will notify the owner or operator in writing of the Administrator's intention to issue the denial, together with -

(A) Notice of the information and findings on which the intended denial is based; and

(B) Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after he/she is notified of the intended denial, additional information or arguments to the Administrator before further action on the request.

(iv) A final determination to deny any request for an extension will be in writing and will set forth the specific grounds on which the denial is based. The final determination will be made within 30 calendar days after presentation of additional information or argument (if the application is complete), or within 30 calendar days after the final date specified for the presentation if no presentation is made.

(14) The Administrator (or the State with an approved permit program) may terminate an extension of compliance at an earlier date than specified if any specification under paragraphs (i)(10)(iii) or (i)(10)(iv) of this section is not met.

(15) [Reserved]

(16) The granting of an extension under this section shall not abrogate the Administrator's authority under section 114 of the Act.

(j) *Exemption from compliance with emission standards.* The President may exempt any stationary source from compliance with any relevant standard established pursuant to section 112 of the Act for a period of not more than 2 years if the President determines that the technology to implement such standard is not available and that it is in the national security interests of the United States to do so. An exemption under this paragraph may be extended for 1 or more additional periods, each period not to exceed 2 years.

40 CFR 63.7 Performance testing requirements.

(a) *Applicability and performance test dates.*

(1) Unless otherwise specified, this section applies to the owner or operator of an affected source required to do performance testing, or another form of compliance demonstration, under a relevant standard. **[40 CFR 63.1349 of 40 CFR 63 Subpart LLL has specific requirements.]**

(2) If required to do performance testing by a relevant standard, and unless a waiver of performance testing is obtained under this section or the conditions of paragraph (c)(3)(ii)(B) of this section apply, the owner or operator of the affected source shall perform such tests as follows -

(i) Within 180 days after the effective date of a relevant standard for a new source that has an initial startup date before the effective date; or

(ii) Within 180 days after initial startup for a new source that has an initial startup date after the effective date of a relevant standard; or

(iii) Within 180 days after the compliance date specified in an applicable subpart of this part for an existing source subject to an emission standard established pursuant to section 112(d) of the Act, or within 180 days after startup of an existing source if the source begins operation after the effective date of the relevant emission standard; or

(iv) Within 180 days after the compliance date for an existing source subject to an emission standard established pursuant to section 112(f) of the Act; or

(v) Within 180 days after the termination date of the source's extension of compliance for an existing source that obtains an extension of compliance under § 63.6(i); or

(vi) Within 180 days after the compliance date for a new source, subject to an emission standard established pursuant to section 112(f) of the Act, for which construction or reconstruction is commenced after the proposal date of a relevant standard established pursuant to section 112(d) of the Act but before the proposal date of the relevant standard established pursuant to section 112(f) [see § 63.6(b)(4)]; or

(vii) [Reserved]; or (viii) [Reserved]; or

(ix) When an emission standard promulgated under this part is more stringent than the standard proposed (see § 63.6(b)(3)), the owner or operator of a new or reconstructed source subject to that standard for which construction or reconstruction is commenced between the proposal and promulgation dates of the standard shall comply with performance testing requirements within 180 days after the standard's effective date, or within 180 days after startup of the source, whichever is later. If the promulgated standard is more stringent than the proposed standard, the owner or operator may choose to demonstrate compliance with either the proposed or the promulgated standard. If the owner or operator chooses to comply with the proposed standard initially, the owner or operator shall conduct a second performance test within 3 years and 180 days after the effective date of the standard, or after startup of the source, whichever is later, to demonstrate compliance with the promulgated standard.

(3) The Administrator may require an owner or operator to conduct performance tests at the affected source at any other time when the action is authorized by section 114 of the Act.

(b) *Notification of performance test.*

(1) The owner or operator of an affected source shall notify the Administrator in writing of his or her intention to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin to allow the Administrator, upon request, to review and approve the site-specific test plan required under paragraph (c) of this section and to have an observer present during the test. Observation of the performance test by the Administrator is optional.

(2) In the event the owner or operator is unable to conduct the performance test on the date specified in the notification requirement specified in paragraph (b)(1) of this section, due to unforeseeable circumstances beyond his or her control, the owner or operator shall notify the Administrator within 5 days prior to the scheduled performance test date and specify the date when the performance test is rescheduled. This notification of delay in conducting the performance test shall not relieve the owner or operator of legal responsibility for compliance with any other applicable provisions of this part or with any other applicable Federal, State, or local requirement, nor will it prevent the Administrator from implementing or enforcing this part or taking any other action under the Act.

(c) *Quality assurance program.*

(1) The results of the quality assurance program required in this paragraph will be considered by the Administrator when he/she determines the validity of a performance test.

(2) (i) *Submission of site-specific test plan.* Before conducting a required performance test, the owner or operator of an affected source shall develop and, if requested by the Administrator, shall submit a site-specific test plan to the Administrator for approval. The test plan shall include a test program summary, the test schedule, data quality objectives, and both an internal and external quality assurance (QA) program. Data quality objectives are the pretest expectations of precision, accuracy, and completeness of data.

(ii) The internal QA program shall include, at a minimum, the activities planned by routine operators and analysts to provide an assessment of test data precision; an example of internal QA is the sampling and analysis of replicate samples.

(iii) The external QA program shall include, at a minimum, application of plans for a test method performance audit (PA) during the performance test. The PA's consist of blind audit samples provided by the Administrator and analyzed during the performance test in order to provide a measure of test data bias. The external QA program may also include systems audits that include the opportunity for on-site evaluation by the Administrator of instrument calibration, data validation, sample logging, and documentation of quality control data and field maintenance activities.

(iv) The owner or operator of an affected source shall submit the site-specific test plan to the Administrator upon the Administrator's request at least 60 calendar days before the performance test is scheduled to take place, that is, simultaneously with the notification of intention to conduct a performance test required under paragraph (b) of this section, or on a mutually agreed upon date.

(v) The Administrator may request additional relevant information after the submittal of a site-specific test plan.

(3) *Approval of site-specific test plan.*

(i) The Administrator will notify the owner or operator of approval or intention to deny approval of the site-specific test plan (if review of the site-specific test plan is requested) within 30 calendar days after receipt of the original plan and within 30 calendar days after receipt of any supplementary information that is submitted under paragraph (c)(3)(i)(B) of this section. Before disapproving any site-specific test plan, the Administrator will notify the applicant of the Administrator's intention to disapprove the plan together with -

(A) Notice of the information and findings on which the intended disapproval is based; and

(B) Notice of opportunity for the owner or operator to present, within 30 calendar days after he/she is notified of the intended disapproval, additional information to the Administrator before final action on the plan.

(ii) In the event that the Administrator fails to approve or disapprove the site-specific test plan within the time period specified in paragraph (c)(3)(i) of this section, the following conditions shall apply:

(A) If the owner or operator intends to demonstrate compliance using the test method(s) specified in the relevant standard, the owner or operator shall conduct the performance test within the time specified in this section using the specified method(s);

(B) If the owner or operator intends to demonstrate compliance by using an alternative to any test method specified in the relevant standard, the owner or operator shall refrain from conducting the performance test until the Administrator approves the use of the alternative method when the Administrator approves the site-specific test plan (if review of the site-specific test plan is requested) or until after the alternative method is approved (see paragraph (f) of this section). If the Administrator does not approve the site-specific test plan (if review is requested) or the use of the alternative method within 30 days before the test is scheduled to begin, the performance test dates specified in paragraph (a) of this section may be extended such that the owner or operator shall conduct the performance test within 60 calendar days after the Administrator approves the site-specific test plan or after use of the alternative method is approved. Notwithstanding the requirements in the preceding two sentences, the owner or operator
may proceed to conduct the performance test as required in this section (without the Administrator's prior approval of the site-specific test plan) if he/she subsequently chooses to use the specified testing and monitoring methods instead of an alter-native.

(iii) Neither the submission of a site-specific test plan for approval, nor the Administrator's approval or disapproval of a plan, nor the Administrator's failure to approve or disapprove a plan in a timely manner shall -

(A) Relieve an owner or operator of legal responsibility for compliance with any applicable provisions of this part or with any other applicable Federal, State, or local requirement; or

(B) Prevent the Administrator from implementing or enforcing this part or taking any other action under the Act.

(4) (i) *Performance test method audit program.* The owner or operator shall analyze performance audit (PA) samples during each performance test. The owner or operator shall request performance audit materials 45 days prior to the test date. Cylinder audit gases may be obtained by contacting the Cylinder Audit Coordinator, Quality Assurance Division (MD–77B), Atmospheric Research and Exposure Assessment Laboratory (AREAL), U.S. EPA, Research Triangle Park, North Carolina 27711. All other audit materials may be obtained by contacting the Source Test Audit Coordinator, Quality Assurance Division (MD–77B), AREAL, U.S. EPA, Research Triangle Park, North Carolina 27711.

(ii) The Administrator will have sole discretion to require any subsequent remedial actions of the owner or operator based on the PA results.

(iii) If the Administrator fails to provide required PA materials to an owner or operator of an affected source in time to analyze the PA samples during a performance test, the requirement to conduct a PA under this paragraph shall be waived for such source for that performance test. Waiver under this paragraph of the requirement to conduct a PA for a particular performance test does not constitute a waiver of the requirement to conduct a PA for future required performance tests.

(d) *Performance testing facilities.* If required to do performance testing, the owner or operator of each new source and, at the request of the Administrator, the owner or operator of each existing source, shall provide performance testing facilities as follows:

(1) Sampling ports adequate for test methods applicable to such source. 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;

(2) Safe sampling platform(s);

(3) Safe access to sampling platform(s);

(4) Utilities for sampling and testing equipment; and

(5) Any other facilities that the Administrator deems necessary for safe and adequate testing of a source.

(e) *Conduct of performance tests.*

(1) Performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance (i.e., performance based on normal operating conditions) of the affected source. 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 relevant standard during periods of startup, shutdown, and malfunction be considered a violation of the relevant standard unless otherwise specified in the relevant standard or a determination of noncompliance is made under § 63.6(e). Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(2) Performance tests shall be conducted and data shall be reduced in accordance with the test methods and procedures set forth in this section, in each relevant standard, and, if required, in applicable appendices of parts 51, 60, 61, and 63 of this chapter unless the Administrator -

(i) Specifies or approves, in specific cases, the use of a test method with minor changes in methodology; or

(ii) Approves the use of an alternative test method, the results of which the Administrator has determined to be adequate for indicating whether a specific affected source is in compliance; or

(iii) Approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors; or

(iv) Waives the requirement for performance tests because the owner or operator of an affected source has demonstrated by other means to the Administrator's satisfaction that the affected source is in compliance with the relevant standard.

(3) Unless otherwise specified in a relevant standard or test method, 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 relevant standard. For the purpose of determining compliance with a relevant standard, the arithmetic mean of the results of the three runs shall apply. Upon receiving approval from the Administrator, results of a test run may be replaced with results of an additional test run in the event that

(i) A sample is accidentally lost after the testing team leaves the site; or

(ii) Conditions occur in which one of the three runs must be discontinued because of forced shutdown; or

(iii) Extreme meteorological conditions occur; or

(iv) Other circumstances occur that are beyond the owner or operator's control.

(4) Nothing in paragraphs (e)(1) through (e)(3) of this section shall be construed to abrogate the Administrator's authority to require testing under section 114 of the Act.

(f) *Use of an alternative test method -*

(1) *General.* Until permission to use an alternative test method has been granted by the Administrator under this paragraph, the owner or operator of an affected source remains subject to the requirements of this section and the relevant standard.

(2) The owner or operator of an affected source required to do performance testing by a relevant standard may use an alternative test method from that specified in the standard provided that the owner or operator -

(i) Notifies the Administrator of his or her intention to use an alternative test method not later than with the submittal of the site-specific test plan (if requested by the Administrator) or at least 60 days before the performance test is scheduled to begin if a site-specific test plan is not submitted;

(ii) Uses Method 301 in appendix A of this part to validate the alternative test method; and

(iii) Submits the results of the Method 301 validation process along with the notification of intention and the justification for not using the specified test method. The owner or operator may submit the information required in this paragraph well in advance of the deadline specified in paragraph (f)(2)(i) of this section to ensure a timely review by the Administrator in order to meet the performance test date specified in this section or the relevant standard.

(3) The Administrator will determine whether the owner or operator's validation of the proposed alternative test method is adequate when the Administrator approves or disapproves the site-specific test plan required under paragraph (c) of this section. If the Administrator finds reasonable grounds to dispute the results obtained by the Method 301 validation process, the Administrator may require the use of a test method specified in a relevant standard.

(4) If the Administrator finds reasonable grounds to dispute the results obtained by an alternative test method for the purposes of demonstrating compliance with a relevant standard, the Administrator may require the use of a test method specified in a relevant standard.

(5) If the owner or operator uses an alternative test method for an affected source during a required performance test, the owner or operator of such source shall continue to use the alternative test method for subsequent performance tests at that affected source until he or she receives approval from the Administrator to use another test method as allowed under § 63.7(f).

(6) Neither the validation and approval process nor the failure to validate an alternative test method shall abrogate the owner or operator's responsibility to comply with the requirements of this part.

(g) *Data analysis, recordkeeping, and reporting.*

(1) Unless otherwise specified in a relevant standard or test method, or as otherwise approved by the Administrator in writing, results of a performance test shall include the analysis of samples, determination of emissions, and raw data. A performance test is "completed" when field sample collection is terminated. The owner or operator of an affected source shall report the results of the performance test to the Administrator before the, close of business on the 60th day following the completion of the performance test, unless specified otherwise in a relevant standard or as approved otherwise in writing by the Administrator (see § 63.9(i)). The results of the performance test shall be submitted as part of the notification of compliance status required under § 63.9(h). Before a title V permit has been issued to the owner or operator of an affected source, the owner or operator shall send the results of the performance test to the Administrator. After a title V permit has been issued to the owner or operator of an affected source, the owner or operator shall send the results of the performance test to the appropriate permitting authority.

(2) [Reserved]

(3) For a minimum of 5 years after a performance test is conducted, the owner or operator shall retain and make available, upon request, for inspection by the Administrator the records or results of such performance test and other data needed to determine emissions from an affected source.

(h) *Waiver of performance tests.*

(1) Until a waiver of a performance testing requirement has been granted by the Administrator under this paragraph, the owner or operator of an affected source remains subject to the requirements of this section.

(2) Individual performance tests may be waived upon written application to the Administrator if, in the Administrator's judgment, the source is meeting the relevant standard(s) on a continuous basis, or the source is being operated under an extension of compliance, or the owner or operator has requested an extension of compliance and the Administrator is still considering that request.

(3) Request to waive a performance test.

(i) If a request is made for an extension of compliance under § 63.6(i), the application for a waiver of an initial performance test shall accompany the information required for the request for an extension of compliance. If no extension of compliance is requested or if the owner or operator has requested an extension of compliance and the Administrator is still considering that request, the application for a waiver of an initial performance test shall be submitted at least 60 days before the performance test if the site-specific test plan under paragraph (c) of this section is not submitted.

(ii) If an application for a waiver of a subsequent performance test is made, the application may accompany any required compliance progress report, compliance status report, or excess emissions and continuous monitoring system performance report [such as those required under § 63.6(I), § 63.9(h), and § 63.10(e) or specified in a relevant standard or in the source's title V permit], but it shall be submitted at least 60 days before the performance test if the site-specific test plan required under paragraph (c) of this section is not submitted.

(iii) Any application for a waiver of a performance test shall include information justifying the owner or operator's request for a waiver, such as the technical or economic infeasibility, or the impracticality, of the affected source performing the required test.

(4) Approval of request to waive performance test. The Administrator will approve or deny a request for a waiver of a performance test made under paragraph (h)(3) of this section when he/she -

(i) Approves or denies an extension of compliance under § 63.6(i)(8); or

(ii) Approves or disapproves a site-specific test plan under § 63.7(c)(3); or

(iii) Makes a determination of compliance following the submission of a required compliance status report or excess emissions and continuous monitoring systems performance report; or

(iv) Makes a determination of suitable progress towards compliance following the submission of a compliance progress report, whichever is applicable.

(5) Approval of any waiver granted under this section shall not abrogate the Administrator's authority under the Act or in any way prohibit the Administrator from later canceling the waiver. The cancellation will be made only after notice is given to the owner or operator of the affected source.

40 CFR 63.8 Monitoring requirements.

(a) *Applicability.*

(1) (i) Unless otherwise specified in a relevant standard, this section applies to the owner or operator of an affected source required to do monitoring under that standard.

(ii) Relevant standards established under this part will specify monitoring systems, methods, or procedures, monitoring frequency, and other pertinent requirements for source(s) regulated by those standards. This section specifies general monitoring requirements such as those governing the conduct of monitoring and requests to use alternative monitoring methods. In addition, this section specifies detailed requirements that apply to affected sources required to use continuous monitoring systems (CMS) under a relevant standard.

(2) **[Not applicable. 40 CFR 63.1350 of 40 CFR 63 Subpart LLL includes CEM requirements.]**

(3) [Reserved]

(4) **[Flares not applicable.]**

(b) *Conduct of monitoring.*

(1) Monitoring shall be conducted as set forth in this section and the relevant standard(s) unless the Administrator -

(i) Specifies or approves the use of minor changes in methodology for the specified monitoring requirements and procedures; or

(ii) Approves the use of alternatives to any monitoring requirements or procedures.

(iii) Owners or operators with flares subject to § 63.11(b) are not subject to the requirements of this section unless otherwise specified in the relevant standard.

(2) (i) When the effluents from a single affected source, or from two or more affected sources, are combined before being released to the atmosphere, the owner or operator shall install an applicable CMS on each effluent.

(ii) If the relevant standard is a mass emission standard and the effluent from one affected source is released to the atmosphere through more than one point, the owner or operator shall install an applicable CMS at each emission point unless the installation of fewer systems is -

(A) Approved by the Administrator; or

(B) Provided for in a relevant standard (e.g., instead of requiring that a CMS be installed at each emission point before the effluents from those points are channeled to a common control device, the standard specifies that only one CMS is required to be installed at the vent of the control device).

(3) When more than one CMS is used to measure the emissions from one affected source (e.g., multiple breechings, multiple outlets), the owner or operator shall report the results as required for each CMS. However, when one CMS is used as a backup to another CMS, the owner or operator shall report the results from the CMS used to meet the monitoring requirements of this part. If both such CMS are used during a particular reporting period to meet the monitoring requirements of this part, then the owner or operator shall report the results from each CMS for the relevant compliance period.

(c) Operation and maintenance of continuous monitoring systems.

[Performance specification supersedes requirements for THC CEM. Temperature and activated carbon injection monitoring data requirements given in 40 CFR 63 Subpart LLL.]

(1) The owner or operator of an affected source shall maintain and operate each CMS as specified in this section, or in a relevant standard, and in a manner consistent with good air pollution control practices.

(i) The owner or operator of an affected source shall ensure the immediate repair or replacement of CMS parts to correct "routine" or otherwise predictable CMS malfunctions as defined in the source's startup, shutdown, and malfunction plan required by § 63.6(e)(3). The owner or operator

shall keep the necessary parts for routine repairs of the affected equipment readily available. If the plan is followed and the CMS repaired immediately, this action shall be reported in the semiannual startup, shutdown, and malfunction report required under
§ 63.10(d)(5)(i).

(ii) For those malfunctions or other events that affect the CMS and are not addressed by the startup, shutdown, and malfunction plan, the owner or operator shall report actions that are not consistent with the startup, shutdown, and malfunction plan within 24 hours after commencing actions inconsistent with the plan. The owner or operator shall send a followup report within 2 weeks after commencing actions inconsistent with the plan that either certifies that corrections have been made or includes a corrective action plan and schedule. The owner or operator shall provide proof that repair parts have been ordered or any other records that would indicate that the delay in making repairs is beyond his or her control.

(iii) The Administrator's determination of whether acceptable operation and maintenance procedures are being used will be based on information that may include, but is not limited to, review of operation and maintenance procedures, operation and maintenance records, manufacturing recommendations and specifications, and inspection of the CMS. Operation and maintenance procedures written by the CMS manufacturer and other guidance also can be used to maintain and operate each CMS.

(2) All CMS shall be installed such that representative measurements of emissions or process parameters from the affected source are obtained. In addition, CEMS shall be located according to procedures contained in the applicable performance specification(s).

(3) All CMS shall be installed, operational, and the data verified as specified in the relevant standard either prior to or in conjunction with conducting performance tests under § 63.7. Verification of operational status shall, at a minimum, include completion of the manufacturer's written specifications or recommendations for installation, operation, and calibration of the system.

(4) Except for system breakdowns, out-of-control periods, repairs, maintenance periods, calibration checks, and zero (low-level) and high-level calibration drift adjustments, all CMS, including COMS and CEMS, shall be in continuous operation and shall meet minimum frequency of operation requirements as follows:

(i) All COMS shall complete a minimum of one cycle of sampling and analyzing for each successive 10-second period and one cycle of data recording for each successive 6-minute period.

(ii) All CEMS for measuring emissions other than opacity shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

(5) Unless otherwise approved by the Administrator, minimum procedures for COMS shall include a method for producing a simulated zero opacity condition and an upscale (high-level) opacity condition using a certified neutral density filter or other related technique to produce a known obscuration of the light beam. Such procedures shall provide a system check of all the analyzer's internal optical surfaces and all electronic circuitry, including the lamp and photodetector assembly normally used in the measurement of opacity.

(6) The owner or operator of a CMS installed in accordance with the provisions of this part and the applicable CMS performance specification(s) shall check the zero (low-level) and high-level calibration drifts at least once daily in accordance with the written procedure specified in the performance evaluation plan developed under paragraphs (e)(3)(i) and (e)(3)(ii) of this section. The zero (low-level) and high-level calibration drifts shall be adjusted, at a minimum, whenever the 24-hour zero (low-level) drift exceeds two times the limits of the applicable performance specification(s) specified in the relevant standard. The system must allow the amount of excess zero (low-level) and high-level drift measured at the 24-hour interval checks to be recorded and quantified, whenever specified. For COMS, all optical and

instrumental surfaces exposed to the effluent gases shall be cleaned prior to performing the zero (low-level) and high-level drift adjustments; the optical surfaces and instrumental surfaces shall be cleaned when the cumulative automatic zero compensation, if applicable, exceeds 4 percent opacity.

(7) (i) A CMS is out of control if -

(A) The zero (low-level), mid-level (if applicable), or high-level calibration drift (CD) exceeds two times the applicable CD specification in the applicable performance specification or in the relevant standard; or

(B) The CMS fails a performance test audit (e.g., cylinder gas audit), relative accuracy audit, relative accuracy test audit, or linearity test audit; or

(C) The COMS CD exceeds two times the limit in the applicable performance specification in the relevant standard.

(ii) When the CMS is out of control, the owner or operator of the affected source shall take the necessary corrective action and shall repeat all necessary tests which indicate that the system is out of control. The owner or operator shall take corrective action and conduct retesting until the performance requirements are below the applicable limits. The beginning of the out-of-control period is the hour the owner or operator conducts a performance check (e.g., calibration drift) that indicates an exceedance of the performance requirements established under this part. The end of the out-of-control period is the hour following the completion of corrective action and successful demonstration that the system is within the allowable limits. During the period the CMS is out of control, recorded data shall not be used in data averages and calculations, or to meet any data availability requirement established under this part.

(8) The owner or operator of a CMS that is out of control as defined in paragraph (c)(7) of this section shall submit all information concerning out-of-control periods, including start and end dates and hours and descriptions of corrective actions taken, in the excess emissions and continuous monitoring system performance report required in § 63.10(e)(3).

(d) *Quality control program.*

(1) The results of the quality control program required in this paragraph will be considered by the Administrator when he/she determines the validity of monitoring data.

(2) The owner or operator of an affected source that is required to use a CMS and is subject to the monitoring requirements of this section and a relevant standard shall develop and implement a CMS quality control program. As part of the quality control program, the owner or operator shall develop and submit to the Administrator for approval upon request a site-specific performance evaluation test plan for the CMS performance evaluation required in paragraph (e)(3)(i) of this section, according to the procedures specified in paragraph (e). In addition, each quality control program shall include, at a minimum, a written protocol that describes procedures for each of the following operations:

(i) Initial and any subsequent calibration of the CMS;

(ii) Determination and adjustment of the calibration drift of the CMS;

(iii) Preventive maintenance of the CMS, including spare parts inventory;

(iv) Data recording, calculations, and reporting;

(v) Accuracy audit procedures, including sampling and analysis methods; and

(vi) Program of corrective action for a malfunctioning CMS.

(3) The owner or operator shall keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, the owner or operator shall keep previous (i.e., superseded) versions of the performance evaluation plan on

record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. Where relevant, e.g., program of corrective action for a malfunctioning CMS, these written procedures may be incorporated as part of the affected source's startup, shutdown, and malfunction plan to avoid duplication of planning and recordkeeping efforts.

(e) *Performance evaluation of continuous monitoring systems* –
[Performance specification supersedes requirements for THC CEM.]

(1) *General.* When required by a relevant standard, and at any other time the Administrator may require under section 114 of the Act, the owner or operator of an affected source being monitored shall conduct a performance evaluation of the CMS. Such performance evaluation shall be conducted according to the applicable specifications and procedures described in this section or in the relevant standard.

(2) *Notification of performance evaluation.* The owner or operator shall notify the Administrator in writing of the date of the performance evaluation simultaneously with the notification of the performance test date required under § 63.7(b) or at least 60 days prior to the date the performance evaluation is scheduled to begin if no performance test is required.

(3) (i) *Submission of site-specific performance evaluation test plan.* Before conducting a required CMS performance evaluation, the owner or operator of an affected source shall develop and submit a site-specific performance evaluation test plan to the Administrator for approval upon request. The performance evaluation test plan shall include the evaluation program objectives, an evaluation program summary, the performance evaluation schedule, data quality objectives, and both an internal and external QA program. Data quality objectives are the pre-evaluation expectations of precision, accuracy, and completeness of data.

(ii) The internal QA program shall include, at a minimum, the activities planned by routine operators and analysts to provide an assessment of CMS performance. The external QA program shall include, at a minimum, systems audits that include the opportunity for on-site evaluation by the Administrator of instrument calibration, data validation, sample logging, and documentation of quality control data and field maintenance activities.

(iii) The owner or operator of an affected source shall submit the site-specific performance evaluation test plan to the Administrator (if requested) at least 60 days before the performance test or performance evaluation is scheduled to begin, or on a mutually agreed upon date, and review and approval of the performance evaluation test plan by the Administrator will occur with the review and approval of the site-specific test plan (if review of the site-specific test plan is requested).

(iv) The Administrator may request additional relevant information after the submittal of a site-specific performance evaluation test plan.

(v) In the event that the Administrator fails to approve or disapprove the site-specific performance evaluation test plan within the time period specified in § 63.7(c)(3), the following conditions shall apply:

(A) If the owner or operator intends to demonstrate compliance using the monitoring method(s) specified in the relevant standard, the owner or operator shall conduct the performance evaluation within the time specified in this subpart using the specified method(s);

(B) If the owner or operator intends to demonstrate compliance by using an alternative to a monitoring method specified in the relevant standard, the owner or operator shall refrain from conducting the performance evaluation until the Administrator approves the use of the alternative method. If the Administrator does not approve the use of the alternative method within 30 days before the performance evaluation is scheduled to begin, the performance evaluation deadlines specified in

paragraph (e)(4) of this section may be extended such that the owner or operator shall conduct the performance evaluation within 60 calendar days after the Administrator approves the use of the alternative method. Notwithstanding the requirements in the preceding two sentences, the owner or operator may proceed to conduct the performance evaluation as required in this section (without the Administrator's prior approval of the site-specific performance evaluation test plan) if he/she subsequently chooses to use the specified monitoring method(s) instead of an alternative.

(vi) Neither the submission of a site-specific performance evaluation test plan for approval, nor the Administrator's approval or disapproval of a plan, nor the Administrator' failure to approve or disapprove a plan in a timely manner shall -

(A) Relieve an owner or operator of legal responsibility for compliance with any applicable provisions of this part or with any other applicable Federal, State, or local requirement; or

(B) Prevent the Administrator from implementing or enforcing this part or taking any other action under the Act.

(4) *Conduct of performance evaluation and performance evaluation dates.* The owner or operator of an affected source shall conduct a performance evaluation of a required CMS during any performance test required under § 63.7 in accordance with the applicable performance specification as specified in the relevant standard. Notwithstanding the requirement in the previous sentence, if the owner or operator of an affected source elects to submit COMS data for compliance with a relevant opacity emission standard as provided under § 63.6(h)(7), he/she shall conduct a performance evaluation of the COMS as specified in the relevant standard, before the performance test required under § 63.7 is conducted in time to submit the results of the performance evaluation as specified in paragraph (e)(5)(ii) of this section. If a performance test is not required, or the requirement for a performance test has been waived under § 63.7(h), the owner or operator of an affected source shall conduct the performance evaluation not later than 180 days after the appropriate compliance date for the affected source, as specified in § 63.7(a), or as otherwise specified in the relevant standard.

(5) *Reporting performance evaluation results.*

(i) The owner or operator shall furnish the Administrator a copy of a written report of the results of the performance evaluation simultaneously with the results of the performance test required under § 63.7 or within 60 days of completion of the performance evaluation if no test is required, unless otherwise specified in a relevant standard. The Administrator may request that the owner or operator submit the raw data from a performance evaluation in the report of the performance evaluation results.

(ii) The owner or operator of an affected source using a COMS to determine opacity compliance during any performance test required under § 63.7 and described in § 63.6(d)(6) shall furnish the Administrator two or, upon request, three copies of a written report of the results of the COMS performance evaluation under this paragraph. The copies shall be provided at least 15 calendar days before the performance test required under § 63.7 is conducted.

(f) *Use of an alternative monitoring method –*
[Additional requirements in 40 CFR 63.1350(l) of 40 CFR 63 Subpart LLL.]

(1) *General.* Until permission to use an alternative monitoring method has been granted by the Administrator under this paragraph, the owner or operator of an affected source remains subject to the requirements of this section and the relevant standard.

(2) After receipt and consideration of written application, the Administrator may approve alternatives to any monitoring methods or procedures of this part including, but not limited to, the following:

(i) Alternative monitoring requirements when installation of a CMS specified by a relevant standard would not provide accurate measurements due to liquid water or other interferences caused by substances within the effluent gases;

(ii) Alternative monitoring requirements when the affected source is infrequently operated;

(iii) Alternative monitoring requirements to accommodate CEMS that require additional measurements to correct for stack moisture conditions;

(iv) Alternative locations for installing CMS when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements;

(v) Alternate methods for converting pollutant concentration measurements to units of the relevant standard;

(vi) Alternate procedures for performing daily checks of zero (low-level) and high-level drift that do not involve use of high-level gases or test cells;

(vii) Alternatives to the American Society for Testing and Materials (ASTM) test methods or sampling procedures specified by any relevant standard;

(viii) Alternative CMS that do not meet the design or performance requirements in this part, but adequately demonstrate a definite and consistent relationship between their measurements and the measurements of opacity by a system complying with the requirements as specified in the relevant standard. The Administrator may require that such demonstration be performed for each affected source; or

(ix) Alternative monitoring requirements when the effluent from a single affected source or the combined effluent from two or more affected sources is released to the atmosphere through more than one point.

(3) If the Administrator finds reasonable grounds to dispute the results obtained by an alternative monitoring method, requirement, or procedure, the Administrator may require the use of a method, requirement, or procedure specified in this section or in the relevant standard. If the results of the specified and alternative method, requirement, or procedure do not agree, the results obtained by the specified method, requirement, or procedure shall prevail.

(4) (i) Request to use alternative monitoring method. An owner or operator who wishes to use an alternative monitoring method shall submit an application to the Administrator as described in paragraph (f)(4)(ii) of this section, below. The application may be submitted at any time provided that the monitoring method is not used to demonstrate compliance with a relevant standard or other requirement. If the alternative monitoring method is to be used to demonstrate compliance with a relevant standard, the application shall be submitted not later than with the site-specific test plan required in § 63.7(c) (if requested) or with the site-specific performance evaluation plan (if requested) or at least 60 days before the performance evaluation is scheduled to begin.

(ii) The application shall contain a description of the proposed alternative monitoring system and a performance evaluation test plan, if required, as specified in paragraph (e)(3) of this section. In addition, the application shall include information justifying the owner or operator's request for an alternative monitoring method, such as the technical or economic infeasibility, or the impracticality, of the affected source using the required method.

(iii) The owner or operator may submit the information required in this paragraph well in advance of the submittal dates specified in paragraph (f)(4)(i) above to ensure a timely review by the Administrator in order to meet the compliance demonstration date specified in this section or the relevant standard.

(5) Approval of request to use alternative monitoring method.

(i) The Administrator will notify the owner or operator of approval or intention to deny approval of the request to use an alternative monitoring method within 30 calendar days after receipt of the original request and within 30 calendar days after receipt of any supplementary information that is submitted. Before disapproving any request to use an alternative monitoring method, the Administrator will notify the applicant of the Administrator's intention to disapprove the request together with -

(A) Notice of the information and findings on which the intended disapproval is based; and

(B) Notice of opportunity for the owner or operator to present additional information to the Administrator before final action on the request. At the time the Administrator notifies the applicant of his or her intention to disapprove the request, the Administrator will specify how much time the owner or operator will have after being notified of the intended disapproval to submit the additional information.

(ii) The Administrator may establish general procedures and criteria in a relevant standard to accomplish the requirements of paragraph (f)(5)(i) of this section.

(iii) If the Administrator approves the use of an alternative monitoring method for an affected source under paragraph (f)(5)(i) of this section, the owner or operator of such source shall continue to use the alternative monitoring method until he or she receives approval from the Administrator to use another monitoring method as allowed by § 63.8(f).

(6) Alternative to the relative accuracy test. An alternative to the relative accuracy test for CEMS specified in a relevant standard may be requested as follows:

(i) *Criteria for approval of alternative procedures.* An alternative to the test method for determining relative accuracy is available for affected sources with emission rates demonstrated to be less than 50 percent of the relevant standard. The owner or operator of an affected source may petition the Administrator under paragraph (f)(6)(ii) of this section to substitute the relative accuracy test in section 7 of Performance Specification 2 with the procedures in section 10 if the results of a performance test conducted according to the requirements in § 63.7, or other tests performed following the criteria in § 63.7, demonstrate that the emission rate of the pollutant of interest in the units of the relevant standard is less than 50 percent of the relevant standard. For affected sources subject to emission limitations expressed as control efficiency levels, the owner or operator may petition the Administrator to substitute the relative accuracy test with the procedures in section 10 of Performance Specification 2 if the control device exhaust emission rate is less than 50 percent of the level needed to meet the control efficiency requirement. The alternative procedures do not apply if the CEMS is used continuously to determine compliance with the relevant standard.

(ii) *Petition to use alternative to relative accuracy test.* The petition to use an alternative to the relative accuracy test shall include a detailed description of the procedures to be applied, the location and the procedure for conducting the alternative, the concentration or response levels of the alternative relative accuracy materials, and the other equipment checks included in the alternative procedure(s). The Administrator will review the petition for completeness and applicability. The Administrator's determination to approve an alternative will depend on the intended use of the CEMS data and may require specifications more stringent than in Performance Specification 2.

(iii) *Rescission of approval to use alternative to relative accuracy test.* The Administrator will review the permission to use an alternative to the CEMS relative accuracy test and may rescind such permission if the CEMS data from a successful completion of the alternative relative accuracy procedure indicate that the affected source's emissions are approaching the level of the relevant standard. The criterion for reviewing the permission is that the collection of CEMS data shows that emissions have exceeded 70 percent of the relevant standard for any averaging period, as specified in the relevant

standard. For affected sources subject to emission limitations expressed as control efficiency levels, the criterion for reviewing the permission is that the collection of CEMS data shows that exhaust emissions have exceeded 70 percent of the level needed to meet the control efficiency requirement for any averaging period, as specified in the relevant standard. The owner or operator of the affected source shall maintain records and determine the level of emissions relative to the criterion for permission to use an alternative for relative accuracy testing. If this criterion is exceeded, the owner or operator shall notify the Administrator within 10 days of such occurrence and include a description of the nature and cause of the increased emissions. The Administrator will review the notification and may rescind permission to use an alternative and require the owner or operator to conduct a relative accuracy test of the CEMS as specified in section 7 of Performance Specification 2.

(g) *Reduction of monitoring data.*

(1) The owner or operator of each CMS shall reduce the monitoring data as specified in this paragraph. In addition, each relevant standard may contain additional requirements for reducing monitoring data. When additional requirements are specified in a relevant standard, the standard will identify any unnecessary or duplicated requirements in this paragraph that the owner or operator need not comply with.

(2) The owner or operator of each COMS shall reduce all data to 6-minute averages calculated from 36 or more data points equally spaced over each 6-minute period. Data from CEMS for measurement other than opacity, unless otherwise specified in the relevant standard, shall be reduced to 1-hour averages computed from four or more data points equally spaced over each 1-hour period, except during periods when calibration, quality assurance, or maintenance activities pursuant to provisions of this part are being performed. During these periods, a valid hourly average shall consist of at least two data points with each representing a 15-minute period. Alternatively, an arithmetic or integrated 1-hour average of CEMS data may be used. Time periods for averaging are defined in § 63.2.

(3) The data may be recorded in reduced or nonreduced form (e.g., ppm pollutant and percent O_2 or ng/J of pollutant).

(4) All emission data shall be converted into units of the relevant standard for reporting purposes using the conversion procedures specified in that standard. After conversion into units of the relevant standard, the data may be rounded to the same number of significant digits as used in that standard to specify the emission limit (e.g., rounded to the nearest 1 percent opacity).

(5) Monitoring data recorded during periods of unavoidable CMS breakdowns, out-of-control periods, repairs, maintenance periods, calibration checks, and zero (low-level) and high-level adjustments shall not be included in any data average computed under this part. For owners or operators complying with the requirements of Sec. 63.10(b)(2)(vii)(A) or (B), data averages must include any data recorded during periods of monitor breakdown or malfunction.

40 CFR 63.9 Notification requirements.

(a) *Applicability and general information.*

(1) The requirements in this section apply to owners and operators of affected sources that are subject to the provisions of this part, unless specified otherwise in a relevant standard.

(2) For affected sources that have been granted an extension of compliance under subpart D of this part, the requirements of this section do not apply to those sources while they are operating under such compliance extensions.

(3) If any State requires a notice that contains all the information required in a notification listed in this section, the owner or operator may send the Administrator a copy of the notice sent to the State to satisfy the requirements of this section for that notification.

(4) (i) Before a State has been delegated the authority to implement and enforce notification requirements established under this part, the owner or operator of an affected source in such State subject to such requirements shall submit notifications to the appropriate Regional Office of the EPA (to the attention of the Director of the Division indicated in the list of the EPA Regional Offices in § 63.13).

(ii) After a State has been delegated the authority to implement and enforce notification requirements established under this part, the owner or operator of an affected source in such State subject to such requirements shall submit notifications to the delegated State authority (which may be the same as the permitting authority). In addition, if the delegated (permitting) authority is the State, the owner or operator shall send a copy of each notification submitted to the State to the appropriate Regional Office of the EPA, as specified in paragraph (a)(4)(i) of this section. The Regional Office may waive this requirement for any notifications at its discretion.

(b) *Initial notifications.*

(1) (i) The requirements of this paragraph apply to the owner or operator of an affected source when such source becomes subject to a relevant standard.

(ii) If an area source that otherwise would be subject to an emission standard or other requirement established under this part if it were a major source subsequently increases its emissions of hazardous air pollutants (or its potential to emit hazardous air pollutants) such that the source is a major source that is subject to the emission standard or other requirement, such source shall be subject to the notification requirements of this section.

(iii) Affected sources that are required under this paragraph to submit an initial notification may use the application for approval of construction or reconstruction under § 63.5(d) of this subpart, if relevant, to fulfill the initial notification requirements of this paragraph.

(2) The owner or operator of an affected source that has an initial startup before the effective date of a relevant standard under this part shall notify the Administrator in writing that the source is subject to the relevant standard. The notification, which shall be submitted not later than 120 calendar days after the effective date of the relevant standard (or within 120 calendar days after the source becomes subject to the relevant standard), shall provide the following information:

(i) The name and address of the owner or operator;

(ii) The address (i.e., physical location) of the affected source;

(iii) An identification of the relevant standard, or other requirement, that is the basis of the notification and the source's compliance date;

(iv) A brief description of the nature, size, design, and method of operation of the source, including its operating design capacity and an identification of each point of emission for each hazardous air pollutant, or if a definitive identification is not yet possible, a preliminary identification of each point of emission for each hazardous air pollutant; and

(v) A statement of whether the affected source is a major source or an area source.

(3) The owner or operator of a new or reconstructed affected source, or a source that has been reconstructed such that it is an affected source, that has an initial startup after the effective date of a relevant standard under this part and for which an application for approval of construction or reconstruction is not required under § 63.5(d), shall notify the Administrator in writing that the source is subject to the relevant standard no later than 120 days after initial startup. The notification shall provide

all the information required in paragraphs (b)(2)(i) through (b)(2)(v) of this section, delivered or postmarked with the notification required in paragraph (b)(5).

(4) The owner or operator of a new or reconstructed major affected source that has an initial startup after the effective date of a relevant standard under this part and for which an application for approval of construction or reconstruction is required under § 63.5(d) shall provide the following information in writing to the Administrator:

(i) A notification of intention to construct a new major affected source, reconstruct a major affected source, or reconstruct a major source such that the source becomes a major affected source with the application for approval of construction or reconstruction as specified in § 63.5(d)(1)(i);

(ii) A notification of the date when construction or reconstruction was commenced, submitted simultaneously with the application for approval of construction or reconstruction, if construction or reconstruction was commenced before the effective date of the relevant standard;

(iii) A notification of the date when construction or reconstruction was commenced, delivered or postmarked not later than 30 days after such date, if construction or reconstruction was commenced after the effective date of the relevant standard;

(iv) [Reserved]; and

(v) A notification of the actual date of startup of the source, delivered or postmarked within 15 calendar days after that date.

(5) After the effective date of any relevant standard established by the Administrator under this part, whether or not an approved permit program is effective in the State in which an affected source is (or would be) located, an owner or operator who intends to construct a new affected source or reconstruct an affected source subject to such standard, or reconstruct a source such that it becomes an affected source subject to such standard, shall notify the Administrator, in writing, of the intended construction or reconstruction. The notification shall be submitted as soon as practicable before the construction or reconstruction is planned to commence (but no sooner than the effective date of the relevant standard) if the construction or reconstruction commences after the effective date of a relevant standard promulgated in this part. The notification shall be submitted as soon as practicable before startup but no later than 60 days after the effective date of a relevant standard promulgated in this part if the construction or reconstruction had commenced and initial startup had not occurred before the standard's effective date. The notification shall include all the information required for an application for approval of construction or reconstruction as specified in § 63.5(d). For major sources, the application for approval of construction or reconstruction may be used to fulfill the requirements of this paragraph.

(c) *Request for extension of compliance.* If the owner or operator of an affected source cannot comply with a relevant standard by the applicable compliance date for that source, or if the owner or operator has installed BACT or technology to meet LAER consistent with § 63.6(i)(5) of this subpart, he/she may submit to the Administrator (or the State with an approved permit program) a request for an extension of compliance as specified in § 63.6(i)(4) through § 63.6(i)(6).

(d) *Notification that source is subject to special compliance requirements.* An owner or operator of a new source that is subject to special compliance requirements as specified in § 63.6(b)(3) and § 63.6(b)(4) shall notify the Administrator of his/her compliance obligations not later than the notification dates established in paragraph (b) of this section for new sources that are not subject to the special provisions.

(e) *Notification of performance test.* The owner or operator of an affected source shall notify the Administrator in writing of his or her intention to conduct a performance test at least 60 calendar

days before the performance test is scheduled to begin to allow the Administrator to review and approve the site-specific test plan required under § 63.7(c), if requested by the Administrator, and to have an observer present during the test.

(f) *Notification of opacity and visible emission observations.* The owner or operator of an affected source shall notify the Administrator in writing of the anticipated date for conducting the opacity or visible emission observations specified in § 63.6(h)(5), if such observations are required for the source by a relevant standard. The notification shall be submitted with the notification of the performance test date, as specified in paragraph (e) of this section, or if no performance test is required or visibility or other conditions prevent the opacity or visible emission observations from being conducted concurrently with the initial performance test required under § 63.7, the owner or operator shall deliver or postmark the notification not less than 30 days before the opacity or visible emission observations are scheduled to take place.
[Notification not required for VE/opacity test under 40 CFR 63.1350(e) and (j) of 40 CFR 63 Subpart LLL.]

(g) *Additional notification requirements for sources with continuous monitoring systems.* The owner or operator of an affected source required to use a CMS by a relevant standard shall furnish the Administrator written notification as follows:

(1) A notification of the date the CMS performance evaluation under § 63.8(e) is scheduled to begin, submitted simultaneously with the notification of the performance test date required under § 63.7(b). If no performance test is required, or if the requirement to conduct a performance test has been waived for an affected source under § 63.7(h), the owner or operator shall notify the Administrator in writing of the date of the performance evaluation at least 60 calendar days before the evaluation is scheduled to begin;

(2) A notification that COMS data results will be used to determine compliance with the applicable opacity emission standard during a performance test required by § 63.7 in lieu of Method 9 or other opacity emissions test method data, as allowed by § 63.6(h)(7)(ii), if compliance with an opacity emission standard is required for the source by a relevant standard. The notification shall be submitted at least 60 calendar days before the performance test is scheduled to begin; and

(3) A notification that the criterion necessary to continue use of an alternative to relative accuracy testing, as provided by § 63.8(f)(6), has been exceeded. The notification shall be delivered or postmarked not later than 10 days after the occurrence of such exceedance, and it shall include a description of the nature and cause of the increased emissions.

(h) *Notification of compliance status.*

(1) The requirements of paragraphs (h)(2) through (h)(4)of this section apply when an affected source becomes subject to a relevant standard.

(2) (i) Before a title V permit has been issued to the owner or operator of an affected source, and each time a notification of compliance status is required under this part, the owner or operator of such source shall submit to the Administrator a notification of compliance status, signed by the responsible official who shall certify its accuracy, attesting to whether the source has complied with the relevant standard. The notification shall list -

(A) The methods that were used to determine compliance;

(B) The results of any performance tests, opacity or visible emission observations, continuous monitoring system (CMS) performance evaluations, and/or other monitoring procedures or methods that were conducted;

(C) The methods that will be used for determining continuing compliance, including a description of monitoring and reporting requirements and test methods;

(D) The type and quantity of hazardous air pollutants emitted by the source (or surrogate pollutants if specified in the relevant standard), reported in units and averaging times and in accordance with the test methods specified in the relevant standard;

(E) An analysis demonstrating whether the affected source is a major source or an area source (using the emissions data generated for this notification);

(F) A description of the air pollution control equipment (or method) for each emission point, including each control device (or method) for each hazardous air pollutant and the control efficiency (percent) for each control device (or method); and

(G) A statement by the owner or operator of the affected existing, new, or reconstructed source as to whether the source has complied with the relevant standard or other requirements.

(ii) The notification shall be sent before the close of business on the 60th day following the completion of the relevant compliance demonstration activity specified in the relevant standard (unless a different reporting period is specified in a relevant standard, in which case the letter shall be sent before the close of business on the day the report of the relevant testing or monitoring results is required to be delivered or postmarked). For example, the notification shall be sent before close of business on the 60th (or other required) day following completion of the initial performance test and again before the close of business on the 60th (or other required) day following the completion of any subsequent required performance test. If no performance test is required but opacity or visible emission observations are required to demonstrate compliance with an opacity or visible emission standard under this part, the notification of compliance status shall be sent before close of business on the 30th day following the completion of opacity or visible emission observations.

(3) After a title V permit has been issued to the owner or operator of an affected source, the owner or operator of such source shall comply with all requirements for compliance status reports contained in the source's title V permit, including reports required under this part. After a title V permit has been issued to the owner or operator of an affected source, and each time a notification of compliance status is required under this part, the owner or operator of such source shall submit the notification of compliance status to the appropriate permitting authority following completion of the relevant compliance demonstration activity specified in the relevant standard.

(4) [Reserved]

(5) If an owner or operator of an affected source submits estimates or preliminary information in the application for approval of construction or reconstruction required in § 63.5(d) in place of the actual emissions data or control efficiencies required in paragraphs (d)(1)(ii)(H) and (d)(2) of § 63.5, the owner or operator shall submit the actual emissions data and other correct information as soon as available but no later than with the initial notification of compliance status required in this section.

(6) Advice on a notification of compliance status may be obtained from the Administrator.

(i) *Adjustment to time periods or postmark deadlines for submittal and review of required communications.*

(1) (i) Until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (i)(2) and (i)(3) of this section, the owner or operator

of an affected source remains strictly subject to the requirements of this part.

(ii) An owner or operator shall request the adjustment provided for in paragraphs (i)(2) and (i)(3) of this section each time he or she wishes to change an applicable time period or postmark deadline specified in this part.

(2) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practicable before the subject activity is required to take place. The owner or operator shall include in the request whatever information he or she considers useful to convince the Administrator that an adjustment is warranted.

(3) If, in the Administrator's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(4) If the Administrator is unable to meet a specified deadline, he or she will notify the owner or operator of any significant delay and inform the owner or operator of the amended schedule.

(j) *Change in information already provided.* Any change in the information already provided under this section shall be provided to the Administrator in writing within 15 calendar days after the change.

40 CFR 63.10 Recordkeeping and reporting requirements.

(a) *Applicability and general information.*

(1) The requirements of this section apply to owners or operators of affected sources who are subject to the provisions of this part, unless specified otherwise in a relevant standard.

(2) For affected sources that have been granted an extension of compliance under subpart D of this part, the requirements of this section do not apply to those sources while they are operating under such compliance extensions.

(3) If any State requires a report that contains all the information required in a report listed in this section, an owner or operator may send the Administrator a copy of the report sent to the State to satisfy the requirements of this section for that report.

(4) (i) Before a State has been delegated the authority to implement and enforce recordkeeping and reporting requirements established under this part, the owner or operator of an affected source in such State subject to such requirements shall submit reports to the appropriate Regional Office of the EPA (to the attention of the Director of the Division indicated in the list of the EPA Regional Offices in § 63.13).

(ii) After a State has been delegated the authority to implement and enforce recordkeeping and reporting requirements established under this part, the owner or operator of an affected source in such State subject to such requirements shall submit reports to the delegated State authority (which may be the same as the permitting authority). In addition, if the delegated (permitting) authority is the State, the owner or operator shall send a copy of each report submitted to the State to the appropriate Regional Office of the EPA, as specified in paragraph (a)(4)(i) of this section. The Regional Office may waive this requirement for any reports at its discretion.

(5) If an owner or operator of an affected source in a State with delegated authority is required to submit periodic reports under this part to the State, and if the State has an established

timeline for the submission of periodic reports that is consistent with the reporting frequency(ies) specified for such source under this part, the owner or operator may change the dates by which periodic reports under this part shall be submitted (without changing the frequency of reporting) to be consistent with the State's schedule by mutual agreement between the owner or operator and the State. For each relevant standard established pursuant to section 112 of the Act, the allowance in the previous sentence applies in each State beginning 1 year after the affected source's compliance date for that standard. Procedures governing the implementation of this provision are specified in § 63.9(i).

(6) If an owner or operator supervises one or more stationary sources affected by more than one standard established pursuant to section 112 of the Act, he/she may arrange by mutual agreement between the owner or operator and the Administrator (or the State permitting authority) a common schedule on which periodic reports required for each source shall be submitted throughout the year. The allowance in the previous sentence applies in each State beginning 1 year after the latest compliance date for any relevant standard established pursuant to section 112 of the Act for any such affected source(s). Procedures governing the implementation of this provision are specified in § 63.9(i).

(7) If an owner or operator supervises one or more stationary sources affected by standards established pursuant to section 112 of the Act (as amended November 15, 1990) and standards set under part 60, part 61, or both such parts of this chapter, he/she may arrange by mutual agreement between the owner or operator and the Administrator (or the State permitting authority) a common schedule on which periodic reports required by each relevant (i.e., applicable) standard shall be submitted throughout the year. The allowance in the previous sentence applies in each State beginning 1 year after the stationary source is required to be in compliance with the relevant section 112 standard, or 1 year after the stationary source is required to be in compliance with the applicable part 60 or part 61 standard, whichever is latest. Procedures governing the implementation of this provision are specified in § 63.9(i).

(b) *General recordkeeping requirements.*

(1) The owner or operator of an affected source subject to the provisions of this part shall maintain files of all information (including all reports and notifications) required by this part recorded in a form suitable and readily available for expeditious inspection and review. The files shall be retained for at least 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record. At a minimum, the most recent 2 years of data shall be retained on site. The remaining 3 years of data may be retained off site. Such files may be maintained on microfilm, on a computer, on computer floppy disks, on magnetic tape disks, or on microfiche.

(2) The owner or operator of an affected source subject to the provisions of this part shall maintain relevant records for such source of -

(i) The occurrence and duration of each startup, shutdown, or malfunction of operation (i.e., process equipment);

(ii) The occurrence and duration of each malfunction of the air pollution control equipment;

(iii) All maintenance performed on the air pollution control equipment;

(iv) Actions taken during periods of startup, shutdown, and malfunction (including corrective actions to restore malfunctioning process and air pollution control equipment to its normal or usual manner of operation) when such actions are different from the procedures specified in the affected source's startup, shutdown, and malfunction plan (see § 63.6(e)(3));

(v) All information necessary to demonstrate conformance with the affected source's startup, shutdown, and malfunction plan (see § 63.6(e)(3)) when all actions taken during periods of startup, shutdown, and malfunction (including corrective actions to restore malfunctioning process and air

pollution control equipment to its normal or usual manner of operation) are consistent with the procedures specified in such plan. (The information needed to demonstrate conformance with the startup, shutdown, and malfunction plan may be recorded
using a "checklist," or some other effective form of recordkeeping, in order to minimize the recordkeeping burden for conforming events);

(vi) Each period during which a CMS is malfunctioning or inoperative (including out-of-control periods);

(vii) All required measurements needed to demonstrate compliance with a relevant standard (including, but not limited to, 15-minute averages of CMS data, raw performance testing measurements, and raw performance evaluation measurements, that support data that the source is required to re-port);

(A) This paragraph applies to owners or operators required to install a continuous emissions monitoring system (CEMS) where the CEMS installed is automated, and where the calculated data averages do not exclude periods of CEMS breakdown or malfunction. An automated CEMS records and reduces the measured data to the form of the pollutant emission standard through the use of a computerized data acquisition system. In lieu of maintaining a file of all CEMS subhourly measurements as required under paragraph (b)(2)(vii) of this section, the owner or operator shall retain the most recent consecutive three averaging periods of subhourly measurements and a file that contains a hard copy of the data acquisition system algorithm used to reduce the measured data into the reportable form of the standard.

(B) This paragraph applies to owners or operators required to install a CEMS where the measured data is manually reduced to obtain the reportable form of the standard, and where the calculated data averages do not exclude periods of CEMS breakdown or malfunction. In lieu of maintaining a file of all CEMS subhourly measurements as required under paragraph (b)(2)(vii) of this sections, the owner or operator shall retain all subhourly measurements for the most recent reporting period. The subhourly measurements shall be retained for 120 days from the date of the most recent summary or excess emission report submitted to the Administrator.

(C) The Administrator or delegated authority, upon notification to the source, may require the owner or operator to maintain all measurements as required by paragraph (b)(2)(vii), if the administrator or the delegated authority determines these records are required to more accurately assess the compliance status of the affected source.

(viii) All results of performance tests, CMS performance evaluations, and opacity and visible emission observations;

(ix) All measurements as may be necessary to determine the conditions of performance tests and performance evaluations;

(x) All CMS calibration checks;

(xi) All adjustments and maintenance performed on CMS;

(xii) Any information demonstrating whether a source is meeting the requirements for a waiver of recordkeeping or reporting requirements under this part, if the source has been granted a waiver under paragraph (f) of this section;

(xiii) All emission levels relative to the criterion for obtaining permission to use an alternative to the relative accuracy test, if the source has been granted such permission under § 63.8(f)(6); and

(xiv) All documentation supporting initial notifications and notifications of compliance status under § 63.9.

(3) Recordkeeping requirement for applicability determinations. If an owner or operator determines that his or her stationary source that emits (or has the potential to emit, without considering controls) one or more hazardous air pollutants is not subject to a relevant standard or other requirement established under this part, the owner or operator shall keep a record of the applicability determination on site at the source for a period of 5 years after the determination, or until the source changes its operations to become an affected source, whichever comes first. The record of the applicability determination shall include an analysis (or other information) that demonstrates why the owner or operator believes the source is unaffected (e.g., because the source is an area source). The analysis (or other information) shall be sufficiently detailed to allow the Administrator to make a finding about the source's applicability status with regard to the relevant standard or other requirement. If relevant, the analysis shall be performed in accordance with requirements established in subparts of this part for this purpose for particular categories of stationary sources. If relevant, the analysis should be performed in accordance with EPA guidance materials published to assist sources in making applicability determinations under section 112, if any.

(c) *Additional recordkeeping requirements for sources with continuous monitoring systems.* **[PS-8A supersedes requirements for THC CEM]** In addition to complying with the requirements specified in paragraphs (b)(1) and (b)(2) of this section, the owner or operator of an affected source required to install a CMS by a relevant standard shall maintain records for such source of -

(1) All required CMS measurements (including monitoring data recorded during unavoidable CMS breakdowns and out-of-control periods);

(2)–(4) [Reserved]

(5) The date and time identifying each period during which the CMS was inoperative except for zero (low-level) and high-level;

(6) The date and time identifying each period during which the CMS was out of control, as defined in § 63.8(c)(7);

(7) The specific identification (i.e., the date and time of commencement and completion) of each period of excess emissions and parameter monitoring exceedances, as defined in the relevant standard(s), that occurs during startups, shutdowns, and malfunctions of the affected source;

(8) The specific identification (i.e., the date and time of commencement and completion) of each time period of excess emissions and parameter monitoring exceedances, as defined in the relevant standard(s), that occurs during periods other than startups, shutdowns, and malfunctions of the affected source;

(9) [Reserved]

(10) The nature and cause of any malfunction (if known);

(11) The corrective action taken or preventive measures adopted;

(12) The nature of the repairs or adjustments to the CMS that was inoperative or out of control;

(13) The total process operating time during the reporting period; and

(14) All procedures that are part of a quality control program developed and implemented for CMS under § 63.8(d).

(15) In order to satisfy the requirements of paragraphs (c)(10) through (c)(12) of this section and to avoid duplicative recordkeeping efforts, the owner or operator may use the affected source's startup, shutdown, and malfunction plan or records kept to satisfy the recordkeeping requirements of the startup, shutdown, and malfunction plan specified in § 63.6(e), provided that such plan and records adequately address the requirements of paragraphs (c)(10) through (c)(12).

(d) *General reporting requirements.*

(1) Not-withstanding the requirements in this paragraph or paragraph (e) of this section, the owner or operator of an affected source subject to reporting requirements under this part shall submit reports to the Administrator in accordance with the reporting requirements in the relevant standard(s).

(2) *Reporting results of performance tests.* Before a title V permit has been issued to the owner or operator of an affected source, the owner or operator shall report the results of any performance test under § 63.7 to the Administrator. After a title V permit has been issued to the owner or operator of an affected source, the owner or operator shall report the results of a required performance test to the appropriate permitting authority. The owner or operator of an affected source shall report the results of the performance test to the Administrator (or the State with an approved permit program) before the close of business on the 60th day following the completion of the performance test, unless specified otherwise in a relevant standard or as approved otherwise in writing by the Administrator. The results of the performance test shall be submitted as part of the notification of compliance status required under § 63.9(h).

(3) *Reporting results of opacity or visible emission observations.* The owner or operator of an affected source required to conduct opacity or visible emission observations by a relevant standard shall report the opacity or visible emission results (produced using Test Method 9 or Test Method 22, or an alternative to these test methods) along with the results of the performance test required under § 63.7. If no performance test is required, or if visibility or other conditions prevent the opacity or visible emission observations from being conducted concurrently with the performance test required under § 63.7, the owner or operator shall report the opacity or visible emission results before the close of business on the 30th day following the completion of the opacity or visible emission observations.

(4) *Progress reports.* The owner or operator of an affected source who is required to submit progress reports as a condition of receiving an extension of compliance under § 63.6(i) shall submit such reports to the Administrator (or the State with an approved permit program) by the dates specified in the written extension of compliance.

(5) (i) Periodic startup, shutdown, and malfunction reports. If actions taken by an owner or operator during a startup, shutdown, or malfunction of an affected source (including actions taken to correct a malfunction) are consistent with the procedures specified in the source's startup, shutdown, and malfunction plan [see § 63.6(e)(3)], the owner or operator shall state such information in a startup, shutdown, and malfunction report. Reports shall only be required if a startup, shutdown, or malfunction occurred during the reporting period. The startup, shutdown, and malfunction report shall consist of a letter, containing the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy, that shall be submitted to the Administrator semi-annually (or on a more frequent basis if specified
otherwise in a relevant standard or as established otherwise by the permitting authority in the source's title V permit). The startup, shutdown, and malfunction report shall be delivered or postmarked by the 30th day following the end of each calendar half (or other calendar reporting period, as appropriate). If the owner or operator is required to submit excess emissions and continuous monitoring system performance (or other periodic) reports under this part, the startup, shutdown, and malfunction reports required under this paragraph may be submitted simultaneously with the excess emissions and continuous monitoring system performance (or other) reports. If startup, shutdown, and malfunction reports are submitted with excess emissions and continuous monitoring system performance (or other periodic) reports, and the owner or operator receives approval to reduce the frequency of reporting for the latter under paragraph (e) of this section, the frequency of reporting for the startup, shutdown, and malfunction reports also may be reduced if the Administrator does not object to the intended change. The

procedures to implement the allowance in the preceding sentence shall be the same as the procedures specified in paragraph (e)(3) of this section.

(ii) Immediate startup, shutdown, and malfunction reports. Notwithstanding the allowance to reduce the frequency of reporting for periodic startup, shutdown, and malfunction reports under paragraph (d)(5)(i) of this section, any time an action taken by an owner or operator during a startup, shutdown, or malfunction (including actions taken to correct a malfunction) is not consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, the owner or operator shall report the actions taken for that event within 2 working days after commencing actions inconsistent with the plan followed by a letter within 7 working days after the end of the event. The immediate report required under this paragraph shall consist of a telephone call (or facsimile (FAX) transmission) to the Administrator within 2 working days after commencing actions inconsistent with the plan, and it shall be followed by a letter, delivered or postmarked within 7 working days after the end of the event, that contains the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy, explaining the circumstances of the event, the reasons for not following the startup, shutdown, and malfunction plan, and whether any excess emissions and/or parameter monitoring exceedances are believed to have occurred. Notwithstanding the requirements of the previous sentence, after the effective date of an approved permit program in the State in which an affected source is located, the owner or operator may make alternative reporting arrangements, in advance, with the permitting authority in that State. Procedures governing the arrangement of alternative reporting requirements under this paragraph are specified in § 63.9(i).

(e) *Additional reporting requirements for sources with continuous monitoring systems* -

(1) *General.* When more than one CEMS is used to measure the emissions from one affected source (e.g., multiple breechings, multiple outlets), the owner or operator shall report the results as required for each CEMS.

(2) Reporting results of continuous monitoring system performance evaluations.

(i) The owner or operator of an affected source required to install a CMS by a relevant standard shall furnish the Administrator a copy of a written report of the results of the CMS performance evaluation, as required under § 63.8(e), simultaneously with the results of the performance test required under § 63.7, unless otherwise specified in the relevant standard.

(ii) The owner or operator of an affected source using a COMS to determine opacity compliance during any performance test required under § 63.7 and described in § 63.6(d)(6) shall furnish the Administrator two or, upon request, three copies of a written report of the results of the COMS performance evaluation conducted under § 63.8(e). The copies shall be furnished at least 15 calendar days before the performance test required under § 63.7 is conducted.

(3) *Excess emissions and continuous monitoring system performance report and summary report.* **[Exceedances are defined in 40 CFR 63 Subpart LLL.]**

(i) Excess emissions and parameter monitoring exceedances are defined in relevant standards. The owner or operator of an affected source required to install a CMS by a relevant standard shall submit an excess emissions and continuous monitoring system performance report and/or a summary report to the Administrator semiannually, except when -

(A) More frequent reporting is specifically required by a relevant standard;

(B) The Administrator determines on a case-by-case basis that more frequent reporting is necessary to accurately assess the compliance status of the source; or

(C) [Reserved].

(ii) Request to reduce frequency of excess emissions and continuous monitoring system performance reports. Notwithstanding the frequency of reporting requirements specified in paragraph (e)(3)(i) of this section, an owner or operator who is required by a relevant standard to submit excess emissions and continuous monitoring system performance (and summary) reports on a quarterly (or more frequent) basis may reduce the frequency of reporting for that standard to semiannual if the following conditions are met:

(A) For 1 full year (e.g., 4 quarterly or 12 monthly reporting periods) the affected source's excess emissions and continuous monitoring system performance reports continually demonstrate that the source is in compliance with the relevant standard;

(B) The owner or operator continues to comply with all recordkeeping and monitoring requirements specified in this subpart and the relevant standard; and

(C) The Administrator does not object to a reduced frequency of reporting for the affected source, as provided in paragraph (e)(3)(iii) of this section.

(iii) The frequency of reporting of excess emissions and continuous monitoring system performance (and summary) reports required to comply with a relevant standard may be reduced only after the owner or operator notifies the Administrator in writing of his or her intention to make such a change and the Administrator does not object to the intended change. In deciding whether to approve a reduced frequency of reporting, the Administrator may review information concerning the source's entire previous performance history during the 5-year recordkeeping period prior to the intended change, including performance test results, monitoring data, and evaluations of an owner or operator's conformance with operation and maintenance requirements. Such information may be used by the Administrator to make a judgment about the source's potential for noncompliance in the future. If the Administrator disapproves the owner or operator's request to reduce the frequency of reporting, the Administrator will notify the owner or operator in writing within 45 days after receiving notice of the owner or operator's intention. The notification from the Administrator to the owner or operator will specify the grounds on which the disapproval is based. In the absence of a notice of disapproval within 45 days, approval is automatically granted.

(iv) As soon as CMS data indicate that the source is not in compliance with any emission limitation or operating parameter specified in the relevant standard, the frequency of reporting shall revert to the frequency specified in the relevant standard, and the owner or operator shall submit an excess emissions and continuous monitoring system performance (and summary) report for the noncomplying emission points at the next appropriate reporting period following the noncomplying event. After demonstrating ongoing compliance with the relevant standard for another full year, the owner or operator may again request approval from the Administrator to reduce the frequency of reporting for that standard, as provided for in paragraphs (e)(3)(ii) and (e)(3)(iii) of this section.

(v) *Content and submittal dates for excess emissions and monitoring system performance reports.* All excess emissions and monitoring system performance reports and all summary reports, if required, shall be delivered or postmarked by the 30th day following the end of each calendar half or quarter, as appropriate. Written reports of excess emissions or exceedances of process or control system parameters shall include all the information required in paragraphs (c)(5) through (c)(13) of this section, in § 63.8(c)(7) and § 63.8(c)(8), and in the relevant standard, and they shall contain the name, title, and signature of the responsible official who is certifying the accuracy of the report. When no excess emissions or exceedances of a parameter have occurred, or a CMS has not been inoperative, out of control, repaired, or adjusted, such information shall be stated in the report.

(vi) *Summary report.* As required under paragraphs (e)(3)(vii) and (e)(3)(viii) of this section, one summary report shall be submitted for the hazardous air pollutants monitored at each affected

source (unless the relevant standard specifies that more than one summary report is required, e.g., one summary report for each hazardous air pollutant monitored). The summary report shall be entitled "Summary Report - Gaseous and Opacity Excess Emission and Continuous Monitoring System Performance" and shall contain the following information:

(A) The company name and address of the affected source;

(B) An identification of each hazardous air pollutant monitored at the affected source;

(C) The beginning and ending dates of the reporting period;

(D) A brief description of the process units;

(E) The emission and operating parameter limitations specified in the relevant standard(s);

(F) The monitoring equipment manufacturer(s) and model number(s);

(G) The date of the latest CMS certification or audit;

(H) The total operating time of the affected source during the reporting period;

(I) An emission data summary (or similar summary if the owner or operator monitors control system parameters), including the total duration of excess emissions during the reporting period (recorded in minutes for opacity and hours for gases), the total duration of excess emissions expressed as a percent of the total source operating time during that reporting period, and a breakdown of the total duration of excess emissions during the reporting period into those that are due to startup/shutdown, control equipment problems, process problems, other known causes, and other unknown causes;

(J) A CMS performance summary (or similar summary if the owner or operator monitors control system parameters), including the total CMS downtime during the reporting period (recorded in minutes for opacity and hours for gases), the total duration of CMS downtime expressed as a percent of the total source operating time during that reporting period, and a breakdown of the total CMS downtime during the reporting period into periods that are due to monitoring equipment malfunctions, nonmonitoring equipment malfunctions, quality assurance/quality control calibrations, other known causes, and other unknown causes;

(K) A description of any changes in CMS, processes, or controls since the last reporting period;

(L) The name, title, and signature of the responsible official who is certifying the accuracy of the report; and

(M) The date of the report.

(vii) If the total duration of excess emissions or process or control system parameter exceedances for the reporting period is less than 1 percent of the total operating time for the reporting period, and CMS downtime for the reporting period is less than 5 percent of the total operating time for the reporting period, only the summary report shall be submitted, and the full excess emissions and continuous monitoring system performance report need not be submitted unless required by the Administrator.

(viii) If the total duration of excess emissions or process or control system parameter exceedances for the reporting period is 1 percent or greater of the total operating time for the reporting period, or the total CMS downtime for the reporting period is 5 percent or greater of the total operating time for the reporting period, both the summary report and the excess emissions and continuous monitoring system performance report shall be submitted.

(4) Reporting continuous opacity monitoring system data produced during a performance test. The owner or operator of an affected source required to use a COMS shall record the monitoring data

produced during a performance test required under § 63.7 and shall furnish the Administrator a written report of the monitoring results. The report of COMS data shall be submitted simultaneously with the report of the performance test results required in paragraph (d)(2) of this section.

(f) *Waiver of recordkeeping or reporting requirements.*

(1) Until a waiver of a recordkeeping or reporting requirement has been granted by the Administrator under this paragraph, the owner or operator of an affected source remains subject to the requirements of this section.

(2) Recordkeeping or reporting requirements may be waived upon written application to the Administrator if, in the Administrator's judgment, the affected source is achieving the relevant standard(s), or the source is operating under an extension of compliance, or the owner or operator has requested an extension of compliance and the Administrator is still considering that request.

(3) If an application for a waiver of record-keeping or reporting is made, the application shall accompany the request for an extension of compliance under § 63.6(i), any required compliance progress report or compliance status report required under this part (such as under § 63.6(i) and § 63.9(h)) or in the source's title V permit, or an excess emissions and continuous monitoring system performance report required under paragraph (e) of this section, whichever is applicable. The application shall include whatever information the owner or operator considers useful to convince the Administrator that a waiver of recordkeeping or reporting is warranted.

(4) The Administrator will approve or deny a request for a waiver of recordkeeping or reporting requirements under this paragraph when he/she -

(i) Approves or denies an extension of compliance; or

(ii) Makes a determination of compliance following the submission of a required compliance status report or excess emissions and continuous monitoring systems performance report; or

(iii) Makes a determination of suitable progress towards compliance following the submission of a compliance progress report, whichever is applicable.

(5) A waiver of any recordkeeping or reporting requirement granted under this paragraph may be conditioned on other recordkeeping or reporting requirements deemed necessary by the Administrator.

(6) Approval of any waiver granted under this section shall not abrogate the Administrator's authority under the Act or in any way prohibit the Administrator from later canceling the waiver. The cancellation will be made only after notice is given to the owner or operator of the affected source.

40 CFR 63.11 Control device requirements. [Flares not applicable.]

40 CFR 63.12 State authority and delegations.

(a) The provisions of this part shall not be construed in any manner to preclude any State or political subdivision thereof from -

(1) Adopting and enforcing any standard, limitation, prohibition, or other regulation applicable to an affected source subject to the requirements of this part, provided that such standard, limitation, prohibition, or regulation is not less stringent than any requirement applicable to such source established under this part;

(2) Requiring the owner or operator of an affected source to obtain permits, licenses, or approvals prior to initiating construction, reconstruction, modification, or operation of such source; or

(3) Requiring emission reductions in excess of those specified in subpart D of this part as a condition for granting the extension of compliance authorized by section 112(i)(5) of the Act.

(b) (1) Section 112(l) of the Act directs the Administrator to delegate to each State, when appropriate, the authority to implement and enforce standards and other requirements pursuant to section 112 for stationary sources located in that State. Because of the unique nature of radioactive material, delegation of authority to implement and enforce standards that control radionuclides may require separate approval.

(2) Subpart E of this part establishes procedures consistent with section 112(l) for the approval of State rules or programs to implement and enforce applicable Federal rules promulgated under the authority of section 112. Subpart E also establishes procedures for the review and withdrawal of section 112 implementation and enforcement authorities granted through a section 112(l) approval.

(c) All information required to be submitted to the EPA under this part also shall be submitted to the appropriate State agency of any State to which authority has been delegated under section 112(l) of the Act, provided that each specific delegation may exempt sources from a certain Federal or State reporting requirement. The Administrator may permit all or some of the information to be submitted to the appropriate State agency only, instead of to the EPA and the State agency.

40 CFR 63.13 Addresses of State air pollution control agencies and EPA Regional Offices.

(a) All requests, reports, applications, submittals, and other communications to the Administrator pursuant to this part shall be submitted to the appropriate Regional Office of the U.S. Environmental Protection Agency indicated as follows:

EPA Region IV; Director; Air, Pesticides and Toxics, Management Division; 61 Forsyth Street; Atlanta, GA 30303.

(b) All information required to be submitted to the Administrator under this part also shall be submitted to the appropriate State agency of any State to which authority has been delegated under section 112(l) of the Act. The owner or operator of an affected source may contact the appropriate EPA Regional Office for the mailing addresses for those States whose delegation requests have been approved.

(c) If any State requires a submittal that contains all the information required in an application, notification, request, report, statement, or other communication required in this part, an owner or operator may send the appropriate Regional Office of the EPA a copy of that submittal to satisfy the requirements of this part for that communication.

40 CFR 63.14 Incorporations by reference.

(a) The materials listed in this section are incorporated by reference in the corresponding sections noted. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the FEDERAL REGISTER. The materials are available for purchase at the corresponding addresses noted below, and all are available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC, at the Air and Radiation Docket and Information Center, U.S. EPA, 401 M Street, SW., Washington, DC, and at the EPA Library (MD–35), U.S. EPA, Research Triangle Park, North Carolina.

(b) The materials listed below are available for purchase from at least one of the following addresses: American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103; or University Microfilms International, 300 North Zeeb Road, Ann Arbor, Michigan 48106.

(1) ASTM D1946–77, Standard Method for Analysis of Reformed Gas by Gas Chromatography, IBR approved for § 63.11(b)(6).

(2) ASTM D2382–76, Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method), IBR approved for § 63.11(b)(6).

(3) ASTM D2879–83, Standard Test Method for Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, IBR approved for § 63.111 of subpart G of this part.

(4) ASTM D 3695–88, Standard Test Method for Volatile Alcohols in Water by Direct Aqueous-Injection Gas Chromatography, IBR approved for § 63.365(e)(1) of subpart O of this part.

(5) ASTM D 1193–77, Standard Specification for Reagent Water, IBR approved for Method 306, section 4.1.1 and section 4.4.2, of appendix A to part 63.

(6) ASTM D 1331–89, Standard Test Methods for Surface and Interfacial Tension of Solutions of Surface Active Agents, IBR approved for Method 306B, section 2.2, section 3.1, and section 4.2, of appendix A to part 63.

(7) ASTM E 260–91, Standard Practice for Packed Column Gas Chromatography, IBR approved for § 63.750(b)(2) of subpart GG of this part.

(8) ASTM D523–89, Standard Test Method for Specular Gloss, IBR approved for § 63.782.

(9) ASTM D1475–90, Standard Test Method for Density of Paint, Varnish, Lacquer, and Related Products, IBR approved for § 63.788 appendix A.

(10) ASTM D2369–93, Standard Test Method for Volatile Content of Coatings, IBR approved for § 63.788 appendix A.

(11) ASTM D3912–80, Standard Test Method for Chemical Resistance of Coatings Used in Light-Water Nuclear Power Plants, IBR approved for § 63.782.

(12) ASTM D4017–90, Standard Test Method for Water and Paints and Paint Materials by Karl Fischer Method, IBR approved for § 63.788 appendix A.

(13) ASTM D4082–89, Standard Test Method for Effects of Gamma Radiation on Coatings for Use in Light-Water Nuclear Power Plants, IBR approved for § 63.782.

(14) ASTM D4256–89 [reapproved 1994], Standard Test Method for Determination of the Decontaminability of Coatings Used in Light-Water Nuclear Power Plants, IBR approved for § 63.782.

(15) ASTM D3792–91, Standard Test Method for Water Content of Water-Reducible Paints by Direct Injection into a Gas Chromatograph, IBR approved for § 63.788 appendix A.

(16) ASTM D3257–93, Standard Test Methods for Aromatics in Mineral Spirits by Gas Chromatography, IBR approved for § 63.786(b).

(17) ASTM E260–91, Standard Practice for Packed Column Gas Chromatography, IBR approved for § 63.786(b).

(18) ASTM E180–93, Standard Practice for Determining the Precision of ASTM Methods for Analysis and Testing of Industrial Chemicals, IBR approved for § 63.786(b).

(19) ASTM D2879-97, Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, IBR approved for Sec. 63.1251 of subpart GGG of this part.

(c) The materials listed below are available for purchase from the American Petroleum Institute

(API), 1220 L Street, NW., Washington, DC 20005.

(1) API Publication 2517, Evaporative Loss from External Floating-Roof Tanks, Third Edition, February 1989, IBR approved for § 63.111 of subpart G of this part.

(2) API Publication 2518, Evaporative Loss from Fixed-roof Tanks, Second Edition, October 1991, IBR approved for § 63.150(g)(3)(i)(C) of subpart G of this part.

(3) API Manual of Petroleum Measurement Specifications (MPMS) Chapter 19.2, Evaporative Loss From Floating-Roof Tanks (formerly API Publications 2517 and 2519), First Edition, April 1997, IBR approved for Sec. 63.1251 of subpart GGG of this part.

(d) *State and Local Requirements.* The materials listed below are available at the Air and Radiation Docket and Information Center, U.S. EPA, 401 M Street, SW., Washington, DC.

(1) California Regulatory Requirements Applicable to the Air Toxics Program, April 6, 1998, IBR approved for § 63.99(a)(5)(ii) of subpart E of this part.

(2) [Reserved]

40 CFR 63.15 Availability of information and confidentiality.

(a) *Availability of information.*

(1) With the exception of information protected through part 2 of this chapter, all reports, records, and other information collected by the Administrator under this part are available to the public. In addition, a copy of each permit application, compliance plan (including the schedule of compliance), notification of compliance status, excess emissions and continuous monitoring systems performance report, and title V permit is available to the public, consistent with protections recognized in section 503(e) of the Act.

(2) 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.

(b) *Confidentiality.*

(1) If an owner or operator is required to submit information entitled to protection from disclosure under section 114(c) of the Act, the owner or operator may submit such information separately. The requirements of section 114(c) shall apply to such information.

(2) The contents of a title V permit shall not be entitled to protection under section 114(c) of the Act; however, information submitted as part of an application for a title V permit may be entitled to protection from disclosure.

G.1 The terms, conditions, requirements, limitations, and restrictions set forth in this permit are "Permit Conditions" and are binding and enforceable pursuant to Sections 403.161, 403.727, or 403.859 through 403.861, Florida Statutes. 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.

G.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 or exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.

G.3 As provided in Subsections 403.087(6) and 403.722(5), Florida Statutes, the issuance of this permit does not convey and 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 or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in the permit.

G.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.

G.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.

G.6 The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed or 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 or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.

G.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 a reasonable time, access to the premises, where the permitted activity is located or conducted to:

(a) Have access to and copy and records that must be kept under the conditions of the 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.

G.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 non-compliance; and
(b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the non-compliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the non-compliance.

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.

G.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 Sections 403.73 and 403.111, Florida Statutes. Such evidence shall only be used to the extend it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

G.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.

G.11 This permit is transferable only upon Department approval in accordance with Florida Administrative Code Rules 62-4.120 and 62-730.300, 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.

G.12 This permit or a copy thereof shall be kept at the work site of the permitted activity.

G.13 This permit also constitutes:

(a) Determination of Best Available Control Technology (X);
(b) Determination of Prevention of Significant Deterioration (X); and
(c) Compliance with New Source Performance Standards (X).

G.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 instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application or 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 dates analyses were performed;
4. The person responsible for performing the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

G.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 that 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.