Proposed Revisions

to the

Alabama Department of

Environmental Management's

Administrative Code for Division 3 (Air Division)

Public Hearing: March 8, 2017

(Proposed Revisions to Chapters 335-3-1, -3, -4, -8, -10, -11, -14, -15, -16, -19, and Appendix C)

TABLE OF CONTENTS

Volume I

Part A - Legal Notice

Part B - Summary of Reasons Supporting the Revision of the ADEM Administrative Code for Division 3 (Air Division)

Part C - Proposed Revisions to Chapter 335-3-1 (General Provisions)

Part D - Proposed Revisions to Chapter 335-3-3 (Control of Open Burning and Incineration) and State Plan for *Emissions Standards and Compliance Times for Commercial and Industrial Solid Waste Incineration Units*

Part E - Proposed Revisions to Chapter 335-3-4 (Control of Particulate Emissions)

Part F - Proposed Revisions to Chapter 335-3-8 (Control of Nitrogen Oxide Emissions)

Part G - Proposed Revisions to Chapter 335-3-10 (Standards of Performance for New Stationary Sources)

Part H - Proposed Revisions to Chapter 335-3-11 (National Emission Standards for Hazardous Air Pollutants)

Part I- Proposed Revisions to Chapter 335-3-14 (Permits)

Part J - Proposed Revisions to Chapter 335-3-15 (Synthetic Minor Operating Permits)

Part K - Proposed Revisions to Chapter 335-3-16 (Major Source Operating Permits)

Part L - Proposed Revisions to Chapter 335-3-19 (Control of Municipal Solid Waste Landfill Gas Emissions) and *ADEM Plan for the Control of Landfill Gas Emissions at Existing Municipal Solid Waste Landfills*

Part M- Appendix C (EPA Reference Documents for NSPS and NESHAPs)

Volume II

Appendices - *Federal Regulations Incorporated by Reference*

Part A -

Legal Notice

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

350

NOTICE OF PUBLIC HEARING FOR PROPOSED REVISIONS TO DIVISION 3 ADEM ADMINISTRATIVE CODE

Rule	Title
335-3-1-.02	Definitions
335-3-3-.05	Incineration of Commercial and Industrial Solid Waste
335-3-4-.08	Wood Waste Boilers
335-3-8	Control of Nitrogen Oxide Emissions
335-3-10	Standards of Performance for New Stationary Sources
335-3-11	National Emission Standards for Hazardous air Pollutants
335-3-14	Permits
335-3-15-.05	Public Participation
335-3-16-.15	Permit Review by EPA, Affected States and Public
335-3-19	Control of Municipal Solid Waste Landfill Gas Emissions
Appendix C	EPA Regulations Reference Documents for New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants

Notice is hereby given that a hearing before the Department of Environmental Management of the State of Alabama will be held on March 8, 2017, at 10:00 a.m. in the Main Hearing Room at the ADEM – Central Office location at 1400 Coliseum Blvd. in Montgomery, to consider proposed revisions to Division 3 of the ADEM Administrative Code.

The Alabama Department of Environmental Management proposes to amend ADEM Administrative Code Rules 335-3-1-.02, 335-3-3.05, 335-3-4-.08, 335-3-8-.39, 335-3-8-.41, 335-3-8-.42, 335-3-8-.43, 335-3-8-.45, 335-3-8-.46, 335-3-8-.48 through 335-3-8-.53, 335-3-8-.55 through 335-3-8-.63, 335-3-8-.65 through 335-3-8-.70, 335-3-10-.01, 335-3-10-.02, 335-3-10-.03, 335-3-11-.01, 335-3-11-.03, 335-3-11-.06, 335-3-11-.07, 335-3-14-.01, 335-3-14-.04, 335-3-14-.05, 335-3-14-.06, 335-3-15-.05, 335-3-16-.15, 335-3-19-.01 through 335-3-19-.05, and Appendix C. Revisions to the Division 3 Code are being proposed to incorporate by reference changes to the EPA's New Source Performance Standards (NSPS), and National Emissions Standards for Hazardous Air Pollutants (NESHAPs). The definition of volatile organic compounds (VOCs) in Chapter 335-3-1 is also being proposed for revision to be consistent with EPA's revisions. Revisions are being made to Chapter 335-3-8 to incorporate amendments to EPA's Cross State Air Pollution Rules (CSAPR), which updates the NO_x ozone season emission budgets for the electric generating units (EGUs) within the state, and that implement these budgets via modification to the CSAPR NO_x ozone season allowance trading program established under the original CSAPR. Chapters 335-3-14, 335-3-15, and 335-3-16 are being revised to incorporate amendments to EPA public notice regulations. The State Plans to control emissions from Commercial and Industrial Solid Waste Incineration Units (CISWI) and emissions at Existing Municipal Solid Waste Landfills (MSWL) are also being revised. Chapters 335-3-1, 4, 14, 15 and 8 are considered part of the federally-enforceable State Implementation Plan (SIP). Revisions to these Chapters are proposed to be incorporated into Alabama's SIP.

Copies of the proposed rules and Federal Registers are available at a cost of 30 cents per page at each of the office locations listed below. The summary of reasons supporting the revisions are available free of charge. Copies of the proposed rules, the summary of reasons, and the federal register can also be found on the Internet at **www.adem.alabama.gov/newsEvents/PubHearings.cnt** at no cost.

ADEM, Office of General Counsel
Attn: Freida Thomas
1400 Coliseum Boulevard
(P. O. Box 30l463, Zip code 36l30-l463)
Montgomery, AL 36110-2059
(334) 260-4510

ADEM, Birmingham Field Office
Attn: Mary Taylor
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168

ADEM, Decatur Field Office
Attn: Jan Childers
2715 Sandlin Road, SW
Decatur, AL 35603-1333
(256) 353-1713

ADEM, Mobile Field Office
Attn: Jenika Haywood
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400

Southeast Alabama Regional Planning &
Development Commission
462 North Oates, 4th Floor
Dothan, AL 36303

Alabama - Tombigbee Rivers Planning &
Development Commission
Courthouse Annex
107 Broad Street
Camden, AL 36726

East Alabama Regional Planning &
Development Commission
1130 Quintard Avenue
Anniston, AL 36201

The public hearing is being held to receive data, views, and arguments from interested persons regarding the proposed rules. Attendance at the hearing is not necessary to present such data, views, arguments, or comments as the same may be submitted in writing, but must be received by Ronald W. Gore prior to 5:00 p.m. on March 10, 2017.

Written submissions and other inquiries should be directed to: Ronald W. Gore, Chief, Air Division, Alabama Department of Environmental Management, P.O. Box 301463, Montgomery, AL 36130-1463 (street address: 1400 Coliseum Boulevard, Montgomery, AL 36110-2059) or by e-mail at rwg@adem.alabama.gov.

Any person wishing to participate in this hearing who needs special accommodations should contact the Department's Permits and Services Division at (334) 271-7714 at least five working days prior to the hearing.

This notice is hereby given this January 22, 2017, by authority of ADEM.

_____

Lance R. LeFleur, Director

The Department does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in the administration of its programs.

Part B -

Summary of Reasons Supporting the Revision of the ADEM Administrative Code for Division 3 (Air Division)

Summary of Reasons Supporting the Adoption of the Proposed Amendments to the Alabama Department of Environmental Management's Administrative Code for Division 3 (Air Division)

Revisions to the Division 3 Code are being proposed to incorporate by reference changes to the EPA's New Source Performance Standards (NSPS), and National Emissions Standards for Hazardous Air Pollutants (NESHAPs). The definition of Volatile Organic Compound (VOCs) is being proposed for revision. Other changes include revisions to regulations that are a part of the State Plans to control emissions from Commercial and Industrial Solid Waste Incineration Units (CISWI) and emissions at Existing Municipal Solid Waste Landfills. Regulations pertaining EPA's Cross-State Air Pollution Rule (CSAPR) is being proposed for revision. Also, proposed revisions are being made to incorporate amendments to EPA's public notice regulations. Also, changes are being proposed to delete irrelevant standards under the wood waste boiler regulations.

A detailed index of changes is attached with this summary.

Revisions to Chapter 335-3-1

February 25, 2016, 81 FR 9339
40 CFR 51 Subpart F
Air Quality: Revision to the Regulatory Definition of Volatile Organic Compounds - Requirements for t-Butyl Acetate

SUMMARY: The Environmental Protection Agency (EPA) amended the EPA's regulatory definition of volatile organic compounds (VOC) under the Clean Air Act (CAA). The regulatory definition of VOC currently excludes t-butyl acetate (also known as tertiary butyl acetate or TBAC; CAS Number: 540–88–5) for purposes of VOC emissions limitations or VOC content requirements on the basis that it makes a negligible contribution to tropospheric ozone formation. However, the current definition includes TBAC as a VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC. This final action removes the recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements related to the use of TBAC as a VOC.

August 1, 2016, 81 FR 50330
40 CFR 51 Subpart F
Air Quality: Revision to the Regulatory Definition of Volatile Organic Compounds—Exclusion of 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy) Ethane (HFE-347pcf2)

SUMMARY: The Environmental Protection Agency (EPA) revised the regulatory definition of volatile organic compounds (VOC) under the Clean Air Act (CAA). EPA added 1,1,2,2- Tetrafluoro-1-(2,2,2-trifluoroethoxy) ethane (also known as HFE-347pcf2; CAS number 406–78–0) to the list of compounds excluded from the regulatory definition of VOC on the basis that this compound makes a negligible contribution to tropospheric ozone (O3) formation.

Revisions to Chapter 335-3-4

ADEM proposes to delete Rules 335-3-4-.08(3) through (3)(C). The purpose of this revision is because the unit on which these standards applied is no longer in existence.

Revisions to Chapter 335-3-8

ADEM proposes revisions to Rules in Chapter 335-3-8 to incorporate EPA's regulations that update Cross-State Air Pollution Rule (CSAPR) NOx ozone season emission budgets for the electric generating units (EGUs) within the state, and that implement these budgets via modifications to the CSAPR NOX ozone season allowance trading program that was established under the original CSAPR.

October 26, 2016, 81 FR 74504
40 CFR 52
40 CFR 78
40 CFR 97
Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS

SUMMARY: The Environmental Protection Agency (EPA) published the original Cross-State Air Pollution Rule (original CSAPR) on August 8, 2011, to address interstate transport of ozone pollution under the 1997 ozone National Ambient Air Quality Standards (NAAQS) and interstate transport of fine particulate matter (PM2.5) pollution under the 1997 and 2006 PM2.5 NAAQS. The EPA finalized this Cross-State Air Pollution Rule Update (CSAPR Update) to address interstate transport of ozone

pollution with respect to the 2008 ozone NAAQS. This final rule will benefit human health and welfare by reducing groundlevel ozone pollution. In particular, it will reduce ozone season emissions of oxides of nitrogen (NOX) in 22 eastern states that can be transported downwind as NOX or, after transformation in the atmosphere, as ozone, and can negatively affect air quality and public health in downwind areas. For these 22 eastern states, the EPA issued Federal Implementation Plans (FIPs) that generally provide updated CSAPR NOX ozone season emission budgets for the electric generating units (EGUs) within these states, and that implement these budgets via modifications to the CSAPR NOX ozone season allowance trading program that was established under the original CSAPR. The EPA finalized these new or revised FIP requirements only for certain states that have failed to submit an approvable State Implementation Plan (SIP) addressing interstate emission transport for the 2008 ozone NAAQS. The FIPs require affected EGUs in each covered state to reduce emissions to comply with program requirements beginning with the 2017 ozone season (May 1 through September 30). This final rule partially addresses the EPA's obligation under the Clean Air Act to promulgate FIPs to address interstate emission transport for the 2008 ozone NAAQS. In conjunction with other federal and state actions to reduce ozone pollution, these requirements will assist downwind states in the eastern United States with attaining and maintaining the 2008 ozone NAAQS. This CSAPR Update also is intended to address the July 28, 2015, remand by the United States Court of Appeals for the District of Columbia Circuit of certain states' original CSAPR phase 2 ozone season NOX emission budgets. In addition, this rule updates the status of certain states' outstanding interstate ozone transport obligations with respect to the 1997 ozone NAAQS, for which the original CSAPR provided a partial remedy.

Revisions to Chapter 335-3-10

ADEM proposes technical amendments to rules in Chapter 335-3-10.

EPA has set emission standards, notification and testing procedures, and monitoring requirements for a number of individual industrial sources or source categories. Standards of performance are not intended to achieve any specific air quality level. Instead, they are designed to reflect best-demonstrated technology (taking into account costs) for the source in question. New source performance standards apply only to stationary sources that are constructed, modified, or reconstructed after a relevant standard is established. In 1978, EPA published a list assigning priorities to 72 categories of sources for which new standards eventually would be developed. As soon as new standards are promulgated,

facilities planning construction, reconstruction, or modification must comply.

ADEM incorporates by reference, the federal New Source Performance Standards (NSPS) into the Department's regulations concerning Air Pollution found in ADEM Admin. Code div. 335-3. This incorporation allows the EPA to delegate administrative enforcement of these regulations to ADEM.

July 7, 2015, 80 FR 38628
40 CFR 60 Appendices B and F
Performance Specification 18 – Performance Specifications and Test Procedures for Hydrogen Chloride Continuous Emission Monitoring Systems at Stationary Sources

SUMMARY: The Environmental Protection Agency (EPA) finalized performance specifications and test procedures for hydrogen chloride (HCl) continuous emission monitoring systems (CEMS) to provide sources and regulatory agencies with criteria and test procedures for evaluating the acceptability of HCl CEMS. The final performance specification (Performance Specification 18) includes requirements for initial acceptance, including instrument accuracy and stability assessments. EPA also finalized quality assurance (QA) procedures for HCl CEMS used for compliance determination at stationary sources. The QA procedures (Procedure 6) specify the minimum QA requirements necessary for the control and assessment of the quality of CEMS data submitted to the EPA. EPA established consistent requirements for ensuring and assessing the quality of HCl data measured by CEMS. The affected systems are those used for determining compliance with emission standards for HCl on a continuous basis as specified in an applicable permit or regulation. The affected industries and their North American Industry Classification
System (NAICS) codes are listed in the SUPPLEMENTARY INFORMATION section of the final rule.

July 17, 2015, 80 FR 42397
40 CFR 60 Appendix B
Performance Specification 18—Performance specification and Test Procedure for Hydrogen Chloride Continuous Emission Monitoring Systems at Stationary Sources

Correction
EPA made a technical correction to the final rules published on July 7, 2015 (80 FR 38628). On page 38646 in the first column, in the last paragraph, in the sixth line, "+5" should read "±5".

July 27, 2015, 80 FR 44772
40 CFR 60 Subpart F
National Emission Standards for Hazardous Air Pollution for the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants

SUMMARY: EPA finalized amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants. On February 12, 2013, the EPA finalized amendments to the NESHAP and the new source performance standards (NSPS) for the Portland cement industry. Subsequently, the EPA became aware of certain minor technical errors in those amendments, and thus issued a proposal to correct these errors on November 19, 2014 (79 FR 68821). The EPA received 3 comments on the proposal. In response to the comments received and to complete technical corrections, the EPA issued final amendments. In addition, consistent with the U.S. Court of Appeals to the DC Circuit's vacatur of the affirmative defense provisions in the final rule, EPA removed those provisions. These amendments do not affect the pollution reduction or costs associated with these standards.

August 19, 2015, 80 FR 50386
40 CFR 60 Subparts T, U, V, W, and X
Phosphoric Acid Manufacturing and Phosphate Fertilizer Production RTR and Standards of Performance for Phosphate Processing

SUMMARY: EPA finalized the residual risk and technology review conducted for the Phosphoric Acid Manufacturing and Phosphate Fertilizer Production source categories regulated under national emission standards for hazardous air pollutants (NESHAP). EPA finalized an 8-year review of the current new source performance standards (NSPS) for five source categories. EPA addressed Clean Air Act (CAA) provisions

related to emission standards for hazardous air pollutants, review and revision of emission standards, and work practice standards. The amendments to the Phosphoric Acid Manufacturing NESHAP include: Numeric emission limits for previously unregulated mercury (Hg) and total fluoride emissions from calciners; work practice standards for hydrogen fluoride (HF) emissions from previously unregulated gypsum dewatering stacks and cooling ponds; clarifications to the applicability and monitoring requirements to accommodate process equipment and technology changes; removal of the exemptions for startup, shutdown, and malfunction (SSM); adoption of work practice standards for periods of startup and shutdown; and revised recordkeeping and reporting requirements for periods of SSM. The amendments to the Phosphate Fertilizer Production NESHAP include: Clarifications to the applicability and monitoring requirements to accommodate process equipment and technology changes; removal of the exemptions for SSM; adoption of work practice standards for periods of startup and shutdown; and revised recordkeeping and reporting requirements for periods of SSM. The revised NESHAP for Phosphoric Acid Manufacturing facilities will mitigate future increases of Hg emissions from phosphate rock calciners by requiring pollution prevention measures. Further, based on the 8-year review of the current NSPS for these source categories, the EPA determined that no revisions to the numeric emission limits in those rules are warranted.

October 23, 2015, 80 FR 64510
40 CFR 60 Subpart TTTT
Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units

SUMMARY: The Environmental Protection Agency (EPA) finalized new source performance standards (NSPS) under Clean Air Act (CAA) section 111(b) that, for the first time, will establish standards for emissions of carbon dioxide (CO2) for newly constructed, modified, and reconstructed affected fossil fuel-fired electric utility generating units (EGUs). EPA established separate standards of performance for fossil fuel-fired electric utility steam generating units and fossil fuel-fired stationary combustion turbines. EPA also addressed related permitting and reporting issues.

December 1, 2015, 80 FR 75178
40 CFR 60 Subparts J, and Ja
Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards

SUMMARY: EPA finalized the residual risk and technology review conducted for the Petroleum Refinery source categories regulated under national emission standards for hazardous air pollutants (NESHAP) Refinery MACT 1 and Refinery MACT 2. Included are revisions to the Refinery MACT 1 and MACT 2 rules in accordance with provisions regarding establishment of MACT standards. EPA also finalized technical corrections and clarifications for the new source performance standards (NSPS) for petroleum refineries to improve consistency and clarity and address issues related to a 2008 industry petition for reconsideration. Implementation of the rule will result in projected reductions of 5,200 tons per year (tpy) of hazardous air pollutants (HAP) which will reduce cancer risk and chronic health effects.

April 6, 2016, 81 FR 20172
40 CFR 60 Subpart Da
National Emission Standards for Hazardous Air Pollutants From Coal and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units

SUMMARY: EPA finalized the technical corrections that the Environmental Protection Agency (EPA) proposed on February 17, 2015, to correct and clarify certain text of the EPA's regulations regarding "National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial- Institutional Steam Generating Units". EPA also removed the rule provision establishing an affirmative defense for malfunction.

May 19, 2016, 81 FR 31515
40 CFR 60 Subpart Appendices B and F
Technical Amendments to Performance Specification 18 and Procedure 6

SUMMARY: The Environmental Protection Agency (EPA) made several minor technical amendments to the performance specifications and test

procedures for hydrogen chloride (HCl) continuous emission monitoring systems (CEMS). EPA also made several minor amendments to the quality assurance (QA) procedures for HCl CEMS used for compliance determination at stationary sources. The performance specification (Performance Specification 18) and the QA procedures (Procedure 6) were published in the **Federal Register** on July 7, 2015. These amendments make several minor corrections and clarify several aspects of these regulations.

June 3, 2016, 81 FR 35824
40 CFR 60 Subparts A, OOOO, and OOOOa
Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources

SUMMARY: EPA finalized amendments to the current new source performance standards (NSPS) and establishes new standards. Amendments to the current standards will improve implementation of the current NSPS. The new standards for the oil and natural gas source category set standards for both greenhouse gases (GHGs) and volatile organic compounds (VOC). Except for the implementation improvements, and the new standards for GHGs, these requirements do not change the requirements for operations covered by the current standards.

June 23, 2016, 81 FR 40956
40 CFR 60 Subparts CCCC and DDDD (ADEM Admin Code r. 335-3-3-.05)
Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units

SUMMARY: This action sets forth the Environmental Protection Agency's (EPA) final decision on the issues for which it granted reconsideration on January 21, 2015, which pertain to certain aspects of the February 7, 2013, final rule titled "Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units" (CISWI rule). The EPA finalized proposed actions on these four topics: Definition of "continuous emission monitoring system (CEMS) data during startup and shutdown periods;" particulate matter (PM) limit for the waste-burning kiln subcategory; fuel variability factor (FVF) for coal-burning energy recovery units (ERUs); and the definition of "kiln." This action also includes EPA's final decision to deny the requests for reconsideration of all other issues raised in the petitions for reconsideration of the 2013 final commercial and industrial solid waste incineration rule for which EPA did not grant reconsideration.

Rules in 335-3-3-.05 will be revised to reflect EPA's amendments to Subpart DDDD.

June 30, 2016, 81 FR 42542, and July 6, 2016, 81 FR 43950
40 CFR 60 Subparts A, GG, BBB, DDD, III, LLL, NNN, KKKK, OOOO
Standard of Performance for New Stationary Sources

CFR Correction
EPA made technical corrections to standards outlined in 40 CFR 60.

July 7, 2016, 81 FR 44212
40 CFR 60 Subpart IIII
Standards of Performance for Stationary Compression Ignition Internal Combustion Engines

SUMMARY: The Environmental Protection Agency (EPA) finalized amendments to the standards of performance for stationary compression ignition (CI) internal combustion engines to allow manufacturers to design the engines so that operators can temporarily override performance inducements related to the emission control system for stationary CI internal combustion engines. The amendments apply to engines operating during emergency situations where the operation of the engine or equipment is needed to protect human life, and to require compliance with Tier 1 emission standards during such emergencies.

July 13, 2016, 81 FR 45232
40 CFR 60 Subpart Ja
Standards of Performance for Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced after May 14, 2007.

SUMMARY: EPA amended the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Petroleum Refineries in three respects. First, EPA adjusted the compliance date for regulatory requirements that apply at maintenance vents during periods of startup, shutdown, maintenance or inspection for sources constructed or reconstructed on or before June 30, 2014. Second, EPA amended the compliance dates for the regulatory requirements that apply during startup, shutdown, or hot standby for fluid catalytic cracking units (FCCU) and startup and shutdown for sulfur recovery units (SRU) constructed or reconstructed on or before June 30, 2014. Finally, EPA finalized technical corrections and clarifications to the NESHAP and the

New Source Performance Standards (NSPS) for Petroleum Refineries. These amendments were finalized in response to new information submitted after these regulatory requirements were promulgated as part of the residual risk and technology review (RTR) rulemaking, which was published on December 1, 2015.

August 29, 2016, 81 FR 59332
40 CFR 60 Subpart XXX
Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014

SUMMARY: The Environmental Protection Agency (EPA) finalized a new subpart that updates the Standards of Performance for Municipal Solid Waste Landfills. Under section 111 of the Clean Air Act, the EPA must review, and, if appropriate, revise standards of performance at least every 8 years. The EPA's review of the standards for municipal solid waste landfills considered landfills that commence construction, reconstruction, or modification after July 17, 2014. The standards also reflect changes to the population of landfills and an analysis of the timing and methods for reducing emissions. EPA's action will achieve additional reductions in emissions of landfill gas and its components, including methane, by lowering the emissions threshold at which a landfill must install controls. EPA's action also incorporates new data and information received in response to the proposed rulemaking and addresses other regulatory issues including surface emissions monitoring, wellhead monitoring, and the definition of landfill gas treatment system. The new subpart will reduce emissions of landfill gas, which contains both nonmethane organic compounds and methane. Landfills are a significant source of methane, which is a potent greenhouse gas pollutant. These avoided emissions will improve air quality and reduce the potential for public health and welfare effects associated with exposure to landfill gas emissions.

August 30, 2016, 81 FR 59800
40 CFR 60 Subparts A, JJJJ and Appendix A
Revisions to Test Methods, Performance Specifications, and Testing Regulations for Air Emission Sources

SUMMARY: EPA promulgated technical and editorial corrections and revisions to regulations related to source testing of emissions. EPA made corrections and updates to testing provisions, and added newly approved alternatives to existing testing regulations. These revisions will improve the quality of data and provide flexibility in the use of approved

alternative procedures. The revisions do not impose any new substantive requirements on source owners or operators.

Revisions to Chapter 335-3-11

ADEM proposes technical amendments to rules in chapter 335-3-11. These rules will incorporate revisions regulations in 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants (NESHAPS) for Source Categories) and 40 CFR Part 61 (NESHAPS) by reference, into the State regulations.

The Environmental Protection Agency (EPA), in accordance with Section 112 of the Clean Air Act (CAA) as amended in 1990, is required to issue emission standards for all major sources of the 188 listed hazardous air pollutants. On July 16, 1992 [57 FR 31576], the EPA published an initial list of source categories for which air toxics emission standards are to be promulgated. By the year 2000, the EPA was required to develop rules for all of these categories that require maximum achievable reduction in emissions, considering cost and other factors. These rules are generally known as "maximum achievable control technology" (MACT) standards. On December 15, 1995 [60 FR 57346] under Section 112(l)(5) and 40 CFR 63.91, the EPA granted full approval to the State of Alabama for the State's program for receiving delegation of Section 112 standards that are unchanged from Federal rules as promulgated.

This Chapter is periodically updated to incorporate standards for additional source categories as they are promulgated by the EPA.

July 16, 2007, 72 FR 38864
March 26, 2008, 73 FR 15923
40 CFR 63 Subpart OOOOOO
National Emission Standards for Hazardous Air Pollution for Flexible Polyurethane Foam Production and Fabrication Area Sources

ADEM is adopting standards for Flexible Polyurethane Foam Production and Fabrication area sources.

July 27, 2015, 80 FR 44772
40 CFR 63 Subpart LLL
National Emission Standards for Hazardous Air Pollution for the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants

SUMMARY: EPA finalized amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants. On February 12, 2013, the EPA finalized amendments to the NESHAP and the new source performance standards (NSPS) for the Portland cement industry. Subsequently, the EPA became aware of certain minor technical errors in those amendments, and thus issued a proposal to correct these errors on November 19, 2014 (79 FR 68821). The EPA received 3 comments on the proposal. In response to the comments received and to complete technical corrections, the EPA issued final amendments. In addition, consistent with the U.S. Court of Appeals to the DC Circuit's vacatur of the affirmative defense provisions in the final rule, EPA removed those provisions. These amendments do not affect the pollution reduction or costs associated with these standards.

July 29, 2015, 80 FR 45280
40 CFR 63 Subparts DDD and NNN
National Emissions Standards for Hazardous Air Pollutants for Mineral Wool Production and Wool Fiberglass Manufacturing

SUMMARY: EPA finalized the residual risk and technology reviews (RTR) conducted for the Mineral Wool Production and Wool Fiberglass Manufacturing source categories regulated under national emission standards for hazardous air pollutants (NESHAP). EPA established pollutant-specific emissions limits for hazardous air pollutants (HAP) that were previously regulated (under a surrogate) and for HAP that were previously unregulated. EPA finalized first-time generally available control technologies (GACT) standards for gas-fired glass-melting furnaces at wool fiberglass manufacturing facilities that are area sources. EPA also amended regulatory provisions related to emissions during periods of startup, shutdown, and malfunction (SSM); adding requirements for reporting of performance testing through the Electronic Reporting Tool (ERT); and making several minor clarifications and corrections. The revisions increase the level of emissions control and

environmental protection provided by the Mineral Wool Production and Wool Fiberglass Manufacturing NESHAP.

August 19, 2015, 80 FR 50386
40 CFR 63 Subparts A, AA, and BB
Phosphoric Acid Manufacturing and Phosphate Fertilizer Production RTR and Standards of Performance for Phosphate Processing

SUMMARY: EPA finalized the residual risk and technology review conducted for the Phosphoric Acid Manufacturing and Phosphate Fertilizer Production source categories regulated under national emission standards for hazardous air pollutants (NESHAP). EPA's action finalized an 8-year review of the current new source performance standards (NSPS) for five source categories. EPA also addressed Clean Air Act (CAA) provisions related to emission standards for hazardous air pollutants, review and revision of emission standards, and work practice standards. The amendments to the Phosphoric Acid Manufacturing NESHAP include: Numeric emission limits for previously unregulated mercury (Hg) and total fluoride emissions from calciners; work practice standards for hydrogen fluoride (HF) emissions from previously unregulated gypsum dewatering stacks and cooling ponds; clarifications to the applicability and monitoring requirements to accommodate process equipment and technology changes; removal of the exemptions for startup, shutdown, and malfunction (SSM); adoption of work practice standards for periods of startup and shutdown; and revised recordkeeping and reporting requirements for periods of SSM. The amendments to the Phosphate Fertilizer Production NESHAP include: Clarifications to the applicability and monitoring requirements to accommodate process equipment and technology changes; removal of the exemptions for SSM; adoption of work practice standards for periods of startup and shutdown; and revised recordkeeping and reporting requirements for periods of SSM. The revised NESHAP for Phosphoric Acid Manufacturing facilities will mitigate future increases of Hg emissions from phosphate rock calciners by requiring pollution prevention measures. Further, based on the 8-year review of the current NSPS for these source categories, the EPA determined that no revisions to the numeric emission limits in those rules are warranted.

September 11, 2015, 80 FR 54728
40 CFR 63 Subpart, LLL
National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants

SUMMARY: The Environmental Protection Agency (EPA) published a final rule in the **Federal Register** on July 27, 2015, titled National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants. EPA made technical corrections and clarifications to the regulations published in that final rule. The rule also included a provision describing performance testing requirements when a source demonstrates compliance with the hydrochloric acid (HCl) emissions standard using a continuous emissions monitoring system (CEMS) for sulfur dioxide measurement and reporting.

September 18, 2015, 80 FR 56700
40 CFR 63 Subparts A and RRR
National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

SUMMARY: EPA finalized the residual risk and technology review (RTR), and the rule review, EPA conducted for the Secondary Aluminum Production source category regulated under national emission standards for hazardous air pollutants (NESHAP). EPA finalized several amendments to the NESHAP based on the rule review. These final amendments include a requirement to report performance testing through the Electronic Reporting Tool (ERT); provisions allowing owners and operators to change furnace classifications; requirements to account for unmeasured emissions during compliance testing for group 1 furnaces that do not have add-on control devices; alternative compliance options for the operating and monitoring requirements for sweat furnaces; compliance provisions for hydrogen fluoride; provisions addressing emissions during periods of startup, shutdown, and malfunction (SSM); and other corrections and clarifications to the applicability, definitions, operating, monitoring and performance testing requirements. These amendments will improve the monitoring, compliance and implementation of the rule.

October 26, 2015, 80 FR 65470
40 CFR 63 Subparts JJJJJ and KKKKK
NESHAP for Brick and Structural Clay Products Manufacturing; and NESHAP for Clay Ceramics Manufacturing

SUMMARY: The Environmental Protection Agency (EPA) finalized national emission standards for hazardous air pollutants (NESHAP) for Brick and Structural Clay Products (BSCP) Manufacturing and NESHAP for Clay Ceramics Manufacturing. All major sources in these categories must meet maximum achievable control technology (MACT) standards for mercury (Hg), non-mercury (non-Hg) metal hazardous air pollutants (HAP) (or particulate matter (PM) surrogate) and dioxins/furans (Clay Ceramics only); health-based standards for acid gas HAP; and work practice standards, where applicable. The final rule, which has been informed by input from industry (including small businesses), environmental groups, and other stakeholders, protects air quality and promotes public health by reducing emissions of HAP listed in section 112 of the Clean Air Act (CAA).

November 20, 2015, 80 FR 72790
40 CFR 63 Subpart DDDDD
National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters

SUMMARY: This action sets forth the Environmental Protection Agency's (EPA's) final decision on the issues for which it granted reconsideration on January 21, 2015, that pertain to certain aspects of the January 31, 2013, final amendments to the "National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters" (Boiler MACT). The EPA retained a minimum carbon monoxide (CO) limit of 130 parts per million (ppm) and the particulate matter (PM) continuous parameter monitoring system (CPMS) requirements, consistent with the January 2013 final rule. The EPA made minor changes to the proposed definitions of startup and shutdown and work practices during these periods, based on public comments received. Among other things, this final action addresses a number of technical corrections and clarifications of the rule. These corrections will clarify and improve the implementation of the January 2013 final Boiler MACT, but do not have any effect on the environmental,

energy, or economic impacts associated with the proposed action. This action also includes EPA's final decision to deny the requests for reconsideration with respect to all issues raised in the petitions for reconsideration of the final Boiler MACT for which they did not grant reconsideration.

December 1, 2015, 80 FR 75178
40 CFR 63 Subparts A, Y, CC, UUU, and Appendix A
Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards

SUMMARY: EPA finalized the residual risk and technology review conducted for the Petroleum Refinery source categories regulated under national emission standards for hazardous air pollutants (NESHAP) Refinery MACT 1 and Refinery MACT 2. Included are revisions to the Refinery MACT 1 and MACT 2 rules in accordance with provisions regarding establishment of MACT standards. EPA also finalized technical corrections and clarifications for the new source performance standards (NSPS) for petroleum refineries to improve consistency and clarity and address issues related to a 2008 industry petition for reconsideration. Implementation of this rule will result in projected reductions of 5,200 tons per year (tpy) of hazardous air pollutants (HAP) which will reduce cancer risk and chronic health effects.

December 4, 2015, 80 FR 75817
40 CFR 63 Subpart JJJJJ and KKKKK
NESHAP for Brick and Structural Clay Products Manufacturing; and NESHAP for Clay Ceramics Manufacturing: Correction

SUMMARY: The Environmental Protection Agency (EPA) published a final rule in the **Federal Register** on October 26, 2015, titled NESHAP for Brick and Structural Clay Products Manufacturing; and NESHAP for Clay Ceramics Manufacturing. These amendments make two technical corrections to the published regulation.

December 7, 2015, 80 FR 76152
40 CFR 63 Subpart GG
National Emission Standards for Aerospace Manufacturing and Rework Facilities Risk and Technology Review

SUMMARY: EPA finalized the residual risk and technology review (RTR) and the rule review the Environmental Protection Agency (EPA) conducted for Aerospace Manufacturing and Rework Facilities under the

national emissions standards for hazardous air pollutants (NESHAP). The EPA finalized several amendments to the NESHAP based on the review of these standards. These amendments add limitations to reduce organic and inorganic emissions of hazardous air pollutants (HAP) from specialty coating application operations; remove exemptions for periods of startup, shutdown and malfunction (SSM) so that affected units will be subject to the emission standards at all times; and revise provisions to address recordkeeping and reporting requirements applicable to periods of SSM. These amendments include a requirement to report performance testing through the EPA's Compliance and Emissions Data Reporting Interface (CEDRI). EPA also made clarifications to the applicability, definitions, and compliance demonstration provisions, and other technical corrections.

April 6, 2016, 81 FR 20172
40 CFR 63 Subpart UUUUU
National Emission Standards for Hazardous Air Pollutants From Coal and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units

SUMMARY: EPA finalized the technical corrections that the Environmental Protection Agency (EPA) proposed on February 17, 2015, to correct and clarify certain text of the EPA's regulations regarding "National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial- Institutional Steam Generating Units". EPA also removed the rule provision establishing an affirmative defense for malfunction.

June 13, 2016, 81 FR 38085
40 CFR 63 Subpart RRR
National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

SUMMARY: The Environmental Protection Agency (EPA) amended the National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production (Secondary Aluminum NESHAP). This rule amended the final rule that was published in the Federal Register on September 18, 2015, by correcting inadvertent errors, clarifying rule requirements for initial performance tests and submittal of malfunction reports, providing an additional option for new round top furnaces to

account for unmeasured emissions during compliance testing, and clarifying what constitutes a change in furnace operating mode. The rule also updated Web site addresses for the EPA's Electronic Reporting Tool (ERT) and the Compliance and Emissions Data Reporting Interface (CEDRI). These amendments will help to improve compliance and implementation of the rule.

July 13, 2016, 81 FR 45232
40 CFR 63 Subpart CC, UUU
National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries

SUMMARY: EPA amended the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Petroleum Refineries in three respects. First, EPA adjusted the compliance date for regulatory requirements that apply at maintenance vents during periods of startup, shutdown, maintenance or inspection for sources constructed or reconstructed on or before June 30, 2014. Second, EPA amended the compliance dates for the regulatory requirements that apply during startup, shutdown, or hot standby for fluid catalytic cracking units (FCCU) and startup and shutdown for sulfur recovery units (SRU) constructed or reconstructed on or before June 30, 2014. Finally, EPA finalized technical corrections and clarifications to the NESHAP and the New Source Performance Standards (NSPS) for Petroleum Refineries. These amendments were finalized in response to new information submitted after these regulatory requirements were promulgated as part of the residual risk and technology review (RTR) rulemaking, which was published on December 1, 2015. This action will have an insignificant effect on emissions reductions and costs.

July 25, 2016, 81 FR 48356
40 CFR 63 Subpart LLL
National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry

SUMMARY: The Environmental Protection Agency (EPA) amended the National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry. This direct final rule provides, for a period of 1 year, an additional compliance alternative for sources that would otherwise be required to use an HCl CEMS to demonstrate compliance with the HCl emissions limit. This compliance alternative is needed due to the current unavailability of a calibration gas used for quality assurance purposes. This rule also restores regulatory text

requiring the reporting of clinker production and kiln feed rates that were deleted inadvertently.

August 3, 2016, 81 FR 51114
40 CFR 63 Subpart GG
National Emission Standards for Aerospace Manufacturing and Rework Facilities Risk and Technology Review; Clarification

SUMMARY: The Environmental Protection Agency (EPA) amended the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Aerospace Manufacturing and Rework Facilities. EPA clarified the compliance date for the handling and storage of waste.

August 8, 2016, 81 FR 52348
40 CFR 63 Appendix B
Technical Amendments to Performance Specification 18 and Procedure 6

SUMMARY: Because the Environmental Protection Agency (EPA) received adverse comment, the EPA withdrew a portion of the May 19, 2016, direct final rule that made several minor technical amendments to the performance specifications and test procedures for hydrogen chloride (HCl) continuous emission monitoring systems (CEMS). There was an adverse comments related to revisions to Procedure 6 and thus the EPA withdrew the portion of the rule that revised Procedure 6.

August 30, 2016, 81 FR 59800
40 CFR 61 Subpart A and Appendix B, 40 CFR 63 Subpart A and Appendix A
Revision to Test Methods, Performance Specifications, and Testing Regulations for Air Emission Sources

SUMMARY: EPA promulgated technical and editorial corrections and revisions to regulations related to source testing of emissions. EPA made corrections and updates to testing provisions, and added newly approved alternatives to existing testing regulations. These revisions will improve the quality of data and provide flexibility in the use of approved alternative procedures. The revisions do not impose any new substantive requirements on source owners or operators.

Revisions to Chapters 335-3-14, 335-3-15, and 335-3-16

Proposed revisions are being made to Chapters 335-3-14, 335-3-15, and 335-3-16 to incorporate amendments to EPA public notice regulations.

EPA issued a final rule on October 18, 2016 (81 FR 71613) revising its public notice regulations for the New Source Review, title V and Outer Continental Shelf permit programs of the Clean Air Act. It removed the mandatory requirement to provide public notice for draft permits (and certain other program actions) by newspaper publication and instead provides for electronic-notice (e-notice) of these actions. Permitting authorities that implement e-notice also are required to post the draft permit on a website (e-access).

Revisions to Chapter 335-3-19

ADEM proposes changes to its State Plan for the Control of Landfill Gas Emissions at Existing Municipal Solid Waste Landfills.

August 29, 2016, 81 FR 59276
40 CFR 60 Subparts A and Cf
Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills

SUMMARY: The Environmental Protection Agency (EPA) finalized a new subpart that updates the Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills (Emission Guidelines). The EPA reviewed the landfills Emission Guidelines based on changes in the landfills industry since the Emission Guidelines were promulgated in 1996. The EPA's review of the Emission Guidelines for municipal solid waste (MSW) landfills considered landfills that accepted waste after November 8, 1987, and commenced construction, reconstruction, or modification on or before July 17, 2014. Based on this review, the EPA has determined that it is appropriate to revise the Emission Guidelines to reflect changes to the population of landfills and the results of an analysis of the timing and methods for reducing emissions. This action will achieve additional reductions in emissions of landfill gas and its components, including methane, by lowering the emissions threshold at which a landfill must install controls. This action also incorporates new data and information received in response to an advanced notice of proposed rulemaking and a proposed rulemaking and addresses other regulatory issues including

surface emissions monitoring, wellhead monitoring, and the definition of landfill gas treatment system. The revised Emission Guidelines, once implemented through revised state plans or a revised federal plan, will reduce emissions of landfill gas, which contains both nonmethane organic compounds and methane. Landfills are a significant source of methane, which is a potent greenhouse gas pollutant. These avoided emissions will improve air quality and reduce the potential for public health and welfare effects associated with exposure to landfill gas emissions.

ADEM - AIR DIVISION
INDEX OF PROPOSED CHANGES TO DIVISION 3 REGULATIONS

Chapter 335-3-1

Page	Rule	Proposed Changes
1-9	335-3-1-.02(gggg)	Revise the definition of Volatile Organic Compounds (VOCs)

Chapter 335-3-3

Page	Rule	Proposed Changes
3-33	335-3-3-.05	Revise regulations to incorporate EPA's amendments to the Emission Guidelines for Existing Commercial and Industrial Solid Waste Incineration Units.

Chapter 335-3-4

Page	Rule	Proposed Changes
4-11	335-3-4-.08(3)-(3)(c)	Delete rules that no longer apply.

Chapter 335-3-8

Page	Rule	Proposed Changes
8-35 thru 8-53	335-3-8-.39	Incorporate amendments to EPA's Cross State Air Pollution Rules (CSAPR) in relation to NOx emissions.
	335-3-8-.41 thru 335-3-8-.43	
	335-3-8-.45 thru 335-3-8-.46	
	335-3-8-.48 thru 335-3-8-.53	
	335-3-8-.55 thru 335-3-8-.63	

Page	Rule	Proposed Changes
	335-3-8-.65 thru 335-3-8-.70	

Chapter 335-3-10

Page	Rule	Proposed Changes
10-1	335-3-10-.01	Incorporate by reference amendments to 40 CFR 60, Subparts A, Da, F, J, Ja, T, U, V, W, X, GG, BBB, DDD, III, LLL, NNN, CCCC, DDDD, IIII, JJJJ, KKKK, OOOO, OOOOa Adopt by reference Subparts OOOOa, XXX, and TTTT.
10-3	335-3-10-.02	
10-8	335-3-10-.03	Incorporate by reference amendments to 40 CFR 60 Appendices A, B, and F
10-6	335-3-10-.02(76)	Addition of Subpart XXX (Municipal Solid Waste Landfills that commenced Construction, Reconstruction, or Modification after July 17, 2014.
10-6	335-3-10-.02(92)	Reserved
	335-3-10-.02(93)	Reserved
	335-3-10-.02(94)	Reserved
	335-3-10-.02(95)	Reserved
10-8	335-3-10-.02(91)(a)	Addition of Subpart OOOOa (Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction commenced after September 18, 2015)
10-8	335-3-10-.02(96)	Addition of Subpart TTTT (Greenhouse Gas Emissions for Electric Generating Units)

Chapter 335-3-11

Page	Rule	Proposed Changes
11-1	335-3-11-.01	Incorporate by reference amendments to 40 CFR 61, Subpart A and Appendix B 40 CFR 63, Subparts A, Y, AA, BB, CC, GG, DDD, LLL, NNN, UUU, DDDDD, JJJJJ, KKKKK, UUUUU, Appendices A and B. Adopt by reference Subparts JJJJJ, KKKKK, and OOOOOO.
11-2	335-3-11-.03	Incorporate by reference amendments to 40 CFR 61, Subparts A and Appendix B
11-12	335-3-11-.06(113)	Addition of Subpart JJJJJ (NESHAPs for Brick and Structural Clay Productions Manufacturing)
11-12	335-3-11-.06(114)	Addition of Subpart KKKKK (NESHAPs for Clay Ceramics Manufacturing)
11-13	335-3-11-.06(144)	Addition of Subpart OOOOOO (NESHAPs for Flexible Polyurethane Foam Production and Fabrication).
11-15	335-3-11-.07	Incorporate by reference amendments to 40 CFR 63 Appendix A and B.

Chapter 335-3-14

Page	Rule	Proposed Changes
14-4	335-3-14-.01	Revision to incorporate amendments to EPA public notice regulations.
14-44	335-3-14-.04	
14-87	335-3-14-.05	
14-112	335-3-14-.06	

Chapter 335-3-15

Page	Rule	Proposed Changes
15-14	335-3-15-.05	Revision to incorporate amendments to EPA public notice regulations.

Chapter 335-3-16

Page	Rule	Proposed Changes
16-38	335-3-16-.15	Revision to incorporate amendments to EPA public notice regulations.

Chapter 335-3-19

Page	Rule	Proposed Changes
19-1 thru 19-53	335-3-19-.01	Revise regulations to incorporate EPA's revisions to the Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills.
	335-3-19-.02	
	335-3-19-.03	
	335-3-19-.04	
19-53	335-3-19-.05	Make technical corrections.

Appendix C

Appendix C is being revised to reflect changes to Chapter 335-3-10, and 335-3-11.

Part C –

Proposed Revisions to Chapter 335-3-1
(General Provisions)

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AIR DIVISION - AIR POLLUTION CONTROL PROGRAM

CHAPTER 335-3-1
GENERAL PROVISIONS

TABLE OF CONTENTS

335-3-1-.01 Purpose
335-3-1-.02 Definitions
335-3-1-.03 Ambient Air Quality Standards
335-3-1-.04 Monitoring, Records, and Reporting
335-3-1-.05 Sampling and Testing Methods
335-3-1-.06 Compliance Schedule
335-3-1-.07 Maintenance and Malfunctioning of Equipment; Reporting
335-3-1-.08 Prohibition of Air Pollution
335-3-1-.09 Variances
335-3-1-.10 Circumvention
335-3-1-.11 Severability
335-3-1-.12 Bubble Provision
335-3-1-.13 Credible Evidence
335-3-1-.14 Reserved
335-3-1-.15 Emissions Inventory Reporting Requirements
335-3-1-.16 Reserved

335-3-1-.01~~1~~ Purpose. The purpose of these rules and regulations is to protect and enhance the public health and welfare through the development and implementation of coordinated statewide programs for the prevention, abatement and control of air pollution.

Author: Tommy E. Bryan.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: June 22, 1989.
Amended:

335-3-1-.02~~2~~ Definitions.

(1) Meaning of Terms. As used in these rules and regulations, terms shall have the meanings ascribed in this rule.

(a) "Act" shall mean the Alabama Air Pollution Control Act of 1971, Act No. 769, Regular Session, 1971.

(b) "Adjudication" shall mean decisions, orders, decrees, determinations, or rulings by the Commission or its authorized Hearing officers and is specifically

limited to decisions in regard to citations, Sections 17(e) and (f) of the Act, and variances, Section 12 of the Act.

(c) "Adjudication Hearing" shall mean a hearing held before the Commission or its authorized Hearing Officer, pursuant to the issuance of a citation(s), Section 17(e) and (f) of the Act, and variances, Section 12 of the Act, for the purpose of establishing a record and a set of recommendations to provide the basis for an adjudication by the Commission of a contested case.

(d) "Air Contaminant" shall mean any solid, liquid, or gaseous matter, any odor, or any combination thereof, from whatever source.

(e) "Air Pollution" shall mean the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life, or property, or would interfere with the enjoyment of life or property throughout the State and in such territories of the State as shall be affected thereby.

(f) "Air Pollution Emergency" shall mean a situation in which meteorological conditions and/or contaminant levels in the ambient air reach or exceed the levels which may cause imminent and substantial endangerment to health.

(g) "Air Quality Control Region" shall mean jurisdictional areas designated in 40 CFR 81.

(h) "Capture System" shall mean the equipment (including hoods, ducts, fans, etc.) used to contain, capture, or transport a pollutant to a control device.

(i) "Chairman" shall mean the Chairman or, in his absence, the Vice Chairman of the Commission.

(j) "Citation" shall mean a notice sent by the Commission or its authorized agent (to suspected violators of the Act) pursuant to Section 17(e).

(k) "Coating" shall mean a protective, decorative, or functional film applied in a thin layer to a surface substrate.

(l) "Coating Applicator" shall mean an apparatus used to apply a surface coating.

(m) "Coating Line" shall mean one or more apparatus or operations which may include any number or combination of coating applicators, flash-off areas, and ovens wherein a surface coating is applied, dried, and/or cured.

(n) "Commenced" shall mean that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a binding agreement or contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(o) "Commission" shall mean the "Environmental Management Commission".

(p) "Construction" shall mean fabrication, erection, or installation of an affected facility.

(q) "Continuous Vapor Control System" shall mean a vapor control system that treats vapors displaced from tanks during filling on a demand basis without intermediate accumulation.

(r) "Control Device" shall mean any device which has the function of controlling the emissions from a process, fuel-burning, or refuse-burning device and thus reduces the creation of or the emission of air contaminants into the atmosphere, or both.

(s) "Control Regulation" shall mean a legally enforceable emission control strategy.

(t) "Control Strategy" shall mean a collection of various emission standards selected for the different categories of sources.

(u) "County Classification" shall mean the designation Class 1 County or Class 2 County. All facilities, plants, or other installations shall be subject to the restrictions on air pollution emissions specific to the county classification of the county in which they are located.

1. A "Class 2 County" shall mean a county in which:

(i) More than 50 percent of the county population resides in a non-urban place, as defined by the U.S. Department of Commerce Census Bureau for 1970.

(ii) No secondary National Ambient Air Quality Standards are being exceeded, based on 1971 air quality measurements.

2. A "Class 1 County" shall mean a county in which the conditions of either subparagraph 1.(i) or 1.(ii) above or both are not met.

(v) "Day" shall mean a twenty-four (24) hour period beginning at midnight.

(w) "Department" shall mean the Alabama Department of Environmental Management.

(x) "Director" shall mean the Director of the Department of Environmental Management.

(y) "Effluent Water Separator" shall mean any tank, box, sump, or other container in which any volatile organic compound floating on or entrained or contained in water entering such tank, box, sump, or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

(z) "Emission" shall mean a release into the outdoor atmosphere of air contaminants.

(aa) "Employee" shall mean any employee of the Commission or Division.

(bb) "Existing Source" shall mean any source in operation or on which construction has commenced on the date of initial adoption of an applicable rule or regulation; except that any existing source which has undergone modification after the date of initial adoption of an applicable rule or regulation, shall be reclassified and considered a new source.

(cc) "Federal Act" shall mean the Clean Air Act (42 U.S.C. 1857 et seq.) as last amended, and as may hereafter be amended.

(dd) "Flash-Off Area" shall mean the space between the application area and the oven.

(ee) "Fuel-Burning Equipment" shall mean any equipment, device, or contrivance and all appurtenances thereto, including ducts, breechings, fuel-feeding equipment, ash removal equipment, combustion controls, stacks, and chimney, used primarily, but not exclusively, to burn any fuel for the purpose of indirect heating in which the material being heated is not contacted by and adds no substance to the products of combustion.

(ff) "Fugitive Dust" shall mean solid air-borne particulate matter emitted from any source other than a flue or stack.

(gg) "Gasoline" shall mean a petroleum distillate having a Reid vapor pressure of 27.6 kPa (4 psia) or greater and used as a fuel for internal combustion engines.

(hh) "Heat Available" shall mean the aggregate heat content of all fuels whose products of combustion pass through a stack or stacks.

(ii) "Hydrocarbons" shall mean any organic compound of carbon and hydrogen only.

(jj) "Incinerator" shall mean any equipment, device, or contrivance and all appurtenances thereof used for the destruction (by burning) of solid, semi-solid, liquid, or gaseous combustible wastes.

(kk) "Intermediate Vapor Control System" shall mean a vapor control system that employs an intermediate vapor holder to accumulate vapors displaced from tanks during filling. The control device treats the accumulated vapors only during automatically controlled cycles.

(ll) "Loading Rack" shall mean an aggregation or combination of gasoline loading equipment arranged so that all loading outlets in the combination can be connected to a tank truck or trailer parked in a specified loading space.

(mm) "Maximum Process Weight Per Hour" shall mean the equipment manufacturer's or designer's guaranteed maximum (whichever is greater) process weight per hour.

(nn) "Model Year" shall mean the annual production period of new motor vehicles designated by the calendar year in which such period ends, provided that if the manufacturer does not so designate vehicles manufactured by him, the model year with respect to such vehicle shall mean the twelve-month period beginning January 1 of the year specified herein.

(oo) "Modification" shall mean any physical change in, or change in the method of operation of, an affected source which increases the amount of any air contaminant (to which a rule or regulation applies) emitted by such source or which results in the emission of any air contaminant (to which a rule or regulation applies) not previously emitted, except that:

1. Routine maintenance, repair, and replacement shall not be considered physical changes, and

2. The following shall not be considered a change in the method of operation:

(i) An increase in the production rate;

(ii) An increase in hours of operation;

(iii) Use of an alternative fuel or raw material.

(pp) "Motor Vehicle" shall mean every self-propelled device in or upon or by which any person or property is, or may be, transported or drawn upon a public highway.

(qq) "New Source" shall mean any source built or installed on or after the date of initial adoption of an applicable rule or regulation, and any source existing at said stated time which later undergoes modification. Any source moved to another premise involving a change of location after the date of initial adoption of an applicable rule or regulation shall be considered a new source. This definition of new source is not applicable to ADEM Admin. Code rules 335-3-10-.01(3) and 335-3-11-.01(3).

(rr) "Objector" shall mean any person who objects to the granting of a variance pursuant to Section 12(d) of the Act.

(ss) "Odor" shall mean smells or aromas which are unpleasant to persons or which tend to lessen human food and water intake, interfere with sleep, upset appetite, produce irritation of the upper respiratory tract, or cause symptoms or nausea, or which by their inherent chemical or physical nature or method or processing are, or may be, detrimental or dangerous to health. Odor and smell are used interchangeably herein.

(tt) "Opacity" shall mean the degree to which emissions reduce the transmission of light and obscure the view of the background.

(uu) "Open Burning" shall mean the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack, duct, or chimney.

(vv) "Operating Time" shall mean the number of hours per year that a source conducts operations.

(ww) "Organic Material" shall mean a chemical compound of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

(xx) "Oven" shall mean a chamber within which heat is used to bake, cure, polymerize, and/or dry a surface coating.

(yy) "Owner or Operator" shall mean any person who owns, leases, operates, controls, or supervises an affected facility, article, machine, equipment, other contrivance, or source.

(zz) "Particulate Matter" shall mean finely divided material, except uncombined water, which is a liquid or solid at the conditions of the applicable test method.

(aaa) "Party" shall mean the petitioner(s) for variance under Section 12 of the Act, the person(s) objecting to the grant of a variance petition under Section 12 of the Act, the alleged violator in the case of a citation issued pursuant to Section 17(e) of the Act, and the State.

(bbb) "Petitioner" shall mean any person who petitions the Commission pursuant to Section 12 of the Act and in accordance with rule 335-3-1-.09 of the Rules and Regulations.

(ccc) "PM_{10}" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR 50, Appendix J, and designated in accordance with 40 CFR 53, or by an equivalent method designated in accordance with 40 CFR 53.

(ddd) "PM_{10} Emission" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified in 40 CFR.

(eee) "Prime Coat" shall mean the first film of coating applied in a multiple coat operation.

(fff) "Priority Classification" shall mean Air Quality Control Region Pollutant Priority Classifications set forth in 40 CFR 52.

(ggg) "Process" shall mean any action, operation, or treatment of materials, including handling and storage thereof, which may cause discharge of an air contaminant or contaminants into the atmosphere, but excluding fuel burning and refuse burning.

(hhh) "Process Weight" shall mean the total weight in pounds of all materials introduced into any specific process which may cause any discharge into the atmosphere.

(iii) "Process Weight Per Hour" shall mean the total weight of all materials introduced into any specific process that may cause any discharge of particulate matter. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. For a cyclical or batch operation, the process weight per hour will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle. For a continuous operation, the process weight per hour will be derived by dividing the process weight for a typical period of time by that time period.

(jjj) "Refuse" shall mean matter consisting of garbage, rubbish, ashes, street debris, dead animals, abandoned vehicles, industrial wastes, demolition wastes, construction wastes, special wastes, or sewage treatment residue.

(kkk) "Reid Vapor Pressure" shall mean a vapor pressure specification for volatile organic crude oil and volatile nonviscous petroleum liquids except liquid petroleum gases as determined by American Society for Testing and Materials. The pressure approximates the absolute vapor pressure of the liquid.

(lll) "Shutdown" shall mean the cessation of operation of affected source or emission control equipment.

(mmm) "Six-Minute Average" shall be determined by calculating the arithmetic mean of twenty-four (24) consecutive opacity observations, taken at intervals of fifteen (15) seconds.

(nnn) "Smoke" shall mean gas-borne particles resulting from incomplete combustion consisting predominantly, but not exclusively, of carbon, ashes, or other combustible materials.

(ooo) "Soiling Index" shall mean a measure of the soiling properties of total suspended particulates in air determined by drawing a measured volume of air through a known area of Whatman No. 4 filter paper for a measured period of time, expressed as COHs/1,000 linear feet.

(ppp) "Solvent" shall mean organic materials which are liquid at standard conditions and which are used as dissolvers, viscosity reducers, or cleaning agents.

(qqq) "Source" shall mean any building, structure, facility, installation, article, machine, equipment, device, or other contrivance which emits or may emit any air contaminant. Any activity which utilizes abrasives or chemicals for cleaning or any other purpose (such as cleaning the exterior of buildings) which emits air contaminants shall be considered a source.

(rrr) "Stack or Ducts" shall mean any flue, duct, or other contrivance arranged to conduct emissions to the open air.

(sss) "Standard Conditions" shall mean a temperature of 20°C (68°F) and pressure of 760 millimeters of mercury (29.92 inches of mercury).

(ttt) "Startup" shall mean the setting in operation of an affected source for any purpose.

(uuu) "State" shall mean the State of Alabama, the Environmental Management Commission, and the Commission's representatives.

(vvv) "Storage Tank Capacity" shall mean the tank manufacturer's design capacity. Storage tank and storage vessel shall be equivalent in meaning.

(www) "Submerged Fill Pipe" shall mean any fill pipe, the discharge opening of which is entirely submerged when the liquid level is six (6) inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean any fill pipe, of which the top of the discharge opening is not over 18 inches from the bottom of the tank.

(xxx) "Topcoat" shall mean the final film of coating applied in a multiple coat operation.

(yyy) "Total Reduced Sulfur (TRS)" shall mean hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present.

(zzz) "Total suspended particulate" means particulate matter as measured by the method described in 40 CFR 50, Appendix B.

(aaaa) "Transfer Efficiency (TE)" shall mean the efficiency of a surface coating application system to deposit coating solids on a substrate. The transfer efficiency of an application system is determined by dividing the volume of coating solids deposited on a substrate by the total volume of coating solids used.

(bbbb) "True Vapor Pressure" shall mean the equilibrium partial pressure exerted by a stored petroleum liquid at the temperature equal to the highest calendar-month average of the liquid storage temperature as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from External Floating Roof Tanks," 1962, Second Edition, February 1980.

(cccc) "Uncombined Water" shall mean any water droplets or water vapor condensate that does not contain any other solid or liquid particulate matter attached to the water droplets.

(dddd) "Vapor Collection System" shall mean a vapor transport system which uses direct displacement by the liquid loaded to force vapors from the tank into a vapor control system.

(eeee) "Vapor Recovery System" shall mean a system that prevents release to the atmosphere of at least 90 percent by weight of organic compounds in the vapor displaced from a tank during the transfer of gasoline.

(ffff) "Violator" shall mean any person who is issued a citation by the Commission or its authorized agent pursuant to Section 17(e) and (f) of the Act.

(gggg) "Volatile Organic Compounds (VOC)" shall mean any compound of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any such organic compound **other than the following**:

1. Methane;
2. Ethane;
3. Methyl Chloroform (1,1,1 Trichloroethane);
4. Methylene Chloride (Dichloromethane);
5. CFC-11 (Trichlorofluoromethane);
6. CFC-12 (Dichlorodifluoromethane);
7. HCFC-22 (Chlorodifluoromethane);
8. HFC-23 (Trifluoromethane);
9. CFC-114 (1,2-dichloro-1,1,2,2-Tetrafluoroethane);
10. CFC-115 (Chloropentafluoroethane);
11. HCFC-123 (1,1,1-Trifluoro-2,2-dichloroethane);
12. HCFC-124 (2-Chloro-1,1,1,2-tetrafluoroethane);
13. HFC-125 (Pentafluoroethane);
14. HFC-134 (1,1,2,2-Tetrafluoroethane);
15. HFC-134a (1,1,1,2-Tetrafluoroethane);
16. HCFC-141b (1,1-Dichloro-1-fluoroethane);
17. HCFC-142b (1-Chloro-1,1-difluoroethane);
18. HFC-143a (1,1,1-Trifluoroethane);
19. HFC-152a (1,1-Difluoroethane);
20. CFC-113 (1,1,2-Trichloro-1,2,2-Trifluoroethane);
21. Parachlorobenzotrifluoride (PCBTF);
22. Cyclic, branched, or linear completely methylated siloxanes;
23. Acetone;
24. Perchloroethylene (tetrachloroethylene);
25. HCFC-225ca (3,3-dichloro-1,1,1,2,2-pentafluoropropane);

26. HCFC-225cb (1,3-dichloro-1,1,2,2,3-pentafluoropropane);
27. HFC 43-10mee (1,1,1,2,3,4,4,5,5,5-decafluoropentane);
28. HFC-32 (Difluoromethane);
29. HFC-161 (Ethylfluoride);
30. HFC-236fa (1,1,1,3,3,3-Hexafluoropropane);
31. HFC-245ca (1,1,2,2,3-Pentafluoropropane);
32. HFC-245ea (1,1,2,3,3-Pentafluoropropane);
33. HFC-245eb (1,1,1,2,3-Pentafluoropropane);
34. HFC-245fa (1,1,1,3,3-Pentafluoropropane);
35. HFC-236ea (1,1,1,2,3,3-Hexafluoropropane);
36. HFC-365mfc (1,1,1,3,3-Pentaflurorobutane);
37. HCFC-31 (Chlorofluoromethane);
38. HCFC-123a (1,2-Dichloro-1,1,2-trifluoroethane);
39. HCFC-151a (1-Chloro-1-fluoroethane);
40. $C_4F_9OCH_3$ (1,1,1,2,2,3,3,4,4-Nonafluoro-4-methoxybutane);
41. (CF3)2CFCF2OCH3 (2-(Difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane);
42. C4F9OC2H5 (1-Ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane);
43. (CF3)2CFCF2OC2H5 (2-(Ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane);
44. Methyl Acetate;
45. HFE-7000, n-C3F7OCH3, (1,1,1,2,2,3,3,-heptafluoro-3 methoxy-propane;
46. HFE-7500 (3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane;)
47. HFC-227ea (1,1,1,2,3,3,3-heptafluoropropane);
48. methyl formate (HCOOCH3);
49. HFE-7300 (1,1,1,2,2,3,4,5,5,5,-decafluoro-3-methoxy-4-trifluoromethyl-pentane);
50. propylene carbonate;
51. dimethyl carbonate;
52. trans-1,3,3,3-tetrafluoropropene;
53. HFE-134 (HCF_2OCF_2H);
54. HFE-236cal2 ($HCF_2OCF_2OCF_2H$);
55. HFE-338pcc13 ($HCF_2OCF_2CF_2OCF_2H$);
56. H-Galden 1040x or H-Galden ZT130 (or 150 or 180) ($HCF_2OCF_2OCF_2CF_2OCF_2H$);
57. trans 1-chloro-3,3,3-trifluoroprop-1-ene (SolsticeTM 1233zd(E);
58. HFO-1234yf (2,3,3,3-tetrafluoropropene;
59. 2-amino-2-methyl-1-propanol;
60. t-butyl acetate

61. 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy) ethane; and

~~60.~~62. Perfluorocarbon compounds which fall into these classes:

(i) Cyclic, branched, or linear, completely fluorinated alkanes;

(ii) Cyclic, branched, or linear, completely fluorinated ethers with no

Unsaturations;

(iii) Cyclic, branched, or linear, completely fluorinated tertiary

~~Amines~~ amines with no unsaturations; and

(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(2) The heretofore mentioned excluded organic compounds have been determined to have negligible photochemical reactivity by the EPA Administrator. For purposes of determining compliance with emission limits under chapter 335-3-6, VOC shall be measured by the approved test methods contained in chapter 335-3-6. Where such a method also inadvertently measures the heretofore mentioned negligibly photochemical reactive organic compounds with the reactive organic compounds, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emission limit using EPA-approved test methods and procedures.

~~(3) The following compound(s) are VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and shall be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.~~

Author: James W. Cooper and John E. Daniel.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: January 18, 1972.
Amended: Effective Date: September 24, 1974; November 27, 1978; April 3, 1979; June 5, 1979; July 26, 1979; June 16, 1988; September 21, 1989; November 1, 1990; October 24, 1991; November 23, 1995; January 5, 1996; November 21, 1996; September 25, 1997; March 27, 1998; November 19, 1998; September 7, 2000; December 12, 2005; January 22, 2008; March 20, 2010; May 28, 2013; September 24, 2013; November 24, 2015~~.~~; XXXXXX, 2017.

335-3-1-.03~~3~~ Ambient Air Quality Standards.

(1) Primary and Secondary Standards. The National Primary Ambient Air Quality Standards and National Secondary Ambient Air Quality Standards and accompanying appendices of reference methods, set forth in 40 CFR 50, as the

Part D -

Proposed Revisions to Chapter 335-3-3
(Control of Open Burning and Incineration)
and State Plan for *Emissions Standards and Compliance Times for Commercial and Industrial Solid Waste Incineration Units*

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

EMISSIONS STANDARDS AND COMPLIANCE TIMES FOR COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS

PROPOSED PLAN REVISIONS
November ~~2013~~2016

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT EMISSION STANDARDS AND COMPLIANCE TIMES FOR COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS

On December 1, 2000, the USEPA promulgated New Source Performance Standards (NSPS) for commercial and industrial solid waste incineration units (CISWI) and Emission Guidelines for Existing CISWIs. On February 7, 2013 and June 23, 2016, EPA promulgated amendments to these standards and guidelines. The Emission Guidelines (EG) implement §§ 111(d) and 129 of the Clean Air Act (the Act). The EG require a State to submit a plan that will establish emission standards for existing sources when NSPS have been promulgated for a designated pollutant(s). An existing CISWI unit is an incinerator for which construction commenced on or before June 4, 2010; or commenced modification or reconstruction no later than August 7, 2013. The pollutants regulated by the EG include metals (cadmium [Cd], lead [Pb], and mercury [Hg]); particulate matter (PM); acid gases, (sulfur dioxide [SO_2], nitrogen oxides [NOx], and hydrogen chloride [HCl]; organic compounds (dioxins and furans); carbon monoxide (CO); and opacity.

A CISWI unit is defined as any combustion unit located at a commercial or industrial facility that is used to combust solid waste [defined in proposed Rule 335-3-3-.05(1)]. The following units are exempt or are not an incinerator, waste-burning kiln, an energy recovery unit, or a small, remote incinerator:

1. Pathological waste incineration units
2. Burn-off oven
3. Municipal waste combustion units
4. Medical waste incineration units
5. Small power production facilities
6. Cogeneration facilities
7. Hazardous waste combustion units
8. Material recovery units
9. Air curtain incinerators - (See below.)
10. Cyclonic burn barrels
11. Foundry sand thermal reclamation units
12. Soil treatment units
13. Sewage sludge ~~incinerators~~incineration units
14. Chemical recovery units
15. Laboratory analysis units
16. Space heaters

~~16.~~17. Sewage Treatment Plants

~~17.~~18. Other solid waste incineration units

Air curtain CISWI units that burn only 100 percent wood waste, 100 percent clean lumber, or 100 percent mixture of only wood waste, clean lumber, and/or yard waste are only required to meet the provisions of ADEM Admin. Code r. 335-3-3-.05(13). This Rule establishes opacity limitations.

Subpart B of 40 CFR 60 specifies the requirements that the State Plan must contain. The Department's plan provides for proposed regulations that will provide for the incorporation of the EG requirements into the ADEM Administrative Code. The plan demonstrates the Department's determination of the regulated universe, as well as the legal authority for implementing this plan.

CONTENTS OF STATE PLAN

Contents	Reference
Certification that a public hearing was held prior to adoption of the State Plan.	§ 60.23(f)(1)
A list of attendees at the hearing and their affiliation; summary of their presentation and handouts.	§ 60.23(f)(2)
Emission Standards and compliance schedules.	§ 60.24(a)
Test methods and procedures used for determining compliance with the emission standards.	§ 60.24(b)(2)
Legally enforceable increments of progress for facilities to achieve compliance.	§ 60.2540(b) [supercedes § 60.24(e)(1)]
An inventory of all designated facilities, including emission data for the designated pollutants and information related to emissions.	§ 60.25(a)
Provide for monitoring a facility's compliance status as follows:	§ 60.25(b)
1. Legally enforceable procedures for requiring the maintenance of records and periodic reporting to the State for the determination of compliance, and	
2. Periodic inspections and testing	
Information obtained under 60.25(b) shall be correlated with applicable emission standards and made available to the public.	§ 60.25(c)
Show that the State has legal authority to carry out the plan.	§ 60.26

§ 60.23 Adoption and Submittal of State Plans; Public Hearings

The Alabama Administrative Procedures Act (Ala. Code §§ 41-22-1 through 41-22-27, as amended) prescribes the procedures for which all state agencies must adhere when filing revisions or new rules to the Alabama Administrative Code. Per § 60.23(d), a legal notice is placed in the four regional newspapers of the State which describes the notice of the date, time and location of a public hearing. The notice describes the locations in which the material for review is located as well as procedures for obtaining copies. The Department places copies of the material for viewing in its four offices located in Decatur, Birmingham, Montgomery, and Mobile. Material is also available for viewing on the Department's website. Notification and copies of supporting materials are sent to the Regional Administrator and the State's two local air programs; i.e., the City of Huntsville and the Jefferson County Department of Health. The public hearing gives interested parties an opportunity to comment on the agency's proposal; however, it is not necessary for persons to be present at the hearing. Written comments are accepted during the public comment period. Pursuant to § 60.23(f), the State will submit to EPA documentation certifying that proper notice and public participation procedures were followed.

§ 60.24 Emission Standards and Compliance Schedules

The Department proposes to adopt equivalent emission standards and compliance times to the federal Emission Guidelines [40 CFR 60, Subpart DDDD] in the proposed ADEM Admin. Code r. 335-3-3-.05 [**Appendix A**]. The provisions of the EG supercede the provisions of § 60.24(f); therefore, these provisions will not be addressed in this Plan. The requirements of § 60.2665(b)(2) [~~proposed~~ Rule 335-3-3-.05(5)(h)2.(ii)], § 60.2680 [~~proposed~~ Rule 335-3-3-.05(6)(c)], ~~§ 60.2685(b) [proposed Rule 335-3-3-.05(6)(d)1.(ii)],~~ § 60.2710(l) [~~proposed~~ Rule 335-3-3-.05(9)(l)], and § 60.2795(b)~~(1)~~ [~~proposed~~ Rule 335-3-3-.05(11)(hh)] are not delegable to the State. § 60.2665(b)(2) establishes procedures requiring notification to the Administrator when qualified operators are not accessible. § 60.2680 establishes procedures to petition the Administrator for specific operating limits when a control device other than a wet scrubber will be used. ~~§ 60.2685(b) establishes procedures for submitting an affirmative defense report to the Administrator.~~ § 60.2710(l) establishes procedures for submitting a site-specific monitoring plan to the Administrator. § 60.2795(b)~~(1)~~ establishes procedures for submitting results of performance tests, conducted using test methods not listed on the Electronic Reporting Tool (ERT) Web site, to the Administrator.

The affected facilities are otherwise expected to fulfill the requirements of the State's rules. Compliance is expected to occur as expeditiously as practicable after approval of the State plan, but no later than February 7, 2018. Thus, for compliance schedules more than one year following the effective date of State plan approval, the increments of progress would be as follows:

Milestone	Compliance Schedule
1. Submittal of Final Control Plan	Within one year after the effective date of EPA's approval of the State's rules.
2. Final Compliance	December 1, 2005 (For CISWI units that commenced construction on or before November 30, 1999). February 7, 2018 (For CISWI units that commenced construction on or before June 4, 2010).

All existing CISWI subject to this Plan shall operate pursuant to the requirements of the Major Source Operating Permit program under ADEM Admin. Code chap. 335-3-16 no later than December 1, 2003. Owners and operators of Air Curtain Incinerators that burn only 100 percent wood waste, 100 percent clean lumber or 100 percent mixture of only wood waste, clean lumber, and/or yard waste are not required to operate under a Major Source Operating Permit; however, the requirements of proposed Rule 335-3-3-.05(13) apply.

The test methods and procedures for determining compliance are specified in the proposed rules which reference the Methods found in Appendix A of 40 CFR, Part 60. These test methods have been previously incorporated by reference into the ADEM Administrative Code.

§ 60.25 Emission Inventories, Source Surveillance, Reports.

In the February 7, 2013 and June 23, 2016, final amendments for existing CISWI units, EPA established standards for four subcategories of CISWI units: incinerators, small remote incinerators, energy recovery units, and waste burning kilns. The Department determined that four facilities were potentially subject under the new standards. The local programs of the Jefferson County Department of Health and the City of Huntsville were contacted to determine if there were any potentially affected facilities operating within their jurisdiction. There are none operating in Jefferson County or the City of Huntsville. Thus, there are four potentially affected units in the State.

An emission source inventory illustrating the regulated universe and the estimated emissions of the designated pollutants is included (but not limited to) in **Appendix B** of this document. Should another source be discovered subsequent to EPA approval of this Plan, there will be no need to reopen the State Plan.

Compliance status is generally accomplished by providing the following:

1. Legally enforceable procedures for requiring the maintenance of records and periodic reporting to the State for the determination of compliance; and
2. Periodic inspections, and when applicable, testing of designated facilities.

The EG contains provisions for testing, monitoring, reporting, and recordkeeping that fulfill these requirements. The State's proposed Rules adopt these specifications from the EG thus fulfilling the requirements. State plans must include provisions that allow information obtained from testing, monitoring, reporting, and recordkeeping requirements of § 60.25(b) to be made available to the general public. Any emission data must be correlated with applicable emission standards. ADEM Admin. Code r. 335-1-1-.06 (Availability of Records and Information) provides for the public inspection of the Department's records.

States are required under § 60.25(e) and (f) to submit annual progress reports. These reports are to inform the Administrator of the progress in plan enforcement. The first report is due one year after plan approval or promulgation of a plan by EPA. The following is a list of the contents of these reports taken from § 60.25(f):

1. Enforcement actions initiated against a facility during the reporting period;
2. Increments of progress;
3. Identification of facilities that have ceased operation;
4. Emission inventory data for facilities that were not in operation at the time of plan development;
5. Updated information or emission data on facilities; and
6. Copies of technical reports on all performance testing with concurrent process data.

The State must report any enforcement action and any increments of progress made by CISWI such as submittal of a final control plan and achieving final compliance.

The third item is most applicable to emission sources that cease to emit air pollutants upon ceasing operation. The State will identify and report those CISWI that undergo permanent closure. The fourth item does not apply to CISWI affected by the EG since by definition these CISWI were existing during plan development.

The fifth and sixth items are clearly applicable to CISWI. Updated facility information or emission data will be reported. Regarding the sixth item, the EG requires that the initial performance test be conducted pursuant to § 60.8; however, the test must be conducted no later than 180 days after the final compliance date. Copies of technical reports on all performance testing with concurrent process data will be provided in the annual report.

§ 60.26 LEGAL AUTHORITY

The following is a discussion of the State's authority to carry out this plan. Copies of Alabama's statutes referenced herein are found in **Appendix C**. Also, ADEM Admin. Code rs. 335-1-1-.06, 335-3-1-.04, and 335-3-1-.05 are found at the end of Appendix C.

Authority to adopt emission standards and compliance schedules applicable to designated facilities.

The Department is authorized to adopt emission requirements through regulation that are necessary to prevent, abate or control air pollution[1]. See Ala. Code § 22-28-11, as amended. Section 22-28-14 specifically gives the Department the authority to adopt regulations that prescribe emissions standards. That same section generally grants the Department the authority to adopt compliance schedules to implement new or additional standards. Furthermore, § 22-22A-5(10) states that the Department can issue orders citations, notices of violation, licenses, certifications or permits. Consequently, the Department may develop compliance schedules in orders or permits it is authorized to issue. Section 22-22A-5(20) states that the Department may perform any other duty that is necessary to implement and enforce the Environmental Management Act (§ 22-22A-1, et seq.) which incorporates the Alabama Air Pollution Control Act (§ 22-28-1, et seq.).

Authority to enforce applicable laws, regulations, standards, and compliance schedules, and seek injunctive relief.

Section 22-22A-5(12) states that the Department may "enforce all provisions" of the Environmental Management Act (including the Alabama Air Pollution Control Act) including the ability to file legal actions in the name of the Department for that purpose. Furthermore, § 22-22A-5(18) grants the Department the authority to issue administrative orders or initiate legal actions that assess civil penalties for the violation of any rule, regulation or standard promulgated by the Department and for the violation of any order, permit, etc. that has been issued by the Department.

Section 22-22A-5(19) states that the Department may commence a civil action in state circuit court so as to enjoin threatened or continuing violations of the Alabama Air Pollution Control Act or any rule, regulation or standard promulgated by the Department and any provision of any order, permit etc. issued by the Department.

Furthermore, § 22-28-22(a) states that any person who knowingly violates or fails or refuses to comply with the Alabama Air Pollution Control Act or any regulation adopted pursuant thereto or submits false information may be convicted for said violation and be subject to imprisonment and imposition of a fine.

Authority to obtain information necessary to determine whether designated facilities are in compliance with applicable laws, regulations, standards, and compliance schedules, including authority to require recordkeeping and to make inspections and conduct tests of designated facilities.

Section 22-28-18 states that the Department may require owners and operators of air contaminant sources to maintain records and make reports to the Department as it prescribes. See also ADEM Admin. Code r. 335-3-1-.04. Section 22-28-19(b) and ADEM Admin. Code r. 335-3-1-.05 also authorize the Department to conduct tests and

[1] Air pollution is defined in § 22-28-2(1) as follows: "The presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life or property or would interfere with the enjoyment of life or property throughout the state and in such territories of the state as shall be affected thereby." An air contaminant is defined as "any solid, liquid or gaseous matter, and odor or any combination thereof, from whatever source." See § 22-28-2(2).

take samples of air contaminants, etc. from any source.[2] Section 22-28-19(a) states that the Department's inspectors are authorized to enter and inspect any property or premises on, or at, which an air contaminant source is located or being constructed, installed or established at any reasonable time for the purpose of ascertaining the state of compliance with the Alabama Air Pollution Control Act and the regulations adopted pursuant to that Act.

Authority to require owners or operators of designated facilities to install, maintain, and use emission monitoring devices and to make periodic reports to the State on the nature and amounts of emissions from such facilities; also authority for the State to make such data available to the public as reported and as correlated with applicable emissions standards.

The Department is authorized, pursuant to § 22-28-18, to require owners and operators of air contaminant sources to install, use and maintain monitoring equipment as it may prescribe. Furthermore, as stated above, § 22-28-18 gives the Department the authority to require owners and operators of air contaminant sources to maintain records and make reports to the Department as it prescribes. Again, see also ADEM Admin. Code r. 335-3-1-.04.

Section 22-28-20 states that all records, reports or information obtained pursuant to the Alabama Air Pollution Control Act must be available to the public. The only exception to this requirement is if the information in the Department's possession would divulge production or sales figures or methods, processes or productions unique to the particular entity about which the information is requested or would tend to affect adversely the competitive position of the entity by revealing trade secrets. In those instances, the information can be considered confidential by the Department. However, emission data is not subject to the exception and the exception does not apply to federal state or local representatives that request the information for the purpose of administering federal, state or local air pollution control laws.

Authority of the State to permit a local agency to carry out a plan or portion thereof, within the local agency's jurisdiction if the local agency has the legal authority necessary to implement the plan or portion thereof, and that the State is not relieved of its responsibility for carrying out the plan or portion thereof.

Section 22-28-23 specifically authorizes certain local agencies the ability to establish and administer local air pollution control programs. In doing so, those local agencies that elect to establish and administer a local air pollution control program must craft their programs so as to be consistent with, or stricter, than the air pollution control program that is administered by the Department. The afore-referenced statutory provision [specifically § 22-28-23(b)(2)] also affords local programs the same enforcement power for issuing administrative orders with penalties that the Department is authorized to exercise. Finally, the statutory provision also provides that in the event

[2] Source is defined in ADEM Admin. Code r. 335-3-1-.02(qqq) as follows: "[A]ny building, structure, facility, installation, article, machine, equipment, device, or other contrivance which emits or may emit any air contaminant. Any activity which utilizes abrasives or chemicals for cleaning or any other purpose (such as cleaning the exterior of buildings) which emits air contaminants shall be considered a source."

the local program is, or becomes, inadequate, the Department may preempt the local enforcement authority of said program. The local air programs in the Jefferson County Department of Health and the City of Huntsville will be delegated authority to carry out the State's plan upon promulgation of equivalent Rules in their jurisdiction.

APPENDIX A
PROPOSED RULES

335-3-3-.05 Incineration of Commercial and Industrial Solid Waste.

(1) Terms used but not defined in this rule are defined in 40 CFR 60, Subparts A and B, and are incorporated by reference in ADEM Admin. Code chapter 335-3-10. For the purposes of this rule only, the following definitions apply:

(a) "30-day rolling average" means the arithmetic mean of the previous 720 hours of valid operating data. Valid data excludes periods when this unit is not operating. The 720 hours should be consecutive, but not necessarily continuous if operations are intermittent.

(b) "Administrator" means the Administrator of the U.S. Environmental Protection Agency or his/her authorized representative.

(c) "Affirmative defense" means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.

(d) "Agricultural waste" means vegetative agricultural materials such as nut and grain hulls and chaff (e.g., almond, walnut, peanut, rice, and wheat), bagasse, orchard prunings, corn stalks, coffee bean hulls and grounds, and other vegetative waste materials generated as a result of agricultural operations.

(e) "Air curtain incinerator" means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. (Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.)

(f) "Annual heat input" means the heat input for the 12 months preceding the compliance demonstration.

(g) "Auxiliary fuel" means natural gas, liquified petroleum gas, fuel oil, or diesel fuel.

(h) "Average annual heat input rate" means annual heat input divided by the hours of operation for the 12 months preceding the compliance demonstration.

(i) "Bag leak detection system" means an instrument that is capable of monitoring particulate matter loadings in the exhaust of a fabric filter (i.e., baghouse) in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other principle to monitor relative particulate matter loadings.

(j) "Burn-off oven" means any rack reclamation unit, part reclamation unit, or drum reclamation unit. A burn-off oven is not an incinerator, waste-burning kiln, an energy recover unit or a small, remote incinerator under this rule.

(k) "Bypass stack" means a device used for discharging combustion gases to avoid severe damage to the air pollution control device or other equipment.

(l) "Calendar quarter" means three consecutive months (nonoverlapping) beginning on: January 1, April 1, July 1, or October 1.

(m) "Calendar year" means 365 consecutive days starting on January 1 and ending on December 31.

(n) "CEMS data during startup and shutdown" means the following:

1. For incinerators, small remote incinerators~~, and energy recovery units~~: CEMS data collected during the first hours of ~~operation of~~ a CISWI unit startup from a cold start until waste is fed into the unit and the hours of operation following the cessation of waste material being fed to the CISWI unit during a unit shutdown. For each startup event, the length of time that CEMS data may be claimed as being CEMS data during startup must be 48 operating hours or less. For each shutdown event, the length of time that CEMS data may be claimed as being CEMS data during shutdown must be 24 operating hours or less.

2. ~~For waste-burning kilns: CEMS data collected during the periods of kiln operation that do not include normal operations. Startup begins when the kiln's induced fan is turned on and continues until continuous feed is introduced into the kiln, at which time the kiln is in normal operating mode. Shutdown begins when feed to the kiln is halted.~~For energy recovery units: CEMS data collected during the startup or shutdown periods of operation. Startup begins with either the first-ever firing of fuel in a boiler or process heater for the purpose of supplying useful thermal energy (such as steam or heat) for heating, cooling or process purposes, or producing electricity, or the firing of fuel in a boiler or process heater for any purpose after a shutdown event. Startup ends four hours after when the boiler or process heater makes useful thermal energy (such as heat or steam) for heating, cooling, or process purposes, or generates electricity or when no fuel is being fed to the boiler or process heater, whichever is earlier. Shutdown begins when the boiler or process heater no longer makes useful thermal energy (such as heat or steam) for heating, cooling, or process purposes and/or generates electricity or when no fuel is being fed to the boiler or process heater, whichever is earlier. Shutdown ends when the boiler or process heater no longer makes useful thermal energy (such as steam or heat) for heating, cooling, or process purposes and/or generates electricity, and no fuel is being combusted in less;

~~2.~~3. For waste-burning kilns: CEMS data collected during the periods of kiln operation that do not include normal operations. Startup means the time from when a shutdown kiln first begins firing fuel until it begins producing clinker. Startup begins when a shutdown kiln turns on the induced draft fan

and begins firing fuel in the main burner. Startup ends when feed is being continuously introduced into the kiln for a least 120 minutes or when the feed rate exceeds 60 percent of the kiln design limitation rate, whichever occurs first. Shutdown means the cessation of kiln operation. Shutdown begins when feed to the kiln is halted and ends when continuous kiln rotation ceases.

(o) "Chemical recovery unit" means combustion units burning materials to recover chemical constituents or to produce chemical compounds where there is an existing commercial market for such recovered chemical constituents or compounds. A chemical recovery unit is not an incinerator, a waste-burning kiln, an energy recovery unit or a small, remote incinerator under this rule. The following seven types of units are considered chemical recovery units:

1. Units burning only pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery process and reused in the pulping process.

2. Units burning only spent sulfuric acid used to produce virgin sulfuric acid.

3. Units burning only wood or coal feedstock for the production of charcoal.

4. Units burning only manufacturing byproduct streams/residue containing catalyst metals that are reclaimed and reused as catalysts or used to produce commercial grade catalysts.

5. Units burning only coke to produce purified carbon monoxide that is used as an intermediate in the production of other chemical compounds.

6. Units burning only hydrocarbon liquids or solids to produce hydrogen, carbon monoxide, synthesis gas, or other gases for use in other manufacturing processes.

7. Units burning only photographic film to recover silver.

(p) "Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells.

(q) "Clean lumber" means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

(r) "Commercial and industrial solid waste incineration (CISWI) unit" means any distinct operating unit of any commercial or industrial facility that combusts, or has combusted in the preceding 6 months, any solid waste as that term is defined in 40 CFR part 241. If the operating unit burns material other than traditional fuels as defined in §241.2 that have been discarded, and the

owner or operator does not keep and produce records as required by subparagraph (ll)(u) of this rule, the operating unit is a CISWI unit. While not all CISWI units will include all of the following components, a CISWI unit includes, but is not limited to, the solid waste feed system, grate system, flue gas system, waste heat recovery equipment, if any, and bottom ash system. The CISWI unit does not include air pollution control equipment or the stack. The CISWI unit boundary starts at the solid waste hopper (if applicable) and extends through two areas:

1. The combustion unit flue gas system, which ends immediately after the last combustion chamber or after the waste heat recovery equipment, if any; and

2. The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. The CISWI unit includes all ash handling systems connected to the bottom ash handling system.

3. A CISWI unit does not include any of the types of units described in subparagraph (2)(d) of this rule, nor does it include any combustion turbine or reciprocating internal combustion engine.

(s) "Contained gaseous material" means gases that are in a container when that container is combusted.

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

(u) "Continuous monitoring system (CMS)" means the total equipment, required under the emission monitoring sections in applicable rules, used to sample and condition (if applicable), to analyze, and to provide a permanent record of emissions or process parameters. A particulate matter continuous parameter monitoring system (PM CPMS) is a type of CMS.

(v) "Cyclonic burn barrel" means a combustion device for waste materials that is attached to a 55 gallon, open-head drum. The device consists of a lid, which fits onto and encloses the drum, and a blower that forces combustion air into the drum in a cyclonic manner to enhance the mixing of waste material and air. A cyclonic burn barrel is not an incinerator, a waste-burning kiln, an energy recovery unit or a small, remote incinerator under this rule.

(w) "Deviation" means any instance in which an affected source subject to this rule, or an owner or operator of such a source:

1. Fails to meet any requirement or obligation established by this rule, including but not limited to any emission limitation, operating limit, or operator qualification and accessibility requirements;

2. Fails to meet any term or condition that is adopted to implement an applicable requirement in this rule and that is included in the operating permit for any affected source required to obtain such a permit.

(x) "Dioxins/furans" means tetra-through octachlorinated dibenzo-p-dioxins and dibenzofurans.

(y) "Discard" means, for purposes of this rule and 40 CFR 60, Subpart CCCC [ADEM Admin. Code r. 335-3-10-.02(81)], only, burned in an incineration unit without energy recovery.

(z) "Drum reclamation unit" means a unit that burns residues out of drums (e.g., 55 gallon drums) so that the drums can be reused.

(aa) "Dry scrubber" means an add-on air pollution control system that injects dry alkaline sorbent (dry injection) or sprays an alkaline sorbent (spray dryer) to react with and neutralize acid gas in the exhaust stream forming a dry powder material. Sorbent injection systems in fluidized bed boilers and process heaters are included in this definition. A dry scrubber is a dry control system.

(bb) "Energy recovery" means the process of recovering thermal energy from combustion for useful purposes such as steam generation or process heating.

(cc) "Energy recovery unit" means a combustion unit combusting solid waste (as that term is defined by the Administrator in 40 CFR part 241) for energy recovery. Energy recovery units include units that would be considered boilers and process heaters if they did not combust solid waste.

(dd) "Energy recovery unit designed to burn biomass (Biomass)" means an energy recovery unit that burns solid waste, biomass, and non-coal solid materials but less than 10 percent coal, on a heat input basis on an annual average, either alone or in combination with liquid waste, liquid fuel or gaseous fuels.

(ee) "Energy recovery unit designed to burn coal (Coal)" means an energy recovery unit that burns solid waste and at least 10 percent coal on a heat input basis on an annual average, either alone or in combination with liquid waste, liquid fuel or gaseous fuels.

(ff) "Energy recovery unit designed to burn liquid waste materials and gas (Liquid/gas)" means an energy recovery unit that burns a liquid waste with liquid or gaseous fuels not combined with any solid fuel or waste materials.

(gg) "Energy recovery unit designed to burn solid materials (Solids)" includes energy recovery units designed to burn coal and energy recovery units designed to burn biomass.

(hh) "Fabric filter" means an add-on air pollution control device used to capture particulate matter by filtering gas streams through filter media, also known as a baghouse.

(ii) "Foundry sand thermal reclamation unit" means a type of part reclamation unit that removes coatings that are on foundry sand. A foundry sand thermal reclamation unit is not an incinerator, a waste-burning kiln, an energy recovery unit or a small, remote incinerator under this rule.

(jj) "Incinerator" means any furnace used in the process of combusting solid waste (as that term is defined by the Administrator under Resource Conservation and Recovery Act in 40 CFR part 241) for the purpose of reducing the volume of the waste by removing combustible matter. Incinerator designs include single chamber and two-chamber.

(kk) "In-line coal mill" means those coal mills using kiln exhaust gases in their process. Coal mills with a heat source other than the kiln or coal mills using exhaust gases from the clinker cooler alone are not an in-line coal mill.

~~(jj)~~(ll) "In-line kiln/raw mill" means a system in a Portland Cement production process where 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.

~~(kk)~~(mm) "Kiln" means an oven or furnace, including any associated preheater or precalciner devices, in-line raw mills, in-line coal mills or alkali bypass used for processing a substance by burning, firing or drying. Kilns include cement kilns that produce clinker by heating limestone and other materials for subsequent production of Portland Cement. Because the alkali bypass, inline raw mill and inline coal mill are considered an integral part of the kiln, the kiln emissions limits also apply to the exhaust of the alkali bypass, in-line raw mill and in-line coal mill.

~~(ll)~~(nn) "Laboratory analysis unit" means units that burn samples of materials for the purpose of chemical or physical analysis. A laboratory analysis unit is not an incinerator, waste-burning kiln, an energy recovery unit or a small, remote incinerator under this rule.

~~(mm)~~(oo) "Load fraction" means the actual heat input of an energy recovery unit divided by heat input during the performance test that established the minimum sorbent injection rate or minimum activated carbon injection rate, expressed as a fraction (e.g., for 50 percent load the load fraction is 0.5).

~~(nn)~~(pp) "Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable Federal or State standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 [42 U.S.C. 2014(e)(2)].

~~(oo)~~(qq) "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.

~~(pp)~~(rr) "Minimum voltage or amperage" means 90 percent of the lowest test-run average voltage or amperage to the electrostatic precipitator measured during the most recent particulate matter or mercury performance test demonstrating compliance with the applicable emission limits.

~~(qq)~~(ss) "Modification or modified CISWI unit" means a CISWI unit that has been changed later than August 7, 2013, and that meets one of two criteria:

1. The cumulative cost of the changes over the life of the unit exceeds 50 percent of the original cost of building and installing the CISWI unit (not including the cost of land) updated to current costs (current dollars). To determine what systems are within the boundary of the CISWI unit used to calculate these costs, see the definition of CISWI unit.

2. Any physical change in the CISWI unit or change in the method of operating it that increases the amount of any air pollutant emitted for which section 129 or section 111 of the Clean Air Act has established standards.

~~(rr)~~(tt) "Municipal solid waste or municipal-type solid waste" means household, commercial/retail, or institutional waste. Household waste includes material discarded by residential dwellings, hotels, motels, and other similar permanent or temporary housing. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes materials discarded by schools, by hospitals (nonmedical), by nonmanufacturing activities at prisons and government facilities, and other similar establishments or facilities. Household, commercial/retail, and institutional waste does include yard waste and refuse-derived fuel. Household, commercial/retail, and institutional waste does not include used oil; sewage sludge; wood pallets; construction, renovation, and demolition wastes (which include railroad ties and telephone poles); clean wood; industrial process or manufacturing wastes; medical waste; or motor vehicles (including motor vehicle parts or vehicle fluff).

~~(ss)~~(uu) "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

~~(tt)~~(vv) "Operating day" means a 24-hour period between 12:00 midnight and the following midnight during which any amount of solid waste is combusted at any time in the CISWI unit.

~~(uu)~~(ww) "Oxygen analyzer system" means all equipment required to determine the oxygen content of a gas stream and used to monitor oxygen in the boiler or process heater flue gas, boiler/process heater, firebox, or other appropriate location. This definition includes oxygen trim systems and certified oxygen CEMS. The source owner or operator is responsible to install, calibrate, maintain, and operate the oxygen analyzer system in accordance with the manufacturer's recommendations.

~~(vv)~~(xx) "Oxygen trim system" means a system of monitors that is used to maintain excess air at the desired level in a combustion device over its operating range. A typical system consists of a flue gas oxygen and/or carbon monoxide monitor that automatically provides a feedback signal to the combustion air controller or draft controller.

~~(ww)~~(yy) "Part reclamation unit" means a unit that burns coatings off parts (e.g., tools, equipment) so that the parts can be reconditioned and reused.

~~(xx)~~(zz) "Particulate matter" means total particulate matter emitted from CISWI units as measured by Method 5 or Method 29 of 40 CFR 60, Appendix A.

~~(yy)~~(aaa) "Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material, and animal bedding (if applicable).

~~(zz)~~(bbb) "Performance evaluation" means the conduct of relative accuracy testing, calibration error testing, and other measurements used in validating the continuous monitoring system data.

~~(aaa)~~(ccc) "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.

~~(bbb)~~(ddd) "Process change" means any of the following physical or operational changes:

1. A physical change (maintenance activities excluded) to the CISWI unit which may increase the emission rate of any air pollutant to which a standard applies;

2. An operational change to the CISWI unit where a new type of non-hazardous secondary material is being combusted;

3. A physical change (maintenance activities excluded) to the air pollution control devices used to comply with the emission limits for the CISWI unit (e.g., replacing an electrostatic precipitator with a fabric filter);

4. An operational change to the air pollution control devices used to comply with the emission limits for the affected CISWI unit (e.g., change in the sorbent injection rate used for activated carbon injection).

~~(ccc)~~(eee) "Rack reclamation unit" means a unit that burns the coatings off racks used to hold small items for application of a coating. The unit burns the coating overspray off the rack so the rack can be reused.

~~(ddd)~~(fff) Raw mill means a ball or 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.

~~(eee)~~(ggg) "Reconstruction" means rebuilding a CISWI unit and meeting two criteria:

1. The reconstruction begins on or after August 7, 2013.

2. The cumulative cost of the construction over the life of the incineration unit exceeds 50 percent of the original cost of building and installing the CISWI unit (not including land) updated to current costs (current dollars). To determine what systems are within the boundary of the CISWI unit used to calculate these costs, see the definition of CISWI unit.

~~(fff)~~(hhh) "Refuse-derived fuel" means a type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. This includes all classes of refuse-derived fuel including two fuels:

1. Low-density fluff refuse-derived fuel through densified refuse-derived fuel.

2. Pelletized refuse-derived fuel.

~~(ggg)~~(iii) "Responsible Official" means one of the following:

1. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or
(ii) The delegation of authority to such representatives is approved in advance by the Department;
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 rule, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or
4. For affected facilities:
(i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Clean Air Act or the regulations promulgated there under are concerned; or

(ii) The designated representative for any other purposes under 40 CFR Part 60.

~~(hhh)~~(jjj) "Shutdown" means the period of time after all waste has been combusted in the primary chamber.

~~(iii)~~(kkk) "Small, remote incinerator" means an incinerator that combusts solid waste (as that term is defined by the Administrator in 40 CFR part 241) and combusts 3 tons per day or less solid waste and is more than 25 miles driving distance to the nearest municipal solid waste landfill.

~~(jjj)~~(lll) "Soil treatment unit" means a unit that thermally treats petroleum-contaminated soils for the sole purpose of site remediation. A soil treatment unit may be direct-fired or indirect fired. A soil treatment unit is not an incinerator, a waste-burning kiln, an energy recovery unit or a small, remote incinerator under this rule.

~~(kkk)~~(mmm) "Solid waste" (as defined in 40 CFR 241.2) means any garbage, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, agricultural operations, and from community activities, but does not include solid or dissolved material~~s~~ in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. 1342, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

~~(lll)~~(nnn) "Solid waste incineration unit" means a distinct operating unit of any facility which combusts any solid waste (as that term is defined by the Administrator in 40 CFR part 241) material from commercial or industrial establishments or the general public (including single and multiple residences, hotels and motels). Such term does not include incinerators or other units required to have a permit under section 3005 of the Solid Waste Disposal Act. The term "solid waste incineration unit" does not include:

1. Materials recovery facilities (including primary or secondary smelters) which combust waste for the primary purpose of recovering metals;

2. Qualifying small power production facilities, as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. 769(17)(C)), or qualifying cogeneration facilities, as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)), which burn homogeneous waste (such as units which burn tires or used oil, but not including refuse-derived fuel) for the production of electric energy or in the case of qualifying cogeneration facilities which burn homogeneous waste for the production of electric energy and steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating or cooling purposes; or

3. Air curtain incinerators provided that such incinerators only burn wood wastes, yard wastes and clean lumber and that such air curtain incinerators comply with opacity limitations to be established by the Director by rule.

~~(mmm)~~(ooo) "Space heater" means a unit that meets the requirements of 40 CFR 279.23. A space heater is not an incinerator, a waste-burning kiln, an energy recovery unit or a small, remote incinerator under this rule.

~~(nnn)~~(ppp) "Standard conditions, when referring to units of measure", means a temperature of 68 deg. F (20 deg. C) and a pressure of 1 atmosphere (101.3 kilopascals).

~~(ooo)~~(qqq) "Startup period" means the period of time between the activation of the system and the first charge to the unit.

~~(ppp)~~(rrr) "Waste-burning kiln" means a kiln that is heated, in whole or in part, by combusting solid waste (as the term is defined by the Administrator in 40 CFR part 241). Secondary materials used in Portland cement kilns shall not be deemed to be combusted unless they are introduced into the flame zone in the hot end of the kiln or mixed with the precalciner fuel.

~~(qqq)~~(sss) "Wet scrubber" means an add-on air pollution control device that uses an aqueous or alkaline scrubbing liquor to collect particulate matter (including nonvaporous metals and condensed organics) and/or to absorb and neutralize acid gases.

~~(rrr)~~(ttt) "Wood waste" means untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings. Wood waste does not include:

1. Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.

2. Construction, renovation, or demolition wastes.

3. Clean lumber.

(2) Applicability.

(a) Except as provided in subparagraph (b) of this paragraph below, the designated facility to which this rule applies is each individual CISWI that commenced construction on or before June 4, 2010, or commenced modification or reconstruction after June 4, 2010 but no later than August 7, 2013..

(b) If the owner or operator of a CISWI unit makes changes that meet the definition of modification or reconstruction on or after August 7, 2013, the CISWI unit becomes subject to 40 CFR 60, Subpart CCCC [ADEM Admin. Code r. 335-3-10-.02(81)] and this rule no longer applies to that unit.

(c) If the owner or operator of a CISWI unit makes physical or operational changes to an existing CISWI unit primarily to comply this rule, 40 CFR 60, Subpart CCCC [ADEM Admin. Code r. 335-3-10-.02(81)] does not

apply to that unit. Such changes do not qualify as modifications or reconstructions under Subpart CCCC.

(d) The following types of units are exempt from this rule, but some units are required to provide notification. Air curtain incinerators are exempt from the requirements in this rule except for the provisions in paragraph (12), subparagraphs (13)(j) and (13)(l) of this rule:

1. Pathological waste incineration units. Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste as defined in paragraph (1) are not subject to this rule if the two requirements specified in subparagraphs (d)1.(i) and (ii) of this paragraph below are met.

(i) Notify the Director that the unit meets these criteria.

(ii) Keep records on a calendar quarter basis of the weight of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.

2. Reserved.

3. Municipal waste combustion units. Incineration units that are subject to 40 CFR 60, Subpart Ea (Standards of Performance for Municipal Waste Combustors); 40 CFR 60, Subpart Eb (Standards of Performance for Large Municipal Waste Combustors); 40 CFR 60, Subpart Cb (Emission Guidelines and Compliance Time for Large Municipal Combustors); 40 CFR 60, Subpart AAAA (Standards of Performance for Small Municipal Waste Combustion Units); or 40 CFR 60, Subpart BBBB (Emission Guidelines for Small Municipal Waste Combustion Units)

4. Medical waste incineration units. Incineration units regulated under 40 CFR 60, Subpart Ec incorporated by reference in rule 335-3-10-.02(3)(c) (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996) or rule 335-3-3-.04 [Incineration of Hospital/Medical/Infectious Waste].

5. Small power production facilities. Units that meet the three requirements specified in subparagraphs (d)5.(i) through (iii) of this paragraph below.

(i) The unit qualifies as a small power-production facility under Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)).

(ii) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(iii) The owner or operator submit a request to the Director for a determination that the qualifying small power production facility is combusting homogenous waste.

(iv) The owner or operator maintains records specified in subparagraph (ll)(v) of this rule.

6. Cogeneration facilities. Units that meet the three requirements specified in subparagraphs (d)6.(i) through (iii) of this paragraph below.

(i) The unit qualifies as a cogeneration facility under Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)).

(ii) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(iii) The owner or operator submits a request to the Director for a determination that the qualifying cogeneration facility is combusting homogenous waste.

(iv) The owner or operator maintain records specified in subparagraph (ll)(w) of this rule.

7. Hazardous waste combustion units. Units that are required to get a permit under section 3005 of the Solid Waste Disposal Act.

8. Materials recovery units. Units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters.

9. Air curtain incinerators. Air curtain incinerators that burn only the materials listed in subparagraphs (d)9.(i) through (iii) of this paragraph below are only required to meet the requirements under "Air Curtain Incinerators" (paragraph (13) of this rule).

(i) 100 percent wood waste.

(ii) 100 percent clean lumber.

(iii) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

10. Reserved.

11. Reserved.

12. Reserved.

13. Sewage treatment plants. Incineration units regulated under 40 CFR 60, Subpart O as incorporated in rule 335-3-10-.02(15) (Standards of Performance for Sewage Treatment Plants).

14. Reserved.

15. Reserved.

16. Sewage sludge incineration units. Incineration units combusting sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter that are subject to subpart LLLL of 40 CFR 60 as incorporated in rule 335-3-10-.02(90) (Standards of Performance for Sewage Sludge Incineration Units) or subpart MMMM of 40 CFR 60 (Emission Guidelines for Sewage Sludge Incineration Units).

17. Other solid waste incineration units. Incineration units that are subject to subpart EEEE of 40 CFR 60 (Standards of Performance for Other Solid Waste Incineration Units) or subpart FFFF of 40 CFR 60 (Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units).

(3) Increments of Progress.

(a) For owners or operators planning to achieve compliance more than one year following the effective date of EPA's approval of these rules, the two increments of progress specified in subparagraphs (a)1. and 2. of this paragraph below shall be met.

1. Submit a final control plan to the Director no later than one year after the effective date of EPA's approval of these rules.

2. Achieve final compliance no later than December 1, 2005 for CISWI units that commenced construction on or before November 30, 1999, or February 7, 2018 for CISWI units that commenced construction on or before June 4, 2010.

(b) The owner or operator shall submit to the Director, notifications for achieving increments of progress. The notifications shall be postmarked no later than 10 business days after the compliance date for the increment. These notifications shall include the three items specified in subparagraphs (b)1. through 3. of this paragraph below:

1. Notification that the increment of progress has been achieved.

2. Any items required to be submitted with each increment of progress.

3. Signature of the owner or operator of the CISWI unit.

(c) If an owner or operator fails to meet an increment of progress, a notification to the Director shall be submitted and postmarked within 10 business days after the date for that increment of progress in subparagraph (3)(a) above. The owner or operator shall inform the Director that the increment was not met, and reports shall be submitted each subsequent calendar month until the increment of progress is met.

(d) For the control plan increment of progress, the owner or operator shall satisfy the two requirements specified in subparagraphs (d)1. and 2. of this paragraph below.

1. Submit the final control plan that includes the five items described in subparagraphs (d)1.(i) through (v). of this paragraph below.

(i) A description of the devices for air pollution control and process changes that will be used to comply with the emission limitations and other requirements of this rule.

(ii) The type(s) of waste to be burned.

(iii) The maximum design waste burning capacity.

(iv) The anticipated maximum charge rate.

(v) If applicable, the petition for site-specific operating limits under paragraph (6)(c) of this rule.

2. Maintain an onsite copy of the final control plan.

(e) For the final compliance increment of progress, the owner or operator shall complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the affected CISWI unit is brought online, all necessary process changes and air pollution control devices would operate as designed.

(f) Closing and restarting a CISWI unit.

1. If the CISWI unit is closed but will be restarted prior to the final compliance date of December 1, 2005 for CISWI units that commenced construction on or before November 30, 1999, or February 7, 2018 for CISWI units that commenced construction on or before June 4, 2010, the owner or operator shall meet the increments of progress specified in subparagraph (a) of this paragraph.

2. If the CISWI unit is closed but will be restarted after the final compliance date of December 1, 2005 for CISWI units that commenced construction on or before November 30, 1999, or February 7, 2018 for CISWI units that commenced construction on or before June 4, 2010, the owner or operator shall complete emission control retrofits and meet the emission limitations and operating limits on the date the unit restarts operation.

(g) Permanent closure of a CISWI unit. If the owner or operator plans to close the CISWI unit rather than comply with this rule, submit a closure notification, including the date of closure, to the Director within 90 days after EPA approval of these rules.

(4) Waste Management Plan.

(a) A waste management plan is a written plan that identifies both the feasibility and the methods used to reduce or separate certain components of solid waste from the waste stream in order to reduce or eliminate toxic emissions from incinerated waste.

(b) A waste management plan shall be submitted no later than the date specified in subparagraph (3)(a)1. of this rule for submittal of the final control plan.

(c) A waste management plan shall include consideration of the reduction or separation of waste-stream elements such as paper, cardboard, plastics, glass, batteries, or metals; or the use of recyclable materials. The plan shall identify any additional waste management measures, and the source shall implement those measures considered practical and feasible, based on the effectiveness of waste management measures already in place, the costs of additional measures, the emissions reductions expected to be achieved, and any other environmental or energy impacts they might have.

(5) Operator Training and Qualification.

(a) No CISWI unit can be operated unless a fully trained and qualified CISWI unit operator is accessible, either at the facility or can be at the facility within 1 hour. The trained and qualified CISWI unit operator may operate the CISWI unit directly or be the direct supervisor of one or more other plant personnel who operate the unit. If all qualified CISWI unit operators are temporarily not accessible, the procedures in subparagraph (h) of this paragraph below shall be followed.

(b) Operator training and qualification shall be obtained through a State-approved program that meets the requirements included in subparagraph (c) of this paragraph below. Qualification is valid from the date on which the training course is completed and the operator successfully passes the examination required under subparagraph (c)2. of this paragraph below.

(c) Training shall be obtained by completing an incinerator operator training course that includes, at a minimum, the three elements described in subparagraphs (c)1. through 3. of this paragraph below.

1. Training on the eleven subjects listed in subparagraphs (c)1.(i) through (xi) of this paragraph below.

(i) Environmental concerns, including types of emissions.

(ii) Basic combustion principles, including products of combustion.

(iii) Operation of the specific type of incinerator to be used by the operator, including proper startup, waste charging, and shutdown procedures.

(iv) Combustion controls and monitoring.

(v) Operation of air pollution control equipment and factors affecting performance (if applicable).

(vi) Inspection and maintenance of the incinerator and air pollution control devices.

(vii) Actions to prevent and correct malfunctions or to prevent conditions that may lead to malfunction.

(viii) Bottom and fly ash characteristics and handling procedures.

(ix) Applicable Federal, State, and local regulations, including Occupational Safety and Health Administration workplace standards.

(x) Pollution prevention.

(xi) Waste management practices.

2. An examination designed and administered by the instructor.

3. Written material covering the training course topics that can serve as reference material following completion of the course.

(d) The operator training course shall be completed by the later of the three dates specified in subparagraphs (d)1. through 3. of this paragraph below.

1. The final compliance date of December 1, 2005 for CISWI units that commenced construction on or before November 30, 1999, or February 7, 2018 for CISWI units that commenced construction on or before June 4, 2010.

2. Six months after CISWI unit startup.

3. Six months after an employee assumes responsibility for operating the CISWI unit or assumes responsibility for supervising the operation of the CISWI unit.

(e) To maintain qualification, the operator shall complete an annual review or refresher course covering, at a minimum, the five topics described in subparagraphs (e)1. through 5. of this paragraph below.

1. Update of regulations.

2. Incinerator operation, including startup and shutdown procedures, waste charging, and ash handling.

3. Inspection and maintenance.

4. Prevention and correction of malfunctions or conditions that may lead to malfunction.

5. Discussion of operating problems encountered by attendees.

(f) A lapsed operator qualification shall be renewed by one of the two methods specified in subparagraphs (f)1. and 2. of this paragraph below.

1. For a lapse of less than 3 years, the operator shall complete a standard annual refresher course described in subparagraph (e) of this paragraph above.

2. For a lapse of 3 years or more, the operator shall repeat the initial qualification requirements in subparagraphs (b) and (c) of this paragraph above.

(g) Requirements for site specific documentation.

1. Site specific documentation shall be available at the facility and readily accessible for all CISWI unit operators that addresses the ten topics described in subparagraphs (g)1.(i) through (x) of this paragraph below. The owner or operator shall maintain this information and the training records required by subparagraph (g)3. of this paragraph below in a manner that they can be readily accessed and are suitable for inspection upon request.

(i) Summary of the applicable standards under this rule.

(ii) Procedures for receiving, handling, and charging waste.

(iii) Incinerator startup, shutdown, and malfunction procedures.

(iv) Procedures for maintaining proper combustion air supply levels.

(v) Procedures for operating the incinerator and associated air pollution control systems within the standards established under this rule.

(vi) Monitoring procedures for demonstrating compliance with the incinerator operating limits.

(vii) Reporting and recordkeeping procedures.

(viii) The waste management plan required under paragraph (4) of this rule.

(ix) Procedures for handling ash.

(x) A list of the wastes burned during the performance test.

2. The owner or operator shall establish a program for reviewing the information listed in subparagraph (g)1. of this paragraph above with each incinerator operator.

(i) The initial review of the information listed in subparagraph (g)1. of this paragraph shall be conducted by the later of the three dates specified in subparagraphs (g)2.(i)(I) through (III) of this paragraph below.

(I) The final compliance date of December 1, 2005 for CISWI units that commenced construction on or before November 30, 1999, or February 7, 2018 for CISWI units that commenced construction on or before June 4, 2010.

(II) Six months after CISWI unit startup.

(III) Six months after being assigned to operate the CISWI unit.

(ii) Subsequent annual reviews of the information listed in subparagraph (g)1. of this paragraph shall be conducted no later than 12 months following the previous review.

3. The owner or operator shall also maintain the information specified in subparagraphs (g)3.(i) through (iii) below.

(i) Records showing the names of CISWI unit operators who have completed review of the information in subparagraph (g)1. of this paragraph above as required by subparagraph (g)2. of this paragraph, including the date of the initial review and all subsequent annual reviews.

(ii) Records showing the names of the CISWI operators who have completed the operator training requirements under this paragraph, met the criteria for qualification under subparagraphs (a), (b) and (c) of this paragraph, and maintained or renewed their qualification under subparagraphs (e) or (f) of this paragraph, respectively. Records shall include documentation of training, the dates of the initial refresher training, and the dates of their qualification and all subsequent renewals of such qualifications.

(iii) For each qualified operator, the phone and/or pager number at which they can be reached during operating hours.

(h) If all qualified operators are temporarily not accessible (i.e., not at the facility and not able to be at the facility within 1 hour), the owner or operator shall meet one of the two criteria specified in subparagraphs (h)1. and 2. of this paragraph below, depending on the length of time that a qualified operator is not accessible.

1. When all qualified operators are not accessible for more than 8 hours, but less than 2 weeks, the CISWI unit may be operated by other plant personnel familiar with the operation of the CISWI unit who have completed a review of the information specified in subparagraph (g)1. of this paragraph within the past 12 months. However, the period when all qualified operators were not accessible shall be recorded and this deviation included in the annual report as specified under paragraph (11) of this rule.

2. When all qualified operators are not accessible for 2 weeks or more, the two actions that are described in subparagraphs (h)2.(i) and (ii) of this paragraph below shall be taken.

(i) Notify the Director of this deviation in writing within 10 days. In the notice, state what caused this deviation, what actions are being taken to ensure that a qualified operator is accessible, and when it is expected that a qualified operator will be accessible.

(ii) Submit a status report to the Administrator every 4 weeks outlining what actions are being taken to ensure that a qualified operator is accessible, stating when it is expected that a qualified operator will be accessible and requesting approval from the Administrator to continue operation of the CISWI unit. The first status report shall be submitted 4 weeks after notification to the Director of the deviation under subparagraph (h)2.(i). If the Administrator notifies the owner or operator that the request to continue operation of the CISWI unit is disapproved, the CISWI unit may continue operation for 90 days, then shall cease operation. Operation of the unit may resume if the two requirements in subparagraphs (h)2.(ii)(I) and (II) of this paragraph below are met.

(I) A qualified operator is accessible as required under subparagraph (a) of this paragraph.

(II) The owner or operator notifies the Administrator that a qualified operator is accessible and operation is resuming.

(6) Emission Limitations and Operating Limits.

(a) The owner or operator shall meet the emission limitations for each CISWI unit, including bypass stack or vent, specified in Table 1 of this rule or tables 5 through 8 of this rule by the final compliance date of December 1, 2005 for CISWI units that commenced construction on or before November 30, 1999, or February 7, 2018 for CISWI units that commenced construction on or before June 4, 2010, as applicable. The emission limitations apply at all times the unit is operating including and not limited to startup, shutdown, or malfunction.

1. Units that do not use wet scrubbers shall maintain opacity to less than equal to the percent opacity (three 1-hour blocks consisting of ten 6-minute average opacity values) specified in table 1 of this rule, as applicable.

(b) Timelines for Operating Limits.

1. If a wet scrubber(s) is used to comply with the emission limitations, the owner or operator shall establish operating limits for up to four operating parameters (as specified in Table 2 of this rule) as described in subparagraphs (b)1.(i) through (iv) of this paragraph during the initial performance test.

(i) Maximum charge rate, calculated using one of the two different procedures in subparagraph (b)1.(i)(I) or (II) of this paragraph, as appropriate.

(I) For continuous and intermittent units, maximum charge rate is 110 percent of the average charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(II) For batch units, maximum charge rate is 110 percent of the daily charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(ii) Minimum pressure drop across the wet particulate matter scrubber, which is calculated as lowest 1-hour average pressure drop across the wet scrubber measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations; or minimum amperage to the wet scrubber, which is calculated as the lowest 1-hour average amperage to the wet scrubber measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations.

(iii) Minimum scrubber liquid flow rate, which is calculated as the lowest 1-hour average liquid flow rate at the inlet to the wet acid gas or particulate matter scrubber measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(iv) Minimum scrubber liquor pH, which is calculated as the lowest 1-hour average liquor pH at the inlet to the wet acid gas scrubber measured during the most recent performance test demonstrating compliance with the HCl emission limitation.

2. The owner or operator shall meet the operating limits established during the initial performance test on the date the initial performance test is required or completed (whichever is earlier). The owner or operator shall conduct an initial performance evaluation of each continuous monitoring system and continuous parameter monitoring system within 60 days of installation of the monitoring system.

3. If the owner or operator uses a fabric filter to comply with the emission limitations, each fabric filter system shall be operated such that the bag leak detection system alarm does not sound more than 5 percent of the operating time during a 6-month period. In calculating this operating time percentage, if inspection of the fabric filter demonstrates that no corrective action is required, no alarm time is counted. If corrective action is required, each alarm shall be counted as a minimum of 1 hour. If the owner or operator takes longer than 1 hour to initiate corrective action, the alarm time shall be counted as the actual amount of time taken by the owner or operator to initiate corrective action.

4. If the owner or operator uses an electrostatic precipitator to comply with the emission limitations, the owner or operator shall measure the (secondary) voltage and amperage of the electrostatic precipitator collection plates during the particulate matter performance test. Calculate the average electric power value (secondary voltage x secondary current = secondary electric power) for each test run. The operating limit for the electrostatic precipitator is calculated as the lowest 1-hour average secondary electric power measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations.

5. If the owner or operator uses an activated carbon sorbent injection to comply with the emission limitations, the owner or operator shall measure the sorbent flow rate during the performance testing. The operating limit for the carbon sorbent injection is calculated as the lowest 1-hour average sorbent flow rate measured during the most recent performance test demonstrating compliance with the mercury emission limitations. For energy recovery units, when the unit operates at lower loads, multiply the sorbent injection rate by the load fraction, as defined in this rule, to determine the required injection rate (e.g., for 50 percent load, multiply the injection rate operating limit by 0.5).

6. If the owner or operator uses selective noncatalytic reduction to comply with the emission limitations, the owner or operator shall measure the charge rate, the secondary chamber temperature (if applicable to the CISWI unit), and the reagent flow rate during the nitrogen oxides performance testing. The operating limits for the selective noncatalytic reduction are calculated as the highest 1-hour average charge rate, lowest secondary chamber temperature, and lowest reagent flow rate measured during the most recent performance test demonstrating compliance with the nitrogen oxides emission limitations.

7. If the owner or operator uses a dry scrubber to comply with the emission limitations, the owner or operator shall measure the injection rate of each sorbent during the performance testing. The operating limit for the injection rate of each sorbent is calculated as the lowest 1-hour average injection rate of each sorbent measured during the most recent performance test demonstrating compliance with the hydrogen chloride emission limitations. For energy recovery units, when the unit operates at lower loads, multiply the sorbent injection rate by the load fraction, as defined in this rule, to determine the required injection rate (e.g., for 50 percent load, multiply the injection rate operating limit by 0.5).

8. If the owner or operator does not use a wet scrubber, electrostatic precipitator, or fabric filter to comply with the emission limitation, and if the owner or operator does not determine compliance with the particulate matter emission limitation with a particulate matter CEMS, the owner or operator shall maintain opacity to less than or equal to ten percent opacity (1-hour block average).

9. If the owner or operator uses a PM CPMS to demonstrate compliance, the owner or operator shall establish a PM CPMS operating limit and determine compliance with it according to subparagraphs (b)9.((i) through (v) of this paragraph below.

(i) During the initial performance test or any such subsequent performance test that demonstrates compliance with the PM limit, record all hourly average output values (milliamps) from the PM CPMS for the periods corresponding to the test runs (e.g., three 1-hour average PM CPMS output values for three 1-hour test runs).

(I) The owner or operator's PM CPMS shall provide a 4-20 milliamp output and the establishment of its relationship to manual reference method measurements shall be determined in units of milliamps.

(II) The owner or operator's PM CPMS operating range shall be capable of reading PM concentrations from zero to a level equivalent to at least two times the allowable emission limit. If the owner or operator's PM CPMS is an auto ranging instrument capable of multiple scales, the primary range of the instrument shall be capable of reading PM concentrations from zero to a level equivalent to two times the allowable emission limit.

(III) During the initial performance test or any such subsequent performance test that demonstrates compliance with the PM limit, record and average all milliamp output values from the PM CPMS for the periods corresponding to the compliance test runs (e.g., average all the PM CPMS output values for three corresponding 2-hour Method 51 test runs).

(ii) If the average of the three PM performance test runs are below 75% of the PM emission limit, the owner or operator shall calculate an operating limit by establishing a relationship of PM CPMS signal to PM concentration using the PM CPMS instrument zero, the average PM CPMS values corresponding to the three compliance test runs, and the average PM concentration from the Method

5 or performance test with the procedures in subparagraphs (b)9.(i) through (v) of this paragraph.

(I) Determine the instrument zero output with one of the following procedures:

I. Zero point data for *in-situ* instruments shall be obtained by removing the instrument from the stack and monitoring ambient air on a test bench.

II. Zero point data for extractive instruments shall be obtained by removing the extractive probe from the stack and drawing in clean ambient air.

III. The zero point can also be obtained by performing manual reference method measurements when the flue gas is free of PM emissions or contains very low PM concentrations (e.g., when the process is not operating, but the fans are operating or the source is combusting only natural gas) and plotting these with the compliance data to find the zero intercept.

IV. If none of the steps in subparagraphs (b)9.(ii)(I) through (IV) of this paragraph are possible, the owner or operator shall use a zero output value provided by the manufacturer.

(II) Determine the PM CPMS instrument average in milliamps, and the average of the corresponding three PM compliance test runs, using Equation 1 of this rule:

$$\text{(Eq. 1)} \quad \bar{x} = \frac{1}{n}\sum_{i=1}^{n} X_1 \quad , \quad \bar{y} = \frac{1}{n}\sum_{i=1}^{n} Y_1$$

Where:

X_1 = the PM CPMS data points for the three runs constituting the performance test;

Y_1 = the PM concentration value for the three runs constituting the performance test; and

n = the number of data points.

(III) With the instrument zero expressed in milliamps, the three run average PM CPMS milliamp value, and the three run average PM concentration from the three compliance tests, determine a relationship of lb/Mmbtu per milliamp with Equation 2 of this rule:

$$\text{(Eq. 2)} \quad R = \frac{Y_1}{(X_1 - z)}$$

Where:

R = the relative mg/dscm per milliamp for the PM CPMS;

Y_1 = the three run average mg/dscm PM concentration;

X_1 = the three run average milliamp output from the PM CPMS; and

z = the milliamp equivalent of the instrument zero determined from subparagraph (b)9.(ii)(I) of this paragraph.

(IV) Determine the source specific 30-day rolling average operating limit using the mg/dscm per milliamp value from Equation 2 in Equation 3, below. This sets the operating limit at the PM CPMS output value corresponding to 75% of the emission limit.

$$\text{(Eq. 3)} \quad O_1 = z + \frac{0.75(L)}{R}$$

Where:

O_1 = the operating limit for the PM CPMS on a 30-day rolling average, in milliamps;

L = the source emission limit expressed in lb/Mmbtu;

z = the instrument zero in milliamps, determined from subparagraph (b)9.(ii)(I) of this paragraph; and

R = the relative mg/dscm per milliamp for the PM CPMS, from Equation 2 of this rule..

(iii) If the average of the three PM compliance test runs is at or above 75% of the PM emission limit the owner or operator shall determine the operating limit by averaging the PM CPMS milliamp output corresponding to the three PM performance test runs that demonstrate compliance with the emission limit using Equation 4 and shall submit all compliance test and PM CPMS data according to the reporting requirements in subparagraph (b)9.(v) of this paragraph.

$$\text{(Eq. 4)} \quad O_h = \frac{1}{n}\sum_{i=1}^{n} X_1$$

Where:

X_1 = the PM CPMS data points for all runs i;

n = the number of data points; and

O_h = the site specific operating limit, in milliamps.

(iv) To determine continuous compliance, the owner or operator shall record the PM CPMS output data for all periods when the process is operating and the PM CPMS is not out-of-control. The owner or operator shall demonstrate continuous compliance by using all quality-assured hourly average data collected by the PM CPMS for all operating hours to calculate the arithmetic average operating parameter in units of the operating limit (e.g., milliamps, PM concentration, raw data signal) on a 30-day rolling average basis.

(v) For PM performance test reports used to set a PM CPMS operating limit, the electronic submission of the test report shall also include the make

and model of the PM CPMS instrument, serial number of the instrument, analytical principle of the instrument (e.g., beta attenuation), span of the instruments primary analytical range, milliamp value equivalent to the instrument zero output, technique by which this zero value was determined, and the average milliamp signals corresponding to each PM compliance test run.

(c) If the owner or operator uses an air pollution control device other than a wet scrubber, activated carbon injection, selective noncatalytic reduction, fabric filter, an electrostatic precipitator, or a dry scrubber or limit emissions in some other manner, including mass balances, to comply with the emission limitations under subparagraph (a) of this paragraph, the owner or operator shall petition the Administrator for specific operating limits to be established during the initial performance test and continuously monitored thereafter. The owner or operator shall submit the petition at least sixty days before the performance test is scheduled to begin. The petition shall include the five items listed in subparagraphs (c)1. through 5. of this paragraph below.

1. Identification of the specific parameters the owner or operator proposes to use as additional operating limits.

2. A discussion of the relationship between these parameters and emissions of regulated pollutants, identifying how emissions of regulated pollutants change with changes in these parameters, and how limits on these parameters will serve to limit emissions of regulated pollutants.

3. A discussion of how the owner or operator will establish the upper and/or lower values for these parameters which will establish the operating limits on these parameters.

4. A discussion identifying the methods the owner or operator will use to measure and the instruments that will be used to monitor these parameters, as well as the relative accuracy and precision of these methods and instruments.

5. A discussion identifying the frequency and methods for recalibrating the instruments that will be used for monitoring these parameters.

~~(d) Affirmative defense for violation of emission standards during malfunction.~~

~~1. In response to an action to enforce the standards set forth in subparagraph (6)(a) of this paragraph, the owner or operator may assert an affirmative defense to a claim for civil penalties for violations of such standards that are caused by malfunction, as defined at 40 CFR 60.2. Appropriate penalties may be assessed if the burden of proving all of the requirements in the affirmative defense are not met. The affirmative defense shall not be available for claims for injunctive relief.~~

~~(i) *Assertion of affirmative defense.* To establish the affirmative defense in any action to enforce such a standard, the owner or operator shall timely meet~~

~~the reporting requirements in subparagraph (d)1.(ii) of this paragraph below, and shall prove by a preponderance of evidence that:~~

~~(I) The violation:~~

~~I. Was caused by a sudden, infrequent, and unavoidable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner; and~~

~~II. Could not have been prevented through careful planning, proper design or better operation and maintenance practices; and~~

~~III. Did not stem from any activity or event that could have been foreseen and avoided, or planned for; and~~

~~IV. Was not part of a recurring pattern indicative of inadequate design, operation, or maintenance; and~~

~~(II) Repairs were made as expeditiously as possible when a violation occurred. Off-shift and overtime labor were used, to the extent practicable to make these repairs; and~~

~~(III) The frequency, amount and duration of the violation (including any bypass) were minimized to the maximum extent practicable; and~~

~~(IV) If the violation resulted from a bypass of control equipment or a process, then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and~~

~~(V) All possible steps were taken to minimize the impact of the violation on ambient air quality, the environment, and human health; and~~

~~(VI) All emissions monitoring and control systems were kept in operation if at all possible, consistent with safety and good air pollution control practices; and~~

~~(VII) All of the actions in response to the violation were documented by properly signed, contemporaneous operating logs; and~~

~~(VIII) At all times, the affected CISWI unit was operated in a manner consistent with good practices for minimizing emissions; and~~

~~(IX) A written root cause analysis has been prepared, the purpose of which is to determine, correct, and eliminate the primary causes of the malfunction and the violation resulting from the malfunction event at issue. The analysis shall also specify, using best monitoring methods and engineering judgment, the amount of any emissions that were the result of the malfunction.~~

~~(ii) *Report.* The owner or operator seeking to assert an affirmative defense shall submit a written report to the Administrator with all necessary supporting documentation, that it has met the requirements set forth in subparagraph (6)(d)1.(i) of this paragraph. This affirmative defense report shall be included in~~

~~the first periodic compliance, deviation report or excess emission report otherwise required after the initial occurrence of the violation of the relevant standard (which may be the end of any applicable averaging period). If such compliance, deviation report or excess emission report is due less than 45 days after the initial occurrence of the violation, the affirmative defense report may be included in the second compliance, deviation report or excess emission report due after the initial occurrence of the violation of the relevant standard.~~

(7) Performance Testing.

(a) All performance tests shall consist of a minimum of three test runs conducted under conditions representative of normal operations.

(b) The owner or operator shall document that the waste burned during the performance test is representative of the waste burned under normal operating conditions by maintaining a log of the quantity of waste burned (as required in paragraph (11) of this rule) and the types of waste burned during the performance test.

(c) All performance tests shall be conducted using the minimum run duration specified in Table 1 and Tables 5 through 8 of this rule.

(d) Method 1 of Appendix A, 40 CFR 60 shall be used to select the sampling location and number of traverse points.

(e) Method 3A or 3B of Appendix A, 40 CFR 60 shall be used for gas composition analysis, including measurement of oxygen concentration. Method 3A or 3B of Appendix A, 40 CFR 60 shall be used simultaneously with each method.

(f) All pollutant concentrations, except for opacity, shall be adjusted to 7 percent oxygen using Equation 5 of this rule:

$$\text{(Eq. 5)}\quad C_{adj} = C_{meas}(20.9 - 7)/(20.9 - \%O_2)$$

Where:

C_{adj} = pollutant concentration adjusted to 7 percent oxygen;

C_{meas} = pollutant concentration measured on a dry basis; (20.9 - 7) = 20.9 percent oxygen - 7 percent oxygen (defined oxygen correction basis);

20.9 = oxygen concentration in air, percent; and

$\%O_2$ = oxygen concentration measured on a dry basis, percent.

(g) The owner or operator shall determine dioxins/furans toxic equivalency by following the procedures in subparagraphs (g)1. through 4. of this paragraph below.

1. Measure the concentration of each dioxin/furan tetra- through octa-isomer emitted using EPA Method 23 at 40 CFR part 60, Appendix A.

2. Quantify isomers meeting identification criteria 2, 3, 4, and 5 in Section 5.3.2.5 of Method 23, regardless of whether the isomers meet

identification criteria 1 and 7. The owner or operator shall quantify the isomers per Section 9.0 of Method 23. (Note: the owner or operator may reanalyze the sample aliquot or split to reduce the number of isomers not meeting identification criteria 1 or 7 of Section 5.3.2.5)

3. For each dioxin/furan (tetra- through octa-chlorinated) isomer measured in accordance with subparagraph (g)1. and 2. of this paragraph above, multiply the isomer concentration by its corresponding toxic equivalency factor specified in Table 3 of this rule.

4. Sum the products calculated in accordance with subparagraph (g)3. of this paragraph above to obtain the total concentration of dioxins/furans emitted in terms of toxic equivalency.

(h) Method 22 at 40 CFR part 60, appendix A-7 shall be used to determine compliance with the fugitive ash emission limit in table 1 of this rule or tables 5 through 8 of this rule.

(i) If the owner or operator has an applicable opacity operating limit, the owner or operator shall determine compliance with the opacity limit using Method 9 at 40 CFR part 60, appendix A-4, based on three 1-hour blocks consisting of ten 6-minute average opacity values, unless the owner or operator is required to install a continuous opacity monitoring system, consistent with paragraphs (9) and (10).

(j) The owner or operator shall determine dioxins/furans total mass basis by following the procedures in subparagraphs (j)1. through 3. of this paragraph below.

1. Measure the concentration of each dioxin/furan tetra- through octa-chlorinated isomer emitted using EPA Method 23 at 40 CFR part 60, appendix A-7.

2. Quantify isomers meeting identification criteria 2, 3, 4, and 5 in Section 5.3.2.5 of Method 23, regardless of whether the isomers meet identification criteria 1 and 7. The owner or operator shall quantify the isomers per Section 9.0 of Method 23. (Note: The owner or operator may reanalyze the sample aliquot or split to reduce the number of isomers not meeting identification criteria 1 or 7 of Section 5.3.2.5).

3. Sum the quantities measured in accordance with subparagraphs (j)1. and 2. of this paragraph to obtain the total concentration of dioxins/furans emitted in terms of total mass basis.

(k) The results of performance tests are used to demonstrate compliance with the emission limitations in Table 1 or tables 5 through 8 of this rule.

(8) Initial Compliance Requirements.

(a) The owner or operator shall conduct a performance test, as required under paragraphs (6) and (7) of this rule, to determine compliance with the emission limitations in Table 1 and tables 5 through 8 of this rule, to establish

compliance with any opacity operating limits in subparagraph (6)(b) of this rule, and to establish operating limits using the procedures in subparagraphs (6)(b) or (6)(c) of this rule. The performance test shall be conducted using the test methods listed in Table 1 and table 5 through 8 of this rule and the procedures in paragraph (7) of this rule. The use of the bypass stack during a performance test shall invalidate the performance test. The owner or operator shall conduct a performance evaluation of each continuous monitoring system within 60 days of installation of the monitoring system.

(b) The initial performance test shall be conducted no later than 180 days after the final compliance date. The final compliance date is specified in subparagraph (3)(a)2. of this rule.

(c) If the owner or operator commences or recommences combusting a solid waste at an existing combustion unit at any commercial or industrial facility and conducted a test consistent with the provisions of this rule while combusting the given solid waste within the 6 months preceding the reintroduction of that solid waste in the combustion chamber, retesting is not needed until 6 months from the date the solid waste is reintroduced.

(d) If the owner or operator commences combusting or recommences combusting a solid waste at an existing combustion unit at any commercial or industrial facility and has not conducted a performance test consistent with the provisions of this rule while combusting the given solid waste within the 6 months preceding the reintroduction of that solid waste in the combustion chamber, the owner or operator shall conduct a performance test within 60 days commencing or recommencing solid waste combustion.

(e) The initial air pollution control device inspection shall be conducted within 60 days after installation of the control device and the associated CISWI unit reaches the charge rate at which it will operate, but no later than 180 days after the final compliance date for meeting the amended emission limitations.

(f) Within 10 operating days following an air pollution control device inspection, all necessary repairs shall be completed unless the owner or operator obtains written approval from the Director establishing a date whereby all necessary repairs of the designated facility shall be completed.

(9) Continuous Compliance Requirements.

(a) Compliance with standards.

1. The emission standards and operating requirements set forth in this rule apply at all times.

2. If the combusting of solid waste is ceased the owner or operator may opt to remain subject to the provisions of this rule. Consistent with the definition of CISWI unit, the owner or operator is subject to the requirements of this rule at least 6 months following the last date of solid waste combustion. Solid waste combustion is ceased when sold waste is not in the combustion chamber (i.e., the solid waste feed to the combustor has been cut off for a period of time not less than the solid waste residence time).

3. If the combusting of solid waste is ceased the owner or operator shall be in compliance with any newly applicable standards on the effective date of the waste-to-fuel switch. The effective date of the waste-to-fuel switch is a date selected by the owner or operator, that shall be at least 6 months from the date that combusting solid waste is ceased, consistent with subparagraph (9)(a)2. of this paragraph above. The source shall remain in compliance with this rule until the effective date of the waste-to-fuel switch.

4. Any owner or operator of an existing commercial or industrial combustion unit that combusted a fuel or no-waste material, and commences or recommences combustion of solid waste, the owner or operator is subject to the provisions of this rule as of the first day solid waste is introduced or reintroduced to the combustion chamber, and this date constitutes the effective date of the fuel-to-waste switch. The owner or operator shall complete all initial compliance demonstrations for any Section 112 standards that are applicable to the facility before commencing or recommencing combustion of solid waste. The owner or operator shall provide 30 days prior notice of the effective date of the waste-to-fuel switch. The notification shall identify:

(i) The name of the owner or operator of the CISWI unit, the location of the source, the emissions unit(s) that will cease burning solid waste, and the date of the notice;

(ii) The currently applicable subcategory under this rule, and any 40 CFR part 63 subpart and subcategory that will be applicable after the combusting of solid waste is ceased;

(iii) The fuel(s), non-waste material(s) and solid waste(s) the CISWI unit is currently combusting and has combusted over the past 6 months, and the fuel(s) or non-waste materials the unit will commence combusting;

(iv) The date on which the unit became subject to the currently applicable emission limits;

(v) The date upon which combusting solid waste is ceased, and the date (if different) that any new requirements to become applicable (i.e., the effective date of the waste-to-fuel switch), consistent with subparagraphs (9)(a)2. and 3. of this paragraph.

5. All air pollution control equipment necessary for compliance with any newly applicable emissions limits which apply as a result of the cessation or commencement or recommencement of combusting solid waste shall be installed and operational as of the effective date of the waste-to-fuel, or fuel-to-waste switch.

6. All monitoring systems necessary for compliance with any newly applicable monitoring requirements which apply as a result of the cessation or commencement or recommencement of combusting solid waste shall be installed and operational as of the effective date of the waste-to-fuel, or fuel-to-waste switch. All calibration and drift checks shall be performed as of the effective date of the waste-to-fuel, or fuel-to waste switch. Relative accuracy tests shall be performed as of the performance test deadline for PM CEMS (if

PM CEMS are elected to demonstrate continuous compliance with the particulate matter emission limits). Relative accuracy testing for other CEMS need not be repeated if that testing was previously performed consistent with section 112 monitoring requirements or monitoring requirements under this rule.

(b) The owner or operator shall conduct an annual performance test for the pollutants listed in table 1 or tables 5 through 8 of this rule and opacity for each CISWI unit as required under paragraph (7) of this rule. The annual performance test shall be conducted using the test methods listed in Table 1 or table 5 through 8 of this rule and the procedures in paragraph (7) of this rule. Opacity shall be measured using EPA Reference Method 9 at 40 CFR part 60. Annual performance tests are not required if the owner or operator uses CEMS or continuous opacity monitoring systems to determine compliance.

(c) The owner or operator shall continuously monitor the operating parameters specified in subparagraph (6)(b) or established under subparagraph (6)(c) of this rule and as specified in subparagraph (10)(d) of this rule. Operation above the established maximum or below the established minimum operating limits constitutes a deviation from the established operating limits. Three-hour block average values are used to determine compliance (except for baghouse leak detection system alarms) unless a different averaging period is established under subparagraph (6)(c) of this rule or, for energy recovery units, where the averaging time for each operating parameter is a 30-day rolling, calculated each hour as the average of the previous 720 operating hours. Operation above the established maximum, below the established minimum, or outside the allowable range of the operating limits specified in subparagraph (9)(a) of this paragraph constitutes a deviation from the operating limits established under this rule, except during performance tests conducted to determine compliance with the emission and operating limits or to establish new operating limits. Operating limits are confirmed or reestablished during performance tests.

(d) The owner or operator shall burn only the same types of waste and fuels used to establish subcategory applicability (for ERUs) and operating limits during the performance test.

(e) For energy recovery units, incinerators, and small remote units, the owner or operator shall perform annual visual emissions test for ash handling.

(f) For energy recovery units, the owner or operator shall conduct an annual performance test for opacity using EPA Reference Method 9 at 40 CFR part 60 (except where particulate matter continuous monitoring system or continuous parameter monitoring systems are used) and the pollutants listed in table 6 of this rule.

(g) For facilities using a CEMS to demonstrate compliance with the carbon monoxide emission limit, compliance with the carbon monoxide emission limit may be demonstrated by using the CEMS according to the following requirements:

1. The owner or operator shall measure emissions according to §60.13 to calculate 1-hour arithmetic averages corrected to 7 percent oxygen. CEMS data

during startup and shutdown, as defined in this rule, are not corrected to 7 percent oxygen, and are measured at stack oxygen content. The owner or operator shall demonstrate initial compliance with the carbon monoxide emissions limit using a 30-day rolling average of the 1-hour arithmetic average emission concentrations, including CEMS data during startup and shutdown as defined in this rule, calculated using equation 19-19 in section 12.4.1 of EPA Reference Method 19 at 40 CFR part 60, appendix A-7.

2. Operate the carbon monoxide continuous emissions monitoring system in accordance with the applicable requirements of performance specification 4A of appendix B and the quality assurance procedures of appendix F of 40 CFR part 60.

(h) Coal and liquid/gas energy recovery units with annual average heat input rates greater than 250 MMBtu/hr may elect to demonstrate continuous compliance with the particulate matter emissions limit using a particulate matter CEMS according to the procedures in subparagraph (10)(n) of this rule, instead of the continuous parameter monitoring system specified in subparagraph (9)(i) of this paragraph. Coal and liquid/gas energy recovery units with annual average heat input rates less than 250 MMBtu/hr, incinerators, and small remote incinerators may also elect to demonstrate compliance using a particulate matter CEMS according to the procedures in subparagraph (10)(n) of this rule, instead of particulate matter testing with EPA Method 5 at 40 CFR part 60, appendix A-3 and, if applicable, the continuous opacity monitoring requirements in subparagraph (9)(i) of this paragraph.

(i) For energy recovery units with annual average heat input rates greater than or equal to 10 MMBTU/hour but less than 250 MMBtu/hr the owner or operator shall install, operate, certify and maintain a continuous opacity monitoring system (COMS) according to the procedures in paragraph (10) in this rule.

(j) For waste-burning kilns, the owner or operator shall conduct an annual performance test for the pollutants (except mercury and particulate matter, and hydrogen chloride if no acid gas wet scrubber is used) listed in table 7 of this rule. If the waste-burning kiln is not equipped with ~~a~~ an acid gas wet scrubber or dry scrubber, the owner or operator shall determine compliance with the hydrogen chloride emission limit ~~using a CEMS as specified in paragraph (10) of this rule~~according to the requirements in subparagraph (j)1. of this rule. The owner or operator shall determine compliance with ~~particulate matter using CPMS.~~the mercury emissions limit using a mercury CEMS according to subparagraph (j)2. of this rule. The owner or operator shall determine compliance with ~~the mercury emissions limit using a mercury CEMS according to the following requirements~~particulate matter using CPMS:

1. If compliance is monitored with the HCl emissions limit by operating an HCl CEMS, the owner or operator shall do so in accordance with Performance Specification 15 (PS 15) of appendix B to 40 CFR part 60, or, PS 18 of appendix B to 40 CFR part 60. The owner or operator shall operate, maintain, and quality assure a HCl CEMS installed and certified under PS 15 according to the quality assurance requirements in Procedure 1 of appendix F to 40 CFR part 60 except that the Relative Accuracy Test Audit requirements of

Procedure 1 must be replaced with the validation requirements and criteria of sections 11.1.1 and 12.0 of PS 15. The owner or operator shall operate, maintain and quality assure a HCl CEMS installed and certified under PS 18 according to the quality assurance requirements in Procedure 6 of appendix F to 40 CFR part 60. For any performance specification used, the owner or operator shall use Method 321 of appendix A to 40 CFR part 63 as the reference test method for conducting relative accuracy testing. The span value and calibration requirements in subparagraphs (j)1.(i) and (ii) of this paragraph apply to all HCl CEMS used under this rule:~~Operate a CEMS in accordance with performance specification 12A at 40 CFR part 60, appendix B or a sorbent trap based integrated monitor in accordance with performance specification 12B at 40 CFR part 60, appendix B. The duration of the performance test shall be a calendar month. For each calendar month in which the waste-burning kiln operates, hourly mercury concentration data and stack gas volumetric flow rate data shall be obtained. The owner or operator shall demonstrate compliance with the mercury emissions limit using a 30-day rolling average of these 1-hour mercury concentrations, including CEMS data during startup and shutdown as defined in this rule, calculated using Equation 19-19 in section 12.4.1 of EPA Reference Method 19 at 40 CFR part 60, appendix A-7. CEMS data during startup and shutdown, as defined in this rule, are not corrected to 7 percent oxygen, and are measured at stack oxygen content.~~

(i) The owner or operator shall use a measurement span value for any HCl CEMS of 0-10 ppmvw unless the monitor is installed on a kiln without an inline raw mill. Kilns without an inline raw mill may use a higher span value sufficient to quantify all expected emissions concentrations. The HCl CEMS data recorder output range must include the full range of expected HCl concentration values which would include those expected during "mill off" conditions. The corresponding data recorder range shall be documented in the site-specific monitoring plan and associated records; and

(ii) In order to quality assure data measured above the span value, the owner or operator shall use one of the three options in subparagraphs (j)1.(ii)(I) through (III) of this paragraph:

(I) Include a second span that encompasses the HCl emission concentrations expected to be encountered during "mill off" conditions. This second span may be rounded to a multiple of 5 ppm of total HCl. The requirements of the appropriate HCl monitor performance specification shall be followed for this second span with the exception that a RATA with the mill off is not required;

(II) Quality assure any data above the span value by proving instrument linearity beyond the span value established in subparagraph (j)1.(i) of this paragraph using the following procedure. Conduct a weekly "above span linearity" calibration challenge of the monitoring system using a reference gas with a certified value greater than the highest expected hourly concentration or greater than 75% of the highest measured hourly concentration. The "above span" reference gas must meet the requirements of the applicable performance specification and must be introduced to the measurement system at the probe. Record and report the results of this procedure as would be done for a daily calibration. The "above span linearity" challenge is successful if the value

measured by the HCl CEMS falls within 10 percent of the certified value of the reference gas. If the value measured by the HCl CEMS during the above span linearity challenge exceeds 10 percent of the certified value of the reference gas, the monitoring system must be evaluated and repaired and a new "above span linearity" challenge met before returning the HCl CEMS to service, or data above span from the HCl CEMS must be subject to the quality assurance procedures established in (j)1.(ii)(IV) of this paragraph. In this manner values measured by the HCl CEMS during the above span linearity challenge exceeding ±20 percent of the certified value of the reference gas must be normalized using equation 6;

(III) Quality assure any data above the span value established in subparagraph (j)1.(i) of this paragraph using the following procedure. Any time two consecutive one-hour average measured concentration of HCl exceeds the span value the owner or operator shall, within 24 hours before or after, introduce a higher, "above span" HCl reference gas standard to the HCl CEMS. The "above span" reference gas shall meet the requirements of the applicable performance specification and target a concentration level between 50 and 150 percent of the highest expected hourly concentration measured during the period of measurements above span, and shall be introduced at the probe. While this target represents a desired concentration range that is not always achievable in practice, it is expected that the intent to meet this range is demonstrated by the value of the reference gas. Expected values may include above span calibrations done before or after the above-span measurement period. Record and report the results of this procedure as would be done for a daily calibration. The "above span" calibration is successful if the value measured by the HCl CEMS is within 20 percent of the certified value of the reference gas. If the value measured by the HCl CEMS is not within 20 percent of the certified value of the reference gas, then the owner or operator shall normalize the stack gas values measured above span as described in paragraph (j)1.(ii)(IV) of this paragraph. If the "above span" calibration is conducted during the period when measured emissions are above span and there is a failure to collect the one data point in an hour due to the calibration duration, then the owner or operator shall determine the emissions average for that missed hour as the average of hourly averages for the hour preceding the missed hour and the hour following the missed hour. In an hour where an "above span" calibration is being conducted and one or more data points are collected, the emissions average is represented by the average of all valid data points collected in that hour; and

(IV) In the event that the "above span" calibration is not successful (*i.e.*, the HCl CEMS measured value is not within 20 percent of the certified value of the reference gas), then the owner or operator shall normalize the one-hour average stack gas values measured above the span during the 24-hour period preceding or following the "above span" calibration for reporting based on the HCl CEMS response to the reference gas as shown in equation 6:

(Eq. 6) $$\frac{\text{Certified reference gas value}}{\text{Measured value of reference gas}} = \text{Measured stack gas} = \text{Normalized stack gas result}$$

~~3.~~ Compliance with the mercury emissions limit must be determined using a mercury CEMS according to the following requirements:

2. ~~Owners or operators using a mercury continuous emissions monitoring systems shall install, operate, calibrate and maintain an instrument for continuously measuring and recording the mercury mass emissions rate to the atmosphere according to the requirements of performance specifications 6 and 12A at 40 CFR part 60, appendix B and quality assurance procedure 5 at 40 CFR part 60, appendix F.~~

(i) The owner or operator shall operate a CEMS in accordance with performance specification 12A at 40 CFR part 60, appendix B or a sorbent trap based integrated monitor in accordance with performance specification 12B at 40 CFR part 60, appendix B. The duration of the performance test shall be a calendar month. For each calendar month in which the waste-burning kiln operates, hourly mercury concentration data and stack gas volumetric flow rate data must be obtained. The owner or operator shall demonstrate compliance with the mercury emissions limit using a 30-day rolling average of these 1-hour mercury concentrations, including CEMS data during startup and shutdown as defined in this subpart, calculated using equation 19-19 in section 12.4.1 of EPA Reference Method 19 at 40 CFR part 60, appendix A-7. CEMS data during startup and shutdown, as defined in this rule, are not corrected to 7 percent oxygen, and are measured at stack oxygen content;

(ii) Owners or operators using a mercury continuous emissions monitoring systems shall install, operate, calibrate and maintain an instrument for continuously measuring and recording the mercury mass emissions rate to the atmosphere according to the requirements of performance specifications 6 and 12A at 40 CFR part 60, appendix B and quality assurance procedure 5 at 40 CFR part 60, appendix F; and

(iii) The owner or operator of a waste-burning kiln shall demonstrate initial compliance by operating a mercury CEMS while the raw mill of the in-line kiln/raw mill is operating under normal conditions and including at least one period when the raw mill is off.

~~4.~~

~~1. The owner or operator of a waste-burning kiln shall demonstrate initial compliance by operating a mercury CEMS while the raw mill of the in-line kiln/raw mill is operating under normal conditions and including at least one period when the raw mill is off.~~

(k) -If the owner or operators uses an air pollution control device to meet the emission limitations in this rule, an initial and annual inspection of the air pollution control device shall be conducted. The inspection shall include, at a minimum, the following:

1. Inspect air pollution control device(s) for proper operation.

2. Develop a site-specific monitoring plan according to the requirements in subparagraph (9)(l) of this paragraph. This requirement also applies if the owner or operator petition the Administrator for alternative monitoring parameters under §60.13(i) of 40 CFR part 60.

(l) For each CMS required in this paragraph, the owner or operator shall develop and submit to the Administrator for approval a site-specific monitoring plan according to the requirements of this subparagraph (l) that addresses subparagraphs (9)(l)1.(i) through (vi) of this paragraph.

1. The owner or operator shall submit this site-specific monitoring plan at least 60 days before the initial performance evaluation of the continuous monitoring system.

(i) Installation of the continuous monitoring system sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (e.g., on or downstream of the last control device).

(ii) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer and the data collection and reduction systems.

(iii) Performance evaluation procedures and acceptance criteria (e.g., calibrations).

(iv) Ongoing operation and maintenance procedures in accordance with the general requirements of §60.11(d).

(v) Ongoing data quality assurance procedures in accordance with the general requirements of §60.13.

(vi) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of §60.7(b), (c), (c)(1), (c)(4), (d), (e), (f) and (g).

2. The owner or operator shall conduct a performance evaluation of each continuous monitoring system in accordance with the site-specific monitoring plan.

3. The owner or operator shall operate and maintain the continuous monitoring system in continuous operation according to the site-specific monitoring plan.

(m) If the owner or operator has an operating limit that requires the use of a flow monitoring system, the owner or operator shall meet the requirements in subparagraphs (9)(l) and (9)(m)1. through 4. of this paragraph.

1. Install the flow sensor and other necessary equipment in a position that provides a representative flow.

2. Use a flow sensor with a measurement sensitivity at full scale of no greater than 2 percent.

3. Minimize the effects of swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

4. Conduct a flow monitoring system performance evaluation in accordance with the monitoring plan at the time of each performance test but no less frequently than annually.

(n) If the owner or operator has an operating limit that requires the use of a pressure monitoring system, the owner or operator shall meet the requirements in subparagraphs (9)(l) and (9)(n)1. through 6. Of this paragraph.

1. Install the pressure sensor(s) in a position that provides a representative measurement of the pressure (e.g., PM scrubber pressure drop).

2. Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

3. Use a pressure sensor with a minimum tolerance of 1.27 centimeters of water or a minimum tolerance of 1 percent of the pressure monitoring system operating range, whichever is less.

4. Perform checks at the frequency outlined in the site-specific monitoring plan to ensure pressure measurements are not obstructed (e.g., check for pressure tap pluggage daily).

5. Conduct a performance evaluation of the pressure monitoring system in accordance with the monitoring plan at the time of each performance test but no less frequently than annually.

6. If at any time the measured pressure exceeds the manufacturer's specified maximum operating pressure range, conduct a performance evaluation of the pressure monitoring system in accordance with the monitoring plan and confirm that the pressure monitoring system continues to meet the performance requirements in the monitoring plan. Alternatively, install and verify the operation of a new pressure sensor.

(o) If the owner or operator has an operating limit that requires a pH monitoring system, the owner or operator shall meet the requirements in subparagraphs (9)(l) and (9)(o)1. through 4. of this paragraph.

1. Install the pH sensor in a position that provides a representative measurement of scrubber effluent pH.

2. Ensure the sample is properly mixed and representative of the fluid to be measured.

3. Conduct a performance evaluation of the pH monitoring system in accordance with the monitoring plan at least once each process operating day.

4. Conduct a performance evaluation (including a two-point calibration with one of the two buffer solutions having a pH within 1 of the pH of the operating limit) of the pH monitoring system in accordance with the monitoring plan at the time of each performance test but no less frequently than quarterly.

(p) If the owner or operator has an operating limit that requires a secondary electric power monitoring system for an electrostatic precipitator, the owner or operator shall meet the requirements in subparagraphs (9)(l) and (9)(p)1. through 2. of this paragraph.

1. Install sensors to measure (secondary) voltage and current to the precipitator collection plates.

2. Conduct a performance evaluation of the electric power monitoring system in accordance with the monitoring plan at the time of each performance test but no less frequently than annually.

(q) If the owner or operator has an operating limit that requires the use of a monitoring system to measure sorbent injection rate (e.g., weigh belt, weigh hopper, or hopper flow measurement device), the owner or operator shall meet the requirements in subparagraphs (9)(l) and (9)(q)1. through 2. of this paragraph.

1. Install the system in a position(s) that provides a representative measurement of the total sorbent injection rate.

2. Conduct a performance evaluation of the sorbent injection rate monitoring system in accordance with the monitoring plan at the time of each performance test but no less frequent than annually.

(r) If the owner or operator elect to use a fabric filter bag leak detection system to comply with the requirements of this rule, the owner or operator shall install, calibrate, maintain, and continuously operate a bag leak detection system as specified in subparagraphs (9)(l) and (9)(r)1. through 5. of this paragraph.

1. Install a bag leak detection sensor(s) in a position(s) that will be representative of the relative or absolute particulate matter loadings for each exhaust stack, roof vent, or compartment (e.g., for a positive pressure fabric filter) of the fabric filter.

2. Use a bag leak detection system certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 10 milligrams per actual cubic meter or less.

3. Conduct a performance evaluation of the bag leak detection system in accordance with the monitoring plan and consistent with the guidance provided in EPA-454/R-98-015 (incorporated by reference, see §60.17).

4. Use a bag leak detection system equipped with a device to continuously record the output signal from the sensor.

5. Use a bag leak detection system equipped with a system that will sound an alarm when an increase in relative particulate matter emissions over a preset level is detected. The alarm shall be located where it is observed readily by plant operating personnel.

(s) For facilities using a CEMS to demonstrate compliance with the sulfur dioxide emission limit, compliance with the sulfur dioxide emission limit may be demonstrated by using the CEMS specified in paragraph (10) of this rule to measure sulfur dioxide. CEMS data during startup and shutdown, as defined in this rule, are not corrected to 7 percent oxygen, and are measured at stack oxygen content. The owner or operator shall calculate a 30-day rolling average of the 1-hour arithmetic average emission concentrations, including CEMS data during startup and shutdown as defined in this rule, using Equation 19-19 in section 12.4.1 of EPA Reference Method 19 at 40 CFR part 60, appendix A-7. The sulfur dioxide CEMS shall be operated according to performance specification 2 in appendix B of 40 CFR part 60 and shall follow the procedures and methods specified in this subparagraph. For sources that have actual inlet emissions less than 100 parts per million dry volume, the relative accuracy criterion for inlet sulfur dioxide CEMS should be no greater than 20 percent of the mean value of the reference method test data in terms of the units of the emission standard, or 5 parts per million dry volume absolute value of the mean difference between the reference method and the CEMS, whichever is greater.

1. During each relative accuracy test run of the CEMS required by performance specification 2 in appendix B of 40 CFR part 60, collect sulfur dioxide and oxygen (or carbon dioxide) data concurrently (or within a 30- to 60-minute period) with both the CEMS and the test methods specified in subparagraphs (9)(s)1.(i) and (ii) of this paragraph.

(i) For sulfur dioxide, EPA Reference Method 6 or 6C, or as an alternative ANSI/ASME PTC 19.10-1981 (incorporated by reference, see §60.17) shall be used.

(ii) For oxygen (or carbon dioxide), EPA Reference Method 3A or 3B, or as an alternative ANSI/ASME PTC 19.10-1981 (incorporated by reference, see §60.17), as applicable, shall be used.

2. The span value of the CEMS at the inlet to the sulfur dioxide control device shall be 125 percent of the maximum estimated hourly potential sulfur dioxide emissions of the unit subject to this rule. The span value of the CEMS at the outlet of the sulfur dioxide control device shall be 50 percent of the maximum estimated hourly potential sulfur dioxide emissions of the unit subject to this rule.

3. Conduct accuracy determinations quarterly and calibration drift tests daily in accordance with procedure 1 in appendix F of 40 CFR part 60.

(t) For facilities using a CEMS to demonstrate continuous compliance with the nitrogen oxides emission limit, compliance with the nitrogen oxides emission limit may be demonstrated by using the CEMS specified in paragraph (10) to measure nitrogen oxides. CEMS data during startup and shutdown as defined in this rule, are not corrected to 7 percent oxygen, and are measured at stack oxygen content. The owner or operator shall calculate a 30-day rolling average of the 1-hour arithmetic average emission concentration using Equation 19-19 in section 12.4.1 of EPA Reference Method 19 at 40 CFR part 60, appendix A-7. The nitrogen oxides CEMS shall be operated according to

performance specification 2 in appendix B of 40 CFR part 60 and shall follow the procedures and methods specified in subparagraphs (9)(t)1. through 5. of this paragraph.

1. During each relative accuracy test run of the CEMS required by performance specification 2 of appendix B of 40 CFR part 60, collect nitrogen oxides and oxygen (or carbon dioxide) data concurrently (or with in a 30- to 60-minute period) with both the CEMS and the test methods specified in subparagraphs (9)(t)1.(i) and (ii) of this paragraph.

(i) For nitrogen oxides, EPA Reference Method 7 or 7E at 40 CFR part 60, appendix A-4 shall be used.

(ii) For oxygen (or carbon dioxide), EPA Reference Method 3A or 3B, or as an alternative ANSI/ASME PTC 19.10-1981 (incorporated by reference, see §60.17), as applicable, shall be used.

2. The span value of the CEMS shall be 125 percent of the maximum estimated hourly potential nitrogen oxide emissions of unit.

3. Conduct accuracy determinations quarterly and calibration drift tests daily in accordance with procedure 1 in appendix F of 40 CFR part 60.

4. The owner or operator of an affected facility may request that compliance with the nitrogen oxides emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. If carbon dioxide is selected for use in diluents corrections, the relationship between oxygen and carbon dioxide levels shall be established during the initial performance test according to the procedures and methods specified in subparagraphs (9)(t)4.(i) though (iv) of this paragraph below. This relationship may be reestablished during performance compliance tests.

(i) The fuel factor equation in Method 3B shall be used to determine the relationship between oxygen and carbon dioxide at a sampling location. Method 3A, 3B, or as an alternative ANSI/ASME PTC 19.10-1981 (incorporated by reference, see §60.17), as applicable, shall be used to determine the oxygen concentration at the same location as the carbon dioxide monitor.

(ii) Samples shall be taken for at least 30 minutes in each hour.

(iii) Each sample shall represent a 1-hour average.

(iv) A minimum of 3 runs shall be performed.

(u) For facilities using a continuous emissions monitoring system to demonstrate continuous compliance with any of the emission limits of this rule, the owner or operator shall complete the following:

1. Demonstrate compliance with the appropriate emission limit(s) using a 30-day rolling average of 1-hour arithmetic average emission concentrations, including CEMS data during startup and shutdown, as defined in this rule, calculated using Equation 19-19 in section 12.4.1 of EPA Reference Method 19

at 40 CFR part 60, appendix A-7. CEMS data during startup and shutdown, as defined in this rule, are not corrected to 7 percent oxygen, and are measured at stack oxygen content.

2. Operate all CEMS in accordance with the applicable procedures under appendices B and F of 40 CFR part 60.

(v) Use of the bypass stack at any time is an emissions standards deviation for particulate matter, HCl, Pb, Cd, Hg, NOx, SO_2, and dioxin/furans.

(w) For energy recovery units with a design heat input capacity of 100MMBtu per hour or greater that do not use a carbon monoxide CEMS, the owner or operator shall install, operate, and maintain an oxygen analyzer system as defined in paragraph (1) of this rule according to the procedures in subparagraph (9)(w)1. through 4. below.

1. The oxygen analyzer system shall be installed by the initial performance test date specified in subparagraph (6)(b) of this rule.

2. The owner or operator shall operate the oxygen trim system within compliance with subparagraph (9)(w)3. of this paragraph below at all times.

3. The owner or operator shall maintain the oxygen level such that the 30-day rolling average that is established as the operating limit for oxygen is not below the lowest hourly average oxygen concentration measured during the most recent CO performance test.

4. The owner or operator shall calculate and record a 30-day rolling average oxygen concentration using Equation 19-19 in section 12.4.1 of EPA Reference Method 19 of Appendix A-7 of 40 CFR part 60.

(x) For energy recovery units with annual average heat input rates greater than or equal to 250 MMBtu/hour and waste-burning kilns, the owner or operator shall install, calibrate, maintain, and operate a PM CPMS and record the output of the system as specified in subparagraphs (9)(x)1. through 8. of this paragraph below. For other energy recovery units, the owner or operator may elect to use PM CPMS operated in accordance with this paragraph. PM CPMS are suitable in lieu of using other CMS for monitoring PM compliance (e.g., bag leak detectors, ESP secondary power, PM scrubber pressure).

1. Install, calibrate, operate, and maintain the PM CPMS according to the procedures in the approved site-specific monitoring plan developed in accordance with subparagraphs (9)(l) and (9)(x)1.(i) through (iii) of this paragraph.

(i) The operating principle of the PM CPMS shall be based on in-stack or extractive light scatter, light scintillation, beta attenuation, or mass accumulation of the exhaust gas or representative sample. The reportable measurement output from the PM CPMS shall be expressed as milliamps.

(ii) The PM CPMS shall have a cycle time (i.e., period required to complete sampling, measurement, and reporting for each measurement) no longer than 60 minutes.

(iii) The PM CPMS shall be capable of detecting and responding to particulate matter concentrations of no greater than 0.5 mg/actual cubic meter.

2. During the initial performance test or any such subsequent performance test that demonstrates compliance with the PM limit, the owner or operator shall adjust the site-specific operating limit in accordance with the results of the performance test according to the procedures specified in subparagraph (6)(b) of this rule.

3. Collect PM CPMS hourly average output data for all energy recovery unit or waste-burning kiln operating hours. Express the PM CPMS output as milliamps.

4. Calculate the arithmetic 30-day rolling average of all of the hourly average PM CPMS output collected during all energy recovery unit or waste-burning kiln operating hours data (milliamps).

5. The owner or operator shall collect data using the PM CPMS at all times the energy recovery unit or waste-burning kiln is operating and at the intervals specified in subparagraph (9)(x)1.(ii) of this paragraph, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments), and any scheduled maintenance as defined in the site-specific monitoring plan.

6. The owner or operator shall use all the data collected during all energy recovery unit or waste-burning kiln operating hours in assessing the compliance with the operating limit except:

(i) Any data collected during monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required monitoring system quality assurance or quality control activities conducted during monitoring system malfunctions are not used in calculations (report any such periods in the annual deviation report);

(ii) Any data collected during periods when the monitoring system is out of control as specified in your site-specific monitoring plan, repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods are not used in calculations (report emissions or operating levels and report any such periods in the annual deviation report);

(iii) Any PM CPMS data recorded during periods of CEMS data during startup and shutdown, as defined in this rule.

7. The owner or operator shall record and make available upon request results of PM CPMS system performance audits, as well as the dates and

duration of periods from when the PM CPMS is out of control until completion of the corrective actions necessary to return the PM CPMS to operation consistent with the site-specific monitoring plan.

8. For any deviation of the 30-day rolling average PM CPMS average value from the established operating parameter limit, the owner or operator shall:

(i) Within 48 hours of the deviation, visually inspect the air pollution control device;

(ii) If inspection of the air pollution control device identifies the cause of the deviation, take corrective action as soon as possible and return the PM CPMS measurement to within the established value; and

(iii) Within 30 days of the deviation or at the time of the annual compliance test, whichever comes first, conduct a PM emissions compliance test to determine compliance with the PM emissions limit and to verify. Within 45 days of the deviation, the owner or operator shall re-establish the CPMS operating limit. Conducting of additional testing for any deviations that occur between the time of the original deviation and the PM emissions compliance test required under this subparagraph is not required.

(iv) PM CPMS deviations leading to more than four required performance tests in a 12-month process operating period (rolling monthly) constitute a violation of this rule.

(v) When there is an alkali bypass and/or an in-line coal mill that exhaust emissions through a separate stack(s), the combined emissions are subject to the emission limits applicable to waste-burning kilns. To determine the kiln-specific emission limit for demonstrating compliance, the owner or operator shall:

1. Calculate a kiln-specific emission limit using equation 7:

(Eq. 7) $C_{ks} = ((Emission\ Limit\ X\ (Q_{ab} + Q_{cm} + Q_{ks})) - (Q_{ab}\ X\ C_{ab}) - (Q_{cm}\ X\ C_{cm}))/Q_{ks}$

Where:

C_{ks} = Kiln stack concentration (ppmvd, mg/dscm, ng/dscm, depending on pollutant. Each corrected to 7% O2.)

Q_{ab} = Alkali bypass flow rate (volume/hr)

C_{ab} = Alkali bypass concentration (ppmvd, mg/dscm, ng/dscm, depending on pollutant. Each corrected to 7% O2.)

Q_{cm} = In-line coal mill flow rate (volume/hr)

C_{cm} = In-line coal mill concentration (ppmvd, mg/dscm, ng/dscm, depending on pollutant. Each corrected to 7% O2.)

Q_{ks} = Kiln stack flow rate (volume/hr)

2. Particulate matter concentration shall be measured downstream of the in-line coal mill. All other pollutant concentrations shall be measured either upstream or downstream of the in-line coal mill.

3. For purposes of determining the combined emissions from kilns equipped with an alkali bypass or that exhaust kiln gases to a coal mill that exhausts through a separate stack, instead of installing a CEMS or PM CPMS on the alkali bypass stack or in-line coal mill stack, the results of the initial and subsequent performance test can be used to demonstrate compliance with the relevant emissions limit. A performance test shall be conducted on an annual basis (between 11 and 13 calendar months following the previous performance test).

~~(y)~~(z) The owner or operator shall conduct annual performance tests between 11 and 13 months of the previous performance test.

~~(z)~~(aa) On an annual basis (no more than 12 months following the previous annual air pollution control device inspection), the owner or operator shall complete the air pollution control device inspection as described in subparagraphs (8)(e) and (f) of this rule.

~~(aa)~~(bb) The owner or operator shall conduct annual performance tests according to the schedule specified in subparagraph (9)(~~y~~z) in this paragraph, with the following exceptions:

1. The owner or operator may conduct a repeat performance test at any time to establish new values for the operating limits to apply from that point forward, as specified in subparagraphs (9)(~~bb~~cc) and (~~cc~~dd) of this paragraph. The Director may request a repeat performance test at any time.

2. The owner or operator shall repeat the performance test within 60 days of a process change, as defined in paragraph (1) of this rule.

3. If the initial or any subsequent performance test for any pollutant in table 1 or tables 5 through 8 of this rule, as applicable, demonstrates that the emission level for the pollutant is no greater than the emission level specified in subparagraph (9)(~~aa~~bb)3.(i) or (~~aa~~bb)3.(ii) of this paragraph, as applicable, and the owner or operator is not required to conduct a performance test for the pollutant in response to a request by the Director in subparagraph (9)(~~aa~~bb)1. of this paragraph or a process change in subparagraph (9)(~~aa~~bb)2. of this paragraph, the owner or operator may elect to skip conducting a performance test for the pollutant for the next 2 years. The owner or operator shall conduct a performance test for the pollutant during the third year and no more than 37 months following the previous performance test for the pollutant. For cadmium and lead, both cadmium and lead shall be emitted at emission levels no greater than their respective emission levels specified in subparagraph (9)(~~aa~~bb)3.(i) of this paragraph to qualify for less frequent testing under this paragraph.

(i) For particulate matter, hydrogen chloride, mercury, carbon monoxide, nitrogen oxides, sulfur dioxide, cadmium, lead, and dioxins/furans, the emission level equal to 75 percent of the applicable emission limit in table 1 or tables 5 through 8 of this rule, as applicable, to this rule.

(ii) For fugitive emissions, visible emissions (of combustion ash from the ash conveying system) for 2 percent of the time during each of the three 1-hour observation periods.

4. If the owner or operator is conducting less frequent testing for a pollutant as provided in subparagraph (9)(~~aa~~bb)3. of this paragraph and a subsequent performance test for the pollutant indicates that the CISWI unit does not meet the emission level specified in subparagraph (9)(~~aa~~bb)3.(i) or (9)(~~aa~~bb)3.(ii) of this paragraph, as applicable, the owner or operator shall conduct annual performance tests for the pollutant according to the schedule specified in subparagraph (9)(~~aa~~bb) of this paragraph until qualification for less frequent testing for the pollutant as specified in subparagraph (9)(~~aa~~bb)3. of this paragraph.

~~(bb)~~(cc) The owner or operator may conduct a repeat performance test at any time to establish new values for the operating limits. The Director may request a repeat performance test at any time.

~~(cc)~~(dd) The owner or operator shall repeat the performance test if the feed stream is different than the feed streams used during any performance test used to demonstrate compliance.

(10) Monitoring.

(a) If a wet scrubber is used to comply with the emission limitation under subparagraph (6)(a) of this rule, the owner or operator shall install, calibrate (to manufacturers' specifications), maintain, and operate devices (or establish methods) for monitoring the value of the operating parameters used to determine compliance with the operating limits listed in Table 2 of this rule. These devices (or methods) must measure and record the values for these operating parameters at the frequencies indicated in Table 2 of this rule at all times except as specified in subparagraph (t)1.(i) of this paragraph.

(b) If a fabric filter is used to comply with the requirements of this rule, the owner or operator shall install, calibrate, maintain, and continuously operate a bag leak detection system as specified in subparagraphs (b)1. through 8. of this rule.

1. The owner or operator shall install and operate a bag leak detection system for each exhaust stack of the fabric filter.

2. Each bag leak detection system shall be installed, operated, calibrated, and maintained in a manner consistent with the manufacturer's written specifications and recommendations.

3. The bag leak detection system shall be certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 10 milligrams per actual cubic meter or less.

4. The bag leak detection system sensor shall provide output of relative or absolute particulate matter loadings.

5. The bag leak detection system shall be equipped with a device to continuously record the output signal from the sensor.

6. The bag leak detection system shall be equipped with an alarm system that will alert automatically an operator when an increase in relative particulate matter emissions over a preset level is detected. The alarm shall be located where it is observed easily by plant operating personnel.

7. For positive pressure fabric filter systems, a bag leak detection system shall be installed in each baghouse compartment or cell. For negative pressure or induced air fabric filters, the bag leak detector shall be installed downstream of the fabric filter.

8. Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(c) If a device other than a wet scrubber, activated carbon, selective non-catalytic reduction, an electrostatic precipitator, or a dry scrubber is used to comply with the emission limitations under subparagraph (6)(a) of this rule, the owner or operator shall install, calibrate (to the manufacturers' specifications), maintain, and operate the equipment necessary to monitor compliance with the site-specific operating limits established using the procedures in subparagraph (6)(c) of this rule.

(d) If activated carbon injection is used to comply with the emission limitations in this rule, the owner or operator shall measure the minimum sorbent flow rate once per hour.

(e) If selective noncatalytic reduction is used to comply with the emission limitations, the owner or operator shall complete the following:

1. Following the date on which the initial performance test is completed or is required to be completed under paragraph (7) of this rule, whichever date comes first, ensure that the affected facility does not operate above the maximum charge rate, or below the minimum secondary chamber temperature (if applicable to your CISWI unit) or the minimum reagent flow rate measured as 3-hour block averages at all times.

2. Operation of the affected facility above the maximum charge rate, below the minimum secondary chamber temperature and below the minimum reagent flow rate simultaneously constitute a violation of the nitrogen oxides emissions limit.

(f) If an electrostatic precipitator is used to comply with the emission limits of this rule, the owner or operator shall monitor the secondary power to the electrostatic precipitator collection plates and maintain the 3-hour block averages at or above the operating limits established during the mercury or particulate matter performance test.

(g) For waste-burning kilns not equipped with a wet scrubber or dry scrubber, in place of hydrogen chloride testing with EPA Method 321 at 40 CFR part 63, appendix A, an owner or operator shall install, calibrate, maintain, and

operate a CEMS for monitoring hydrogen chloride emissions discharged to the atmosphere and record the output of the system. To demonstrate continuous compliance with the hydrogen chloride emissions limit for units other than waste-burning kilns not equipped with a wet scrubber or dry scrubber, a facility may substitute use of a hydrogen chloride CEMS for conducting the hydrogen chloride annual performance test, monitoring the minimum hydrogen chloride sorbent flow rate, monitoring the minimum scrubber liquor pH.

(h) To demonstrate continuous compliance with the particulate matter emissions limit, a facility may substitute use of either a particulate matter CEMS or a particulate matter CPMS for conducting the particulate matter annual performance test and other CMS monitoring for PM compliance (e.g., bag leak detectors, ESP secondary power, PM scrubber pressure).

(i) To demonstrate continuous compliance with the dioxin/furan emissions limit, a facility may substitute use of a continuous automated sampling system for the dioxin/furan annual performance test. The owner or operator shall record the output of the system and analyze the sample according to EPA Method 23 at 40 CFR part 60, appendix A-7. This option to use a continuous automated sampling system takes effect on the date a final performance specification applicable to dioxin/furan from continuous monitors is published in the Federal Register. The owner or operator who elects to continuously sample dioxin/furan emissions instead of sampling and testing using EPA Method 23 at 40 CFR part 60, appendix A-7 shall install, calibrate, maintain and operate a continuous automated sampling system and shall comply with the requirements specified in § 60.58b(p) and (q). A facility may substitute continuous dioxin/furan monitoring for the minimum sorbent flow rate, if activated carbon sorbent injection is used solely for compliance with the dioxin/furan emission limit.

(j) To demonstrate continuous compliance with the mercury emissions limit, a facility may substitute use of a continuous automated sampling system for the mercury annual performance test. The owner or operator shall record the output of the system and analyze the sample at set intervals using any suitable determinative technique that can meet performance specification 12B criteria. This option to use a continuous automated sampling system takes effect on the date a final performance specification applicable to mercury from monitors is published in the Federal Register. The owner or operator who elects to continuously sample mercury emissions instead of sampling and testing using EPA Method 29 or 30B at 40 CFR part 60, appendix A-8, ASTM D6784-02 (Reapproved 2008) (incorporated by reference, see § 60.17), or an approved alternative method for measuring mercury emissions, shall install, calibrate, maintain and operate a continuous automated sampling system and shall comply with the requirements specified in § 60.58b(p) and (q). A facility may substitute continuous mercury monitoring for the minimum sorbent flow rate, if activated carbon sorbent injection is used solely for compliance with the mercury emission limit. The owner or operators of waste-burning kilns shall install, calibrate, maintain, and operate a mercury CEMS as specified in subparagraph(9)(j) of this rule.

(k) To demonstrate continuous compliance with the nitrogen oxides emissions limit, a facility may substitute use of a CEMS for the nitrogen oxides

annual performance test to demonstrate compliance with the nitrogen oxides emissions limits.

1. Install, calibrate, maintain and operate a CEMS for measuring nitrogen oxides emissions discharged to the atmosphere and record the output of the system. The requirements under performance specification 2 of appendix B of 40 CFR part 60, the quality assurance procedure 1 of appendix F of 40 CFR part 60 and the procedures under § 60.13 shall be followed for installation, evaluation and operation of the CEMS.

2. Following the date that the initial performance test for nitrogen oxides is completed or is required to be completed under paragraph (7) of this rule, compliance with the emission limit for nitrogen oxides required under § 60.52b(d) shall be determined based on the 30-day rolling average of the hourly emission concentrations using CEMS outlet data. The 1-hour arithmetic averages shall be expressed in parts per million by volume corrected to 7 percent oxygen (dry basis) and used to calculate the 30-day rolling average concentrations. CEMS data during startup and shutdown, as defined in this rule, are not corrected to 7 percent oxygen, and are measured at stack oxygen content. The 1-hour arithmetic averages shall be calculated using the data points required under § 60.13(e)(2).

(l) To demonstrate continuous compliance with the sulfur dioxide emissions limit, a facility may substitute use of a continuous automated sampling system for the sulfur dioxide annual performance test to demonstrate compliance with the sulfur dioxide emissions limits.

1. Install, calibrate, maintain and operate a CEMS for measuring sulfur dioxide emissions discharged to the atmosphere and record the output of the system. The requirements under performance specification 2 of appendix B of 40 CFR part 60, the quality assurance requirements of procedure 1 of appendix F of 40 CFR part 60 and the procedures under § 60.13 must be followed for installation, evaluation and operation of the CEMS.

2. Following the date that the initial performance test for sulfur dioxide is completed or is required to be completed under paragraph (7) of this rule, compliance with the sulfur dioxide emission limit may be determined based on the 30-day rolling average of the hourly arithmetic average emission concentrations using CEMS outlet data. The 1-hour arithmetic averages shall be expressed in parts per million corrected to 7 percent oxygen (dry basis) and used to calculate the 30-day rolling average emission concentrations. CEMS data during startup and shutdown, as defined in this rule, are not corrected to 7 percent oxygen, and are measured at stack oxygen content. The 1-hour arithmetic averages shall be calculated using the data points required under § 60.13(e)(2).

(m) For energy recovery units 10 MMBtu/hr but less than 250 MMBtu/hr annual average heat input rates that do not use a wet scrubber, fabric filter with bag leak detection system, or particulate matter CEMS, the owner or operator shall install, operate, certify and maintain a continuous opacity monitoring system according to the procedures in subparagraphs (10)(m)1. through 5. of this paragraph by the compliance date specified in

paragraph (6) of this rule. Energy recovery units that use a particulate matter CEMS to demonstrate initial and continuing compliance according to the procedures in subparagraph (10)(n) are not required to install a continuous opacity monitoring system and shall perform the annual performance tests for opacity consistent with subparagraph (9)(f) of this rule.

1. Install, operate and maintain each continuous opacity monitoring system according to performance specification 1 at 40 CFR part 60, appendix B.

2. Conduct a performance evaluation of each continuous opacity monitoring system according to the requirements in § 60.13 and according to performance specification 1 at 40 CFR part 60, appendix B.

3. As specified in § 60.13(e)(1), each continuous opacity monitoring system 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.

4. Reduce the continuous opacity monitoring system data as specified in § 60.13(h)(1).

5. Determine and record all the 6-minute averages (and 1-hour block averages as applicable) collected.

(n) For coal and liquid/gas energy recovery units, incinerators, and small remote incinerators, an owner or operator may elect to install, calibrate, maintain and operate a CEMS for monitoring particulate matter emissions discharged to the atmosphere and record the output of the system. The owner or operator of an affected facility who continuously monitors particulate matter emissions instead of conducting performance testing using EPA Method 5 at 40 CFR part 60, appendix A-3 or, as applicable, monitor with a particulate matter CPMS according to subparagraph (10)(r) of this paragraph, shall install, calibrate, maintain and operate a CEMS and shall comply with the requirements specified in subparagraphs (10)(n)1. through 13. of this paragraph below.

1. Notify the Director 1 month before starting use of the system.

2. Notify the Director 1 month before stopping use of the system.

3. The monitor shall be installed, evaluated and operated in accordance with the requirements of performance specification 11 of appendix B of 40 CFR part 60 and quality assurance requirements of procedure 2 of appendix F of 40 CFR part 60 and § 60.13.

4. The initial performance evaluation shall be completed no later than 180 days after the final compliance date for meeting the amended emission limitations, as specified under paragraph (7) of this rule or within 180 days of notification to the Director of use of the continuous monitoring system if the owner or operator was previously determining compliance by Method 5 at 40 CFR part 60, appendix A-3 performance tests, whichever is later.

5. The owner or operator of an affected facility may request that compliance with the particulate matter emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established according to the procedures and methods specified in subparagraphs (9)(s)5.(i) through (iv).

6. The owner or operator of an affected facility shall conduct an initial performance test for particulate matter emissions as required under paragraph (7) of this rule. Compliance with the particulate matter emission limit, if PM CEMS are elected for demonstrating compliance, shall be determined by using the CEMS specified in subparagraph (10)(n) of this paragraph to measure particulate matter. The owner or operator shall calculate a 30-day rolling average of 1-hour arithmetic average emission concentrations, including CEMS data during startup and shutdown, as defined in this rule, using Equation 19-19 in section 12.4.1 of EPA Reference Method 19 at 40 CFR part 60, appendix A-7.

7. Compliance with the particulate matter emission limit shall be determined based on the 30-day rolling average calculated using Equation 19-19 in section 12.4.1 of EPA Reference Method 19 at 40 CFR part 60, Appendix A-7 from the 1-hour arithmetic average of the CEMS outlet data.

8. At a minimum, valid continuous monitoring system hourly averages shall be obtained as specified subparagraph (10)(t) of this paragraph.

9. The 1-hour arithmetic averages required under subparagraph (10)(n)7. of this paragraph shall be expressed in milligrams per dry standard cubic meter corrected to 7 percent oxygen (or carbon dioxide)(dry basis) and shall be used to calculate the 30-day rolling average emission concentrations. CEMS data during startup and shutdown, as defined in this rule, are not corrected to 7 percent oxygen, and are measured at stack oxygen content. The 1-hour arithmetic averages shall be calculated using the data points required under § 60.13(e)(2).

10. All valid CEMS data shall be used in calculating average emission concentrations even if the minimum CEMS data requirements of subparagraph (10)(n)8. of this paragraph are not met.

11. The CEMS shall be operated according to performance specification 11 in appendix B of 40 CFR part 60.

12. During each relative accuracy test run of the CEMS required by performance specification 11 in appendix B of 40 CFR part 60, particulate matter and oxygen (or carbon dioxide) data shall be collected concurrently (or within a 30-to 60-minute period) by both the CEMS and the following test methods.

(i) For particulate matter, EPA Reference Method 5 at 40 CFR part 60, appendix A-3 shall be used.

(ii) For oxygen (or carbon dioxide), EPA Reference Method 3A or 3B at 40 CFR part 60, appendix A-2, as applicable, shall be used.

13. Quarterly accuracy determinations and daily calibration drift tests shall be performed in accordance with procedure 2 in appendix F of 40 CFR part 60.

(o) To demonstrate continuous compliance with the carbon monoxide emissions limit, a facility may substitute use of a continuous automated sampling system for the carbon monoxide annual performance test to demonstrate compliance with the carbon monoxide emissions limits.

1. Install, calibrate, maintain, and operate a CEMS for measuring carbon monoxide emissions discharged to the atmosphere and record the output of the system. The requirements under performance specification 4B of appendix B of 40 CFR part 60, the quality assurance procedure 1 of appendix F of 40 CFR part 60 and the procedures under § 60.13 shall be followed for installation, evaluation, and operation of the CEMS.

2. Following the date that the initial performance test for carbon monoxide is completed or is required to be completed under paragraph (7) of this rule, compliance with the carbon monoxide emission limit may be determined based on the 30-day rolling average of the hourly arithmetic average emission concentrations, including CEMS data during startup and shutdown as defined in this rule, using CEMS outlet data. Except for CEMS data during startup and shutdown, as defined in this rule, the 1-hour arithmetic averages shall be expressed in parts per million corrected to 7 percent oxygen (dry basis) and used to calculate the 30-day rolling average emission concentrations. CEMS data collected during startup or shutdown, as defined in this rule, are not corrected to 7 percent oxygen, and are measured at stack oxygen content. The 1-hour arithmetic averages shall be calculated using the data points required under § 60.13(e)(2).

(p) The owner/operator of an affected source with a bypass stack shall install, calibrate (to manufacturers' specifications), maintain and operate a device or method for measuring the use of the bypass stack including date, time and duration.

(q) For energy recovery units with a design heat input capacity of 100 MMBtu per hour or greater that do not use a carbon monoxide CEMS, the owner or operator shall install, operate and maintain an oxygen analyzer system as defined in paragraph (1) of this rule according to the procedures in subparagraphs (10)(q)1. through 4. of this paragraph below.

1. The oxygen analyzer system shall be operated by the initial performance test date specified in subparagraph (6)(b) of this rule.

2. The owner or operator shall operate the oxygen trim system within compliance with subparagraph (q)3. below at all times.

3. The owner or operator shall maintain the oxygen level such that the 30-day rolling average that is established as the operating limit for oxygen

according to subparagraph (q)4. below is not below the lowest hourly average oxygen concentration measured during the most recent CO performance test..

4. The owner or operator shall calculate and record a 30-day rolling average oxygen concentration using Equation 19-19 in section 12.4.1 of EPA Reference Method 19 of Appendix A-7 of 40 CFR part 60.

(r) For energy recovery units with annual average heat input rates greater than or equal to 250 MMBtu/hour and waste-burning kilns, the owner or operator shall install, calibrate, maintain, and operate a PM CPMS and record the output of the system as specified in subparagraphs (10)(r)1. through 8. of this paragraph below. For other energy recovery units, the owner or operator may elect to use PM CPMS operated in accordance with this paragraph. PM CPMS are suitable in lieu of using other CMS for monitoring PM compliance (e.g., bag leak detectors, ESP secondary power, PM scrubber pressure).

1. Install, calibrate, operate, and maintain the PM CPMS according to the procedures in the approved site-specific monitoring plan developed in accordance with paragraph (9)(l) and subparagraphs (10)(r)1.(i) through (iii) of this rule.

(i) The operating principle of the PM CPMS shall be based on in-stack or extractive light scatter, light scintillation, beta attenuation, or mass accumulation of the exhaust gas or representative sample. The reportable measurement output from the PM CPMS shall be expressed as milliamps.

(ii) The PM CPMS shall have a cycle time (i.e., period required to complete sampling, measurement, and reporting for each measurement) no longer than 60 minutes.

(iii) The PM CPMS shall be capable of detecting and responding to particulate matter concentrations of no greater than 0.5 mg/actual cubic meter.

2. During the initial performance test or any such subsequent performance test that demonstrates compliance with the PM limit, the owner or operator shall adjust the site-specific operating limit in accordance with the results of the performance test according to the procedures specified in subparagraph (6)(b) of this rule.

3. Collect PM CPMS hourly average output data for all energy recovery unit or waste-burning kiln operating hours. Express the PM CPMS output as milliamps.

4. Calculate the arithmetic 30-day rolling average of all of the hourly average PM CPMS output collected during all energy recovery unit or waste-burning kiln operating hours data (milliamps).

5. The owner or operator shall collect data using the PM CPMS at all times the energy recovery unit or waste-burning kiln is operating and at the intervals specified in subparagraph (10)(r)1.(ii) of this paragraph, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, required monitoring system quality assurance or quality

control activities (including, as applicable, calibration checks and required zero and span adjustments), and any scheduled maintenance as defined in the site-specific monitoring plan.

6. The owner or operator shall use all the data collected during all energy recovery unit or waste-burning kiln operating hours in assessing the compliance with the operating limit except:

(i) Any data collected during monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required monitoring system quality assurance or quality control activities conducted during monitoring system malfunctions are not used in calculations (report any such periods in the annual deviation report);

(ii) Any data collected during periods when the monitoring system is out of control as specified in the site-specific monitoring plan, repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods are not used in calculations (report emissions or operating levels and report any such periods in the annual deviation report);

(iii) Any PM CPMS data recorded during periods of CEMS data during startup and shutdown, as defined in this rule.

7. The owner or operator shall record and make available upon request results of PM CPMS system performance audits, as well as the dates and duration of periods from when the PM CPMS is out of control until completion of the corrective actions necessary to return the PM CPMS to operation consistent with the site-specific monitoring plan.

8. For any deviation of the 30-day rolling average PM CPMS average value from the established operating parameter limit, the owner or operator shall:

(i) Within 48 hours of the deviation, visually inspect the air pollution control device;

(ii) If inspection of the air pollution control device identifies the cause of the deviation, take corrective action as soon as possible and return the PM CPMS measurement to within the established value; and

(iii) Within 30 days of the deviation or at the time of the annual compliance test, whichever comes first, conduct a PM emissions compliance test to determine compliance with the PM emissions limit and to verify. Within 45 days of the deviation, the owner or operator shall re-establish the CPMS operating limit. It is not required to conduct additional testing for any deviations that occur between the time of the original deviation and the PM emissions compliance test required under this subparagraph.

(iv) PM CPMS deviations leading to more than four required performance tests in a 12-month process operating period (rolling monthly) constitute a violation of this rule.

(s) If a dry scrubber is used to comply with the emission limits of this rule, the owner or operator shall monitor the injection rate of each sorbent and maintain the 3-hour block averages at or above the operating limits established during the hydrogen chloride performance test.

(t) The minimum amount of monitoring data obtained is determined as follows:

1. For each continuous monitoring system required or optionally allowed under paragraph (10) of this rule, the owner or operator shall monitor and collect data according to subparagraphs (10)(t)1.(i) through (iii) below:

(i) The owner or operator shall operate the monitoring system and collect data at all required intervals at all times compliance is required except for periods of monitoring system malfunctions or out-of-control periods, repairs associated with monitoring system malfunctions or out-of-control periods (as specified in subparagraph (11)(cc)15. of this rule), and required monitoring system quality assurance or quality control activities including, as applicable, calibration checks and required zero and span adjustments. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. The owner or operator is required to effect monitoring system repairs in response to monitoring system malfunctions or out-of-control periods and to return the monitoring system to operation as expeditiously as practicable.

(ii) The owner or operator may not use data recorded during the monitoring system malfunctions, repairs associated with monitoring system malfunctions or out-of control periods, or required monitoring system quality assurance or control activities in calculations used to report emissions or operating levels. The owner or operator shall use all the data collected during all other periods in assessing the operation of the control device and associated control system.

(iii) Except for periods of monitoring system malfunctions or out-of-control periods, repairs associated with monitoring system malfunctions or out-of-control periods, and required monitoring system quality assurance or quality control activities including, as applicable, calibration checks and required zero and span adjustments, failure to collect required data is a deviation of the monitoring requirements.

(11) Recordkeeping and Reporting. The following items shall be maintained (as applicable) as specified in subparagraphs (a), (b), and (e) through (w) of this paragraph for a period of at least 5 years:

(a) Calendar date of each record.

(b) Records of the data described in subparagraphs (b)1. through 6. of this paragraph:

1. The CISWI unit charge dates, times, weights, and hourly charge rates.

2. Liquor flow rate to the wet scrubber inlet every 15 minutes of operation, as applicable.

3. Pressure drop across the wet scrubber system every 15 minutes of operation or amperage to the wet scrubber every 15 minutes of operation, as applicable.

4. Liquor pH as introduced to the wet scrubber every 15 minutes of operation, as applicable.

5. For affected CISWI units that establish operating limits for controls other than wet scrubbers under subparagraph (6)(b)4. through 7. or (6)(c) of this rule, the owner or operator shall maintain data collected for all operating parameters used to determine compliance with the operating limits. For energy recovery units using activated carbon injection or a dry scrubber, the owner or operator shall also maintain records of the load fraction and corresponding sorbent injection rate records.

6. If a fabric filter is used to comply with the emission limitations, the owner or operator shall record the date, time, and duration of each alarm and the time corrective action was initiated and completed, and a brief description of the cause of the alarm and the corrective action taken. The owner or operator shall also record the percent of operating time during each 6-month period that the alarm sounds, calculated as specified in subparagraph (6)(b)3. of this rule.

(c) Reserved.

(d) Reserved.

(e) Identification of calendar dates and times for which data show a deviation from the operating limits in Table 2 of this rule or a deviation from other operating limits established under subparagraph (6)(b)4. through 7. or (6)(c) of this rule with a description of the deviations, reasons for such deviations, and a description of corrective actions taken.

(f) The results of the initial, annual, and any subsequent performance tests conducted to determine compliance with the emission limits and/or to establish operating limits, as applicable. Retain a copy of the complete test report including calculations.

(g) Records showing the names of CISWI unit operators who have completed review of the information in subparagraph (5)(g)1. as required by subparagraph (5)(g)2. of this rule, including the date of the initial review and all subsequent annual reviews.

(h) Records showing the names of the CISWI operators who have completed the operator training requirements, met the criteria for qualification, and maintained or renewed their qualification under paragraph (5) of this rule. Records shall include documentation of training, the dates of the initial and

refresher training, and the dates of their qualification and all subsequent renewals of such qualifications.

(i) For each qualified operator, the phone and/or pager number at which they can be reached during operating hours.

(j) Records of calibration of any monitoring devices as required under paragraph (10) of this rule.

(k) Equipment vendor specifications and related operation and maintenance requirements for the incinerator, emission controls, and monitoring equipment.

(l) The information listed in subparagraph (5)(g) of this rule.

(m) On a daily basis, keep a log of the quantity of waste burned and the types of waste burned (always required).

(n) Maintain records of the annual air pollution control device inspections that are required for each CISWI unit subject to the emissions limits in table 1 of this rule or tables 5 through 8 of this rule, any required maintenance and any repairs not completed within 10 days of an inspection or the timeframe established by the Director.

(o) For continuously monitored pollutants or parameters, the owner or operator shall document and keep a record of the following parameters measured using continuous monitoring systems.

1. All 6-minute average levels of opacity.

2. All 1-hour average concentrations of sulfur dioxide emissions. The owner or operator shall indicate which data are CEMS data during startup and shutdown.

3. All 1-hour average concentrations of nitrogen oxides emissions. The owner or operator shall indicate which data are CEMS data during startup and shutdown.

4. All 1-hour average concentrations of carbon monoxide emissions. The owner or operator shall indicate which data are CEMS data during startup and shutdown.

5. All 1-hour average concentrations of particulate matter emissions. The owner or operator shall indicate which data are CEMS data during startup and shutdown.

6. All 1-hour average concentrations of mercury emissions. The owner or operator shall indicate which data are CEMS data during startup and shutdown.

7. All 1-hour average concentrations of hydrogen chloride emissions. The owner or operator shall indicate which data are CEMS data during startup and shutdown.

8. All 1-hour average percent oxygen concentrations.

9. All 1-hour average PM CPMS readings or particulate matter CEMS outputs.

(p) Records indicating use of the bypass stack, including dates, times and durations.

(q) If choosing to stack test less frequently than annually, consistent with subparagraph (9)(~~aa~~bb) of this rule, the owner or operator shall keep annual records that document that the emissions in the previous stack test(s) were less than 75 percent of the applicable emission limit and document that there was no change in source operations including fuel composition and operation of air pollution control equipment that would cause emissions of the relevant pollutant to increase within the past year.

(r) Records of the occurrence and duration of each malfunction of operation (i.e. , process equipment) or the air pollution control and monitoring equipment.

(s) Records of all required maintenance performed on the air pollution control and monitoring equipment.

(t) Records of actions taken during periods of malfunction to minimize emissions in accordance with § 60.11(d) of 40 CFR part 60, including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

(u) For operating units that combust non-hazardous secondary materials that have been determined not to be solid waste pursuant to § 241.3(b)(1), the owner or operator shall keep a record which documents how the secondary material meets each of the legitimacy criteria under § 241.3(d)(1). If the owner or operator combusts a fuel that has been processed from a discarded non-hazardous secondary material pursuant to § 241.3(b)(4), the owner or operator shall keep records as to how the operations that produced the fuel satisfies the definition of processing in § 241.2 and each of the legitimacy criteria in § 241.3(d)(1). If the fuel received a non-waste determination pursuant to the petition process submitted under § 241.3(c), the owner or operator shall keep a record that documents how the fuel satisfies the requirements of the petition process. For operating units that combust non-hazardous secondary materials as fuel per § 241.4, the owner or operator shall keep records documenting that the material is a listed non-waste under § 241.4(a).

(v) Records of the criteria used to establish that the unit qualifies as a small power production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) and that the waste material the unit is proposed to burn is homogeneous.

(w) Records of the criteria used to establish that the unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) and that the waste material the unit is proposed to burn is homogeneous.

(x) All records shall be available onsite in either paper copy or computer-readable format that can be printed upon request, unless an alternative format is approved by the Director.

(y) A summary of the reporting requirements can be found in Table 4 of this rule.

(z) The waste management plan shall be submitted no later than the date specified in subparagraph (3)(a)1. of this rule for submittal of the final control plan.

(aa) The information specified in subparagraphs (aa)1. through 3. of this paragraph below shall be submitted no later than 60 days following the initial performance test. All reports shall be signed by the responsible official.

1. The complete test report for the initial performance test results obtained under paragraph (8) of this rule, as applicable.

2. The values for the site-specific operating limits established in subparagraphs (6)(b) or (c) of this rule.

3. If a fabric filter is being used to comply with the emission limitations, documentation that a bag leak detection system has been installed and is being operated, calibrated, and maintained as required by subparagraph (10)(b) of this rule.

(bb) An annual report shall be submitted no later than 12 months following the submission of the information in subparagraph (aa) of this paragraph above. Subsequent reports shall be submitted no more than 12 months following the previous report. (If the unit is subject to permitting requirements under title V of the Clean Air Act, the owner or operator may be required by the permit to submit these reports more frequently.)

(cc) The annual report required under subparagraph (bb) of this paragraph above shall include the ten items listed in subparagraphs (cc)1. through 10. of this paragraph below. If there is a deviation from the operating limits or the emission limitations, deviation reports shall also be submitted as specified in subparagraph (dd) of this paragraph below.

1. Company name and address.

2. Statement by a responsible official, with that official's name, title, and signature, certifying the accuracy of the content of the report.

3. Date of report and beginning and ending dates of the reporting period.

4. The values for the operating limits established pursuant to subparagraphs (6)(b) or (6)(c) of this rule.

5. If no deviation from any emission limitation or operating limit that applies has been reported, a statement that there was no deviation from the emission limitations or operating limits during the reporting period.

6. The highest recorded 3-hour average and the lowest recorded 3-hour average, as applicable, for each operating parameter recorded for the calendar year being reported.

7. Information recorded under subparagraphs (b)6. and (e) of this paragraph for the calendar year being reported.

8. If a performance test was conducted during the reporting period, the results of that test.

9. If the requirements of subparagraphs (9)(~~aa~~bb) were met, and did not conduct a performance test during the reporting period, the owner or operator shall state that the requirements of subparagraphs (9)(~~aa~~bb) were met, and, therefore, were not required to conduct a performance test during the reporting period.

10. Documentation of periods when all qualified CISWI unit operators were unavailable for more than 8 hours, but less than 2 weeks.

11. If there was a malfunction during the reporting period, the compliance report shall include the number, duration, and a brief description for each type of malfunction that occurred during the reporting period and that caused or may have caused any applicable emission limitation to be exceeded. The report shall also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with § 60.11(d), including actions taken to correct a malfunction.

12. For each deviation from an emission or operating limitation that occurs for a CISWI unit for which a CMS is not being used to comply with the emission or operating limitations in this rule, the annual report shall contain the following information.

(i) The total operating time of the CISWI unit at which the deviation occurred during the reporting period.

(ii) Information on the number, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

13. If there were periods during which the continuous monitoring system, including the CEMS, was out of control as specified in subparagraph (11)(cc)15. of this paragraph, the annual report shall contain the following information for each deviation from an emission or operating limitation occurring for a CISWI unit for which a continuous monitoring system is being used to comply with the emission and operating limitations in this rule.

(i) The date and time that each malfunction started and stopped.

(ii) The date, time, and duration that each CMS was inoperative, except for zero (low-level) and high-level checks.

(iii) The date, time, and duration that each continuous monitoring system was out-of-control, including start and end dates and hours and descriptions of corrective actions taken.

(iv) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of malfunction or during another period.

(v) A summary of the total duration of the deviation during the reporting period, and the total duration as a percent of the total source operating time during that reporting period.

(vi) A breakdown of the total duration of the deviations during the reporting period into those that are due to control equipment problems, process problems, other known causes, and other unknown causes.

(vii) A summary of the total duration of continuous monitoring system downtime during the reporting period, and the total duration of continuous monitoring system downtime as a percent of the total operating time of the CISWI unit at which the continuous monitoring system downtime occurred during that reporting period.

(viii) An identification of each parameter and pollutant that was monitored at the CISWI unit.

(ix) A brief description of the CISWI unit.

(x) A brief description of the continuous monitoring system.

(xi) The date of the latest continuous monitoring system certification or audit.

(xii) A description of any changes in continuous monitoring system, processes, or controls since the last reporting period.

14. If there were periods during which the continuous monitoring system, including the CEMS, was not out of control as specified in subparagraph (ll)(cc)15. of this paragraph, a statement that there were not periods during which the continuous monitoring system was out of control during the reporting period.

15. A continuous monitoring system is out of control if any of the following occur.

(i) The zero (low-level), mid-level (if applicable), or high-level calibration drift exceeds two times the applicable calibration drift specification in the applicable performance specification or in the relevant standard.

(ii) The continuous monitoring system fails a performance test audit (e.g. , cylinder gas audit), relative accuracy audit, relative accuracy test audit, or linearity test audit.

(iii) The continuous opacity monitoring system calibration drift exceeds two times the limit in the applicable performance specification in the relevant standard.

16. For energy recovery units, include the annual heat input and average annual heat input rate of all fuels being burned in the unit to verify which subcategory of energy recovery unit applies.

(dd) Reporting of deviations from the operating limits or the emission limitations.

1. A deviation report shall be submitted if any recorded 3-hour average parameter level is above the maximum operating limit or below the minimum operating limit established under this rule, if the bag leak detection system alarm sounds for more than 5 percent of the operating time for the 6-month reporting period, or if a performance test was conducted that deviated from any emission limitation.

2. The deviation report shall be submitted by August 1 of that year for data collected during the first half of the calendar year (January 1 to June 30), and by February 1 of the following year for data collected during the second half of the calendar year (July 1 to December 31).

3. In each report required under this subparagraph, for any pollutant or parameter that deviated from the emission limitations or operating limits specified in this rule, include the items described in subparagraphs (dd)3.(i) through (iv) of this paragraph below.

(i) The calendar dates and times the CISWI unit deviated from the emission limitations or operating limit requirements.

(ii) The averaged and recorded data for those dates.

(iii) Duration and causes of the following:

(I) Each deviation from emission limitations or operating limits and corrective actions taken.

(II) Bypass events and corrective actions taken.

(iv) A copy of the operating limit monitoring data during each deviation and any test report that documents the emission levels.

4. If all qualified operators are not accessible for 2 weeks or more, the two actions in subparagraphs (dd)4.(i) and (ii) of this paragraph below shall be taken.

(i) Submit a notification of the deviation within 10 days that includes the three items in subparagraphs (dd)4.(i)(I) through (III) of this paragraph below.

(I) A statement of what caused the deviation.

(II) A description of what actions are being taken to ensure that a qualified operator is accessible.

(III) The date when it is anticipated that a qualified operator will be available.

(ii) Submit a status report to the Director every 4 weeks that includes the three items in subparagraphs (dd)4.(ii)(I) through (III) of this paragraph below.

(I) A description of what actions are being taken to ensure that a qualified operator is accessible.

(II) The date when it is anticipated that a qualified operator will be accessible.

(III) Request approval from the Director to continue operation of the CISWI unit.

(iii) If the CISWI unit was shut down by the Administrator, under the provisions of subparagraph (5)(h)2.(ii) of this rule, due to a failure to provide an accessible qualified operator, the owner or operator shall notify the Administrator that operations will resume once a qualified operator is accessible.

(ee) Notifications provided by 40 CFR, § 60.7 [as incorporated by reference under ADEM Admin. Code r. 335-3-10-.02(1)] shall be submitted.

(ff) If the owner or operator cease combusting solid waste but continue to operate, the owner or operator shall provide 30 days prior notice of the effective date of the waste-to-fuel switch, consistent with paragraph (9)(a) of this rule. The notification must identify:

1. The name of the owner or operator of the CISWI unit, the location of the source, the emissions unit(s) that will cease burning solid waste, and the date of the notice;

2. The currently applicable subcategory under this rule, and any 40 CFR part 63 subpart and subcategory that will be applicable after combusting solid waste is ceased;

3. The fuel(s), non-waste material(s) and solid waste(s) the CISWI unit is currently combusting and has combusted over the past 6 months, and the fuel(s) or non-waste materials the unit will commence combusting;

4. The date on which the unit became subject to the currently applicable emission limits;

5. The date upon which the unit will cease combusting solid waste, and the date (if different) that the owner or operator intend for any new requirements to become applicable (i.e., the effective date of the waste-to-fuel switch), consistent with subparagraphs (ff)2. and 3. of this paragraph.

(gg) Initial, annual, and deviation reports shall be submitted electronically or in paper format, postmarked on or before the submittal due dates. Submit the reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) Use the appropriate electronic report in CEDRI for this rule or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*https://www3.epa.gov/ttn/chief/cedri/index.html*), once the XML schema is available. If the reporting form specific to this rule is not available in CEDRI at the time that the report is due, submit the report to the Administrator at the appropriate address listed in 40 CFR, §60.4. Once the form has been available in CEDRI for 90 calendar days, the owner or operator shall begin submitting all subsequent reports via CEDRI. The reports shall be submitted by the deadlines specified in this rule, regardless of the method in which the report is submitted.

(hh) Submit results of performance tests and CEMS performance evaluation tests as follows.

1. Within 60 days after the date of completing each performance test as required by this rule, the owner or operator shall submit the results of the performance tests following the procedure specified in either subparagraph (hh)1.(i) or (hh)1.(ii) of this paragraph:

(i) ~~required by this rule to EPA's WebFIRE database by using the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through EPA's Central Data Exchange (CDX)(www.epa.gov/cdx). Performance test data must be submitted in the file format generated through use of EPA's Electronic Reporting Tool (ERT) (see http://www.epa.gov/ttn/chief/ert/index.html). Only data collected using test methods on the ERT Web site are subject to this requirement for submitting reports electronically to WebFIRE. Owners or operators who claim that some of the information being submitted for performance tests is confidential business information (CBI) must submit a complete ERT file including information claimed to be CBI on a compact disk, flash drive, or other commonly used electronic storage media to EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same ERT file with the CBI omitted must be submitted to EPA via CDX as described earlier in this subparagraph. At the discretion of the delegated authority, the owner or operator shall also submit these reports, including the confidential business information, to the Director in the format specified by the Director. For any performance test conducted using test methods that are not listed on the ERT Web site, the owner or operator shall submit the results of the performance test in paper submissions to the Administrator~~For data collected

using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*https://www3.epa.gov/ttn/chief/ert/ert_info.html*) at the time of the test, the owner or operator shall submit the results of the performance test to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX (*https://cdx.epa.gov/*).) Performance test data shall be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the XML schema listed on the EPA's ERT Web site. If the owner or operator claim that some of the performance test information being submitted is confidential business information (CBI), the owner or operator shall submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this subparagraph; and~~.~~

~~4.~~(ii) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, the owner or operator shall submit the results of the performance test to the Administrator at the appropriate address listed in 40 CFR, §60.4.

2. Within 60 days after the date of completing each CEMS performance evaluation ~~test, as defined in this rule and required by this rule, the owner or operator shall submit the relative accuracy test audit (RATA) data electronically into EPA's Central Data Exchange by using CEDRI as mentioned in paragraph (b)(1) of this section. Only RATA pollutants that can be documented with the ERT (as listed on the ERT Web site) are subject to this requirement. For any performance evaluations with no corresponding RATA pollutants listed on the ERT Web site, the owner or operator shall submit the results of the performance evaluation in paper submissions to the Administrator.~~the owner or operator shall submit the results of the performance evaluation following the procedure specified in either subparagraph (hh)1. Or (hh)2. of this paragraph:

(i) For performance evaluations of continuous monitoring systems measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the evaluation, the owner or operator shall submit the results of the performance evaluation to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX.) Performance evaluation data shall be submitted in a file format generated through the use of the EPA's ERT or an alternate file format consistent with the XML schema listed on the EPA's ERT Web site. If the owner or operator claim that some of the performance evaluation information being submitted is CBI, the owner or operator shall submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic storage media shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader,

Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this subparagraph; and

~~5.~~(ii) For any performance evaluations of continuous monitoring systems measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the evaluation, the owner or operator shall submit the results of the performance evaluation to the Administrator at the appropriate address listed in 40 CFR, §60.4.

(ii) The Director may change the semiannual or annual reporting dates. Procedures for seeking approval to change reporting dates are found in 40 CFR, § 60.19(c) [as incorporated by reference under ADEM Admin. Code r. 335-3-10-.02(1)].

(12) Major Source Operating Permits. Each CISWI unit and air curtain incinerator subject to standards under this rule (excluding rules in paragraph (13) below) shall operate pursuant to the requirements of chapter 335-3-16 by December 1, 2003.

(13) Air Curtain Incinerators.

(a) An air curtain incinerator operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. (Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.)

(b) Air curtain incinerators that burn only the materials listed in subparagraphs (b)1. through 3. of this paragraph below are only required to meet the requirements under this paragraph.

1. 100 percent wood waste.

2. 100 percent clean lumber.

3. 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

(c) For owners or operators planning to achieve compliance more than one year following the effective date of EPA's approval of these rules, the two increments of progress specified in subparagraphs (c)1. and 2. of this paragraph below shall be met.

1. Submit a final control plan no later than one year following the effective date of EPA's approval of these rules.

2. Achieve final compliance no later than December 1, 2005.

(d) The owner or operator shall submit to the Director, notifications for achieving increments of progress. The notifications shall be postmarked no later than 10 business days after the compliance date for the increment. These notifications shall include the three items specified in subparagraphs (d)1. through 3. of this paragraph below:

1. Notification that the increment of progress has been achieved.

2. Any items required to be submitted with each increment of progress.

~~5.~~3. Signature of the owner or operator of the incinerator unit.

(e) If an owner or operator fails to meet an increment of progress, a notification to the Director shall be submitted and postmarked within 10 business days after the date for that increment of progress in subparagraph (c) of this paragraph above. The owner or operator shall inform the Director that the increment was not met, and reports shall be submitted each subsequent calendar month until the increment of progress is met.

(f) For the control plan increment of progress, the owner or operator shall satisfy the two requirements specified in subparagraphs (f)1. and 2. of this paragraph below.

1. Submit the final control plan, including a description of any devices for air pollution control and any process changes that will be used to comply with the emission limitations and other requirements of this paragraph.

2. Maintain an onsite copy of the final control plan.

(g) For the final compliance increment of progress, the owner or operator shall complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the affected incinerator is brought online, all necessary process changes and air pollution control devices would operate as designed.

(h) Closing and restarting an air curtain incinerator.

1. If the incinerator is closed but will be restarted prior to the final compliance date of December 1, 2005, the increments of progress specified in subparagraph (c) of this paragraph shall be met.

2. If the incinerator is to restart after the final compliance date, the owner or operator shall complete emission control retrofits and meet the emission limitations on the date the incinerator restarts operation.

~~(i)~~ Permanent closure of an air curtain incinerator. If the owner or operator plans to close the incinerator rather than comply with this rule, submit a closure notification, including the date of closure, to the Director within 90 days after EPA approval of these rules.

(i)

(j) Emission limitations for air curtain incinerators.

1. After the date the initial stack test is required or completed (whichever is earlier), the owner or operator shall meet the limitations in subparagraphs (j)1.(i) and (ii) of this paragraph below.

(i) Maintain opacity to less than or equal to 10 percent opacity (as determined by the average of three 1-hour blocks consisting of ten 6-minute average opacity values), except as described in subparagraph (j)1.(ii) of this paragraph below.

(ii) Maintain opacity to less than or equal to 35 percent opacity (as determined by the average of three 1-hour blocks consisting of ten 6-minute average opacity values) during the startup period that is within the first 30 minutes of operation.

(k) Monitoring opacity for air curtain incinerators.

1. Use Method 9 of 40 CFR 60, Appendix A to determine compliance with the opacity limitation.

2. Conduct an initial test for opacity as specified in 40 CFR, § 60.8 no later than 180 days after the final compliance date.

3. After the initial test for opacity, conduct annual tests no more than 12 calendar months following the date of the previous test.

(l) Recordkeeping and reporting requirements for air curtain incinerators.

1. Keep records of results of all initial and annual opacity tests onsite in either paper copy or electronic format, unless the Director approves another format, for at least 5 years.

2. Make all records available for submittal to the Director or for an inspector's onsite review.

3. Submit an initial report no later than 60 days following the initial opacity test that includes the information specified in subparagraphs (l)3.(i) and (ii) of this paragraph below.

(i) The types of materials planned to be combusted in the air curtain incinerator.

(ii) The results (as determined by the average of three 1-hour blocks consisting of ten 6-minute average opacity values) of the initial opacity tests.

4. Submit annual opacity test results within 12 months following the previous report.

5. Submit initial and annual opacity test reports as electronic or paper copy on or before the applicable submittal date and keep a copy onsite for a period of 5 years.

TABLE 1. EMISSION LIMITS FOR INCINERATORS THAT COMMENCED CONSTRUCTION ON OR BEFORE NOVEMBER 30, 1999, AND WERE NOT MODIFIED OR RECONSTRUCTED AFTER JUNE 1, 2001

Pollutant	Units (7 percent oxygen, dry basis, except opacity)	Averaging Time	Compliance Method 40 CFR 60 Appendix A
Cadmium	0.004 Milligrams per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 29
Carbon Monoxide	157 Parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Methods 10, 10A, or 10B
Dioxins/furans (toxic equivalency basis)	0.41 Nanograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 23
Hydrogen Chloride	62 Parts per million by dry volume	3-run average (For Method 26, collect a minimum volume of 120 liters per run. For Method 26A, collect a minimum volume of 1 dry standard cubic meter per run)	Method 26 or 26A
Lead	0.04 Milligrams per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 29
Mercury	0.47 Milligrams per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 29 or 30B or ASTM D6784-02 (Reapproved 2008)
Nitrogen Oxides	388 Parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Methods 7 or 7E
Particulate Matter	70 Milligrams per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 5 or 29
Sulfur Dioxide	20 Parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 6 or 6c
Opacity	10 Percent	Three 1-hour blocks consisting of ten 6-minute average opacity values	Method 9

TABLE 2. OPERATING LIMITS FOR WET SCRUBBERS

For these operating parameters	Establish these operating limits	And Monitor Using These Minimum Frequencies		
		Data Measurement	**Data Recording**	**Averaging Time (Calculated each hour as the average of the previous 3 operating hours.)**
Charge rate.	Maximum charge rate.	Continuous	Every hour	Daily (batch units). 3-hour rolling (continuous and intermittent units).
Pressure drop across the wet scrubber or amperage to wet scrubber.	Minimum pressure drop or amperage.	Continuous	Every 15 minutes	3-hour rolling.
Scrubber liquor flow rate.	Minimum flow rate.	Continuous	Every 15 minutes	3-hour rolling.
Scrubber liquor pH.	Minimum pH.	Continuous	Every 15 minutes	3-hour rolling.

TABLE 3. TOXIC EQUIVALENCY FACTORS

Dioxin/Furan Isomer	Toxic Equivalency Factor
2,3,7,8-tetrachlorinated dibenzo-p-dioxin	1
1,2,3,7,8- pentachlorinated dibenzo-p-dioxin	0.5
1,2,3,4,7,8-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,7,8,9-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,6,7,8-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,4,6,7,8-heptachlorinated dibenzo-p-dioxin	0.01
octachlorinated dibenzo-p-dioxin	0.001
2,3,7,8-tetrachlorinated dibenzofuran	0.1
2,3,4,7,8-pentachlorinated dibenzofuran	0.5
1,2,3,7,8-pentachlorinated dibenzofuran	0.05
1,2,3,4,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,6,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,7,8,9-hexachlorinated dibenzofuran	0.1
2,3,4,6,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,4,6,7,8-heptachlorinated dibenzofuran	0.01
1,2,3,4,7,8,9-heptachlorinated dibenzofuran	0.01
octachlorinated dibenzofuran	0.001

TABLE 4. REPORTING REQUIREMENTS

Report	Due Date	Contents	Reference 335-3-.05
Waste Management Plan	No later than the date specified for submittal of the final control plan.	•Waste Management Plan.....	(11)(z)
Initial Test Report	No later than 60 days following the initial performance test.	•Complete test report for the initial performance test. •The values for the site-specific operating limits. •Installation of bag leak detection systems for fabric filters.	(11)(aa)
Annual Report	No later than 12 months following the submission of the initial test report. Subsequent reports are to be submitted no more than 12 months following the previous report.	•Name and address..... •Statement and signature by responsible official. •Date of report. •Values for the operating limits. •Highest recorded 3-hour average and the lowest recorded 3-hour average, as applicable, for each operating parameter recorded for the calendar year being reported. •If a performance test was conducted during the reporting period, the results of the test. •If a performance test was not conducted during the reporting period, a statement that the requirements of (9)(e) were met. •Documentation of periods when all qualified CISWI unit operators were unavailable for more than 8 hours but less than 2 weeks. •If performance tests are being conducted once every 3 years consistent with (9)(~~aa~~bb), the date of the last 2 performance tests, a comparison of the emission level achieved in the last 2 performance tests to the 75 percent emission limit threshold required in (9)(~~aa~~bb) and a statement as to whether there have been any operational changes since the last performance test that could increase emissions	(11)(bb) & (cc)
Emission Limitation or Operating Limit Deviation Report	By August 1 of that year for data collected during the first half of the calendar year. By February 1 of the following year for data collected during the second half of the calendar year.	•Dates and times of deviations..... •Averaged and recorded data for these dates. •Duration and causes for each deviation and the corrective actions taken. •Copy of operating limit monitoring data and any test reports. •Dates, times, and causes for monitor downtime incidents. •	(11)(t)1. - 3.

TABLE 4. REPORTING REQUIREMENTS CONT'D

Report	Due Date	Contents	Reference 335-3-.05
Qualified Operator Deviation Notification.	Within 10 days of deviation.	•Statement of cause of deviation. •Description of efforts to have an accessible qualified operator. •The date a qualified operator will be accessible.	(11)(dd)4.(i)
Qualified Operator Deviation Status Report.	Every 4 weeks following deviation.	•Description of efforts to have an accessible qualified operator. •The date a qualified operator will be accessible. •Request for approval to continue operation.	(11)(dd)4.(ii)
Qualified Operator Deviation Notification of Resumed Operation.	Prior to resuming operation.	•Notification that operation will resume.	(11)(dd)4.(iii)

~~**TABLE 5. EMISSION LIMITS FOR INCINERATORS THAT COMMENCED CONSTRUCTION AFTER NOVEMBER 30, 1999, BUT NO LATER THAN JUNE**~~

~~4, 2010, OR COMMENCED MODIFICATION OR RECONSTRUCTION AFTER JUNE 1, 2001 BUT NO LATER THAN AUGUST 7, 2013~~

TABLE 5. EMISSION LIMITS FOR INCINERATORS THAT COMMENCED CONSTRUCTION AFTER NOVEMBER 30, 1999, BUT NO LATER THAN JUNE 4, 2010, OR COMMENCED MODIFICATION OR RECONSTRUCTION AFTER JUNE 1, 2001 BUT NO LATER THAN AUGUST 7, 2013

Pollutant	Emission Limitation	Averaging Time	Compliance Method 40 CFR 60 Appendix A
Cadmium	0.0026 Milligrams per dry standard cubic meter	3-run average (collect a minimum volume of 2 dry standard cubic meters)	Method 29 (Use ICPMS for the analytical finish.
Carbon Monoxide	17 Parts per million dry volume	3-run average (1 hour minimum sample time per run)	Methods 10
Dioxins/furans (toxic mass basis)	4.6 Nanograms per dry standard cubic meter	3-run average (collect a minimum volume of 2 dry standard cubic meters)	Method 23
Dioxins/furans (toxic equivalency basis)	0.13 Nanograms per dry standard cubic meter	3-run average (collect a minimum volume of 2 dry standard cubic meters)	Method 23
Hydrogen Chloride	29 Parts per million dry volume	3-run average (For Method 26, collect a minimum volume of 60 liters per run. For Method 26A, collect a minimum volume of 1 dry standard cubic meter per run)	Method 26 or 26A
Lead	0.015 Milligrams per dry standard cubic meter	3-run average (collect a minimum volume of 2 dry standard cubic meters)	Method 29 (Use ICPMS for the analytical finish.

Mercury	0.0048 Milligrams per dry standard cubic meter	3-run average (For Method 29 an ASTM D6784-02 (Reapproved 2008),collect a minimum volume of 2 dry standard cubic meters. For Method 30B, collect a minimum sample as specified in Method 30B)	Method 29 or 30B or ASTM D6784-02 (Reapproved 2008)
Nitrogen Oxides	53 Parts per million dry volume	3-run average (for Method 7E, 1 hour minimum sample time per run)	Methods 7 or 7E
Particulate Matter	34 Milligrams per dry standard cubic meter	3-run average (collect a minimum volume of 1 dry standard cubic meter)	Method 5 or 29
Sulfur Dioxide	11 Parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 6 or 6c
Fugitive ash	Visible emissions for no more than 5% of the hourly observation period	Three 1-hour observation periods	Method 22 (Visible emission test)

~~TABLE 6. EMISSION LIMITS FOR ENERGY RECOVERY UNITS THAT COMMENCED CONSTRUCTION ON OR BEFORE JUNE 4, 2010, OR THAT COMMENCED RECONSTRUCTION OR MODIFICATION AFTER JUNE 4, 2010 BUT NO LATER THAN AUGUST 7, 2013~~

TABLE 6. EMISSION LIMITS FOR ENERGY RECOVERY UNITS THAT COMMENCED CONSTRUCTION ON OR BEFORE JUNE 4, 2010, OR THAT COMMENCED RECONSTRUCTION OR MODIFICATION AFTER JUNE 4, 2010 BUT NO LATER THAN AUGUST 7, 2013

Pollutant	Emission Limit (Liquid/Gas)	Emission Limit (Solids)	Averaging Time	Compliance Method 40 CFR 60 Appendix A
Cadmium	0.023 Milligrams per dry standard cubic meter	Biomass—0.0014 milligrams per dry standard cubic meter. Coal—0.~~0095~~ 0017 milligrams per dry standard cubic meter.	3-run average (collect a minimum volume of 2 dry standard cubic meters)	Method 29 (Use ICPMS for the analytical finish.)
Carbon Monoxide	35 Parts per million dry volume	Biomass—260 parts per million dry volume Coal—95 parts per million dry volume	3-run average (1 hour minimum sample time per run)	Methods 10
Dioxins/furans (total mass basis)	2.9 nanograms per dry standard cubic meter	Biomass—0.52 nanograms per dry standard cubic meter. Coal—5.1 nanograms per dry standard cubic meter. c	3-run average (collect a minimum volume of 4 dry standard cubic meter)	Method 23
Dioxins/furans (toxic equivalency basis)	0.32 Nanograms per dry standard cubic meter	Biomass—0.12 nanograms per dry standard cubic meter Coal—0.075 nanograms per dry standard cubic meter.	3-run average (collect a minimum volume of 4 dry standard cubic meters	Method 23

Hydrogen Chloride	14 Parts per million by dry volume	Biomass—0.20 parts per million dry volume Coal—~~13~~ 58 parts per million dry volume	3-run average (for Method 26, collect a minimum of 120 liters; for Method 26A, collect a minimum volume of 1 dry standard cubic meter)	Method 26 or 26A
Lead	0.096 Milligrams per dry standard cubic meter	Biomass—0.014 milligrams per dry standard cubic meter. Coal—0.~~14~~ 057 milligrams per dry standard cubic meter.	3-run average (collect a minimum volume of 2 dry standard cubic meters)	Method 29 (Use ICPMS for the analytical finish.
Mercury	0.0024 Milligrams per dry standard cubic meter	Biomass—0.0022 milligrams per dry standard cubic meter Coal—0.~~016~~ 013 milligrams per dry standard cubic meter	3-run average (For Method 29 and ASTM D6784-02 (Reapproved 2008) d, collect a minimum volume of 2 dry standard cubic meters per run. For Method 30B, collect a minimum sample as specified in Method 30B.	Method 29 or 30B or ASTM D6784-02 (Reapproved 2008)
Nitrogen Oxides	76 Parts per million dry volume	Biomass—290 parts per million dry volume Coal—~~340~~ 460 parts per million dry volume	3-run average (for Method 7E, 1 hour minimum sample time per run)	Methods 7 or 7E
Particulate Matter Filterable	110 milligrams per dry standard cubic meter	Biomass—11 milligrams per dry standard cubic meter Coal—~~160~~ 130 milligrams per dry standard cubic meter	3-run average (collect a minimum volume of 1 dry standard cubic meter)	Method 5 or 29 if the unit has an annual average heat input rate less than or equal to 250 MMBtu/hr; or PM CPMS (as specified in § 60.2710(x)) if the unit has an annual average heat input rate greater than 250 MMBtu/hr.
Sulfur Dioxide	720 Parts per million dry volume	Biomass—7.3 parts per million dry volume Coal—~~650~~ 850 parts per million dry volume	3-run average (1 hour minimum sample time per run)	Method 6 or 6c

Fugitive ash	Visible emissions for no more than 5 percent of the hourly observation period	Visible emissions for no more than 5 percent of the hourly observation period	Three 1-hour observation periods	Method 22 (Visible emission test)

~~**TABLE 7. EMISSION LIMITS FOR WASTE-BURNING KILNS THAT COMMENCED CONSTRUCTION ON OR BEFORE JUNE 4, 2010, OR THAT COMMENCED RECONSTRUCTION OR MODIFICATION AFTER JUNE 4, 2010 BUT NO LATER THAN AUGUST 7, 2013**~~

TABLE 7. EMISSION LIMITS FOR WASTE-BURNING KILNS THAT COMMENCED CONSTRUCTION ON OR BEFORE JUNE 4, 2010, OR THAT COMMENCED RECONSTRUCTION OR MODIFICATION AFTER JUNE 4, 2010 BUT NO LATER THAN AUGUST 7, 2013

Pollutant	**Emission Limitation**	**Averaging Time**	**Compliance Method 40 CFR 60 Appendix A**
Cadmium	0.0014 Milligrams per dry standard cubic meter	3-run average (collect a minimum volume of 2 dry standard cubic meters)	Method 29
Carbon Monoxide	110 (long kilns)/790 (preheater/precalciner) parts per million dry volume	3-run average (1 hour minimum sample time per run)	Methods 10
Dioxins/furans (total mass basis)	1.3 Nanograms per dry standard cubic meter.	3-run average (collect a minimum volume of 4 dry standard cubic meters)	Method 23
Dioxins/furans (toxic equivalency basis)	0.075 Nanograms per dry standard cubic meter	3-run average (collect a minimum volume of 4 dry standard cubic meters)	Method 23

Hydrogen Chloride	3.0 Parts per million by dry volume	3-run average (collect a minimum volume of 1 dry standard cubic meter) or 30-day rolling average if HCl CEMS is being used	Performance test (Method 321 at 40 CFR part 63, appendix A of this part) or HCl CEMS if a wet scrubber or dry scrubber is not used, as specified in §60.2710(f).
Lead	0.014 Milligrams per dry standard cubic meter	3-run average (collect a minimum volume of 2 dry standard cubic meters)	Method 29
Mercury	0.011 Milligrams per dry standard cubic meter	30-day rolling average	Mercury CEMS or sorbent trap monitoring system (performance specification 12A or 12B, respectively, of appendix B of 40 CFR 60.)
Nitrogen Oxides	630 Parts per million by dry volume	3-run average (for Method 7E, 1 hour minimum sample time per run)	Methods 7 or 7E
Particulate Matter Filterable	~~4.6~~13.5 Milligrams per dry standard cubic meter	30-day rolling average	PM CPMS (as specified in 60.2710(x))
Sulfur Dioxide	600 Parts per million by dry volume	3-run average (for Method 6, collect a minimum of 20 liters; for Method 6C, 1 hour minimum sample time per run)	Method 6 or 6c

~~**TABLE 8. EMISSION LIMITS FOR SMALL, REMOTE INCINERATORS THAT COMMENCED CONSTRUCTION ON OR BEFORE JUNE 4, 2010, OR THAT COMMENCED RECONSTRUCTION OR MODIFICATION AFTER JUNE 4, 2010 BUT NO LATER THAN AUGUST 7, 2013**~~

TABLE 8. EMISSION LIMITS FOR SMALL, REMOTE INCINERATORS THAT COMMENCED CONSTRUCTION ON OR BEFORE JUNE 4, 2010, OR THAT COMMENCED RECONSTRUCTION OR MODIFICATION AFTER JUNE 4, 2010 BUT NO LATER THAN AUGUST 7, 2013

Pollutant	Units (7 percent oxygen, dry basis, except opacity)	Averaging Time	Compliance Method 40 CFR 60 Appendix A
Cadmium	0.95 milligrams per dry standard cubic meter	3-run average (collect a minimum volume of 1 dry standard cubic meters per run)	Method 29
Carbon Monoxide	64 parts per million dry volume	3-run average (1 hour minimum sample time per run)	Methods 10
Dioxins/furans (total mass basis)	4,400 nanograms per dry standard cubic meter b	3-run average (collect a minimum volume of 1 dry standard cubic meters per run)	Method 23
Dioxins/furans (toxic equivalency basis)	180 nanograms per dry standard cubic meter b	3-run average (collect a minimum volume of 1 dry standard cubic meters)	Method 23
Hydrogen Chloride	300 parts per million dry volume	3-run average (For Method 26, collect a minimum volume of 120 liters per run. For Method 26A, collect a minimum volume of 1 dry standard cubic meter per run)	Method 26 or 26A
Lead	2.1 milligrams per dry standard cubic meter	3-run average (collect a minimum volume of 1 dry standard cubic meters)	Method 29 (Use ICPMS for the analytical finish.
Mercury	0.0053 milligrams per dry standard cubic meter	3-run average (For Method 29 and ASTM D6784-02 (Reapproved 2008),ccollect a minimum volume of 2 dry standard cubic meters per run. For Method 30B, collect a minimum sample as specified in Method 30B at 40 CFR part 60, appendix A)	Method 29 or 30B or ASTM D6784-02 (Reapproved 2008)
Nitrogen Oxides	190 parts per million dry volume	3-run average (for Method 7E, 1 hour minimum sample time per run)	Methods 7 or 7E
Particulate	270 milligrams per dry	3-run average (collect a	Method 5 or 29

Matter (Filterable)	standard cubic meter	minimum volume of 1 dry standard cubic meters)	
Sulfur Dioxide	150 parts per million dry volume	3-run average (for Method 6, collect a minimum of 20 liters per run; for Method 6C, 1 hour minimum sample time per run)	Method 6 or 6c
Fugitive Ash	Visible emissions for no more than 5 percent of the hourly observation period	Three 1-hour observation periods	Method 22 (Visible emissions test)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: March 14, 2002.
Amended: October 2, 2003; July 11, 2006; April 1, 2014~~.~~;XXXXXX, 2017.

This page has been intentionally left blank.

APPENDIX B
INVENTORY

COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATORS (CISWI)
EMISSIONS INVENTORY
STATE OF ALABAMA

National Cement - Facility No. 410-0002 (Cement Kiln)	Maximum Charge Rate (lbs/hr)		460,000
	Lb/hr Rate	Emissions Rates [a,b]	Emission Limits [c]
Cadmium Cd	0.00845	0.00113	0.0014 mg/dscm
Carbon Monoxide CO	1044	377	110/790 ppmdv
Dioxins/Furans CDD/CDF	N/A	0.154	1.3 or 0.075 ng/dscm
Hydrogen Chloride HCl	11.32	5.3	3.0 ppmdv
Lead Pb	0.056	0.015	0.014 mg/dscm
Mercury Hg	0.045	0.036	0.011 mg/dscm
Nitrogen Oxides NOx	1486	520	630 ppmdv
Particulate Matter, filterable TPM	59.1	25.6	4.6 mg/dscm
Sulfur Dioxide SO2	963	121	600 ppmdv

Argos -Facility No. 411-0004 (Cement Kiln)	Maximum Charge Rate (lbs/hr)		400,000
	Lb/hr Rate	Emissions Rates [a,b]	Emission Limits [c]
Cadmium Cd	0.00052	0.0007	0.0014 mg/dscm
Carbon Monoxide CO	712.32	824.76	110/790 ppmdv
Dioxins/Furans CDD/CDF	N/A	0.2	1.3 or 0.075 ng/dscm
Hydrogen Chloride HCl	6.54	6.44	3.0 ppmdv
Lead Pb	0.0171	0.0255	0.014 mg/dscm
Mercury Hg	0.0099	0.0148	0.011 mg/dscm
Nitrogen Oxides NOx	455.51	321.08	630 ppmdv
Particulate Matter, filterable TPM	37.8	130.08	4.6 mg/dscm
Sulfur Dioxide SO2	418	211.59	600 ppmdv

COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATORS (CISWI)
EMISSIONS INVENTORY
STATE OF ALABAMA

Holcim -Facility No. 503-8026 (Cement Kiln)	Maximum Charge Rate (lbs/hr)		780,000
	Lb/hr Rate	Emissions Rates	Emission Limits
Cadmium Cd	0.001	0.0001	0.0014 mg/dscm
Carbon Monoxide CO	5000	2291	110/790 ppmdv
Dioxins/Furans CDD/CDF	N/A	0.002	1.3 or 0.075 ng/dscm
Hydrogen Chloride HCl	0.11	0.33	3.0 ppmdv
Lead Pb	0.06	0.02	0.014 mg/dscm
Mercury Hg	0.0011	0.033	0.011 mg/dscm
Nitrogen Oxides NOx	850	237.14	630 ppmdv
Particulate Matter, filterable TPM	93	23	4.6 mg/dscm
Sulfur Dioxide SO2	27	5.4	600 ppmdv

CEMEX -Facility No. 105-0002 (Cement Kiln)	Maximum Charge Rate (lbs/hr)		460,000
	Lb/hr Rate	Emissions Rates [a,b]	Emission Limits [c]
Cadmium Cd	0.00053	0.0009	0.0014 mg/dscm
Carbon Monoxide CO	725	1079	110/790 ppmdv
Dioxins/Furans CDD/CDF	N/A	0.016	1.3 or 0.075 ng/dscm
Hydrogen Chloride HCl	0.31	Negligible	3.0 ppmdv
Lead Pb	0.039	0.005	0.014 mg/dscm
Mercury Hg	0.012	0.016	0.011 mg/dscm
Nitrogen Oxides NOx	906	665	630 ppmdv
Particulate Matter, filterable TPM	44	29.9	4.6 mg/dscm
Sulfur Dioxide SO2	160	9	600 ppmdv

COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATORS (CISWI)
EMISSIONS INVENTORY
STATE OF ALABAMA

[a] Emission Rate Units same as Emission Limits

[b] Emission rates based on average stack test data from the same or similar unit deriving DCFM and % O2 for conversions.

[c] All emission limitations are measured at 7% O2, dry basis at standard conditions.

This page has been intentionally left blank.

APPENDIX C
LEGAL AUTHORITY

Chapter 28 ALABAMA AIR POLLUTION CONTROL ACT.

- Section 22-28-1 Short title.
- Section 22-28-2 Definitions.
- Section 22-28-3 Declaration of policy; purpose of chapter.
- Section 22-28-4 through 22-28-8 Repealed.
- Section 22-28-9 Authority of commission to hire consultants, assistants and other employees.
- Section 22-28-10 Powers of commission generally; advisory committees.
- Section 22-28-11 Emission control requirements.
- Section 22-28-12 Motor vehicle emissions.
- Section 22-28-13 Variances.
- Section 22-28-14 Regulations — Authority of commission.
- Section 22-28-15 Regulations — Hearings; procedure for adoption.
- Section 22-28-16 Permits.
- Section 22-28-17 Review of plans and specifications.
- Section 22-28-18 Providing of information.
- Section 22-28-19 Right of entry for inspection; tests and samples.
- Section 22-28-20 Availability of records, reports or information.
- Section 22-28-21 Air pollution emergencies.
- Section 22-28-22 Proceedings upon violation of chapter; penalties; subpoenas; injunctions.
- Section 22-28-23 Local air pollution control programs.

Section 22-28-1

Short title.

This chapter shall be known and may be cited as the "Alabama Air Pollution Control Act of 1971."

(Acts 1971, No. 769, p. 1481, §1.)

Section 22-28-2

Definitions.

For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

(1) Air pollution.

The presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life or property or would interfere with the enjoyment of life or property throughout the state and in such territories of the state as shall be affected thereby.

(2) Air contaminant.

Any solid, liquid or gaseous matter, any odor or any combination thereof, from whatever source.

(3) Commission.

The Alabama Department of Environmental Management.

(4) Person.

Any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, or other legal or other business organization or any governmental entity, and any successor, representative, agent or agency of the foregoing.

(5) Emission.

A release into the outdoor atmosphere of air contaminants.

(6) Director.

The Director of the Alabama Department of Environmental Management.

(7) State Health Officer.

The Director of the Alabama Department of Environmental Management.

(8) Chairman.

The director of the Alabama Department of Environmental Management.

(9) State Air Pollution Control Commission.

The Alabama Department of Environmental Management.

(10) Environmental Management Commission.

The Environmental Management Commission of the Alabama Department of Environmental Management.

(Acts 1971, No. 769, p. 1481, §3; Acts 1982, No. 82-612, p. 1111, §11(g).)

Section 22-28-3

Declaration of policy; purpose of chapter.

(a) It is hereby declared to be the public policy of this state and the purpose of this chapter to achieve and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the social development of this state and facilitate the enjoyment of the natural attractions of this state.

(b) It is also declared that local air pollution control programs are to be provided for to the extent practicable as essential instruments for the securing and maintenance of appropriate levels of air quality.

(c) To these ends, it is the purpose of this chapter to provide for a coordinated statewide program of air pollution prevention, abatement and control; to facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within single jurisdictions and to provide a framework within which all values may be balanced in the public interest.

(Acts 1971, No. 769, p. 1481, §2.)

Sections 22-28-4 through 22-28-8 Repealed by Acts 1982, No. 82-612, p. 1111, §14(a)(1), effective October 1, 1982.

Section 22-28-9

Authority of commission to hire consultants, assistants and other employees.

The commission may employ and compensate, within appropriations available therefor, consultants and such assistants and employees as may be necessary to carry out the provisions of this chapter and may prescribe their powers and duties. Employees of the commission shall be employed in accordance with the State Merit System.

(Acts 1971, No. 769, p. 1481, §4.)

Section 22-28-10

Powers of commission generally; advisory committees.

In addition to other powers conferred on it by law, the commission shall have power to:

(1) Hold hearings relating to any aspect of or matter in the administration of this chapter and, in connection therewith, compel the attendance of witnesses and the production of evidence through subpoena, as provided in this chapter;

(2) Issue such orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings;

(3) Require access to records relating to emissions which cause or contribute to air contamination;

(4) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise;

(5) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution in this state;

(6) Encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;

(7) Encourage and conduct studies, investigations and research relating to air contamination and air pollution and their causes, effects, prevention, abatement and control;

(8) Determine by means of field studies and sampling the degree of air contamination and air pollution in the state and the several parts thereof;

(9) Make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere of this state, and the several parts thereof, and make recommendations to appropriate public and private bodies with respect thereto;

(10) Collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution;

(11) Advise, consult, contract and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government and with interested persons or groups;

(12) Consult, upon request, with any person proposing to construct, install or otherwise acquire an air contaminant source or device or system for the control thereof concerning the efficacy of such device or system or the air pollution problem which may be related to the source, device or system. Nothing in any such consultation shall be construed to relieve any person from compliance with this chapter, rules and regulations in force pursuant thereto or any other provision of law;

(13) Accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter. Such funds received by the commission pursuant to this section shall be deposited in the State Treasury to the account of the commission. In addition to the authority to accept, receive and administer grants or other funds from the federal government, the commission is hereby designated as the State Air Pollution Control Agency for the purposes of the Federal Clean Air Act, as amended;

(14) Provide for the performance by its officers and employees, in the name of the commission, of any act or duty necessary or incidental to the administration of this chapter; and

(15) Provide for the establishment of advisory committees, appointment of the membership of such committees, scope of investigation and other duties of such committees. The period of duration of such committees and the terms of members of such committees shall be established by the commission. No salary or compensation shall be allowed any member of such committees for services thereon. Travel, subsistence and other expenses incurred by members of such committees in the discharge of their official duties as members of such committees, and when approved by the chairman or the director, by direction of the commission shall be paid at the rate allowed other state employees as provided by Article 2 of Chapter 7 of Title 36 of this Code from any funds which are, or may become, available for the purpose of this chapter.

(Acts 1971, No. 769, p. 1481, §6.)

Section 22-28-11

Emission control requirements.

The commission may establish such emission control requirements, by rule or regulation, as in its judgment may be necessary to prevent, abate or control air pollution. Such requirements may be for the state as a whole or may vary from area to area, as may be appropriate, to facilitate accomplishment of the purposes of this chapter and in order to take account of varying local conditions.

(Acts 1971, No. 769, p. 1481, §10.)

Section 22-28-12

Motor vehicle emissions.

(a) As the state of knowledge and technology relating to the control of emissions from motor vehicles may permit or make appropriate, and in furtherance of the purposes of this chapter, the commission may provide by rules and regulations for the control of emissions from any class or classes of motor vehicles. Such rules and regulations may, in addition, prescribe requirements for the installation and use of equipment designed to reduce or eliminate emissions and for the proper maintenance of such equipment and of such vehicles.

(b) (1) The commission may establish standards and requirements providing for periodic inspections and testing of motor vehicles by the commission to enforce compliance with this section.

(2) The commission may establish reasonable fees for the inspection and testing of motor vehicles and provide by rules and regulations for the payment and collection of such fees.

(3) If, after inspecting and testing any motor vehicle, the commission determines that such motor vehicle complies in every respect with rules, regulations, standards and requirements issued by the commission pursuant to this section, the commission shall attach to such vehicle in a clearly visible location a certificate of inspection and approval.

(c) (1) The commission may suspend or revoke the certificate of inspection and approval of any motor vehicle not equipped with an air pollution control system or mechanism in good working order and adjustment as required by the rules and regulations of the commission. The vehicle shall not thereafter be eligible for such certificate until all parts and equipment constituting operational elements of the motor vehicle have been restored, replaced or repaired and are in good working order.

(2) No motor vehicle shall be issued an official certificate of inspection and approval as required pursuant to this section unless all features or equipment required in or on the motor vehicle for the purpose of controlling emissions therefrom have been inspected in accordance with the standards and testing techniques required by the commission pursuant to subsection (b) of this section and have been found to meet these standards.

(3) No person shall drive or move and no owner shall cause or knowingly permit to be driven or moved on any highway any motor vehicle unless the vehicle is equipped with an air pollution control system or mechanism in good working order and adjustment as required by rules and regulations of the commission.

(4) When, and if, the commission shall establish standards and requirements for periodic inspections and testing of motor vehicles pursuant to subsection (b) of this section, no person shall drive or move and no owner shall cause or knowingly permit to be driven or moved on any highway any motor vehicle unless there is attached to such vehicle by the commission a valid certificate of inspection and approval which has not been suspended or revoked.

(5) Failure to comply with subdivisions (3) and (4) of this subsection shall subject the driver or owner to a penalty as provided in this chapter.

(d) The commission, in its discretion, is hereby authorized to delegate any, or all, of the authority vested in it by this section to any agency or instrumentality of the state now or hereafter authorized to inspect motor vehicles for any purpose.

(e) As used in this section, "motor vehicle" shall mean every self-propelled device in, or upon, or by which any person or property is or may be transported or drawn upon a public highway.

(Acts 1971, No. 769, p. 1481, §16.)

Section 22-28-13

Variances.

(a) The commission may grant individual variances beyond the limitations prescribed in this chapter whenever it is found, upon presentation of adequate proof, that compliance with any rule or regulation, requirement or order of the commission would impose serious hardship without equal or greater benefits to the public and the emissions occurring, or proposed to occur, do not endanger or tend to endanger human health or safety, human comfort and aesthetic values. In granting or denying a variance, the commission shall file and publish a written opinion stating the facts and reasons leading to its decision.

(b) In granting a variance, the commission may impose such conditions as the policies of this chapter may require. If the hardship complained of consists solely of the need for a reasonable delay in which to correct a violation of this chapter or of the commission regulations, the commission shall condition the grant of such variance upon the posting of sufficient performance bond or other security to assure the correction of such violation within the time prescribed.

(c) Any variance granted pursuant to the provisions of this section shall be granted for such period of time, not exceeding one year, as shall be specified by the commission at the time of the grant of such variance and upon the condition that the person who receives such variance shall make such periodic progress reports as the commission shall specify. Such variance may be extended from year to year by affirmative action of the commission, but only if satisfactory progress has been shown.

(d) Any person seeking a variance shall do so by filing a petition for variance with the commission, which shall promptly give notice of such petition in a newspaper of general circulation in the county in which the installation or property for which variance sought is located. The director shall promptly investigate such petition, consider the views of persons who might be adversely affected by the grant of a variance and make a recommendation to the commission as to the disposition of the petition. If the commission, in its discretion, concludes that a hearing would be advisable, or if any person files a written objection to the grant of such variance within 21 days, then a hearing shall be held, under the rules prescribed in subsection (b) of Section 22-28-15, and the burden of proof shall be on the petitioner.

(e) If the commission fails to take final action upon a variance request within 90 days after the filing of the petition, the petitioner may deem the request denied under this chapter.

(f) A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the commission; however, any person adversely affected by a variance or renewal granted by the commission may obtain judicial review by filing notice of appeal with the register or clerk of the circuit court in the county where the pollution source is located within 20 days from the action of the commission thereon. The case shall be heard by the court under the same rules and with the same requirements as a petition for injunction would be heard. On appeal, the circuit court shall grant said variance unless it finds the operation of the air contamination source in the manner allowed in the variance would amount to a private or public nuisance or unless it finds that the commission acted arbitrarily and capriciously.

(Acts 1971, No. 769, p. 1481, §12.)

Section 22-28-14

Regulations — Authority of commission.

The commission, pursuant to procedures prescribed in Section 22-28-15, may adopt regulations to promote the purposes of this chapter. Without limiting the generality of this authority, such regulations may among other things prescribe:

(1) Ambient air quality standards specifying the maximum permissible short-term and long-term concentrations of various air contaminants in the atmosphere;

(2) Emission standards specifying the maximum amounts or concentrations of air contaminants that may be discharged into the atmosphere;

(3) Standards and conditions regarding the sale, offer or use of any fuel or other article determined to constitute an air pollution hazard or which could constitute an air pollution hazard;

(4) Alert and abatement standards relative to air pollution episodes or emergencies constituting an acute danger to health or to the environment;

(5) Requirements and procedures for the inspection of any equipment, facility, vehicle, vessel or aircraft that may cause or contribute to air pollution;

(6) Requirements for making reports containing information as may be required by the commission concerning location, size and height of contaminant outlets, processes employed, fuels used and the nature and time periods or duration of emissions and such other information as is relevant to air pollution; and

(7) Effective and application dates; however, unless otherwise specified by the commission, all rules, regulations, standards, requirements, procedures, orders, resolutions, prohibitions, amendments thereto or repeal thereof shall become effective and applicable upon adoption by the commission.

(Acts 1971, No. 769, p. 1481, §5.)

Section 22-28-15

Regulations — Hearings; procedure for adoption.

(a) No substantive regulations shall be adopted, amended or repealed until after a public hearing. At least 20 days prior to the scheduled date of the hearing, the commission shall give notice of such hearing by public advertisement in a newspaper of general circulation in the area of the state concerned of the date, time, place and purpose of such hearing and make available to any person upon request copies of the proposed regulations, together with summaries of the reasons supporting their adoption.

(b) Repealed by Acts 1982, No. 82-612, p. 1111, §14(a)(1).

(c) After such hearing, the commission may revise the proposed regulations before adoption in response to testimony made at the hearing without conducting a further hearing on the revisions.

(d) Any such regulations may make different provisions, as required by circumstances, for different contaminant sources and for different geographical areas; may apply to sources outside this state causing, contributing to or threatening environmental damage in Alabama and may make special provision for alert and abatement standards and procedures respecting occurrences or emergencies of pollution or on other short-term conditions constituting an acute danger to health or to the environment. In promulgating regulations under this chapter, the commission shall take into account the purpose of the chapter.

(e) Nothing in this section shall be construed to require a hearing prior to the issuance of an emergency order pursuant to Section 22-28-21.

(Acts 1971, No. 769, p. 1481, §13; Acts 1982, No. 82-612, p. 1111, §14(a)(1).)

Section 22-28-16

Permits.

(a) The commission, by regulation, shall prohibit the construction, installation, modification or use of any equipment, device or other article which it finds may cause or contribute to air pollution or which is intended primarily to prevent or control the emission of air pollutants unless a permit therefor has been obtained from the director.

(b) The commission may require that applications for such permits shall be accompanied by plans, specifications and such other information as it deems necessary.

(c) The commission shall provide for the issuance, suspension, revocation and renewal of any permits which it may require pursuant to this section.

(d) No person shall construct, install, modify or use any equipment, device or other article designated by regulations capable of causing, or contributing to, air pollution or designated to prevent air pollution without a permit from the director or in violation of any conditions imposed by such permits.

(Acts 1971, No. 769, p. 1481, §18.)

Section 22-28-17

Review of plans and specifications.

(a) The commission may require that notice be given to the director prior to the undertaking of the construction, installation or establishment of particular types or classes of new air contamination sources specified in its rules and regulations. Within 15 days of its receipt of such notice, the director may require, as a condition precedent to the construction, installation or establishment of the air contaminant source or sources covered thereby, the submission of plans, specifications and such other information as it deems necessary in order to determine whether the proposed construction, installation or establishment will be in accord with applicable rules and regulations in force pursuant

to this chapter. If, within 60 days of the receipt of plans, specifications or other information required pursuant to this section, the director determines that the proposed construction, installation or establishment will not be in accord with the requirements of this chapter or applicable rules and regulations, he shall issue an order prohibiting the construction, installation or establishment of the air contaminant source or sources. Failure of such an order to issue within the time prescribed in this section shall be deemed a determination that the construction, installation or establishment may proceed, provided that it is in accordance with the plans, specifications or other information, if any, required to be submitted.

(b) In addition to any other remedies available on account of the issuance of an order prohibiting construction, installation or establishment, and prior to invoking any such remedies, the person or persons aggrieved thereby shall, upon request in accordance with rules of the commission, be entitled to a hearing on the order. Following such hearing, the order may be affirmed, modified or withdrawn.

(c) For the purposes of this chapter, addition to, or enlargement or replacement of an air contaminant source, or any major alteration therein, shall be construed as construction, installation or establishment of a new air contaminant source.

(d) Any features, machines and devices constituting parts of, or called for by, plans, specifications or other information submitted pursuant to subsection (a) of this section shall be maintained in good working order.

(e) Nothing in this section shall be construed to authorize the commission to require the use of machinery, devices or equipment from a particular supplier or produced by a particular manufacturer if the required performance standards may be met by machinery, devices or equipment otherwise available.

(f) The absence or failure to issue a rule, regulation or order pursuant to this section shall not relieve any person from compliance with any emission control requirements or with any other provision of law.

(g) The commission, by rule or regulation, may prescribe and provide for the payment and collection of reasonable fees for the review of plans and specifications required to be submitted pursuant to this section. All such fees, when collected, shall be deposited in the State Treasury to the account of the Division of Air Pollution Control of the State Department of Health.

(Acts 1971, No. 769, p. 1481, §8.)

Section 22-28-18

Providing of information.

The commission may require the owner or operator of any air contaminant source to establish and maintain such records, make such reports, install, use and maintain such monitoring equipment or methods, sample such emissions in accordance with such methods, at such locations, intervals and procedures as the commission shall prescribe, and provide such other information as the commission reasonably may require.

(Acts 1971, No. 769, p. 1481, §7.)

Section 22-28-19

Right of entry for inspection; tests and samples.

(a) Any duly authorized officer, employee or representative of the department may enter and inspect any property, premises or place on, or at, which an air contaminant source is located or is being constructed, installed or established, at any reasonable time, for the purpose of ascertaining the state of compliance with this chapter and rules and regulations in force pursuant thereto. No person shall refuse entry or access to any authorized representative of the department who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such inspection. If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

(b) The department may conduct tests and take samples of air contaminants, fuel, process material or other material which affects, or may affect, emission of air contaminants from any source. Upon request of the department, the person responsible for the source to be tested shall provide necessary holes in stacks or ducts and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants. If an authorized employee of the department during the course of an inspection obtains a sample of air contaminant, fuel, process material or other material, he shall give the owner or operator of the equipment or fuel facility a receipt for the sample obtained.

(Acts 1971, No. 769, p. 1481, §9.)

Section 22-28-20

Availability of records, reports or information.

(a) Any records, reports or information obtained under this chapter shall be available to the public; except, that upon a showing satisfactory to the commission by any person that records, reports or information, or particular part thereof, other than emission data, to which the commission has access if made public would divulge production or sales figures or methods, processes or production unique to such person or would otherwise tend to affect adversely the competitive position of such person by revealing trade secrets, the commission shall consider such record, report or information, or particular portion thereof, confidential in the administration of this chapter.

(b) Nothing in this section shall be construed to prevent disclosure of such report, record or information to federal, state or local representatives as necessary for purposes of administration of any federal, state or local air pollution control laws or when relevant in any proceeding under this chapter.

(Acts 1971, No. 769, p. 1481, §14.)

Section 22-28-21

Air pollution emergencies.

(a) Any other provisions of law to the contrary notwithstanding, if the director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the director shall order persons causing or contributing to the air pollution to reduce or discontinue immediately

the emission of air contaminants, and such order shall fix a place and time, not later than 24 hours thereafter, for a hearing to be held before the Environmental Management Commission. Not more than 24 hours after the commencement of such hearing, and without adjournment thereof, the Environmental Management Commission shall affirm, modify or set aside the order of the director.

(b) In the absence of a generalized condition of air pollution of the type referred to in subsection (a) of this section, but if the director finds that emissions from the operation of one or more air contaminants sources is causing imminent danger to human health or safety, he may order the person or persons responsible for the operation or operations in question to reduce or discontinue emissions immediately, without regard to the provisions of Section 22-28-19. In such event, the requirements for hearing and affirmance, modification or setting aside of orders set forth in subsection (a) of this section shall apply.

(c) Nothing in this section shall be construed to limit any power which the Governor or any other officer may have to declare an emergency and act on the basis of such declaration, if such power is conferred by statute or constitutional provision or inheres in the office.

(d) In addition to, and without in any way limiting the foregoing, if the State Health Officer, determines, at any time, that air pollution in any county, locality, place or other area in the state constitutes an emergency risk to health of those present within said area of the state and that the resources of the commission are not sufficient to abate said air pollution, such determination shall be communicated in writing, with the factual findings on which such determination is based, to the Governor; the State Health Officer may delegate in writing to any employee of the commission the power to make such determination and deliver the same to the Governor in the absence of the State Health Officer from the state. Upon being so advised, the Governor shall, by proclamation, declare, as to all or any part of said area mentioned in the aforesaid determination, that an air pollution emergency exists, and, upon making such declaration, the Governor shall have the following powers which he may exercise, in whole or in part, by the issuance of an order or orders:

(1) To prohibit, restrict or condition motor vehicle travel of every kind, including trucks and buses, in the area;

(2) To prohibit, restrict or condition the operation of retail, commercial, manufacturing, industrial or similar activity in the area;

(3) To prohibit, restrict or condition operation of incinerators in the area;

(4) To prohibit, restrict or condition the burning or other consumption of any type of fuel in the area;

(5) To prohibit, restrict or condition the burning of any materials whatsoever in the area; and

(6) To prohibit, restrict or condition any, and all, other activity in the area which contributes or may contribute to the air pollution emergency.

(e) The declaration by proclamation of the Governor of an air pollution emergency, and any order issued by the Governor pursuant to such declaration, shall be given maximum publicity throughout the state.

(f) Any gubernatorial order may be amended or modified by further gubernatorial orders. Said order or orders shall not require any judicial or other order or confirmation of any type in order to become immediately effective as the legal obligation of all persons, firms, corporations and other entities within the state. Said order shall remain in effect for the duration of the time set forth in same, and if no time limit is specified in said order, same shall remain in effect until the governor declares by further proclamation that the emergency has terminated.

(g) The aforesaid orders of the Governor shall be enforced by the state and county departments of health, the state and local police, commission personnel, the Alabama National Guard, if same is authorized in the Governor's order, and such other persons or agencies as may be designated by the Governor. Those enforcing any Governor's order shall require no further authority or warrant in executing same than the issuance of the order itself. Those authorized to enforce said orders may use such reasonable force as is required in the enforcement thereof and may take such reasonable steps as are required to assure compliance therewith, including, but without limiting the generality of the foregoing, the following:

(1) Entering any property or establishment whatsoever, commercial, industrial or residential, believed, on reasonable cause, to be violating said order, excepting single or double family homes or any dwelling unit within a multiple-dwelling unit larger than a double family home, and, if a request does not produce compliance, causing compliance with said order;

(2) Stopping, detouring, rerouting and prohibiting motor vehicle travel and traffic;

(3) Disconnecting incinerator or other types of combustion facilities;

(4) Terminating all burning activities;

(5) Closing down or restricting the use of any business, commercial, retail, manufacturing, industrial or other establishment.

Where any person authorized to enforce such an order believes, on reasonable cause, that same is being violated in a single or double family residence or within the dwelling portion of a larger multiple-dwelling unit, said residence, or dwelling portion thereof, may be entered only upon obtaining a search warrant from any magistrate having power to issue same.

(h) Any person, firm or corporation or other entity aggrieved by any gubernatorial order, upon application to the State Health Officer, shall be granted a public hearing on the question of whether or not the continuance of any such order, in whole or in part, is unreasonable in the light of the then prevailing conditions of air pollution, the contribution to the same of any particular activity and the purposes of this chapter. Said public hearing shall be conducted as quickly as possible by said State Health Officer or his delegate who shall give public notice of same. The State Health Officer or his delegate shall have the power to compel attendance, testimony and the production of documents by the use of subpoena powers. The number of witnesses and the extent of testimony shall be within his control. If the State Health Officer, upon conclusion of such hearing, determines that any such order should be terminated or modified in any way whatsoever, he shall report such findings and recommendations to the Governor for such action as he deems appropriate.

(Acts 1971, No. 769, p. 1481, §11; Acts 1982, No. 82-612, p. 1111, §11(g).)

Section 22-28-22

Proceedings upon violation of chapter; penalties; subpoenas; injunctions.

(a) Any person who knowingly violates or fails or refuses to obey or comply with this chapter, or any rule or regulation adopted thereunder, or knowingly submits any false information under this chapter, or any rule or regulation thereunder, including knowingly making a false material statement, representation, or certification, or knowingly rendering inaccurate a monitoring device or method, upon conviction, shall be punished by a fine not to exceed ten thousand dollars ($10,000) for the violation and an additional penalty not to exceed ten thousand dollars ($10,000) for each day thereafter during which the violation continues and may also be sentenced to hard labor for the county for not more than one year.

(b) Any local air pollution control program operating pursuant to subsection (b) of Section 22-28-23 may enforce violations of the local air pollution control program and its rules and regulations in the same manner described in subsection (a) of this section.

(c) Any duly designated employee of the commission, including any hearing officer, may administer oath to witnesses and may conduct hearings or investigations, and any such duly designated employee of the commission may sign and issue subpoenas requiring persons to appear before him or her or the commission to give testimony and requiring the production of any papers, books, accounts, payrolls, documents, or records. The commission, through its designated officers, shall have the power to serve subpoenas upon any person by sending a copy of the subpoena through the United States mail, postage prepaid, registered or certified, with return receipt attached, and the service shall be complete when the registered or certified mail is delivered to the person and the receipt is returned to the commission or its designated employee, signed by the person being subpoenaed. Obedience to a subpoena issued by the commission or any person authorized and designated by the commission to issue a subpoena may be enforced by application to any judge of the circuit court of the county in which the subpoena was issued or to the judge of any circuit court in which the person subpoenaed resides in the same manner as is provided by law for the grand jury of a county to enforce its subpoenas and with the same penalty as provided for the failure of any person failing or refusing to comply with a subpoena.

(Acts 1971, No. 769, p. 1481, §17; Acts 1982, No. 82-612, p. 1111, §14(a)(1); Acts 1986, No. 86-542, p. 1053, §6; Acts 1996, No. 96-516, p. 660, §1.)

Section 22-28-23

Local air pollution control programs.

(a) Except as provided in this section, it is the intention of this chapter to occupy by preemption the field of air pollution control within all areas of the State of Alabama. However, nothing in this section shall be construed to limit or abrogate any private remedies now available to any person for the alleviation, abatement, control, correction, or prevention of air pollution or restitution for damage resulting therefrom.

(b) Subject to the provisions of this section, each municipal governing body which had municipal ordinances in effect on, or before, July 1, 1969, which pertain to air pollution control and which provide for the creation and establishment of an air pollution control board and each county board of health shall have the authority to establish, and thereafter administer, within their jurisdictions, a local air pollution control program which:

(1) Provides, subject to subsection (d) of this section, by ordinance, regulation, or resolution, for requirements for the control or prevention of air pollution consistent with, or more strict than, those imposed by this chapter or the rules, regulations, and standards promulgated by the commission under this chapter;

(2) Provides for the enforcement of such requirement by appropriate administrative and judicial process, including a process for the administrative assessment of penalties substantially equivalent to that provided in subdivision (18) of Section 22-22A-5, provided however, that no person subject to the jurisdiction of the municipal or county program shall be subject to the administrative assessment of penalties by the municipal or county program if the department has issued an order that assesses a penalty or if the department or Attorney General has commenced a civil action to recover a penalty for the same violation pursuant to subdivision (18) of Section 22-22A-5. Each municipal governing body and each county board of health establishing a program under this section may advertise and adopt all rules and regulations in accordance with the same procedure provided in this chapter for the adoption of rules, regulations, and standards by the commission, and all judicial remedies provided by this chapter and Chapter 22A of this title shall be available and enforceable by the municipal governing body and by the county board of health; and

(3) Provides for administrative organization, staff, financial, and other resources necessary to effectively and efficiently carry out its program. The county commission of each county and the council or other governing body of each municipal governing body within the jurisdiction of a local air pollution control program established by a county board of health may appropriate such sums as they may determine necessary and desirable for the establishment, administration, and enforcement of the program.

(c) No county board of health shall have the authority to exercise air pollution control jurisdiction within the bounds of any incorporated municipality or the police jurisdiction thereof having an air pollution control program as authorized. Provided further, however, that no municipal governing body having an air pollution control program as authorized shall have the authority to exercise air pollution control jurisdiction over any agricultural and farming operations conducted within the corporate limits or police jurisdiction of the municipality.

(d) Any municipal governing body and each county board of health may adopt and enforce any ordinance, regulation, or resolution requiring the control or prevention of air pollution as follows:

(1) Where any ordinance, regulation, or resolution is identical in substance to requirements for the control or prevention of air pollution imposed by this chapter, or the rules, regulations, and standards promulgated by the commission under this chapter, then the ordinance, regulation, or resolution may be adopted and enforced without further approval of the commission.

(2) Where any ordinance, regulation, or resolution provides for the control or prevention of air pollution regarding classes or types of sources or classes or types of air contaminants for which the commission has not promulgated rules, regulations, or standards applicable to such sources of air contaminants within the area of

jurisdiction of the local air pollution control program of the municipal governing body or county board of health, then the ordinance, regulation, or resolution may be adopted and enforced without further approval of the commission.

(3) Where any ordinance, regulation, or resolution is adopted which provides for requirements for the control or prevention of air pollution for particular classes or types of sources or classes or types of air contaminants, which requirements are more strict than those imposed by this chapter, or the rules, regulations, and standards promulgated by the commission under this chapter, which are applicable within the area of jurisdiction of the local air pollution control program of the municipal governing body or county board of health, then the ordinance, regulation, or resolution may not be enforced unless the commission finds within 60 days of the adoption that the ordinance, regulation, or resolution is compatible with the purposes of this chapter and with any comprehensive plan adopted by the commission pursuant to Section 22-28-10.

(4) Each municipal governing body or county board of health shall notify the commission of the adoption of any ordinance, regulation, or resolution requiring the control or prevention of air pollution and provide to the commission a certified copy of the ordinance, regulation, or resolution within 15 days of adoption.

(e)(1) If the commission has reason to believe that a local air pollution control program established pursuant to subsection (b) of this section is inadequate to prevent and control air pollution in the jurisdiction to which the program relates or that the program is being administered in a manner inconsistent with the requirements of this chapter, the commission shall, on due notice, conduct a hearing on the matter; and

(2) If, after such hearing, the commission finds that the program is inadequate to prevent and control air pollution in the jurisdiction to which the program relates, that the program is not accomplishing the purposes of this chapter, that the program is not adhering to the requirements of subsection (f) of this section or that the program is being administered in a manner inconsistent with requirements of this chapter, the commission may preempt the local enforcement authority of that program.

(f)(1) Each municipal governing body or county board of health which has established and administers a local air pollution control program pursuant to this section shall submit to the commission a detailed report of its activities during the previous year. The annual report shall be submitted as of October 1, of each year. The reports shall include, but not be limited to, information regarding:

a. Ordinances and resolutions adopted or under consideration requiring control or prevention of air pollution and administrative procedures followed in the adoption;
b. Administrative organization;
c. Staff, financial, and other resources;
d. Enforcement activities;
e. Emission inventories;
f. Air quality monitoring systems and data;
g. Progress and problems related to administration of the local air pollution control programs; and
h. Any other information which the commission may reasonably require.

(2) The commission may also require special interim reports by the municipal governing body or county board of health regarding activities of its local air pollution control program.

(g) Any municipal governing body and any county board of health establishing a program under this section may, upon receipt of authorization from the commission, issue permits for the construction, installation, modification, or use of categories of equipment, devices, or articles specifically included in that authorization, provided however, that the commission may require the municipal governing body or county board of health to notify the commission of any permit proposed to be issued. Such permits shall be in lieu of those required by Section 22-28-16. The commission may enforce, suspend, or revoke any permit issued by a municipal governing body or county board of health pursuant to this subsection. Criteria for granting authorization and for suspension or revocation of that authorization, or permits issued pursuant to that authorization, whether in whole or in part, shall be established by the commission by regulation. No fee charged by a local air pollution control program shall exceed the fee charged by the commission for emissions and/or the review of plans and specifications for the same category of permit, except any county or municipality having a population of 55,000 or less according to the most recent federal census, which counties or cities may charge a higher fee.

(h) Nothing in this section shall be construed to prohibit the commission from enforcing any provision of this chapter or any rule or regulation issued thereunder, nor to supersede or oust the jurisdiction of the commission in any matter.

(Acts 1971, No. 769, p. 1481, §15; Acts 1980, No. 80-439, p. 666; Acts 1986, No. 86-542, p. 1053, §7; Act 2000-798,p. 1896 §1.)

Chapter 22A ENVIRONMENTAL MANAGEMENT.

- Section 22-22A-1 Short title.
- Section 22-22A-2 Legislative intent and purposes of chapter.
- Section 22-22A-3 Definitions.
- Section 22-22A-4 Department of Environmental Management created; principal office; director; deputy director; divisions and division chiefs; transfer of functions; designation as State Environmental Control Agency, etc.; contract with Health Department for routine bacteriological analyses.
- Section 22-22A-5 Powers and functions of department; representation of department by Attorney General in legal actions.
- Section 22-22A-6 Environmental Management Commission; powers and duties; composition; appointments; vacancies; qualifications; terms; chairman; quorum; regular and special meetings; effect of failure to attend three consecutive meetings; record of proceedings; compensation; expenses; ethical requirements.
- Section 22-22A-7 Hearings and procedures before commission; appeal and review.Section 22-22A-8 Adoption of rules, regulations and standards; review by director; public notice and hearing.
- Section 22-22A-9 Transfer of functions, personnel, equipment, funds, etc., to Department of Environmental Management.
- Section 22-22A-10 Transfer of functions, personnel, equipment, etc., of coastal area board to Office of State Planning and Federal Programs; exception.
- Section 22-22A-11 Alabama Department of Environmental Management Fund.
- Section 22-22A-12 Coastal Resources Advisory Committee; composition; terms; chairman; meetings.
- Section 22-22A-13 Effect of chapter on powers of Attorney General.
- .
- Section 22-22A-15 Chapter does not repeal Section 22-30-5.1.
- Section 22-22A-16 Pollution Control Grant Fund.

Section 22-22A-1

Short title.

This chapter shall be known and may be cited as "the Alabama Environmental Management Act."

(Acts 1982, No. 82-612, p. 1111, §1.)

Section 22-22A-2

Legislative intent and purposes of chapter.

The Legislature finds the resources of the state must be managed in a manner compatible with the environment, and the health and welfare of the citizens of the state. To respond to the needs of its environment and citizens, the state must have a comprehensive and coordinated program of environmental management. It is therefore the intent of the Legislature to improve the ability of the state to respond in an efficient, comprehensive and coordinated manner to environmental problems, and thereby assure for all citizens of the state a safe, healthful and productive environment.

(1) To this end an Alabama Department of Environmental Management is created by this chapter within the Executive Branch of State Government in order to effect the grouping of state agencies which have primary responsibility for administering environmental legislation into one department, to promote economy and efficiency in the operation and management of environmental programs, to eliminate overlapping or duplication of effort within the environmental programs of the state, to provide for timely resolution of permitting actions, to improve services to the citizens of the state, to protect human health and safety, to develop and provide for a unified environmental regulatory and permit system, to provide that the responsibility within the Executive Branch for the implementation of environmental programs and policies is clearly fixed and ascertainable, and to insure that government is responsive to the needs of the people and sufficiently flexible to meet changing conditions.

(2) It is also declared to be the intent of the Legislature to retain for the state, within the constraints of appropriate federal law, the control over its air, land and water resources and to secure cooperation between agencies of the state, agencies of other states, interstate agencies and the federal government in carrying out these objectives.

(3) It is the intent of the Legislature to recognize the unique characteristics of the Alabama coastal region and to provide for its protection and enhancement through a continued coastal area program.

(4) It is not the intent of the Legislature to abrogate any of the powers or duties of the State Board of Health which are found in Sections 22-2-1 through 22-2-14.

(Acts 1982, No. 82-612, p. 1111, §2.)

Section 22-22A-3

Definitions.

For the purposes of this chapter, the following words and phrases, unless a different meaning is plainly required by the context or by legislation governing functions transferred by this chapter, shall have the following meanings:

(1) Department.

The Alabama Department of Environmental Management, established by this chapter.

(2) Director.

The director of the Alabama Department of Environmental Management.

(3) Division.

A subdivision of the Alabama Department of Environmental Management, which may be headed by a division chief. Such divisions may be divided into sections where appropriate.

(4) Environmental Management Commission.

The Environmental Management Commission of the Alabama Department of Environmental Management.

(5) Function(s).

A duty, power or program exercised by or assigned to a commission, board or the State Health Department, including all positions and personnel relating to the performance of such function, unless otherwise provided by this chapter.

(6) Hearing officer.

An attorney licensed to practice law in the State of Alabama, designated by the Environmental Management Commission to hear appeals for the Environmental Management Commission and to make findings of fact, conclusions of law and recommendations to the Environmental Management Commission for its final decision.

(7) Person.

Any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, or other legal entity or other business organization or any governmental entity, and any successor, representative, agent or agency of the foregoing.

(8) Administrative action(s).

The issuance, modification, repeal or denial of any permit, license, certification, or variance, or the issuance, modification or repeal of any order, notice of violation, citation, rule or regulation by the department.

(9) All definitions of the Alabama Water Pollution Control Act, Section 22-22-1, shall be the definitions of the department for its Water Pollution Control Program.

(10) All definitions found in Section 22-23-31, relating to safe drinking water, shall be the definitions of the department for its Safe Drinking Water Program.

(11) All definitions of the Alabama Air Pollution Control Act, Section 22-28-2, shall be the definitions of the department for its Air Pollution Control Program.

(12) All definitions found in Section 22-24-1, relating to water well standards, shall be the definitions of the department for its Water Well Standards Program.

(13) All definitions found in Section 22-25-1, relating to water and wastewater systems and treatment plants, shall be the definitions of the department for its Water and Wastewater Systems and Treatment Plant Operator Program.

(14) All definitions found in Section 22-27-2, relating to solid wastes, shall be the definitions of the department for its Solid Waste Program.

(15) All definitions found in Section 9-7-10, relating to the coastal area Management Program, shall be the definitions of the Department and the Office of State Planning and Federal Programs for their Coastal Area Program.

(16) All definitions found in Section 22-30-3, relating to hazardous wastes, Shall be the definitions of the department for its Hazardous Waste Program.

(Acts 1982, No. 82-612, p. 1111, §3.)

Section 22-22A-4

Department of Environmental Management created; principal office; director; deputy director; divisions and division chiefs; transfer of functions; designation as State Environmental Control Agency, etc.; contract with Health Department for routine bacteriological analyses.

(a) There is hereby created and established the Alabama Department of Environmental Management to carry out the purposes of this chapter and to administer and enforce the provisions of this chapter and all functions transferred to the department by this chapter. The department shall maintain its principal office in the City of Montgomery, Montgomery County, Alabama.

(b) The department shall be under the supervision and control of an officer who shall be designated as the director of the Alabama Department of Environmental Management. The director shall be an individual knowledgeable and experienced in environmental matters. The director shall employ such officers, agents and employees as he deems necessary to properly administer and enforce the programs and activities of the department and to fully implement the requirements of this chapter and the intent of the Legislature. All powers, duties and functions transferred to the department by this chapter, except those specifically granted to the Environmental Management Commission, shall be performed by the director; provided that the director may delegate the performance of such of his powers, duties and functions, to employees of the department, wherever it appears desirable and practicable in fulfilling the policies and purposes of this chapter. The director shall be appointed by and serve at the pleasure of the Environmental Management Commission. The director shall be exempt from Chapter 26 of Title 36. The pay of the director shall be set by the Environmental Management Commission and shall be consistent with that of cabinet level appointees.

(c) There shall be a deputy director of the department who shall be a Merit System employee. The deputy director shall assist the director and shall have charge and general supervision of the department in the absence or disability of the director. In the case of a vacancy in the office of director, the deputy director shall become the acting director of the department and shall have the full powers of the office of director until the Environmental Management Commission appoints a successor to the director.

(d) The department shall be divided into such divisions as the director deems appropriate. Each division shall be supervised by a division chief who shall be selected by the director and shall be a Merit System employee.

(e) The functions of the Air Pollution Control Commission and of the Division of Air Pollution Control in the State Health Department as set forth in Sections 22-28-1 through 22-28-23 are transferred to the department on October 1, 1982.

(f) The functions of the Water Improvement Commission, as set forth in Sections 22-22-1 through 22-22-14 are transferred to the department on October 1, 1982.

(g) The functions of the State Health Department with respect to public water systems, as set forth in Sections 22-23-30 through 22-23-53 are transferred to the department on October 1, 1982.

(h) The functions of the Alabama Water Well Standards Board, as set forth in Sections 22-24-1 through 22-24-12 are transferred to the department on October 1, 1982.

(i) The functions of the State Health Department with respect to solid waste collection and disposal, as set forth in Sections 22-27-1 through 22-27-7, which are specified below, are transferred to the department on October 1, 1982. Specifically, those functions of Section 22-27-3 relating to the location and control of solid waste disposal by sanitary landfill, incineration, or composting; and the burning of solid wastes are transferred to the department. Those provisions of Section 22-27-4 relating to the control of unauthorized dumping are transferred to the department. Those provisions of Section 22-27-5 relating to the issuance of permits to individuals or corporations engaging in the disposal of solid wastes are transferred to the department. Those provisions of Section 22-27-7 relating to the supervision and regulation of solid waste management are transferred to the department. Nothing in this chapter shall be construed to limit or curtail the authority of the State Health Department in the realm of sanitation or disease control and prevention, or in any matters relating to the public health which are not specifically transferred to the department by this chapter on October 1, 1982. Nothing in the chapter should be construed to transfer any function relating to collection of solid waste to the department. Such functions shall remain with the State Health Department or county health department as appropriate.

(j) Any permitting, regulatory and enforcement functions of the Coastal Area Board, as set forth in Sections 9-7-10 through 9-7-22, are transferred to the department on October 1, 1982.

(k) The functions of the State Health Department, with respect to hazardous waste management, as set forth in Sections 22-30-1 through 22-30-24, are transferred to the department on October 1, 1982.

(l) The functions of the Environmental Health Administration Laboratory of the State Health Department are transferred to the department on October 1, 1982.

(m) The functions of the Board of Certification of Water and Wastewater Systems Personnel and the functions of the State Health Officer as set forth in Sections 22-25-1 through 22-25-15 are transferred to the department on October 1, 1982.

(n) Beginning October 1, 1982, the department is hereby designated as the State Environmental Control Agency for the purposes of federal environmental law. Specifically, the department is designated as the State Air Pollution Control Agency for

the purposes of the Federal Clean Air Act, 42 U.S.C. §7401 et seq., as amended; as the State Water Pollution Control Agency for the purposes of the Federal Clean Water Act, 33 U.S.C. § 1251 et seq., as amended; the State Agency responsible for the promulgation and enforcement of drinking water regulations in accordance with the Federal Safe Drinking Water Act, 42 U.S.C. § 201 et seq., as amended; the State Agency responsible for the promulgation and enforcement of solid and hazardous waste regulations in accordance with the Solid Waste Disposal Act, 42 U.S.C. § 3251 et seq., as amended, including 42 U.S.C. § 6901 et seq., as amended; and is hereby authorized to take all actions necessary and appropriate to secure to this state the benefits of federal environmental laws.

(o) Beginning October 1, 1982, the State Health Department shall provide certain routine bacteriological analyses to the Alabama Department of Environmental Management and the department shall reimburse the State Health Department for the reasonable costs and expenses incurred in providing such analyses. For an appropriate period of time, the department shall contract with the State Health Department to provide the routine bacteriological analyses necessary to the department in its Public Water Systems Program.

(Acts 1982, No. 82-612, p. 1111, §4.)

Section 22-22A-5

Powers and functions of department; representation of department by Attorney General in legal actions.

In addition to any other powers and functions which may be conferred upon it by law, the department is authorized beginning October 1, 1982 to:

(1) Administer appropriate portions of Sections 9-7-10 through 9-7-20, which relate to permitting, regulatory and enforcement functions; administer and enforce the provisions and execute the functions of Chapter 28 of this title; Chapter 22 of this title; Article 2 of Chapter 23 of this title; Chapter 30 of this title; appropriate portions of Article 1 of Chapter 27 of this title; Sections 22-24-1 through 22-24-11; Sections 22-25-1 through 22-25-15; and Sections 22-36-1 through 22-36-10.

(2) Acting through the Environmental Management Commission, promulgate rules, regulations and standards in order to carry out the provisions and intent of this chapter; provided, however, that prior to the promulgation of any state primary or secondary drinking water standard governed by Sections 22-23-30 through 22-23-53 or any regulations dealing with hazardous wastes governed by Sections 22-30-1 through 22-30-24, the department shall receive the approval of the State Board of Health. The State Board of Health shall provide the department a response to its request for approval within 60 days of receipt of such request unless such other time is mutually agreed upon by the department and the State Board of Health.

(3) Acting through the Environmental Management Commission, adopt and promulgate rules, regulations and standards for the department, and to develop environmental policy for the state.

(4) Consistent with the provisions in subsection 22-22A-4(n), serve as the State Agency responsible for administering federally approved or federally delegated environmental programs.

(5) Serve as the state's clearinghouse for environmental data. The clearinghouse shall be developed in coordination and cooperation with other governmental data collection and record keeping systems to provide for an inventory, and for the cataloguing and dissemination of environmental information.

(6) Report, as appropriate, to the Governor and to the Legislature on the programs and activities of the department and to recommend needed changes in legislation or administrative practice.

(7) Develop, conduct and disseminate education and training programs. Pursuant to this authority, the department shall establish a citizens' advisory committee to provide input into such education and training programs.

(8) Enter into agreements and contracts, where appropriate, with other state agencies, the federal government or private individuals, in order to accomplish the purposes of this chapter.

(9) Establish and maintain regional or field offices in order to provide more effective and efficient services to the citizens of the state.

(10) Issue, modify, suspend or revoke orders, citations, notices of violation, licenses, certifications or permits.

(11) Hold hearings relating to any provision of this chapter or relating to the administration thereof.

(12) Enforce all provisions of this chapter and all provisions of law identified in subdivision (1) of this section and to file legal actions in the name of the department and to prosecute, defend or settle actions brought by or against the department or its agents. The Attorney General shall represent the department in any and all legal actions brought by the department to enforce any provisions of this chapter; provided however, that if, within a reasonable time after the department refers the matter to him, he fails to file any such action, then the department may commence appropriate legal action. Nothing in this subdivision shall be construed so as to impair the authority of the Attorney General to independently enforce the provisions of this chapter.

(13) When necessary to achieve conformance with Sections 9-7-10 through 9-7-20, acquire fee simple or less than fee simple, interest in land, water and other property under the procedures of Title 18 or other means; provided, however, that such power shall not apply to property and interest therein which is devoted to public use.

(14) Apply for, where appropriate, accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions, purposes or provisions of this chapter or any of the functions or provisions transferred to the department by this chapter.

(15) Employ such professional, technical, clerical and other workers including attorneys and special counsel, and such consultants as are necessary and within available funds to carry out the purposes of this chapter.

(16) Adopt rules and regulations relating to charging and collecting fees sufficient to cover the reasonable anticipated costs to be incurred by the department and directly related to the issuance, reissuance, modification or denial of any permit, license, certification or variance, such fees to include, but not be limited to, the reasonable anticipated cost of the examination and processing of applications, plans, specifications or any other data and any necessary public hearings and investigations; provided, however, that nothing in this subdivision shall be construed as modifying or affecting the provisions of Section 22-24-5. A schedule of estimated reasonable anticipated costs shall be appended to rules and regulations with the understanding that fees may be higher or lower on a case-by-case basis.

(17) In addition to any other remedies provided by law, recover in a civil action from any person who has violated, or threatens to violate, any provision of this chapter, or any provision of law identified in subdivision (1) of this section, or any rule or regulation promulgated thereunder, or any order, or condition of any permit, license, certification or variance issued by the department pursuant thereto, the actual costs reasonably incurred by the department to prevent, minimize or abate any adverse effect on air, land or water resources which results or may result from such violation. Such civil actions may be filed in the circuit court of the county in which the defendant resides or does business, or in which the violation or threatened violation occurs or in which the adverse effect occurs.

(18)a. Issue an order assessing a civil penalty to any person who violates any provision of law identified in subdivision (1) of this section, any rule, regulation or standard promulgated by the department, any provision of any order, or any condition of any permit, license, certification or variance issued by the department, provided however, that no such order shall be issued to a person:

1. If a civil action to recover a penalty for such violation has been commenced against such person as provided in paragraph b. of this subdivision.

2. For any violation at a coal mining operation regulated under Sections 9-16-70 through 9-16-107 or Title V of Public Law 95-87, 30 U.S.C. §1251-1279.

3. If an order assessing a civil penalty for such violation has been issued to such person pursuant to subdivision (2) of subsection 22-28-23(b).

4. Who is a responsible corporate officer subject to a civil action for the recovery of a penalty under paragraph b. of this subdivision.

The department shall commence enforcement action under this paragraph by notifying the person subject thereto in writing of the alleged violation and affording the person an opportunity for an informal conference with the director or his or her designated representative concerning the alleged violation and any proposed order. The informal

conference shall not be subject to the procedures for hearings under Section 22-22A-7. Before issuing any consent or unilateral order under this section, the department shall cause public notice to be published for one day in a newspaper of general circulation in the area where the alleged violation occurred and on the website of the department for the duration of the comment period; provided, however, that unavailability of the website during the comment period shall not affect the validity of an order issued under this paragraph. The notice shall reasonably describe the nature and location of the alleged violation and the amount of civil penalty proposed, contain a summary of any proposed corrective measures, provide instructions for obtaining a copy of the proposed order, and indicate that persons may submit written comments to the department and request a hearing on the proposed order within 30 days of the first date of publication. The department may hold a hearing if the information submitted in support of the request is material and if a hearing may clarify one or more issues raised in the written comments. If the department grants a request for a hearing, the department shall provide written notice of the time, date, and location of the hearing by regular mail at least 20 days prior to the hearing to all persons subject to the proposed order and all persons who submitted written comments on the proposed order that contain a current return address. At any such hearing, the department shall provide a reasonable opportunity for persons subject to the proposed order and persons who submitted written comments on the proposed order to be heard and to submit information to the director or his or her designated representative, provided, however, that the hearing shall not be subject to the procedures for hearings under Section 22-22A-7, or practices or procedures governing public hearings. The department shall also accept additional written comments from any interested party that are received on or before the date of the hearing. After consideration of written comments, any information submitted at the hearing, if one was held, and any other publicly available information, the department may issue the order as proposed, issue a modified order, or withdraw the proposed order. Any order issued under this paragraph shall include findings of fact relied upon by the department in determining the alleged violation and the amount of the civil penalty and shall be served on persons subject to the order in the manner provided for service of process in the Alabama Rules of Civil Procedure. Upon issuance of an order, the department shall also provide written notice of the order by regular mail to each person who submitted written comments on the proposed order that contain a current return address. The notice shall reasonably describe the nature and location of the alleged violation and the amount of civil penalty, contain a summary of any required corrective measures, provide instructions for obtaining a copy of the order, and indicate that persons who submitted written comments on the proposed order may, within 30 days of the issuance of the order, request a hearing on the order before the Environmental Management Commission in accordance with Section 22-22A-7. Where the department has issued an order finding that a violation has occurred and assessing a civil penalty, the person subject thereto shall, unless the department and that person agree on a different schedule, pay the penalty in full within 45 days after issuance of such order unless any person has filed a timely request for a hearing to contest the issuance of such order in accordance with Section 22-22A-7, in which case the penalty assessed in the order as approved or modified by the Environmental Management Commission shall, unless the department and that person agree on a different schedule, be paid in full within 30 days after the order is approved or modified by the Environmental Management Commission or, if an appeal thereof is taken to circuit court, within 42 days after the court affirms the order as approved or modified by the Environmental Management Commission. Civil penalties assessed in an order under this paragraph and

not paid as provided herein may be recovered in a civil action brought by the department in the Circuit Court of Montgomery County or the county in which the defendant does business.

.

b. Commence a civil action in the circuit court of the county in which the defendant or any material defendant resides or does business or in which the violation occurred to recover a civil penalty from such person for any violation of any provision of law identified in subdivision (1) of this section, any rule, regulation or standard promulgated by the department, any provision of any order or any condition of any permit, license, certification or variance issued by the department, provided however, that no such civil action may be commenced against a person if an order assessing a civil penalty for such violation has been issued to such person under paragraph a. of this subdivision. Whenever such person is a corporation and the violation is of a provision of law in Chapter 22 of this title, or any rule, regulation or standard promulgated by the department thereunder, or any provision of any order or any condition of any permit, license, certification or variance issued by the department thereunder, the same civil penalties that may be imposed upon a person under this subdivision may be imposed upon the responsible corporate officers in a civil action. Any person having an interest which is or may be adversely affected may intervene as a matter of right in any civil action commenced under this paragraph. The Attorney General may also commence a civil action under this paragraph.

c. Any civil penalty assessed or recovered under paragraph a. or b. of this subdivision shall not be less than $100.00 or exceed $25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the department under paragraph a. of this subdivision shall not exceed $250,000.00. Each day such violation continues shall constitute a separate violation for purposes of this subdivision. In determining the amount of any penalty, consideration shall be given to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Civil penalties may be assessed under this subdivision for any violation occurring within two years prior to the date of issuance of an order under paragraph a. of this subdivision or commencement of such civil action under paragraph b. of this subdivision. All civil penalties recovered under this subdivision by the department or Attorney General shall be deposited into the State Treasury to the credit of the General Fund, except that portion which represents the reasonable costs incurred by the department or Attorney General to recover such penalties which shall be deposited to the credit of the operating fund of the department or Attorney General, whichever incurred such costs.

(19) Commence a civil action in the circuit court of the county in which the defendant or any material defendant resides or does business or in which the threatened or continuing violation of any provision of law identified in subdivision (1) of this section, any rule, regulation or standard promulgated by the department, any provision of any order, or any condition of any permit, license, certification or

variance issued by the department. The Attorney General or district attorney having jurisdiction in the circuit, county or territory in which the threatened or continuing violation occurs may also commence a civil action to enjoin such violation. In any such action, any person having an interest which is or may be adversely affected may intervene as a matter of right.

(20) Perform any other duty or take any other action necessary for the implementation and enforcement of this chapter.

(Acts 1982, No. 82-612, p. 1111, §5; Acts 1984, 1st Ex. Sess., No. 84-783, p. 163, §1; Acts 1986, No. 86-542, p. 1053, §1; Acts 1988, No. 88-537, p. 823, §9; Act 2003-397, p. 1136, §1.)

Section 22-22A-6

Environmental Management Commission; powers and duties; composition; appointments; vacancies; qualifications; terms; chairman; quorum; regular and special meetings; effect of failure to attend three consecutive meetings; record of proceedings; compensation; expenses; ethical requirements.

(a) There is hereby created a seven member Environmental Management Commission of the Alabama Department of Environmental Management which shall have the following duties:

(1) To select a director for the Department of Environmental Management and to advise the director on environmental matters which are within the department's scope of authority;

(2) To establish, adopt, promulgate, modify, repeal and suspend any rules, regulations or environmental standards for the department which may be applicable to the state as a whole or any of its geographical parts;

(3) To develop environmental policy for the state; and

(4) To hear and determine appeals of administrative actions.

(b) The Environmental Management Commission shall be composed of seven members who are citizens of the State of Alabama. Initial members of the commission shall be appointed to places on the Environmental Management Commission by the Governor, Lieutenant Governor, and Speaker of the House of Representatives pursuant to the procedure set out in subsection (d) of this section with the advice and consent of the Senate. Initial appointments shall be made on or before October 1, 1982. All subsequent appointments to places on the Environmental Management Commission after the initial appointments shall be made by the Governor with the advice and consent of the Senate. No member of the Environmental Management Commission may serve more than a total of 18 years. When a vacancy occurs during a period when the Legislature is not in session to advise and consent, such appointee shall have the full power of the office until and unless the Senate, upon the reconvening of the Legislature, shall by affirmative vote refuse to consent in such appointment. Qualifications of the seven members shall be as follows:

(1) One member shall be a physician licensed to practice medicine in the State of Alabama and shall be familiar with environmental matters;

(2) One member shall be a professional engineer registered in the State of Alabama and shall be familiar with environmental matters;

(3) One member shall be an attorney licensed to practice law in the State of Alabama and shall be familiar with environmental matters;

(4) One member shall be a chemist possessing as a minimum a bachelor's degree from an accredited university or a veterinarian licensed to practice veterinary medicine in the State of Alabama and shall be familiar with environmental matters;

(5) One member that has been certified by the National Water Well Association Certification Program;

(6) One member shall be a biologist or an ecologist possessing as a minimum a bachelor's degree from an accredited university and shall have training in environmental matters; and

(7) One member shall be a resident of the state for at least two years but shall not be required to have any specialized experience.

(c) At the expiration of the terms of all members initially appointed, their successors shall be promptly appointed by the Governor for terms of six years. At the expiration of a term of office or in the event of a vacancy on the Environmental Management Commission, the Governor shall promptly make an appointment to fill the vacancy. The expiring term of an incumbent member shall be continued until an appointment is made.

(d) Provided however that the initial appointments to the Environmental Management Commission shall be made as follows notwithstanding the other provisions of this chapter:

(1) The Governor shall appoint three members of the Environmental Management Commission, two of whom shall come from the voting members of the boards or commissions abolished by this chapter. The Governor's three initial appointments shall fill the positions described in subdivisions (4), (6) and (7) of subsection (b) of this section. The terms of these initial position appointments shall be for six years.

(2) The Lieutenant Governor shall appoint two members of the Environmental Management Commission, one who shall come from the voting members of the boards or commissions abolished by this chapter. The Lieutenant Governor's appointments pursuant to this subsection shall fill the positions described in subdivisions (1) and (5) of subsection (b) of this section. The term of the initial position described in subdivision (1) of subsection (b) of this section shall be for four years. The term of the initial position described in subdivision (5) of subsection (b) of this section shall be for two years.

(3) The Speaker of the House of Representatives shall appoint two members of the Environmental Management Commission, one who shall come from the voting members of the boards or commissions abolished by this chapter. The Speaker of the House of Representatives' appointments pursuant to this subsection shall fill the positions described in subdivisions (2) and (3) of subsection (b) of this section. The

term of the initial position described in subdivision (2) of subsection (b) of this section shall be for four years. The term of the initial position described in subdivision (3) of subsection (b) of this section shall be for two years.

(e) The Environmental Management Commission shall select a chairman from among its members, and the chairman's term of office shall be determined by the Environmental Management Commission, but shall not exceed three consecutive years. The Environmental Management Commission shall not take official action unless a quorum is present. A quorum shall be any four of the seven members. Recusal of a member shall not affect the quorum.

(f) The Environmental Management Commission shall meet regularly, at least once every two months at times and places to be fixed by the Environmental Management Commission. Special meetings may be called at the discretion of the chairman of the Environmental Management Commission and special meetings shall be called by him on written request of any four members to take up any matters within the jurisdiction of the Environmental Management Commission. All members shall be notified of the time and place of any regular or special meeting in any one of the following ways: in writing or by telegram to a member's last known address as provided to the department or by telephone.

(g) Any member of the Environmental Management Commission who misses three consecutive regularly scheduled meetings, shall immediately cease to be a member of the commission and the Governor shall promptly appoint a new member with appropriate qualifications to fill the remainder of the term.

(h) The Environmental Management Commission shall keep a complete and accurate record of the proceedings of all its meetings, a copy of which shall be kept on file in the office of the director and open to public inspection.

(i)

(1) Each member shall receive $100.00 per day for each day of attendance at an official meeting. Members of the Environmental Management Commission shall be reimbursed for expenses when attending meetings which are approved and certified by the director. Reimbursement shall be in accordance with Sections 36-7-1 through 36-7-42;

(2) All proper expenses of the Environmental Management Commission shall be paid from the appropriations to or funds of the department in the same manner as expenses of the department are paid.

(j) Members of the Environmental Management Commission shall meet all requirements of the state ethics law and the conflict of interest provisions of applicable federal laws and regulations.

(Acts 1982, No. 82-612, p. 1111, §6.)

Section 22-22A-7

Hearings and procedures before commission; appeal and review.

(a) Beginning October 1, 1982, the Environmental Management Commission, in addition to any other authority which may be conferred upon it by law, shall have the power to:

(1) Develop and prescribe its own hearing procedures, unless otherwise specified by law; and

(2) Administer oaths, certify to official acts, take and cause to be taken depositions of witnesses, issue subpoenas, and compel the attendance of witnesses and the production of papers, books, accounts, payrolls, documents and records. In the event of failure of any person to comply with any subpoena lawfully issued, or on the refusal of any witness to produce evidence or to testify as to any matter regarding which he may be lawfully interrogated, it shall be the duty of any court of competent jurisdiction or of the judge thereof, upon the application of the Environmental Management Commission or its designee, to compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued by such court or a refusal to testify therein. The fees of witnesses for attendance and travel shall be the same as fees of witnesses before courts of record and shall be paid from the funds of the department.

(b)(1) The Environmental Management Commission may delegate the power to hear appeals which are before it to a hearing officer. Any such hearing conducted by a hearing officer shall be in accordance with rules and regulations prescribed by the Environmental Management Commission pursuant to subdivision (1) of subsection (a) of this section, and in such case the hearing officer shall prepare findings of fact, conclusions of law and recommendations to the Environmental Management Commission for its final decision.

(2) The Environmental Management Commission may hire hearing officers to hear appeals which are before it. Such hearing officers shall be attorneys licensed to practice in the State of Alabama and shall be paid appropriately from department funds.

(c) Upon a proper request made in accordance with subdivisions (1) or (2) of this subsection and any hearing procedures prescribed by the Environmental Management Commission, any person aggrieved by an administrative action of the department shall be entitled to a hearing before the Environmental Management Commission or its designated hearing officer. To obtain a hearing on any order assessing a civil penalty issued pursuant to subdivision (18) of Section 22-22A-5, an aggrieved person shall either be subject to the order or have submitted timely written comments on the proposed order in accordance with subdivision (18) of Section 22-22A-5.

(1) Request for such hearing to contest an administrative action of the department, other than to contest the issuance of any rule or regulation or emergency order, must be filed with the Environmental Management Commission within 30 days of the contested administrative action.

(2) Request for a hearing before the Environmental Management Commission or its designated hearing officer to contest the issuance of any rule or regulation by the department must be filed with the Environmental Management Commission within 45 days of the promulgation of the rule or regulation by the department; except, that if such request is based solely on grounds arising after such forty-fifth day, then any request for a hearing under this subdivision must be filed within 45 days after such grounds arise.

(3) The Environmental Management Commission or its designated hearing officer shall within a reasonable time, not to exceed 45 days after receipt of a request in accordance with subdivisions (1) or (2) of this subsection, hold a hearing of which at least 15 days' written notice shall be given to such person requesting the hearing and any other named or necessary party. Within 30 days after such hearing, the Environmental Management Commission shall issue an appropriate order modifying, approving or disapproving the department's administrative action. A copy of the Environmental Management Commission's order shall be served upon all parties either personally, by registered mail or by certified mail return receipt requested. The notice and hearing requirements of this subsection shall not apply to emergency orders. Hearings on emergency orders shall be held before the Environmental Management Commission and notice of such hearing as may be reasonable under the circumstances shall be given to such persons as the Environmental Management Commission deems appropriate.

(4) Pending the determination by the Environmental Management Commission, and upon application therefor, the Environmental Management Commission may stay the operation of such administrative action upon such terms and conditions as it may deem proper.

(5) The parties shall not be bound by the strict rules of evidence prevailing in the courts. However, a full and complete record shall be kept of all proceedings before the Environmental Management Commission. All testimony or comments given in any hearing before the Environmental Management Commission shall be electronically or stenographically recorded, but need not be transcribed unless an appeal is taken to court or unless requested by any party who shall pay for the cost of transcription.

(6) Any order of the Environmental Management Commission made pursuant to the above procedure, modifying, approving or disapproving the department's administrative action, constitutes a final action of the department and is appealable to the Montgomery County Circuit Court or the circuit court in which the applicant does business or resides for judicial review on the administrative record provided that such appeal is filed within 30 days after issuance of such order.

(7) Administrative action with respect to which review was or could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(Acts 1982, No. 82-612, p. 1111, §7; Acts 1986, No. 86-542, p. 1053, §2; Act 2003-397, p. 1136, §1.)

Section 22-22A-8

Adoption of rules, regulations and standards; review by director; public notice and hearing.

(a) All rules, regulations or standards shall be adopted by and promulgated by the Environmental Management Commission. With the exception of editorial changes, no rule, regulation or standard shall be adopted, amended or repealed unless such rule, regulation or standard has been reviewed by the director and until after a public hearing has been held. Unless different notice provisions are specifically required elsewhere by law, at least 45 days prior to the scheduled date of the hearing the department shall give notice of such hearing by public advertisement in the three newspapers of this state with the largest regional circulation of the date, time, place and purpose of such hearing; and make available to any person upon request copies of the proposed rules, regulations or standards, together with summaries of the reasons supporting their adoption, amendment or repeal.

(b) Any public hearing relating to the adoption, amendment or repeal of department rules, regulations or standards under this section shall be held before a department representative, who shall be designated by the Environmental Management Commission. All such hearings shall be open to the public, and reasonable opportunity to be heard with respect to the subject of the hearing shall be afforded to any person. All testimony taken before the department representative shall be recorded and transcribed. The transcript, any exhibits or any written submissions to the department in relation to such hearings shall be open to public inspection.

(c) After such hearing, the department may revise the proposed rules, regulations or standards, before adoption in response to testimony, written submissions or exhibits introduced at the hearing, without conducting a further hearing on the revisions.

(d) Nothing in this section shall be construed to require a hearing prior to the issuance of any temporary emergency rule or regulation.

(Acts 1982, No. 82-612, p. 1111, §8.)

Section 22-22A-9

Transfer of functions, personnel, equipment, funds, etc., to Department of Environmental Management.

(a) All employees engaged in duties pertaining to the functions transferred by this chapter to the department, shall be assigned to the department on October 1, 1982, to perform their usual duties, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing personnel and employees.

(b) All files, books, papers, records, equipment, furniture, motor vehicles, any other tangible property, and any other asset employed in carrying out the powers, duties and functions transferred by this chapter to the department shall, on October 1, 1982, be transferred to the department.

(c) All reports, documents, surveys, books, records, files, correspondence, papers or other writings in the possession of any department, division, bureau, board, commission or other agency, the functions, powers and duties of which have been transferred to the department by this chapter, or which have been employed in carrying out the functions,

powers and duties transferred by this chapter to the department shall, on October 1, 1982, be transferred to the department.

(d) All funds, credits or other moneys held in connection with the functions transferred by this chapter, shall be transferred to the Alabama Department of Environmental Management Fund created by Section 22-22A-11 on October 1, 1982. Subsequent to the transfer of all funds, credits or other moneys to the department for programs whose functions are transferred by this chapter to the department, the Water Improvement Commission Fund established by Section 22-22-10; the Safe Drinking Water Fund established by Section 22-23-51; the Well Driller Licensing Fund established by Section 22-24-10; the Operator's Certification Fund established by Section 22-25-10; and the Hazardous Waste Management Fund established by Section 22-30-23 are abolished, and any funds from any source whatsoever which may accrue to any of the foregoing funds in the future shall accrue to the Alabama Department of Environmental Management.

(e) Any appropriation made for the purpose of carrying out the powers, duties and functions transferred by this chapter to the department, shall on October 1, 1982, be transferred and credited to the department for the purpose of carrying out such transferred powers, duties and functions.

(f) Except where in conflict with provisions of this chapter, on October 1, 1982, all rules, regulations, standards, comprehensive plans for the prevention, abatement and control of pollution in this state; and all orders, permits, licenses, certificates, bonds and variances of the departments, divisions, boards, commissions, or other agencies, relating to the functions transferred by this chapter to the department, are enforceable as the rules, regulations, standards, plans, orders, permits, licenses, certificates, bonds and variances of the department and shall continue to be effective until revised, amended, repealed or nullified pursuant to law.

(g) All pending business before the boards, commissions, or agencies affected by this chapter, relating to the functions transferred by this chapter to the department, shall be continued and acted upon by the department. All existing contracts, obligations and memoranda of understanding pertaining to the functions transferred by this chapter to the department, shall remain in force and effect and shall be performed by the department.

(h) All state officials required to maintain contact with or provide services to any agency, board or commission affected by this chapter shall continue to perform such services for the department unless otherwise directed by this chapter.

(i) Neither the abolition of any agency nor any of the transfers authorized by this chapter shall affect the validity of any action performed by such agency, board or commission affected by this chapter, prior to October 1, 1982.

(j) Except where required elsewhere by the chapter, on October 1, 1982, the performance of any such transferred duties or functions by the department or its respective divisions shall have the same effect as if done by the former agency, board or commission referred to or designated by law or contract. The reference to or designation of the former agency, board or commissions shall apply to the department.

(k) During an appropriate transition period after October 1, 1982, the State Health Department shall continue to assist the department in personnel and fiscal matters in order to effect the smooth transition of such functions to the department.

(Acts 1982, No. 82-612, p. 1111, §9.)

Section 22-22A-10

Transfer of functions, personnel, equipment, etc., of coastal area board to Office of State Planning and Federal Programs; exception.

(a) On October 1, 1982, all functions of the Coastal Area Board, as set forth in Sections 9-7-10 through 9-7-22, except those which relate to permitting, regulatory and enforcement functions, shall be transferred to the Office of State Planning and Federal Programs established pursuant to Sections 41-9-205 through 41-9-214.

(b) All employees engaged in duties pertaining to the functions transferred by this section, shall be assigned to the Office of State Planning and Federal Programs on October 1, 1982 to perform their usual duties, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing personnel and employees.

(c) All files, books, papers, records, equipment, furniture, motor vehicles, any other tangible property and any other asset employed in carrying out the powers, duties and functions transferred by this chapter to the Office of State Planning and Federal Programs shall, on October 1, 1982, be transferred to the Office of State Planning and Federal Programs.

(d) All reports, documents, surveys, books, records, files, correspondence, papers or other writings in the possession of the Coastal Area Board, the functions, powers and duties of which have been transferred to the Office of State Planning and Federal Programs by this chapter, or which have been employed in carrying out the functions, powers and duties transferred by this chapter to said office shall, on October 1, 1982, be transferred to the Office of State Planning and Federal Programs.

(e) All funds, credits or other moneys held in connection with the functions transferred by this chapter to the Office of State Planning and Federal Programs, shall be transferred to said office on October 1, 1982. Subsequent to the transfer of all funds, credits or other moneys to the Office of State Planning and Federal Programs, the Coastal Area Board fund established by Section 9-7-19 is abolished.

(f) Any appropriation made to the coastal area board for the purpose of carrying out the powers, duties and functions transferred by this chapter to the Office of State Planning and Federal Programs shall, on October 1, 1982, be transferred and credited to said office for the purpose of carrying out such transferred powers, duties and functions.

(g) The Office of State Planning and Federal Programs shall provide the department sufficient funds to administer the permitting, regulatory and enforcement functions of the Coastal Area Management Program from those federal funds obtained by the office for such purposes.

(h) All pending business before the Coastal Area Board, relating to the functions transferred by this chapter to the Office of State Planning and Federal Programs, shall

be continued and acted upon by said office. All existing contracts, obligations and memoranda of understanding pertaining to the functions herein transferred shall remain in force and effect and shall be performed by the Office of State Planning and Federal Programs.

(i) All State Officials required to maintain contact with or provide services to the Coastal Area Board shall continue to perform such services for the Office of State Planning and Federal Programs or as otherwise directed by this chapter.

(j) Neither the abolition of the Coastal Area Board nor any of the transfers to the Office of State Planning and Federal Programs authorized by this chapter shall affect the validity of any action performed by the Coastal Area Board, prior to October 1, 1982.

(Acts 1982, No. 82-612, p. 1111, §10.)

Section 22-22A-11

Alabama Department of Environmental Management Fund.

There is hereby created a fund known as the Alabama Department of Environmental Management Fund. This fund shall consist of: (1) all appropriations; (2) all grants, gifts, bequests or donations; (3) all money derived through any source of federal aid; (4) all fees; (5) all moneys from any program whose functions were transferred to the department by this chapter; and (6) all moneys from any other source whatsoever. However, the department may not solicit or accept any gift or donation from any person that has any official request or action pending before the Alabama Department of Environmental Management. All moneys deposited in said fund are hereby appropriated to the use of the department in addition to any other appropriations heretofore or hereafter made. The fund shall be used and expended by the department in accordance with the terms of the appropriations, gift, bequest, grant, donation or transfer from which said moneys are derived and in the absence of any such terms or stipulations, shall be expended by the department in furtherance of any of the provisions of this chapter. All necessary expenses of the department shall likewise be paid out of the fund on the requisition of the director as may be deemed advisable.

(Acts 1982, No. 82-612, p. 1111, §12; Acts 1984, 1st Ex. Sess., No. 84-783, p. 163, §2; Acts 1986, No. 86-542, p. 1053, §3.)

Section 22-22A-12

Coastal Resources Advisory Committee; composition; terms; chairman; meetings.

(a) There is hereby created a Coastal Resources Advisory Committee to advise the department and the Office of State Planning and Federal Programs on all matters concerning the coastal area. The committee shall consist of not less than seven members who shall be predominantly from Baldwin and Mobile Counties.

(b) The initial members of the Coastal Resources Advisory Committee shall be the current Coastal Area Board established by Section 9-7-14, as amended and abolished by this chapter. The terms of the initial members of the committee shall be for one year beginning October 1, 1982.

(c) The subsequent membership of the Coastal Resources Advisory Committee shall be as follows:

(1) One member shall be a member of the Mobile City Commission and shall be selected by that commission;

(2) One member shall be a member of the Mobile County Commission and shall be selected by that commission;

(3) One member shall be a member of the Baldwin County Commission and shall be selected by that commission;

(4) One member shall be an official of a municipal corporation in Baldwin County and shall be selected by the Baldwin County Mayors Association;

(5) One member shall be the Commissioner of Conservation and Natural Resources, who may designate an employee of his department to represent him on the committee;

(6) One member shall be the State Geologist who may designate an employee of his agency to represent him on the committee; and

(7) One member shall be the director of the Marine Environmental Science Consortium.

The term of each of these members of the Coastal Resources Advisory Committee shall be consistent with his elective or appointive office.

(d) Additional members of the Coastal Resources Advisory Committee may be appointed by the Governor for terms not to exceed four years and shall be eligible for reappointment.

(e) The committee shall meet initially to select a chairman and subsequent meetings of the committee shall be at the call of the chairman of the Coastal Resources Advisory Committee or the director of the Office of State Planning and Federal Programs.

(Acts 1982, No. 82-612, p. 1111, §13.)

Section 22-22A-13

Effect of chapter on powers of Attorney General.

All remedies for the prevention and abatement of pollution given to the Attorney General through the authority of this chapter are merely cumulative. Except as provided in subdivisions (12) and (15) of Section 22-22A-5 nothing in this chapter shall be interpreted as negating or destroying any common law or statutory right, duty, power or authority of the Attorney General of Alabama.

(Acts 1982, No. 82-612, p. 1111, §15.)

Section 22-22A-15

Chapter does not repeal Section 22-30-5.1.

No provision of this chapter shall be construed to repeal in whole or in part any provision of Section 22-30-5.1.

(Acts 1982, No. 82-612, p. 1111, §14(e); Acts 1983, 2nd Ex. Sess., No. 83-131, p. 137, §1.)

Section 22-22A-16

Pollution Control Grant Fund.

(a) There is hereby created a fund known as the Pollution Control Grant Fund. This fund shall consist of

(1) All appropriations made to the fund; and

(2) All grants, gifts, bequests or donations made to the fund from any source whatsoever. This fund shall be used and expended by the Alabama Department of Environmental Management in accordance with the terms of the appropriation, gift, bequest, grant or donation from which said moneys are derived and in the absence of such terms or stipulations, shall be expended by said department in accordance with the provisions of subsection (b). All necessary expenses of said department in implementing the provisions of this section shall likewise be paid out of the fund on the requisition of the director of said department as may be deemed advisable.

(b) Except as provided in subsection (a), the Alabama Department of Environmental Management is authorized to make grants to any county, municipality or public corporation, agency or instrumentality organized under the laws of the state, for the purpose of carrying out any air, land or water pollution control, prevention or abatement practices, measures, experiments or research, from the Pollution Control Grant Fund and to enter into and carry out contracts or agreements in connection therewith and include in any contract or agreement such conditions as it may deem reasonable and appropriate.

(c) Acting through the Environmental Management Commission, the Alabama Department of Environmental Management is authorized to promulgate rules, regulations and standards to carry out the provisions of this section.

(Acts 1985, No. 85-755, p. 1255.)

335-1-1-.06 Availability of Records and Information.

(1) Public inspection of records. Except as provided herein, any records, reports, rules, forms, or information obtained under the Act and the official records of the Department shall be available to the public for inspection. Requests for permission to inspect such records should be made to the Department of Environmental Management at its Montgomery, Alabama office, unless otherwise directed in published organizational, procedural, or regulatory statements pertaining to specific records or classes of records. Such requests should state the general subject matter of the records sought to be inspected to permit identification and location.

(2) Exceptions. Upon a showing satisfactory to the Director by any person that records, reports, or information, or particular parts thereof (other than emission, effluent, manifest, or compliance data) to which the Department has access, if made public, would divulge production of sales figures or methods, processes, or production unique to such person, or otherwise tend to affect adversely the competitive position of such person by revealing trade secrets, the Director shall consider such records, reports, or information, or particular portion thereof, confidential. Any showing of confidentiality must be based on statutory authority which empowers the Department to grant confidentiality for the particular program in question and must accompany the documents, records, reports, or information provided to the Department. If a claim covering the information is received after the information itself is received, efforts, as are administratively practicable can be made, will be made to associate the late claim with the copies of the previously submitted information in the file.

(3) Requests for records and information must be made to the Office of the Director at the Department's Montgomery address. Responses to such requests shall be made within 10 working days after receipt in the Office of the Director.

(4) Creation of record. Records will not be created by compiling selected items from other documents at the request of a member of the public, nor will records be created to provide the requester with data such as ratios, proportions, percentages, frequency distribution, trends, correlations, or comparisons except as necessary to administer the Act.

(5) Denial of requests for, or non-existence of, information. If it is determined pursuant to this Part that requested information will not be provided or that, to the best knowledge of the Director, requested information does not exist, the Director shall notify in writing the party requesting the information that the request is denied and shall state the reasons for denial and shall maintain a file of such denials.

(6) Copies of documents. If it is determined that information requested may be disclosed, the requesting party shall be afforded the opportunity to obtain copies of the documents containing such information.

However, records shall not be released for copying by non-Division personnel except by permission of the Director or his designee. When a determination not to disclose a portion of information requested has been made, records shall be prepared for copying on nonexcepted portions of the information. Cost of providing copies will be the responsibility of the person requesting the copies. Charges are as follows:

(a) 30 cents per black and white page 8.5 x 11, 8.5 x 14 or 11 x 17 inches in size.

(b) $1.50 per color page 8.5 x 11, 8.5 x 14 or 11 x 17 inches in size. $4.00 per page for black and white and $7.00 per page for color, wide-format documents such as maps and blue prints. Compact discs are $15.00 each for files retrievable from electronic data bases.

(c) 50 cents per page for certified documents.

(d) 10 cents per page rounded to the nearest dollar for paper copies of each Division of the regulations. Compact discs of a Division of the regulations are $15.00.

(e) The Department will not invoice unless the charges exceed $10.00.

(7) Requests which do not reasonably describe records sought. The Department may communicate with the requester to clarify records sought and with a view toward reducing the administrative burden of processing a broad request and minimizing the fees payable by the requester.

(8) Public distribution. Any written request for records prepared by the Department for routine public distribution, e.g. pamphlets, copies of speeches, press releases, and education materials, shall be honored.

(9) Disclosure of information to other agencies. Nothing in these rules and regulations shall be construed to prevent disclosure of any report, record, or information obtained under the Act, or any of the official records of the Commission to federal, or state, agencies, or when relevant in any proceedings under the Act.

Author: Marilyn Elliott, Russell A. Kelly.
Statutory Authority: Code of Alabama 1975, § 22-22A-5, 22-22A-6, 22-22A-8, 41-22-4, 41-22-5.
History: August 1, 1988.
Amended: January 28, 2004; July 11, 2006.

335-3-1-.04 Monitoring, Records, and Reporting.

(1) The Director may require the owner or operator of any air contaminant source to establish and maintain such records; make such reports; install, use, and maintain such monitoring equipment or methods; sample such emissions in accordance with such methods at such locations, intervals, and procedures as the Director may prescribe; and provide such periodic emission reports as required in paragraph (2) of this rule below.

(2) Reports. Records and reports as the Director may prescribe on air contaminants or fuel shall be recorded, compiled, and submitted on forms furnished by the Director or when forms are not so furnished, then in formats approved by the Director. These may include but not be limited to any of the following:

(a) Emissions of particulate matter, sulfur dioxide, and oxides of nitrogen shall be expressed as follows: in pounds per hour and pounds per million BTU of heat input for fuel-burning equipment; in pounds per hour and pounds per 100 pounds of refuse burned for incinerators; and in pounds per hour and in pounds per hourly process weight or production rate or in terms of some other easily measured and meaningful process unit specified by the Director.

(b) Sulfur dioxide and oxides of nitrogen emission data shall be averaged over a 24-hour period and shall be summarized monthly. Daily averaged and monthly summaries shall be submitted to the Director biannually. Data should be calculated daily and available for inspection at any time.

(c) Particulate matter emissions shall be sampled and submitted biannually.

(d) Visible emissions shall be measured continuously, and records kept indicating total minutes per day in which stack discharge effluent exceeds 20 percent opacity. Data should be summarized monthly and submitted monthly and biannually. Current daily results shall be available for inspection at any time.

(e) The sulfur content of fuels, as burned, except natural gas, shall be determined in accordance with current recognized ASTM procedures. Averages for periods prescribed by the Director shall be submitted biannually. Records shall be kept current and be available for inspection.

Author: James W. Cooper and John E. Daniel.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: January 18, 1972.
Amended: November 21, 1996.

335-3-1-.05 Sampling and Testing Methods.

(1) Methods. All required sampling and testing shall be made and the results calculated in accordance with sampling testing procedures and methods approved by the Director. All required samples and tests shall be made under the direction of persons qualified by training and/or experience in the field of air pollution control.

(2) Standard Methods. The Director, to the extent practicable, should recognize and approve the test methods and procedures established by 40 CFR, as the same may be amended or revised.

(3) The Division may conduct tests and take samples of air contaminants, fuel, process material, or other material which affects or may affect emission of air contaminants from any source. Upon request of the Division, the person responsible for the source to be tested shall provide necessary holes in stacks or ducts and such other safe and proper sampling and testing facilities exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants. If an authorized employee of the Division during the course of an inspection obtains a sample of air contaminant, fuel, process material, or other material, he shall give the owner or operator of the equipment or fuel facility a receipt for the sample obtained.

(4) Report to Owner or Operator. At the conclusion of any inspection under Section 9 of the Act or conduction of any testing or sampling under this Part, if requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status with the Act and these rules and regulations.

Author: James W. Cooper and John E. Daniel.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: January 18, 1972.
Amended:

Part E -

Proposed Revisions to Chapter 335-3-4
(Control of Particulate Emissions)

(4) Notwithstanding the specific limits set forth in this rule, in order to maintain the lowest possible emission of air contaminants, the highest and best practicable treatment and control for particulate matter currently available shall be provided for new kraft pulp mills.

(5) For chemical recovery boilers constructed before 1972 at kraft pulp mills in Autauga County, the allowable particulate emissions shall be 1.11 pounds per air-dried ton of pulp.

(6) In lieu of the particulate emission limitations contained in subparagraph (2)(a) of this rule, for chemical recovery boilers constructed before 1973 at pulp mills in Talladega County, the allowable particulate emission limits shall be 2.5 pounds per air-dried ton of unbleached kraft pulp.

(7) In lieu of the particulate emission limitations contained in subparagraph (2)(b) of this rule, for smelt dissolver tanks constructed before 1973 at pulp mills in Talladega County, the allowable particulate emission limit shall be 0.3 pounds per air-dried ton of unbleached kraft pulp.

Author: James W. Cooper and John E. Daniel.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: July 26, 1972.
Amended: March 7, 1984; October 10, 1984; November 21, 1996.

335-3-4-.08 Wood Waste Boilers.

(1) Applicability. This rule applies to boilers and other indirect heat exchangers using not less than thirty percent (30%) wood waste or wood by-products as fuel measured by heat input.

(2) Except as provided in paragraph (3) of this rule, no person shall cause or permit the emission of particulate matter from any existing wood waste boilers in excess of 0.30 grains per standard dry cubic foot adjusted to fifty percent (50%) excess air. Provided that: for any existing wood waste boiler which must be modified in order to meet the emission limitations of this rule, no person shall cause or permit the emission of particulates in excess of:

(a) 0.17 grains per standard dry cubic foot, adjusted to fifty percent (50%) excess air for combination gas and wood waste boilers.

(b) 0.20 grains per standard dry cubic foot, adjusted to 50 percent excess air for combination oil and wood waste boilers.

(c) 0.23 grains per standard dry cubic foot, adjusted to fifty percent (50%) excess air for combination coal and wood waste boilers.

(d) 0.20 grains per standard dry cubic foot, adjusted to fifty percent (50%) excess air for boilers using wood waste only.

~~(3) In lieu of the particulate emission limitations contained in paragraph (2) of this rule for existing wood waste boilers at pulp mills in Talladega County having a rated capacity greater than 300 million BTU per hour:~~

~~(a) The allowable particulate emission limit shall be 0.60 grains per standard dry cubic foot adjusted to 50% excess air, with the additional requirement that total mass particulate emissions shall not exceed 347 pounds per hour.~~

~~(b) In lieu of the opacity limits contained in rule 335-3-4-.01, such units shall not discharge into the atmosphere particulate of an opacity greater than that designated as seventy-six percent (76%) opacity, as determined by fixed one-hour averages (the average of each ten six-minute averages per discrete clock hour).~~

~~(c) The transmissometer system for continuous measurement of the opacity of stack emissions shall be the technique for determining compliance with opacity limits. The transmissometer shall comply with the requirements of 40 CFR 60, Appendix B, Performance Specification 1. If the opacity monitoring system is not operating properly, the EPA Reference Method 9 (40 CFR 60, Appendix A), utilizing one-hour averages, shall serve as the compliance technique.~~

Author: James W. Cooper and John E. Daniel.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: July 26, 1972.
Amended: January 27, 1981; December 9, 1983; October 10, 1984; November 21, 1996; September 7, 2000~~.~~;XXXXXX, 2017.

335-3-4-.09 Coke Ovens.

(1) Applicability. The provisions of this rule shall apply to the production of coke in existing conventional slot-oven coke batteries with the exception of paragraph (10) of this rule which applies to new batteries.

(2) Unloading and Transfer of Coal and Coke. Every person operating coke ovens shall apply all reasonable measures to prevent emissions from coal unloading, transfer, and coke transfer.

(3) Charging. There shall be no visible emissions during the charging cycle from the charging holes or the larry car of any battery with an opacity which is greater than twenty percent (20%) except for an average period or periods not to exceed three (3) minutes of any consecutive sixty (60) minutes on batteries with less than seventy (70) ovens nor more than four (4) minutes of any consecutive sixty (60) minutes on batteries with seventy (70) ovens or more.

Part F –

Proposed Revisions to Chapter 335-3-8
(Control of Nitrogen Oxide Emissions)

335-3-8-.36 Notifications Concerning Monitoring.

(1) General. The Environmental Protection Agency Regulations governing Notifications Concerning Monitoring, are incorporated by reference as they exist in 40 CFR §97.433, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015.

335-3-8-.37 Recordkeeping and Reporting.

(1) General. The Environmental Protection Agency Regulations governing Recordkeeping and Reporting, are incorporated by reference as they exist in 40 CFR §97.434, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015.

335-3-8-.38 Petitions for Alternatives to Monitoring, Recordkeeping, or Reporting Requirements.

(1) General. The Environmental Protection Agency Regulations governing Petitions for Alternatives to Monitoring, Recordkeeping, or Reporting Requirements, are incorporated by reference as they exist in 40 CFR §97.435, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015.

335-3-8-.39 TR NO_x Ozone Season Trading Program – Purpose and Definitions.

(1) Purpose. Rules 335-3-8-.39 through 335-3-8-.70 set forth the general, designated representative, allowance, and monitoring provisions for the Transport Rule (TR) NO_x Ozone Season Trading Program under section 110 of the Clean Air Act, as a means of mitigating interstate transport of ozone and nitrogen oxides.

(2) Definitions. For the purpose of rules 335-3-8-.39 through 335-3-8-.70 the definitions listed in 40 CFR §97.8~~5~~02, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504), will apply.

(a) "Department" shall mean the Alabama Department of Environmental Management.

(b) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.39 substitute:

1. Adem Administrative Code r. 335-3-8-.40 for 40 CFR §97.8~~5~~04.

2. Adem Administrative Code r. 335-3-8-.40(1)(b)2.(ii) and (iii) for 40 CFR §§97.~~504~~804(b)(2)(i)(B) and (ii).

3. Adem Administrative Code r. 335-3-8-.41 for 40 CFR §97.8~~5~~05.

4. Adem Administrative Code r. 335-3-8-.45(1) for 40 CFR §97.8~~5~~10(a).

5. Adem Administrative Code r. 335-3-8-.45(2) for 40 CFR §97.8~~5~~10(b).

6. Adem Administrative Code r. 335-3-8-.46 for 40 CFR §97.8~~5~~11.

7. Adem Administrative Code r. 335-3-8-.46 for 40 CFR §97.8~~5~~12.

(3) Measurements, Abbreviations, and Acronyms. Measurements, abbreviations, and acronyms used in this rule and in rules 335-3-8-.39 through 335-3-8-.70 are defined as follows:

(a) Btu - British thermal unit.

(b) CO_2 – carbon dioxide

(c) H_2O – water

(d) hr – hour

(e) kW – kilowatt electrical

(f) kWh – kilowatt hour

(g) lb – pound

(h) mmBtu – million Btu

(i) MWe – megawatt electrical

(j) MWh – megawatt hour

(k) NO_x – nitrogen oxides

(l) O_2 – oxygen

(m) ppm – parts per million

(n) scfh – standard cubic feet per hour

(o) SO_2 – sulfur dioxide

(p) yr – year

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~; XXXXXX, 2017.

335-3-8-.40 TR NO_X Ozone Season Trading Program – Applicability.

(1) Applicability.

(a) Except as provided in subparagraph (b) of this paragraph:

1. The following units in the State of Alabama shall be TR NO_X Ozone Season units, and any source that includes one or more such units shall be a TR NO_X Ozone Season source, subject to the requirements of rules 335-3-8-.39 through 335-3-8-.70: any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, on or after January 1, 2005, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

2. If a stationary boiler or stationary combustion turbine that, under subparagraph (a)1. of this paragraph, is not a TR NO_X Ozone Season unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become a TR NO_X Ozone Season unit as provided in subparagraph (a)1. of this paragraph on the first date on which it both combusts fossil fuel and serves such generator.

(b) Any unit in the State that otherwise is a TR NO_X Ozone Season unit under subparagraph (a) of this paragraph and that meets the requirements set forth in subparagraphs (b)1.(i) and (ii) or 2.(i) and (ii) of this paragraph shall not be a TR NO_X Ozone Season unit:

1. Any unit:

(i) Qualifying as a cogeneration unit throughout the later of 2005 or the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit throughout each calendar year ending after the later of 2005 or such 12-month period; and

(ii) Not supplying in 2005 or any calendar year thereafter more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale.

(iii) If, after qualifying under subparagraphs (b)1.(i) and (ii) of this paragraph as not being a TR NO_X Ozone Season unit, a unit subsequently no longer meets all the requirements of subparagraphs (b)1.(i) and (ii) of this paragraph, the unit shall become a TR NO_X Ozone Season unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of subparagraph (b)1.(ii) of this paragraph. The unit shall thereafter continue to be a TR NO_X Ozone Season unit.

2. Any unit:

(i) Qualifying as a solid waste incineration unit throughout the later of 2005 or the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a solid waste incineration unit throughout each calendar year ending after the later of 2005 or such 12-month period; and

(ii) With an average annual fuel consumption of fossil fuel for the first 3 consecutive calendar years of operation starting no earlier than 2005 of less than 20 percent (on a Btu basis) and an average annual fuel consumption of fossil fuel for any 3 consecutive calendar years thereafter of less than 20 percent (on a Btu basis).

(iii) If, after qualifying under subparagraphs (b)2.(i) and (ii) of this paragraph as not being a TR NO_X Ozone Season unit, a unit subsequently no longer meets all the requirements of subparagraphs (b)2.(i) and (ii) of this paragraph, the unit shall become a TR NO_X Ozone Season unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first 3 consecutive calendar years after 2005 for which the unit has an average annual fuel consumption of fossil fuel of 20 percent or more. The unit shall thereafter continue to be a TR NO_X Ozone Season unit.

(c) A certifying official of an owner or operator of any unit or other equipment may submit a petition (including any supporting documents) to the Administrator at any time for a determination concerning the applicability, under subparagraphs (a) and (b) of this paragraph, to the unit or other equipment. The certifying official of an owner or operator of any unit or other equipment shall submit a copy of the petition (including any supporting documents) to the Department.

1. Petition content. The petition shall be in writing and include the identification of the unit or other equipment and the relevant facts about the unit or other equipment. The petition and any other documents provided to the Department and the Administrator in connection with the petition shall include the following certification statement, signed by the certifying official: "I am authorized to make this submission on behalf of the owners and operators of the unit or other equipment for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its

attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

2. Response. The Administrator will issue a written response to the petition and may request supplemental information determined by the Administrator to be relevant to such petition. The Administrator's determination concerning the applicability, under subparagraphs (1)(a) and (b) of this rule, of the TR NO_X Ozone Season Trading Program to the unit or other equipment shall be binding on Alabama, the Department, and any other State or permitting authority unless the Administrator determines that the petition contained significant, relevant errors or omissions.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015.

335-3-8-.41 TR NO_X Ozone Season Trading Program – Retired Unit Exemption.

(1) Any TR NO_X Ozone Season unit that is permanently retired shall be exempt from 40 CFR §§97.8~~5~~06(b) and (c)(1), rule 335-3-8-.59, and rules 335-3-8-.65 through 335-3-8-.70.

(a) The exemption under paragraph (1) of this rule shall become effective the day on which the TR NO_X Ozone Season unit is permanently retired. Within 30 days of the unit's permanent retirement, the designated representative shall submit a statement to the Administrator. The statement shall state, in a format prescribed by the Administrator, that the unit was permanently retired on a specified date and will comply with the requirements of paragraph (2) of this rule. The designated representative shall submit a copy of the statement to the Department.

(2) Special provisions.

(a) A unit exempt under paragraph (1) of this rule shall not emit any NO_X, starting on the date that the exemption takes effect.

(b) For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under paragraph (1) of this rule shall retain, at the source that includes the unit, records demonstrating that the unit is permanently retired. The 5-year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the Administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

(c) The owners and operators and, to the extent applicable, the designated representative of a unit exempt under paragraph (1) of this rule shall comply with the requirements of the TR NO_X Ozone Season Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(d) A unit exempt under paragraph (1) of this rule shall lose its exemption on the first date on which the unit resumes operation. Such unit shall be treated, for purposes of applying allocation, monitoring, reporting, and recordkeeping requirements under TR NO_X Ozone Season Trading Program, as a unit that commences commercial operation on the first date on which the unit resumes operation.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.42 TR NO_X Ozone Season Trading Program – Standard Requirements.

(1) General. The Environmental Protection Agency's Standard Requirements for TR NO_X Ozone Season Sources, are incorporated by reference as they exist in 40 CFR §97.8~~5~~06, Subpart BBBBB as of July 1, ~~2015~~2016~~.~~, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-8-.42 substitute:

(a) Adem Administrative Code r. 335-3-16-.13(3) for 40 CFR §70.7(e)(2).

(b) Adem Administrative Code r. 335-3-16-.13(3)(a)2. for 40 CFR §70.7(e)(2)(i)(B).

(c) Adem Administrative Code r. 335-3-8-.46 for 40 CFR §§97.8~~5~~11(a)(2) and (b).

(d) Adem Administrative Code r. 335-3-8-.46 for 40 CFR §97.8~~5~~12.

(e) Only in 40 CFR §97.8~~5~~06(e) substitute "Administrator or the Department" for "Administrator."

(f) Adem Administrative Code r. 335-3-8-.41 for 40 CFR §97.8~~5~~05.

(g) Adem Administrative Code r. 335-3-8-.45(1) for §97.8~~5~~10(a).

(h) Adem Administrative Code r. 335-3-8-.45(2) for §97.8~~5~~10(b).

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.43 TR NO_X Ozone Season Trading Program – Computation of Time.

(1) General. The Environmental Protection Agency Regulations governing Computation of Time under the TR NO_X Ozone Season Trading Program, are incorporated by reference as they exist in 40 CFR §97.8~~5~~07, Subpart BBBBB as of July 1, ~~2015~~2016 and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.44 Administrative Appeal Procedures.

(1) The appeal procedures for the decisions of the Administrator under rules 335-3-8-.39 through 335-3-8-.70 are set forth in 40 CFR 78.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015.

335-3-8-.45 NO_X Ozone Season Trading Budgets and Variability Limits.

(1) The State NO_X ozone season trading budgets for allocations of TR NO_X Ozone Season allowances for the control periods in 2017 and thereafter is ~~31,499~~13,211 tons.

(2) The State NO_X ozone season variability limit for the State NOX Ozone season trading budgets for the control periods in 2017 and thereafter is 2,774 ~~6,615~~ tons.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.46 TR NO_X Ozone Season Allowance Allocations.

(1) State Ozone Season Trading Program Budget. The State trading budget for annual allocations of Transport Rule (TR) NO_X ozone season allowances for the control periods 2017 and thereafter is ~~31,499~~13,211 tons.

(2) Timing Requirements for NO_X Ozone Season Allowance Allocations.

(a) By June 1, 2016, the Department will submit to the Administrator, in a format prescribed by the Administrator, the NO_X ozone season allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2017 and 2018.

(b) By June 1, 2017, the Department will submit to the Administrator, in a format prescribed by the Administrator, the NO_X ozone season allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2019 and 2020.

(c) By June 1, 2018, the Department will submit to the Administrator, in a format prescribed by the Administrator, the NO_X ozone season allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2021 and 2022.

(d) By June 1, 2019, and every other year thereafter, the Department shall submit to the Administrator, in a format prescribed by the Administrator, the NO_X ozone season allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in the two years that are four and five years after the year of the applicable deadline for submission under this paragraph.

(3) NO_X Ozone Season Allowance Allocations.

(a) Definitions. For the purpose of this rule, the following definitions apply:

1. Baseline TR NO_X Ozone Season Unit. A TR NO_X ozone season unit that either:

(i) Commenced operation on or before May 1, 2014; or

(ii) Submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before May 1, 2014.

2. New TR NO_X Ozone Season Unit. A TR NO_X ozone season unit that does not meet the definition of a Baseline TR NO_X ozone season unit as defined in subparagraph (3)(a)1. of this paragraph.

(b) Determination of Heat Input.

1. The heat input (in mmBtu) used for calculating TR NO_X ozone season allowance allocations under subparagraph (2)(a) of this rule that are to be submitted to the Administrator by June 1, 2016, will be:

(i) For a Baseline TR NO_X ozone season unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2010, 2011, 2012, 2013, and 2014; or

(ii) For a Baseline TR NO_X ozone season unit that did not commence operation on or before May 1, 2014, but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before May 1, 2014, the expected actual ozone season heat input based on actual utilization data of similar sources.

(iii) For a New TR NO_X ozone season unit, the expected actual ozone season heat input based on actual utilization data of similar sources.

2. The heat input (in mmBtu) used for calculating TR NO_X ozone season allowance allocations under subparagraph (2)(b) of this rule that are to be submitted to the Administrator by June 1, 2017, will be:

(i) For a Baseline TR NO_X ozone season unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2011, 2012, 2013, 2014, and 2015; or

(ii) For a Baseline TR NO_X ozone season unit that did not commence operation on or before May 1, 2015, but had submitted a permit application to the Deparment that was affirmatively deemed complete by the Department in writing on or before May 1, 2014, the expected actual ozone season heat input based on actual utilization data of similar sources.

(iii) For a New TR NO_X ozone season unit that commenced operation on or before May 1, 2015, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated in 2014 and 2015.

(iv) For a New TR NO_X ozone season unit that did not commence operation on or before May 1, 2015, the expected actual ozone season heat input based on actual utilization data of similar sources.

3. The heat input (in mmBtu) used for calculating TR NO_X ozone season allowance allocations under subparagraph (2)(c) of this rule that are to be submitted to the Administrator by June 1, 2018, will be:

(i) For a Baseline TR NO_X ozone season unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated in 2012, 2013, 2014, 2015, and 2016.

(ii) For a New TR NO_X ozone season unit that commenced operation on or before May 1 2016, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated in 2014, 2015, and 2016.

(iii) For a New TR NO_X ozone season unit that did not commence operation on or before May 1, 2016, the expected actual ozone season heat input based on actual utilization data of similar sources.

4. The heat input (in mmBtu) used for calculating TR NO_X ozone season allowance allocations under subparagraph (2)(d) of this rule that are to be

submitted to the Administrator by June 1, 2019, and all subsequent allocation years will be:

(i) For a Baseline TR NO_X ozone season unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated for the five most recent control periods available prior to the deadline submission year.

(ii) For a New TR NO_X ozone season unit that commenced operation prior to May 1 of the most recent control period available prior to the submission year, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, for the five most recent control periods available prior to the submission year; or

(iii) For a New TR NO_X ozone season unit that did not commence operation prior to May 1 of the most recent control period available prior to the submission year, the expected actual ozone season heat input based on actual utilization data of similar sources.

5. The unit's total heat input for the control period in each year specified under subparagraph (b) of this paragraph will be determined in accordance with 40 CFR 75 if the TR NO_X ozone season unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Administrator and the Department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75 for the year.

(c) Establishment of Baseline and Retired Unit Allowance Pools. At the time Transport Rule (TR) ozone season NO_X allowances are initially allocated to baseline TR NO_X ozone season units under subparagraph (2)(a) of this rule, each unit's allocation will be permanently recorded as that unit's "Baseline Allowance". This value will be used to calculate the following:

1. Baseline Allowance Pool. The Baseline Allowance Pool shall be calculated each time TR NO_X ozone season allowances are allocated under paragraph (2) of this rule and shall equal the State Ozone Season Trading Program Budget minus the total of the Baseline Allowances for all baseline TR NO_X ozone season units that have retired in accordance with 335-3-8-.41.

2. Retired Unit Allowance Pool. The Retired Unit Allowance Pool shall be calculated each time TR NO_X ozone season allowances are allocated under paragraph (2) of this rule and shall equal the sum of the Baseline Allowances for all TR NO_X ozone season units that have retired in accordance with 335-3-8-.41.

(d) Maximum Historic Emission Cap. The maximum historic emission cap is identified by using an 8 year historic emission period for each TR NO_X ozone season unit. The last year of the 8 year period will be the same year as the last year used for determination of heat input under subparagraph (3)(b) of

this paragraph. The maximum historic emission cap is the maximum NO_X emissions (in tons) that occurred during any control period during the 8 year historic emission period. Data used for this purpose shall be obtained from the EPA Clean Air Markets Division (CAMD). An additional emission cap may be applied if a TR NO_X ozone season unit has an enforcement action or permit limit in place. The 8 year historic emission values will update every two years to coincide with the allocation control period.

(e) Calculation of TR NO_X Ozone Season Allowances for Baseline TR NO_X Ozone Season Units.

1. For each control period under paragraph (2) of this rule, the Department will allocate TR NO_X ozone season allowances from the Baseline Allowance Pool to all baseline TR NO_X ozone season units in accordance with the following procedures:

(i) The Department will allocate TR NO_X ozone season allowances to each TR NO_X ozone season unit under 335-3-8-.40(1)(a) in an amount equaling the unit's share of the State's total 3 year average of heat input determined in accordance with subparagraph (b) of this paragraph, multiplied by the baseline allowance pool. If a TR NO_X ozone season unit has an initial historic heat input based allocation that exceeds its maximum historic emission cap as defined in subparagraph (3)(e) of this paragraph, then its allocation will equal the maximum historic emission cap for that TR NO_X ozone season unit.

(ii) Allocations remaining after the application of the maximum historic emission cap are reapportioned on the same basis to baseline TR NO_X ozone season units whose historic heat input based allocation does not exceed its maximum historic emission cap, if applicable. These steps are repeated until the entire Baseline Allocation Pool is allocated. The resulting TR NO_X ozone season allocation value is rounded to the nearest whole ton.

(f) Calculation of NO_X Allowances for New TR NO_X Ozone Season Units. For each control period under paragraph (2) of this rule, after calculating NO_X allowances for all baseline TR NO_X ozone season units that have not retired in accordance with 335-3-8-.41, the Department will allocate NO_X allowances in the Retired Unit Allowance Pool to all new TR NO_X ozone season units, in accordance with the following procedures:

1. For each new TR NO_X ozone season unit under 335-3-8-.40(1)(a), that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before March 1 of the year allocations are to be submitted to the Administrator under paragraph (2) of this rule, the number of TR NO_X ozone season allowances allocated for each applicable control period will be equal to the unit's share of the State's total 3 year average of heat input for all new TR NO_X ozone season units, determined in accordance with subparagraph (b) of this paragraph multiplied by the Retired Unit Allowance Pool. If a new TR NO_X ozone season unit has an initial historic heat input based allocation that exceeds its maximum historic emission cap as defined in subparagraph (3)(e) of this paragraph, then its

allocation equals the maximum historic emission cap for that TR NO_X ozone season unit .

2. Allocations remaining after application of the maximum historic emission cap are reapportioned on the same basis to new TR NO_X ozone season units whose historic heat input based allocation does not exceed its maximum historic emission cap, if applicable. These steps are repeated until the entire Retired Unit Allowance Pool is allocated or until all new units receive allocations equal to its maximum historic emission cap. The resulting TR NO_X allocation value is rounded to the nearest whole ton.

(g) Adjustment of Baseline NO_X Allowance Allocations. If TR NO_X ozone season allowances remain in the Retired Unit Allowance Pool after allocations are made to all new TR NO_X ozone season units in accordance with subparagraph (g) of this paragraph, these NO_X allowances will be allocated on a pro rata basis to the baseline TR NO_X ozone season units where historic heat input based allocation does not exceed its maximum historic emission cap, for the applicable control periods.

(h) NO_X allowances allocated to baseline TR NO_X ozone season units based on heat inputs determined in accordance with subparagraph (b)1.(ii) or (b)2.(ii) of this paragraph will be held in the State's general account until the unit commences operation, prior to or during the control period for which NO_X allowances were allocated. If the unit does not commence operations, the NO_X allowances will be transferred by the Department pro rata to Baseline TR NO_X ozone season units that were allocated NO_X allowances in accordance with subparagraph (b)1.(i) or (b)2.(i) of this paragraph, and whose historic heat input based allocation does not exceed its maximum historic emission cap if applicable. By January 30 of the following year, the Department shall notify the Administrator of the appropriate NO_X allowance transfers.

1. NO_X allowances allocated to new TR NO_X ozone season units based on heat inputs determined in accordance with subparagraphs (b)1.(iii), (b)2.(iv), (b)3.(iii), or (b)4.(iii) of this paragraph will be held in the State's general account until the unit commences operation, prior to or during the control period for which NO_X allowances were allocated. If the unit does not commence operations, the NO_X allowances will be transferred by the Department pro rata to Baseline TR NO_X ozone season units that were allocated NO_X allowances in accordance with subparagraphs (b)1.(i) and (ii), (b)2.(i) and (ii), (b)3.(i), or (b)4.(i) of this paragraph, and whose historic heat input based allocation does not exceed its maximum historic emission cap if applicable. By January 30 of the following year, the Department shall notify the Administrator of the appropriate NO_X allowance transfers.

2. NO_X allowances will not be allocated to TR NO_X ozone season units that retire under 335-3-8-.41 prior to the date NO_X allowance allocations are submitted to the Administrator under subparagraphs (2)(a), (b), (c), or (d) of this rule.

3. The total NO_X ozone season allowances allocated for any control period in accordance with subparagraphs (3)(f), and (g) of this paragraph shall not exceed the State Ozone Season Trading Program Budget as determined by the applicable, approved State Implementation Plan.

(i) Units Incorrectly Allocated TR NO_X Ozone Season Allowances. The procedures for addressing units that were incorrectly allocated TR NO_X Ozone Season allowances are incorporated by reference as they exist in 40 CFR §97.85~~1~~1(c), Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.47 Reserved.

335-3-8-.48 Authorization of Designated Representative and Alternate Designated Representative.

(1) General. The Environmental Protection Agency Regulations governing the Authorization of Designated Representative and Alternate Designated Representative for TR NO_X Ozone Season Sources, are incorporated by reference as they exist in 40 CFR §97.85~~1~~3, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.49 Responsibilities of Designated Representative and Alternate Designated Representative.

(1) General. The Environmental Protection Agency Regulations governing the Responsibilities of Designated Representative and Alternate Designated Representative for TR NO_X Ozone Season Sources, are incorporated by reference as they exist in 40 CFR §97.85~~1~~4, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.

Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.50 Changing Designated Representative and Alternate Designated Representative; Changes in Owners and Operators; Changes in Units at the Source.

(1) General. The Environmental Protection Agency Regulations governing Changing Designated Representative and Alternate Designated Representative; Changes in Owners and Operators; Changes in Units at the Source for TR NO_X Ozone Season Sources, are incorporated by reference as they exist in 40 CFR §97.8~~5~~15, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.51 Certificate of Representation.

(1) General. The Environmental Protection Agency Regulations governing Certificate of Representation for TR NO_X Ozone Season Sources, are incorporated by reference as they exist in 40 CFR §97.8~~5~~16, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.52 Objections Concerning Designated Representative and Alternate Designated Representative.

(1) General. The Environmental Protection Agency Regulations governing Objections Concerning Designated Representative and Alternate Designated Representative, are incorporated by reference as they exist in 40 CFR §97.8~~5~~17, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.52 substitute:

(a) Only in 40 CFR §97.8~~5~~17(c) substitute "Neither the Administrator nor the Department shall" for "The Administrator will not."

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.53 Delegation by Designated Representative and Alternate Designated Representative.

(1) General. The Environmental Protection Agency Regulations governing Delegation by Designated Representative and Alternate Designated Representative, are incorporated by reference as they exist in 40 CFR §97.8~~5~~18, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.54 Reserved

335-3-8-.55 Establishment of Compliance Accounts, Assurance Accounts, and General Accounts.

(1) General. The Environmental Protection Agency Regulations governing Establishment of Compliance Accounts, Assurance Accounts, and General Accounts, are incorporated by reference as they exist in 40 CFR §97.8~~5~~20, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.55 substitute:

(a) Only in 40 CFR §97.8~~5~~20(c)(4)(iii) substitute "Neither the Administrator nor the Department shall" for "The Administrator will not."

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.56 Recordation of TR NO_X Ozone Season Allowance Allocations and Auction Results.

(1) General. The Environmental Protection Agency Regulations governing Recordation of TR NO_X Ozone Season Allowance Allocations and Auction Results, are incorporated by reference as they exist in 40 CFR

§97.8~~5~~21, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504), except for the provisions found in 40 CFR §§97.8~~5~~21(a), (b), (g), (h), and (i). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.57 Submission of TR NO_X Ozone Season Allowance Transfers.

(1) General. The Environmental Protection Agency Regulations governing Submission of TR NO_X Ozone Season Allowance Transfers, are incorporated by reference as they exist in 40 CFR §97.8~~5~~22, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.58 Recordation of TR NO_X Ozone Season Allowance Transfers.

(1) General. The Environmental Protection Agency Regulations governing Recordation of TR NO_X Ozone Season Allowance Transfers, are incorporated by reference as they exist in 40 CFR §97.8~~5~~23, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.59 Compliance with TR NO_X Ozone Season Emissions Limitation.

(1) General. The Environmental Protection Agency Regulations governing Compliance with TR NO_X Ozone Season Emissions Limitation, are incorporated by reference as they exist in 40 CFR §97.8~~5~~24, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.

Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.60 Compliance with TR NO_X Ozone Season Assurance Provisions.

(1) General. The Environmental Protection Agency Regulations governing Compliance with TR NO_X Ozone Season Assurance Provisions, are incorporated by reference as they exist in 40 CFR §97.8~~5~~25, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.61 Banking.

(1) General. The Environmental Protection Agency Regulations governing Banking for TR NO_X Ozone Season Allowance, are incorporated by reference as they exist in 40 CFR §97.8~~5~~26, Subpart AAAAA as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.61 substitute:

(a) Adem Administrative Code r. 335-3-8-.46(3)(j) for 40 CFR §97.8~~5~~11(c).

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.62 TR NO_X Ozone Season Trading Program – Account Error.

(1) General. The Environmental Protection Agency Regulations governing Account Error, are incorporated by reference as they exist in 40 CFR §97.8~~5~~27, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.

Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.63 TR NO_X Ozone Season Trading Program – Administrator's Action on Submissions.

(1) General. The Environmental Protection Agency Regulations governing Administrator's Action on Submissions, are incorporated by reference as they exist in 40 CFR §97.8~~5~~28, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.64 Reserved.

335-3-8-.65 General Monitoring, Recordkeeping, and Reporting Requirements.

(1) General. The Environmental Protection Agency Regulations governing General Monitoring, Recordkeeping, and Reporting Requirements, are incorporated by reference as they exist in 40 CFR §97.8~~5~~30, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.65 substitute:

(a) Adem Administrative Code r. 335-3-8-.41 for 40 CFR §97.8~~5~~05.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.66 Initial Monitoring System Certification and Recertification Procedures.

(1) General. The Environmental Protection Agency Regulations governing Initial Monitoring System Certification and Recertification Procedures, are incorporated by reference as they exist in 40 CFR §97.8~~5~~31,

Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.66 substitute:

(a) In §97.8~~5~~31(d)(3)(i) insert ", the Department" after "Office."

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.67 Monitoring System Out-of-Control Periods.

(1) General. The Environmental Protection Agency Regulations governing Monitoring System Out-of-Control Periods, are incorporated by reference as they exist in 40 CFR §97.8~~5~~32, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.68 Notifications Concerning Monitoring.

(1) General. The Environmental Protection Agency Regulations governing Notifications Concerning Monitoring, are incorporated by reference as they exist in 40 CFR §97.8~~5~~33, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.69 Recordkeeping and Reporting.

(1) General. The Environmental Protection Agency Regulations governing Recordkeeping and Reporting, are incorporated by reference as they exist in 40 CFR §97.8~~5~~34, Subpart BBBBB as of July 1, ~~2015~~2016, and

October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-8-.70 Petitions for Alternatives to Monitoring, Recordkeeping, or Reporting Requirements.

(1) General. The Environmental Protection Agency Regulations governing Petitions for Alternatives to Monitoring, Recordkeeping, or Reporting Requirements, are incorporated by reference as they exist in 40 CFR §97.8~~5~~35, Subpart BBBBB as of July 1, ~~2015~~2016, and October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015~~.~~;XXXXXX, 2017.

Part G –

Proposed Revisions to Chapter 335-3-10
(Standards of Performance for New Stationary Sources)

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AIR DIVISION - AIR POLLUTION CONTROL PROGRAM

CHAPTER 335-3-10
STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

TABLE OF CONTENTS

335-3-10-.01 General
335-3-10-.02 Designated Standards of Performance
335-3-10-.03 Appendices to 40 CFR 60
335-3-10-.04 Word or Phrase Substitutions

335-3-10-.01~~1~~ General.

(1) The Environmental Protection Agency Regulations, and the Appendices applicable thereto, governing Standards of Performance for New Stationary Sources (40 CFR 60 and Appendices) designated in rules 335-3-10-.02 and -.03 are incorporated by reference as they exist in 40 CFR 60 (July 1, ~~2015~~2016), and 81 FR 44212 [07/07/2016, amendments to Subpart IIII], 81 FR 45232 [07/13/2016, amendments to Subpart Ja], 81 FR 59332 [08/29/2016, amendments to Subpart XXX], and 81 FR 59800 [08/30/2016, amendments to Subparts A, JJJJ, and Appendix A] as amended by the word or phrase substitutions given in rule 335-3-10-.04. References for specific documents containing the complete text of subject regulations are given in Appendix C to these Regulations. Authorities which are not delegable to the state are also listed in Appendix C.

[NOTE: The standards pertaining to the Consolidated Federal Air rule are located in chapter 335-3-11A.]

(a) The materials incorporated by reference are available for purchase and inspection at the Department's offices at 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

(2) The emission standards in this chapter shall supercede the emission standards in chapters 335-3-3, -4, -5, -6, -7, and -8 if both of the following criteria are met:

(a) the source category is subject to the regulations in this chapter for the specific pollutants to which an emission standard under this chapter applies, and

(b) the emission standard under chapters 335-3-3, -4, -5, -6, -7, and -8 is more stringent than the emission standard in this chapter for the specific pollutants regulated.

(3) Definitions. For purposes of this chapter, the definitions listed in 40 CFR §60.2 will apply.

Author:
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.
History: Effective Date: May 25, 1976.
Amended: February 13, 1985; June 9, 1987; June 16, 1988; September 21, 1989; November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 24, 1991; December 28, 1993; April 27, 1995; November 21, 1996; September 25, 1997; March 27, 1998; July 15, 1999; January 13, 2000; September 7, 2000; March 14, 2002; October 3, 2002; April 3, 2003; October 2, 2003; March 22, 2005; December 12, 2005; July 11, 2006; April 3, 2007; January 22, 2008; August 5, 2008; January 19, 2009; March 30, 2010; May 23, 2011; May 29, 2012; January 22, 2013; May 28, 2013; September 24, 2013: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-10-.02~~2~~ Designated Standards of Performance.

(1) Subpart A - General Provisions.

(2) Subpart D - Fossil Fuel-Fired Steam Generators for which construction is commenced after August 17, 1971.

(a) Subpart Da - Electric Utility Steam Generating Units for which construction is commenced after September 18, 1978.

(b) Subpart Db - Industrial-Commercial-Institutional Steam Generating Units.

(c) Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units.

(3) Subpart E - Incinerators.

(a) Subpart Ea - Municipal Waste Combustors for which construction is commenced after December 20, 1989 and on or before September 20, 1994.

(b) Subpart Eb - Municipal Waste Combustors for which construction is commenced after September 20, 1994.

(c) Subpart Ec - Standards of Performance for Hospital/Medical/ Infectious Waste Incinerators for which construction is commenced after June 20, 1996.

(4) Subpart F - Portland Cement Plants.

(5) Subpart G - Nitric Acid Plants.

(a) Subpart Ga – Nitric Acid Plants for which Construction, Reconstruction, or Modification Commenced After October 14, 2011.

(6) Subpart H - Sulfuric Acid Plants.

(7) Subpart I - Hot Mix Asphalt Facilities.

(8) Subpart J - Petroleum Refineries.

(a) Subpart Ja - Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After May 14, 2007.

(9) Subpart K - Storage Vessels for Petroleum Liquids constructed after June 11, 1973 and prior to May 19, 1978.

(a) Subpart Ka - Storage Vessels for Petroleum Liquids constructed after May 18, 1978.

(b) Subpart Kb - Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 12, 1984.

(10) Reserved.

(11) Reserved.

(12) Subpart L - Secondary Lead Smelters.

(13) Subpart M - Secondary Brass and Bronze Ingot Production Plants.

(14) Subpart N - Primary Emissions from Basic Oxygen Process Furnaces for which construction is commenced after June 11, 1973.

(a) Subpart Na - Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which construction is commenced after January 20, 1983.

(15) Subpart O - Sewage Treatment Plants.

(16) Subpart P - Primary Copper Smelters.

(17) Subpart Q - Primary Zinc Smelters.

(18) Subpart R - Primary Lead Smelters.

(19) Subpart S - Primary Aluminum Reduction Plants.

(20) Subpart T - Wet Process Phosphoric Acid Plants.

(21) Subpart U - Superphosphoric Acid Plants.

(22) Subpart V - Diammonium Phosphate Plants.

(23) Subpart W - Triple Superphosphate Plants.

(24) Subpart X - Granular Triple Superphosphate Storage Facilities.

(25) Subpart Y - Coal Preparation Plants.

(26) Subpart Z - Ferroalloy Production Facilities.

(27) Subpart AA - Steel Plants (Electric arc furnaces and dust-handling equipment).

(a) Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon Oxygen-Decarburization Vessels.

(28) Subpart BB - Kraft Pulp Mills.

(a) Subpart BBa – Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013.

(29) Subpart CC - Standards of Performance for Glass Manufacturing Plants.

(30) Subpart DD - Grain Elevators.

(31) Subpart EE - Surface Coating of Metal Furniture.

(32) Subpart FF - Reserved.

(33) Subpart GG - Stationary Gas Turbines.

(34) Subpart HH - Lime Manufacturing Plants.

(35) Subpart II - Reserved.

(36) Subpart JJ - Reserved.

(37) Subpart KK - Lead-Acid Battery Manufacture.

(38) Subpart LL - Metallic Mineral Processing Plants.

(39) Subpart MM - Automobile and Light-Duty Truck Surface Coating Operations.

(40) Subpart NN - Phosphate Rock Plants.

(41) Subpart OO - Reserved.

(42) Subpart PP - Ammonium Sulfate Manufacturing.

(43) Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing.

(44) Subpart RR - Pressure Sensitive Tape and Label Surface Coating Industry.

(45) Subpart SS - Industrial Surface Coating - Large Appliances.

(46) Subpart TT - Metal Coil Surface Coating Operations.

(47) Subpart UU - Asphalt Processing and Asphalt Roofing Manufacture.

(48) Subpart VV - Equipment Leaks of VOC in the Synthetic Organic Chemical Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006.

(a) Subpart VVa – Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After November 7, 2006.

(49) Subpart WW - Beverage Can Surface Coating Industry.

(50) Subpart XX - Bulk Gasoline Terminals.

(51) Subpart YY - Reserved.

(52) Subpart ZZ - Reserved.

(53) Subpart AAA - Reserved.

(54) Subpart BBB - Rubber Tire Manufacturing Industry.

(55) Subpart CCC - Reserved.

(56) Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.

(57) Subpart EEE - Reserved.

(58) Subpart FFF - Flexible Vinyl and Urethane Coating and Printing.

(59) Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006.

(a) Subpart GGGa – Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After November 7, 2006.

(60) Subpart HHH - Synthetic Fiber Production Facilities.

(61) Subpart III - VOC Emissions from SOCMI Air Oxidation Unit Processes.

(62) Subpart JJJ - Petroleum Dry Cleaners.

(63) Subpart KKK - Equipment Leaks of VOC from Onshore Natural Gas Processing Plants for which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011.

(64) Subpart LLL - Standards of Performance for Onshore Natural Gas Processing for which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011: SO_2 Emissions.

(65) Subpart MMM - Reserved.

(66) Subpart NNN - VOC Emissions from SOCMI Distillation Operations.

(67) Subpart OOO - Nonmetallic Mineral Processing Plants.

(68) Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants.

(69) Subpart QQQ - VOC Emissions from Petroleum Refinery Wastewater Systems.

(70) Subpart RRR - Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry Reactor Processes.

(71) Subpart SSS - Magnetic Tape Manufacturing Industry.

(72) Subpart TTT - Industrial Surface Coating; Plastic Parts for Business Machines.

(73) Subpart UUU - Calciners and Dryers in Mineral Industries.

(74) Subpart VVV - Polymeric Coating of Supporting Substrates.

(75) Subpart WWW - Municipal Waste Landfills.

(76) Subpart XXX - ~~Reserved.~~Municipal Solid Waste Landfills that commenced construction, reconstruction, or modification after July 17, 2014.

(77) Subpart YYY - Reserved.

(78) Subpart ZZZ - Reserved.

(79) Subpart AAAA – Small Municipal Waste Combustion Units for which construction is commenced after August 30, 1999 or for which modification or reconstruction is commenced After June 6, 2001.

(80) Subpart BBBB - Reserved.

(81) Subpart CCCC - Commercial and Industrial Solid Waste Incineration Units for which construction is commenced after June 4, 2010 or for which modification or reconstruction is commenced on or after August 7, 2013.

(82) Subpart DDDD – Reserved.

(83) Subpart EEEE – Reserved.

(84) Subpart FFFF – Reserved.

(85) Subpart GGGG – Reserved.

(86) Subpart HHHH – Reserved.

(87) Subpart IIII – Stationary Compression Ignition Internal Combustion Engines.

(88) Subpart JJJJ – Stationary Spark Ignition Internal Combustion Engines.

(89) Subpart KKKK – Stationary Combustion Turbines.

(90) Subpart LLLL – New Sewage Sludge Incineration Units.

(91) Subpart OOOO – Crude Oil and Natural Gas Production, Transmission and Distribution.

(91)(a) Subpart OOOOa – Crude Oil and Natural Gas Facilities for which construction, modification or reconstruction commenced after September 18, 2015.

(92) Subpart PPPP – Reserved.

(93) Subpart QQQQ – Reserved.

(94) Subpart RRRR – Reserved.

(95) Subpart SSSS – Reserved.

(96) Subpart TTTT – Greenhouse Gas Emissions from Electric Generating Units.

Author:
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.
History: Effective Date: May 25, 1976.
Amended: June 23, 1981; February 13, 1985; April 15, 1987; June 16, 1988; September 21, 1989; November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 24, 1991; December 28, 1993; April 27, 1995; November 21, 1996; September 25, 1997; March 27, 1998; July 15, 1999; January 13, 2000; September 7, 2000; March 14, 2002; October 3, 2002; April 3,

2003; October 2, 2003; March 22, 2005; December 12, 2005; July 11, 2006; November 14, 2006; April 3, 2007; January 22, 2008; August 5, 2008; January 19, 2009; March 30, 2010; May 23, 2011; May 29, 2012; January 22, 2013; May 28, 2013; September 24, 2013; November 24, 2015~~.~~;XXXXXX, 2017.

335-3-10-.03~~3~~ Appendices to 40 CFR 60.

(1) Appendix A - Reference Method.

(2) Appendix B - Performance Specifications.

(3) Appendix F - Quality Assurance Procedures.

Author: Robert Cowne.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.
History: Effective Date: June 16, 1988.
Amended: November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 24, 1991; December 28, 1993; November 21, 1996; March 27, 1998; January 13, 2000; September 7, 2000; March 14, 2002; October 3, 2002; March 22, 2005; November 14, 2006; April 3, 2007; January 22, 2008; January 19, 2009; March 30, 2010, May 23, 2011; May 28, 2013; November 24, 2015~~.~~;XXXXXX, 2017.

335-3-10-.04~~4~~ Word or Phrase Substitutions. In all the standards designated in rule 335-3-10-.02 substitute:

(a) Director for Administrator.

(b) Department for U. S. Environmental Protection Agency (except in references).

Author:
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.
History: Effective Date: May 25, 1976.
Amended: February 13, 1985; June 16, 1988; September 7, 2000.

Part H -

Proposed Revisions to Chapter 335-3-11
(National Emission Standards for Hazardous Air Pollutants)

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AIR DIVISION - AIR POLLUTION CONTROL PROGRAM

CHAPTER 335-3-11
NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

TABLE OF CONTENTS

335-3-11-.01 General
335-3-11-.02 Designated Emission Standards
333-3-11-.03 Appendices to 40 CFR 61
335-3-11-.04 Word or Phrase Substitutions
335-3-11-.05 Certification of Asbestos Abatement Contractors
335-3-11-.06 National Emission Standards for Hazardous Air Pollutants for Source Categories
335-3-11-.07 Appendices to 40 CFR 63

335-3-11-.01 General.

(1) The Environmental Protection Agency Regulations, and the Appendices applicable thereto, governing Hazardous Air Pollutants, 40 CFR, Part 61 and Appendices, designated in rules 335-3-11-.02 and 335-3-11-.03 and 40 CFR Part 63, and Appendices designated in rules 335-3-11-.06 and 335-3-11-.07 are incorporated by reference as they exist in 40 CFR 61 (~~2015~~2016), and 81 FR 59800 [08/30/2016, amendments to Subparts A and Appendix B], and 40 CFR 63 (July 1, ~~2015~~2016), and 81 FR 45232 [07/13/2016, amendments to Subparts CC and UUU], 81 FR 48356 [07/25/2016, amendments to Subpart LLL], 81 FR 51114 [08/03/2016, amendments to Subpart GG], 81 FR 52348 [08/08/2016, amendments to Appendix B], and 81 FR 59800 [08/30/2016, amendments to Subpart A and Appendix A], as amended by the word or phrase substitutions given in rule 335-3-11-.04. References for specific documents containing the complete text of subject regulations are given in Appendix C to these Regulations. Authorities which are not delegable to the state are also listed in Appendix C.

[NOTE: The standards pertaining to the Consolidated Federal Air rule are located in chapter 335-3-11A.]

(a) The materials incorporated by reference are available for purchase and inspection at the Department's offices at 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

(2) In the event of any conflict between the regulations contained in this chapter and regulations contained in other chapters, the more stringent regulations will take precedence.

(3) Definitions. For purposes of this chapter, the definitions listed in 40 CFR 61.02, Subpart A will apply in rules 335-3-11-.02 and 335-3-11-.03 and the

definitions listed in 40 CFR 63.2, Subpart A will apply in rules 335-3-11-.06 and 335-3-11-.07.

Author:
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.
History: Effective Date: May 25, 1976.
Amended: February 13, 1985; June 9, 1987; June 16, 1988; November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 30, 1992; December 28,1993; November 23, 1995; November 21, 1996; September 25, 1997; March 27, 1998; November 19, 1998; July 15, 1999; January 13, 2000; September 7, 2000; March 14, 2002; October 3, 2002; April 3, 2003; October 2, 2003; March 22, 2005; December 12, 2005; July 11, 2006; April 3, 2007; January 22, 2008; August 5, 2008; January 19, 2009; March 30, 2010; May 23, 2011; May 29, 2012; January 22, 2013; May, 28, 2013; September 24, 2013: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-11-.02 Designated Emission Standards.

(1) Subpart A – General Provisions.

(2) Subpart C - Beryllium.

(3) Subpart D - Beryllium Rocket Motor Firing.

(4) Subpart E - Mercury.

(5) Subpart F - Vinyl Chloride.

(6) Reserved.

(7) Reserved.

(8) Reserved.

(9) Subpart J - Benzene Equipment Leaks.

(10) Reserved.

(11) Subpart L - Benzene Emissions from Coke By-Product Recovery Plants.

(12) Subpart M - Asbestos.

(13) Subpart N - Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants.

(14) Subpart 0 - Standard for Inorganic Arsenic Emissions from Primary Copper Smelters.

(15) Subpart P - Standard for Inorganic Arsenic Emission from Arsenic Trioxide and Metallic Arsenic Production Facilities.

(16) Reserved.

(17) Reserved.

(18) Reserved.

(19) Reserved.

(20) Reserved.

(21) Subpart V - Equipment Leaks (Fugitive Emission Sources).

(22) Reserved.

(23) Reserved.

(24) Subpart Y - Benzene Emissions from Benzene Storage Vessels.

(25) Reserved.

(26) Reserved.

(27) Subpart BB - Benzene Emissions from Benzene Transfer Operations.

(28) Reserved.

(29) Reserved.

(30) Reserved.

(31) Subpart FF - Benzene Emissions from Benzene Waste Operations.

Author:
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.
History: Effective Date: May 25, 1976.
Amended: June 23, 1981; February 13, 1985; June 9, 1987; November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 30, 1992; December 28, 1993; January 13, 2000; March 14, 2002; October 2, 2003; March 22, 2005; December 12, 2005; January 22, 2008: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-11-.03 Appendices to 40 CFR 61.

(1) Appendix B - Test Methods.

Author: Robert W. Cowne.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.
History: Effective Date: June 16, 1988
Amended: March 28, 1991; November 21, 1996; March 14, 2002: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-11-.04 Word or Phrase Substitutions. In all of the standards designated in rules 335-3-11-.02 and 335-3-11-.06 substitute:

(a) Director for Administrator.

(b) Department for U. S. Environmental Protection Agency (except in references).

Author:
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.
History: Effective Date: May 25, 1976.
Amended: February 13, 1985; June 16, 1988; November 23, 1995; September 7, 2000.

335-3-11-.05 Certification of Asbestos Abatement Contractors.

(1) Any person, firm, organization, or corporation who is the owner or operator of any asbestos removal project for which notification is required pursuant to the requirements of rule 335-3-11-.02(12) shall ensure that the parties executing the asbestos removal project are certified by the Department.

(2) Procedures for application for certification and recertification.

(a) An application for certification or recertification must be completed on forms that are supplied by the Department.

(b) Applications shall include, at minimum, the following information:

1. Lists of supervisors and workers, including their accreditation numbers issued by the state-approved accreditation program.

2. A list of asbestos removal operations performed by the party during the previous twelve (12) months.

3. Assurance that all supervisors or workers used in asbestos removal operations employed by the party shall have a current accreditation by the state-approved accreditation program before performing any work inside or outside a removal site.

4. A written certification from the principal officer or person stating that he/she understands state regulations pertaining to asbestos removal and will abide by said regulations.

(c) The Department may issue a certificate of certification to a party if it has been determined that:

1. Each supervisor and worker involved in asbestos removal is accredited by the state-approved accreditation program.

2. All application forms and attachments are properly completed and have been submitted.

3. The application fees have been paid.

(d) The Department may deny certification if it determines that the applicant is unable or unwilling to fully comply with applicable requirements, procedures, rules and standards promulgated or established by the Commission or the Department. All notices regarding the denial of certification will be sent via certified mail.

(3) Parties must reapply annually in order to maintain proper certification.

(4) A copy of the party's current certification must be available at each of its removal sites.

(5) Annual accreditation of supervisors and workers is required.

(6) Copies of accreditation for every supervisor and worker must be kept at each removal site.

(7) The Department may revoke certification of any party duly certified if the party repeatedly fails to comply with applicable rules and standards or fails to comply with any certification requirements.

(8) The requirements of this rule become enforceable 120 days after the effective date.

Author: Ludwig C. Hoffmann III.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 22-39-5.
History: Effective Date: November 1, 1990.
Amended: April 27, 1995; November 21, 1996.

335-3-11-.06 National Emission Standards for Hazardous Air Pollutants for Source Categories.

(1) Subpart A – General Provisions.

(2) Subpart B - Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j).

[NOTE: The requirements for implementation of §112(g) are found in rule 335-3-14-.06]

(3) Subpart D - Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants.

(4) Reserved.

(5) Subpart F - National Emission Standards for Hazardous Air Pollutants From Synthetic Organic Chemical Manufacturing Industry.

(6) Subpart G - National Emission Standards for Organic Hazardous Air Pollutants From Synthetic Organic Chemical Manufacturing Industry Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

(7) Subpart H - National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.

(8) Subpart I - National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.

(9) Reserved.

(10) Reserved.

(11) Subpart L - National Emission Standards for Coke Oven Batteries.

(12) Subpart M - National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

(13) Subpart N - National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

(14) Subpart O - Ethylene Oxide Emissions Standards for Sterilization Facilities.

(15) Reserved.

(16) Subpart Q - National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.

(17) Subpart R - National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).

(18) Subpart S - National Emission Standards for Hazardous Air Pollutants for Pulp and Paper Production.

(19) Subpart T - National Emission Standards for Halogenated Solvent Cleaning.

(20) Subpart U - National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.

(21) Reserved.

(22) Subpart W - National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.

(23) Subpart X - National Emission Standards from Secondary Lead Smelting.

(24) Subpart Y - National Emission Standards for Marine Tank Vessel Loading Operations [with the exceptions of those subsections referencing the Valdez Marine Terminal (VMT) in Alaska].

(25) Reserved.

(26) Subpart AA – National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants.

(27) Subpart BB – National Emission Standards for Hazardous Air Pollutants from Phosphate Fertilizers Production Plants.

(28) Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.

(29) Subpart DD - National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

(30) Subpart EE - National Emission Standards for Magnetic Tape Manufacturing Operations.

(31) Reserved.

(32) Subpart GG - National Emission Standards for Aerospace Manufacturing and Rework Facilities.

(33) Subpart HH – National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities.

(34) Subpart II - National Emission Standards for Shipbuilding and Ship Repair (Surface Coating) Operations.

(35) Subpart JJ - National Emission Standards for Wood Furniture Manufacturing Operations.

(36) Subpart KK - National Emission Standards for the Printing and Publishing Industry.

(37) Reserved.

(38) Subpart MM – National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills.

(39) Reserved.

(40) Subpart OO - National Emission Standards for Tanks - Level 1.

(41) Subpart PP - National Emission Standards for Containers.

(42) Subpart QQ - National Emission Standards for Surface Impoundments.

(43) Subpart RR - National Emission Standards for Individual Drain Systems.

(44) Subpart SS – National Emission Standards Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.

(45) Subpart TT – National Emission Standards for Equipment Leaks – Control Level 1.

(46) Subpart UU – National Emission Standards for Equipment Leaks – Control Level 2 Standards.

(47) Subpart VV National Emission Standards for Oil-Water Separators and Organic-Water Separators.

(48) Subpart WW – National Emission Standards for Storage Vessels (Tanks) – Control Level 2.

(49) Subpart XX – National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.

(50) Subpart YY – National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.

(51) Reserved.

(52) Reserved.

(53) Reserved.

(54) Subpart CCC – National Emission Standards for Hazardous Air Pollutants for Steel Pickling – HCl Process Facilities and Hydrochloric Acid Regeneration Plants.

(55) Subpart DDD – National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.

(56) Subpart EEE - National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors.

(57) Reserved.

(58) Subpart GGG - National Emission Standards for Hazardous Air Pollutants for Source Categories: Pharmaceuticals Production.

(59) Subpart HHH – National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities.

(60) Subpart III - National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.

(61) Subpart JJJ - National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.

(62) Reserved.

(63) Subpart LLL - National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry.

(64) Subpart MMM – National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.

(65) Subpart NNN – National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.

(66) Subpart OOO – National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production.

(67) Subpart PPP – National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production.

(68) Reserved.

(69) Subpart RRR – National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.

(70) Reserved.

(71) Reserved.

(72) Subpart UUU – National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.

(73) Subpart VVV – National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.

(74) Reserved.

(75) Subpart XXX – National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese.

(76) Reserved.

(77) Reserved.

(78) Subpart AAAA –National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills.

(79) Reserved.

(80) Subpart CCCC – National Emission Standards for Hazardous Air Pollutants: Nutritional Yeast.

(81) Subpart DDDD – National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products.

(82) Subpart EEEE – National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline).

(83) Subpart FFFF – National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing.

(84) Subpart GGGG – National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production.

(85) Subpart HHHH – National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production.

(86) Subpart IIII – National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks.

(87) Subpart JJJJ – National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating.

(88) Subpart KKKK – National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans.

(89) Reserved.

(90) Subpart MMMM – National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.

(91) Subpart NNNN – National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances.

(92) Subpart OOOO – National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles.

(93) Subpart PPPP – National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.

(94) Subpart QQQQ – National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products.

(95) Subpart RRRR – National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture.

(96) Subpart SSSS – National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.

(97) Reserved.

(98) Reserved.

(99) Subpart VVVV – National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.

(100) Subpart WWWW – National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.

(101) Subpart XXXX – National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing.

(102) Subpart YYYY – National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.

(103) Subpart ZZZZ – National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (major source provisions only).

(104) Subpart AAAAA – National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.

(105) Subpart BBBBB – National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.

(106) Subpart CCCCC – National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.

(107) Subpart DDDDD – National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters.

(108) Subpart EEEEE – National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.

(109) Subpart FFFFF – National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities.

(110) Subpart GGGGG – National Emission Standards for Hazardous Air Pollutants: Site Remediation.

(111) Subpart HHHHH – National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing.

(112) Subpart IIIII – National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants.

(113) ~~Reserved.~~Subpart JJJJJ – National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.

(114) ~~Reserved.~~Subpart KKKKK – National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.

(115) Subpart LLLLL – National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing.

(116) Reserved.

(117) Subpart NNNNN – National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production.

(118) Reserved.

(119) Subpart PPPPP – National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Standards.

(120) Subpart QQQQQ – National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities

(121) Subpart RRRRR – National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing.

(122) Reserved.

(123) Subpart TTTTT – National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.

(124) Subpart UUUUU– National Emission Standards for Hazardous Air Pollutants for Coal- and Oil-Fired Electric Utility Steam Generating Units.

(125) Reserved.

(126) Reserved.

(127) Reserved.

(128) Subpart YYYYY– National Emission Standards for Hazardous Air Pollutants for Electric arc Furnace Steelmaking Facilities Area Sources .

(129) Subpart ZZZZZ – National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.

(130) Reserved.

(131) Reserved.

(132) Reserved.

(133) Subpart DDDDDD – National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.

(134) Subpart EEEEEE – National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.

(135) Subpart FFFFFF – National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.

(136) Subpart GGGGGG – National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources – Zinc, Cadmium, and Beryllium.

(137) Reserved.

(138) Reserved.

(139) Reserved.

(140) Reserved.

(141) Subpart LLLLLL – National Emission Standards forHazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.

(142) Subpart MMMMMM – National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.

(143) Reserved.

(144) ~~Reserved.~~Subpart OOOOOO – National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.

(145) Reserved.

(146) Subpart QQQQQQ – National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.

(147) Reserved.

(148) Reserved.

(149) Subpart TTTTTT– National Emission Standards for Hazardous Air Pollutants for Secondary nonferrous Metals Processing Area Sources.

(150) Reserved.

(151) Subpart VVVVVV– National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources.

(152) Reserved.

(153) Reserved.

(154) Subpart YYYYYY– National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production Facilities Area Sources .

(155) Subpart ZZZZZZ – National Emission Standards for Hazardous Air Pollutants for Aluminum, Copper, and Other Nonferrous Foundries Area Sources.

(156) Subpart AAAAAAA – National Emission Standards for Hazardous Air Pollutants for Asphalt Processing and Asphalt Roofing Manufacturing Area Sources

(157) Reserved.

(158) Subpart CCCCCCC – National Emission Standards for Hazardous Air Pollutants for Paints and Allied Products Manufacturing Area Sources.

(159) Subpart DDDDDDD – National Emission Standards for Hazardous Air Pollutants for Prepared Feeds Manufacturing Area Sources.

(160) Reserved.

(161) Reserved.

(162) Reserved.

(163) Subpart HHHHHHH – National Emission Standards for Hazardous Air Pollutant Emissions for Polyvinyl Chloride and Copolymers Production.

Author: Richard E. Grusnick.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.
History: Effective Date: November 23, 1995.
Amended: November 21, 1996; September 25, 1997; March 27, 1998; November 19, 1998; July 15, 1999; January 13, 2000; September 7, 2000; March 14, 2002; October 3, 2002; April 3, 2003; October 2, 2003; March 22, 2005; December 12, 2005; July 11, 2006; April 3, 2007; January 22, 2008; August 5, 2008; January 19, 2009; March 30, 2010; May 23, 2011; May 29, 2012; January 22, 2013; May 28, 2013; September 24, 2013; November 24, 2015~~.~~; XXXXXX, 2017.

335-3-11-.07 Appendices to 40 CFR 63.

(1) Appendix A - Test Methods.

(2) Appendix B - Sources Defined for Early Reduction Provisions.

(3) Appendix C - Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit.

(4) Appendix D - Alternative Validation Procedure for EPA Waste and Wastewater Methods.

(5) Appendix E – Monitoring Procedure for Nonthoroughly Mixed Open Biological Treatment System Systems at Kraft Pulp Mills Under Unsafe Sampling Conditions.

Author: Richard E. Grusnick.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.
History: Effective Date: November 23, 1995.
Amended: November 21, 1996; September 25, 1997; November 19, 1998; July 15, 1999; January 13, 2000; March 14, 2002; March 30, 2010; May 23, 2011; May 28, 2013; November 24, 2015~~.~~; XXXXXX, 2017.

Part I –

Proposed Revisions to Chapter 335-3-14
(Permits)

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AIR DIVISION - AIR POLLUTION CONTROL PROGRAM

CHAPTER 335-3-14
AIR PERMITS

TABLE OF CONTENTS

335-3-14-.01 General Provisions
335-3-14-.02 Permit Procedure
335-3-14-.03 Standards for Granting Permits
335-3-14-.04 Air Permits Authorizing Construction in Clean Air Areas [Prevention of Significant Deterioration Permitting (PSD)]
335-3-14-.05 Air Permits Authorizing Construction in or Near Non-Attainment Areas
335-3-14-.06 Requirements for Control Technology [Determinations for Major Sources in Accordance with Clean Air Act Section 112 (g)]

335-3-14-.01~~1~~ General Provisions.

(1) Air Permit.

(a) Any person building, erecting, altering, or replacing any article, machine, equipment, or other contrivance, the use of which may cause the issuance of or an increase in the issuance of air contaminants or the use of which may eliminate or reduce or control the issuance of air contaminants, shall submit an application for an Air Permit at least 10 days prior to construction.

(b) Before any article, machine, equipment, or other contrivance described in subparagraph (a) of this paragraph may be operated or used, authorization shall be obtained from the Director in the form of an Air Permit. No Permit shall be granted for any article, machine, equipment or contrivance described in subparagraph (a) of this paragraph, constructed or installed without notification as required by subparagraph (a) of this paragraph, until the information required is presented to the Director and such article, machine, equipment or contrivance is altered, if necessary, and made to conform to the standards established by the Department.

(c) Any article, machine, equipment, or other contrivance described in subparagraph (a) of this paragraph which is presently operating (or which is not presently operating but which is capable of being operated) without an Air Permit may continue to operate (or may restart) only if its owner or operator obtains an Air Permit prior to a date to be set by the Director (or prior to restarting).

(d) Display of Air Permit. A person who has been granted an Air Permit for any article, machine, equipment, or other contrivance shall keep such permit under file or on display at all times at the site where the article, machine, equipment, or other contrivance is located and will make such a permit readily available for inspection by any and all persons who may request to see it.

(e) The Director shall have the authority to decide cases where an article, machine, equipment, or other contrivance is not clearly subject to nor exempt from the application of this rule. In addition, the Director may rule that a particular article, machine, equipment, or other contrivance is subject to the application of this rule even though it is exempt from the system according to subparagraph (a) of this paragraph and paragraph (5) of this rule. The operator or builder of such an article, machine, equipment, or other contrivance may appeal the Director's classification to the Commission, which shall overrule the Director only if it is shown that he acted arbitrarily and contrary to the purposes of the Act.

(f) Upon completion of construction by a new facility, the Director shall, within a reasonable period of time, dispatch an inspector to the facility in question. If the inspector determines that the facility has been constructed according to the specifications as set forth under the Air Permit or that any changes to the facility would reduce or affect to an insubstantial degree that quantity of air contaminants emitted by the facility, and if a reviewing officer of the Division agrees with this conclusion, then the Director shall authorize initial operation of the facility until an official inspection of the facility under actual operating conditions can be made and the results reviewed or until the Air Permit is suspended or revoked by the Director. The Director may authorize initial operation of the facility without an inspection if upon completion of the construction, an owner or operator familiar with the application for an Air Permit submits a letter to the Director, testifying that the construction under application has been completed and is in accordance with the specification as set down in the Air Permit. The Director is empowered to reject that testimony if the Director decides that the owner or operator's qualifications are insufficient to allow him to accurately and completely assess the equipment in question. An owner or operator may appeal any such judgment to the Commission.

(g) The Director may issue an Air Permit subject to conditions which will bring the operation of any article, machine, equipment, or other contrivance within the standards of rule 335-3-14-.03(1) in which case the conditions shall be specified in writing. Commencing construction or operation under such an Air Permit shall be deemed acceptance of all the conditions specified. The Director shall issue an Air Permit with revised conditions upon receipt of a new application, if the applicant demonstrates that the article, machine, equipment, or other contrivance can operate within the standards of rule 335-3-14-.03(1) under the revised conditions.

(h) Reserved.

(i) Reserved.

(j) Reserved.

(k) An existing facility which holds a Synthetic Minor Operating Permit issued under chapter 335-3-15 or an Operating Permit issued under chapter 335-3-16 is exempt from the requirements of this chapter provided that:

1. the Synthetic Minor Operating Permit is modified as required by chapter 335-3-15 prior to the initial operation of any new or modified sources, or

2. the Operating Permit is modified as required by chapter 335-3-16 and any modifications are not subject to the requirements of rule 335-3-14-.04, or

3. for a modification which is subject to the requirements of rule 335-3-14-.04, the Operating Permit is issued prior to commencement of construction of the modification, and the Operating Permit fulfills all requirements of rule 335-3-14-.04, or

4. the Operating Permit is modified as required by chapter 335-3-16 and any modifications are not subject to the requirements of rule 335-3-14-.05, or

5. for a modification which is subject to the requirements of rule 335-3-14-.05, the Operating Permit is issued prior to commencement of construction of the modification, and the Operating Permit fulfills all requirements of rule 335-3-14-.05.

(2) Provision of Sampling and Testing Facilities. A person operating or using any article, machine, equipment or other contrivance for which these rules and regulations require a permit shall provide and maintain such sampling and testing facilities as specified in the Air Permit.

(3) The holder of a Permit under this rule shall comply with conditions contained in such Permit as well as all applicable provisions of these rules and regulations.

(4) Transfer. An Air Permit shall not be transferable whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another.

(5) Exemptions. From time to time the Director may specify certain classes or sizes of articles, machines, equipment, or other contrivances which would normally be subject to the requirements to apply for an Air Permit as being exempt from the requirement to apply for such permits. Exempt sources are subject in every other way to these rules and regulations.

(6) Delegation of Air Permit requirements to Local Air Pollution Control Programs.

(a) Local air pollution control programs may receive delegation of authority from the Director to administer the general Air Permit requirements of

paragraph (1) of this rule within their jurisdiction provided the local air pollution control program:

1. adopts regulations insuring applicants are required to satisfy the same requirements as contained in the Department's regulations; and

2. adopts regulations which require the Director to be provided with an opportunity to review the permit application, the analysis of the permit, and proposed permit conditions at least 10 days prior to issuance of an Air Permit.

(b) Local air pollution control programs may receive delegation of authority from the Director to administer the Air Permit requirements of rules 335-3-14-.05 and 335-3-14-.04 within their jurisdiction provided:

1. the requirements of subparagraph (a)1. of this paragraph are met; and

2. the local air pollution control program demonstrates that it has the necessary manpower and technical expertise to implement the requirements of said regulations; and

3. the local air pollution control program adopts regulations which require that the local air pollution control program shall provide the Director a copy of preliminary determinations and public comment notices for all permits issued pursuant to rules 335-3-14-.05 and 335-3-14-.04 ~~at the same time~~before the notice is ~~forwarded for publication in the newspaper~~issued.

(c) If the Director of ADEM determines that local program procedures for implementing all the portions of rules 335-3-14-.01(1), 335-3-14-.04, and 335-3-14-.05 are inadequate, or are not being effectively carried out, any authority delegated to the local programs to administer rules 335-3-14-.01(1), 335-3-14-.04, and 335-3-14-.05 may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the local air pollution control program.

(d) The Director reserves the authority contained in rule 335-3-14-.02(4), to revoke any Air Permit issued pursuant to this rule.

(e) Any Air Permit issued by a local air pollution control program, including all conditions contained therein, is enforceable by the ADEM.

(7) Public Participation.

(a) Notice shall be given ~~by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice and also to persons on a mailing list developed by the Department for persons desiring notice of permit action, including persons who have requested in writing to be on such a list,~~ under the following circumstances:

1. Construction at a Greenfield Site.

(i) For the purposes of this paragraph, a "Greenfield Site" shall mean a new development or the initial operation of a new facility.

2. The Director, at his discretion, may require Public Notification for any application received in accordance with subparagraph (1)(a) of this rule.

(b) Notices issued in accordance with rule 335-3-14-.01(7) (a) shall be posted for the duration of the public comment period on the Department's web site, and shall include:

1. A notice of availability of the proposed permit for public comment;

2. A link to the proposed permit; and,

3. Information on how to access the administrative record for the proposed permit.

(c) Notices issued in accordance with rule 335-3-14-.01(7) (a) shall also be transmitted to a list developed by the Department for persons desiring notice of permit action, including persons who have requested in writing to be on such a list.

(~~b~~d) Public comments will be received by the Department for a period of 15 days following the ~~publication~~ posting of the public notice.

(~~e~~e) Public Notice will be held in accordance with the requirements of rules 335-3-14-.04, 335-3-14-.05, or 335-3-14-.06 for any application which is subject to the requirements of rules 335-3-14-.04, 335-3-14-.05, or 335-3-14-.06, respectively.

(~~d~~f) Construction of any article, machine, equipment, or other contrivance as described in subparagraph (1)(a) of this rule shall not commence until after an Air Permit is issued if a public notice is required under this rule.

Author: James W. Cooper and John E. Daniel.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: January 18, 1972.
Amended: April 3, 1979; February 13, 1985; December 28, 1993; November 21, 1996; March 27, 1998~~.~~; XXXXXX, 2017.

335-3-14-.02~~2~~ Permit Procedure.

(1) Applications. Every application for an Air Permit required under rule 335-3-14-.01(1) shall be filed in the manner and form prescribed by the Director and shall give all the information necessary to enable the Director to make the determination required by rule 335-3-14-.03.

(a) Cancellation of Applications. An Air Permit authorizing construction shall expire and the application shall be canceled two years from the date of issuance of the Air Permit if the construction has not begun.

335-3-14-.04~~4~~ Air Permits Authorizing Construction in Clean Air Areas [Prevention of Significant Deterioration Permitting (PSD)]

(1) Applicability.

(a) The requirements of this rule apply to the construction of any new major stationary source (as defined in subparagraph (2)(a) of this rule) or any project at an existing major stationary source in an area designated as attainment or unclassifiable under sections 107(d)(1)(A)(ii) or (iii) of the Clean Air Act.

(b) The requirements of paragraphs (9) through (17) of this rule apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this rule otherwise provides.

(c) No new major stationary source or major modification to which the requirements of paragraphs (9) through (17)(c) of this rule apply shall begin construction without a permit that states that the major stationary source or major modification will meet those requirements.

(d) Except as otherwise provided in subparagraph (1)(j) of this rule, and consistent with the definition of major modification contained in subparagraph (2)(b) of this rule, a project is a major modification for a regulated NSR pollutant only if it causes two types of emissions increases – a significant emissions increase [as defined in subparagraph (2)(mm) of this rule], and a significant net emissions increase [as defined in subparagraphs (2)(c) and (2)(w) of this rule].

(e) Before beginning actual construction, the procedure for calculating whether a significant emissions increase will occur depends upon the type of emissions units being modified, according to subparagraphs (1)(f) through (i) of this rule. The procedure for calculating whether a significant net emissions increase will occur at the major stationary source is contained in the definition in subparagraph (2)(c) of this rule. Regardless of any such preconstruction projections, a major modification can result only if the project causes a significant emissions increase and a significant net emissions increase.

(f) Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference(s) between the projected actual emissions [as defined in subparagraph (2)(nn) of this rule] and the baseline actual emissions [as defined in subparagraphs (2)(uu)1. and 2. of this rule], for each existing emissions unit, equals or exceeds the significant rate for that pollutant [as defined in subparagraph (2)(w) of this rule].

(g) Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit [as defined in subparagraph (2)(d) of this rule] from each new emissions unit following completion of the project and the baseline actual emissions [as defined in subparagraph (2)(uu)3. of this rule] of these units before the project

equals or exceeds the significant rate for that pollutant [as defined in subparagraph (2)(w) of this rule].

(h) Actual-to-potential test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference(s) between the potential to emit [as defined in subparagraph (2)(d) of this rule] and the actual emissions [as defined in subparagraph (2)(u) of this rule], for each existing emissions unit, equals or exceeds the significant rate for that pollutant [as defined in subparagraph (2)(w) of this rule].

(i) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in subparagraphs (1)(f) through (h) of this rule as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant rate for that pollutant [as defined in subparagraph (2)(w) of this rule].

(j) Any major stationary source subject to a plantwide applicability limit (PAL), as defined in subparagraph (23)(b)5. of this rule, for a regulated NSR pollutant shall comply with the requirements under paragraph (23) of this rule.

(k) Greenhouse gases (GHGs)

1. GHGs, as defined in Subparagraph (2)(zz) of this Rule, shall not be utilized in determining if a source is a major stationary source, as defined in Subparagraph (2)(a) of this Rule, or in determining if a modification is a major modification, as defined in Subparagraph (2)(b) of this Rule.

2. GHGs shall only be subject to the requirements of this Rule if:

(i) A new major stationary source or major modification causes a significant emissions increase of GHGs, as defined in subparagraph (2)(mm) of this rule, and a significant net emissions increase of GHGs, as defined in subparagraphs (2)(c) and (2)(w) of this rule, and

(ii) The new major stationary source or major modification is required to obtain a permit subject to the requirements of this Rule as a result of emissions of regulated NSR pollutants other than GHGs.

Reserved.

(2) Definitions. For the purposes of this rule only, the following terms will have meanings ascribed in this paragraph:

(a) "Major Stationary Source" shall mean:

1. Any of the following stationary sources [see subparagraph (e) of this paragraph] of air pollutants which emits, or has the potential to emit [see

subparagraph (d) of this paragraph], 100 tons per year or more of any regulated NSR pollutant:

- carbon black plants (furnace process);
- charcoal production plants;
- chemical process plants;
- coal cleaning plants (with thermal dryers);
- coke oven batteries;
- fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
- fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input;
- fuel conversion plants;
- glass fiber processing plants; and
- hydrofluoric acid plants;
- sulfuric acid plants;
- nitric aid plants;
- iron and steel mill plants;
- kraft pulp mills;
- lime plants;
- municipal incinerators capable of charging more than 250 tons of refuse per day;
- petroleum refineries;
- petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- phosphate rock processing plants;
- portland cement plants;
- primary aluminum ore reduction plants;
- primary copper smelters;
- primary lead smelters;
- primary zinc smelters;
- secondary metal production plants;
- sintering plants;
- sulfur recovery plants;
- taconite ore processing plants;

(i) Notwithstanding the stationary source size specified in subparagraph (a)1. of this paragraph, any stationary source which emits, or has the potential to emit, 250 tons per year or more of any regulated NSR pollutant;

(ii) Any physical change that would occur at a stationary source not otherwise qualifying under this rule as a major stationary source, if the changes would constitute a major stationary source by itself.

2. A stationary source that is considered major for VOC or NO_X shall be considered major for ozone.

(b) "Major Modification" shall mean any physical change in or change in the method of operation of a major stationary source that would result in a significant [see subparagraph (w) of this paragraph] net emissions increase [see subparagraph (c) of this paragraph] of any regulated NSR pollutant.

1. Any net emissions increase that is significant for VOC or NO_X shall be considered significant for ozone.

2. Any net emissions increase that is significant for SO_2 or NO_X shall be considered significant for $PM_{2.5}$.

3. A physical change or change in the method of operation shall not include:

(i) Routine maintenance, repair and replacement;

(ii) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (P.L. 93-319, 15 U.S.C. 791 note) or any superseding legislation, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act (June 10, 1920, P.L. 280, 16 U.S.C. 791a);

(iii) Use of an alternative fuel by reason of an order or rule under Section 125 of the CAA;

(iv) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) Use of an alternative fuel or raw material by a stationary source which:

(I) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit condition which was established after January 6, 1975.

(II) The source is approved to use under any permit issued under the Federal Prevention of Significant Deterioration ("PSD") regulations (40 CFR 52.21) or under regulations of this rule;

(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit condition which was established after January 6, 1975.

(vii) Any change in ownership at a stationary source.

(viii) Reserved.

(ix) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

(x) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated NSR pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.

4. This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under paragraph (23) of this rule for a PAL for that pollutant. Instead, the definition at subparagraph (23)(b)8. of this rule shall apply.

(c) "Net Emissions Increase" shall mean with respect to any regulated NSR pollutant, the amount by which the sum of the following exceeds zero:

1. Any increase in emissions as calculated pursuant to subparagraph (1)(e) through (i) of this rule from a particular physical change or change in method of operation at a stationary source; and

2. Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this subparagraph shall be determined as provided in subparagraph (2)(uu) of this rule, except that subparagraphs (2)(uu)1.(iii) and (2)(uu)2.(iv) of this rule shall not apply.

(i) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(I) The date five (5) years before construction [see subparagraph (h) of this paragraph] on the particular change commences [see subparagraph (i) of this paragraph]; and

(II) The date that the increase from the particular change occurs.

(ii) An increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit for the source under this rule, which is in effect when the increase in actual emissions from the particular change occurs.

(iii) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date [see subparagraph (n)2. of this paragraph] is creditable only if it is required to be considered in calculating the amount of maximum

allowable increases remaining available. With respect to particulate matter, only PM_{10} and $PM_{2.5}$ emissions can be used to evaluate the net emissions increase for PM_{10}. Only $PM_{2.5}$ emissions can be used to evaluate the net emissions increase for $PM_{2.5}$.

(iv) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(v) A decrease in actual emissions is creditable only to the extent that:

(I) The old level of actual emissions or the old level of allowable emissions [see subparagraph (p) of this paragraph], whichever is lower, exceeds the new level of actual emissions;

(II) It is enforceable [see subparagraph (q) of this paragraph], at and after the time that actual construction on the particular change begins; and

(III) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(vi) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(d) "Potential to Emit" shall mean the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions [see paragraph 335-3-14-.04(2)(r)] do not count in determining the potential to emit of a stationary source.

(e) "Stationary Source" shall mean any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

(f) "Building, Structure, Facility, or Installation" shall mean all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., all have the same two digit code) as described in the Standard Industrial Classification Manual.

(g) "Emissions Unit" shall mean any part of a stationary source which emits or would have the potential to emit any regulated NSR pollutant including an electric utility steam generating unit as defined in subparagraph (2)(vv) of this rule. For purposes of this rule, there are two types of emissions units as described in subparagraphs (2)(g)1. and 2. of this rule.

1. A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

2. An existing emissions unit is any emissions unit that does not meet the requirements in subparagraph (2)(g)1. of this rule. A replacement unit, as defined in subparagraph (bbb) of this rule, is an existing emissions unit.

(h) "Construction" shall mean any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in emissions.

(i) "Commence" as applied to construction of a major stationary source or major modification shall mean that the owner or operator has all necessary preconstruction approvals or permits [see subparagraph (j) of this paragraph] and either has:

1. Begun, or caused to begin, a continuous program of actual on-site construction [see subparagraph (k) of this paragraph] of the source, to be completed within a reasonable time; or

2. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(j) "Necessary Preconstruction Approvals or Permits" shall mean those permits or approvals required under Alabama air quality control laws and regulations which are part of the State Implementation Plan.

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

(l) "Best Available Control Technology (BACT)" shall mean an emissions limitation (including a visible emission standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or

modification through application of production processes or available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR 60 and 61. If the Director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results.

(m) "Baseline Concentration" shall mean that ambient concentration level which exists in the baseline area [see subparagraph (o) of this paragraph] at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

1. The actual emissions, as defined in paragraph (2)(u) of this rule, representative of sources in existence on the applicable minor source baseline date, except as provided in subparagraph (m) 3. of this paragraph;

2. The allowable emissions of major stationary sources which commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

3. The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) Actual emissions, as defined in paragraph (2)(u) of this rule, from any major stationary source on which construction commenced after the major source baseline date; and

(ii) Actual emissions increases and decreases, as defined in paragraph (2)(u) of this rule, at any stationary source occurring after the minor source baseline date.

(n) "Major Source Baseline Date" means in the case of particulate matter less than 10 microns in diameter and sulfur dioxide, January 6, 1975; in the case of nitrogen dioxide, the major source baseline date is February 8, 1988, and in the case of particulate matter less than 2.5 microns in diameter, the major source baseline date is October 20, 2010.

1. "Minor Source Baseline Date" means the earliest date after the trigger date on which the first complete [see subparagraph (v) of this paragraph], application is submitted by a major stationary source or major modification subject to the requirements of Federal PSD regulations or this rule. The trigger date is:

(i) In the case of particulate matter less than 10 microns in diameter and sulfur oxides, August 7, 1977, and

(ii) In the case of nitrogen dioxide, February 8, 1988.

(iii) In the case of particulate matter less than 2.5 microns in diameter, October 20, 2011.

2. The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(i) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section 107(d)(1)(A)(ii) or (iii) of the CAA for the pollutant on the date of its complete application under Federal PSD regulations or this rule.

(ii) In the case of a major stationary source, the pollutant would be emitted in significant amounts or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

3. Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments.

(o) "Baseline Area" shall mean any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section 107(d)(1)(A)(ii) or (iii) of the CAA in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than one (1) microgram per cubic meter (annual average) of the pollutant for which the minor source baseline date is established.

1. Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments.

(p) "Allowable Emissions" shall mean the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

1. The applicable standards as set forth in 40 CFR 60, 61, and 63;

2. The applicable State Implementation Plan emissions limitation, including those with a future compliance date; or

3. The emissions rate specified as an enforceable permit condition, including those with a future compliance date.

(q) "Enforceable" shall mean all limitations and conditions which are enforceable, including those requirements developed pursuant to 40 CFR 60,

61, and 63, requirements within the State Implementation Plan and any permit requirements established pursuant to chapters 14, 15, or 16 of these regulations.

(r) "Secondary Emissions" shall mean emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this rule, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

1. Emissions from ships or trains coming to or from the new or modified stationary source; and

2. Emissions from any off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(s) "Innovative Control Technology" shall mean any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

(t) "Fugitive Emissions" shall mean those emissions which could not reasonably pass through a stack, chimney, vent, roof monitor, or other functionally equivalent opening.

(u) "Actual Emissions" shall mean the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with subparagraphs (u)1. through (u)3. below, except that this definition shall not apply for establishing a PAL under paragraph (23) of this rule. Instead, subparagraphs (2)(nn) and (2)(uu) of this rule shall apply for this purpose.

1. In general, actual emissions as of any given date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24- month period which precedes the given data and which is representative of normal source operation. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

2. The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

3. For any emissions unit which has not begun normal operations on the given date as determined in subparagraph (u)1., actual emissions shall equal the potential to emit of the unit on that date.

(v) "Complete" shall mean, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

(w) "Significant" shall mean, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant	**Emissions Rate (tons per year)**
Carbon monoxide	100
Nitrogen oxides	40
Sulfur dioxide	40
Particulate matter	25
PM_{10}	15
$PM_{2.5}$	10 (of direct $PM_{2.5}$) 40 (of SO_2 or NOx)
Ozone	40 (of VOC or NO_X)
Lead	0.6
Fluorides (excluding HF)	3
Sulfuric acid mist	7
Hydrogen sulfide (H_2S)	10
Total reduced sulfur (including H_2S)	10
Reduced sulfur compounds (including H_2S)	10
Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	3.5×10^{-6}
Municipal waste combustor metals (measured as particulate matter)	15
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)	40
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50
Greenhouse gases (GHGs) CO_2e	75,000

1. Significant means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that paragraph (2)(w) of this rule does not list: 100 TPY.

2. Notwithstanding subparagraph (w) above, significant shall mean any emissions rate or any net emissions increase, excluding GHGs, associated with a major stationary source or major modification which would construct within ten (10) kilometers of a Class I area and have an impact on such area equal to or greater than one (1) microgram per cubic meter (24-hour average).

3. For GHGs, a source or modification would not be significant unless it results in:

(i) An emissions increase and a net emissions increase in GHGs on a total mass basis, and

(ii) A significant emissions increase and a significant net emissions increase in GHGs on a CO_2e basis.

(x) "Federal Land Manager" shall mean, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.

(y) "High Terrain" shall mean any area having an elevation 900 feet or more above the base of the stack of a source.

(z) "Low Terrain" shall mean any area other than high terrain.

(aa) "Indian Governing Body" shall mean the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(bb) "Indian Reservation" shall mean any Federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(cc) "Adverse Impact on Visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with (1) times of visitor use of the Federal Class I area, and (2) the frequency and timing of natural conditions that reduce visibility.

(dd) "Visibility Impairment" means any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions.

(ee) "Natural Conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

(ff) "Environmentally Beneficial Activity" shall mean:

1. Any activity or project undertaken at an existing emissions unit which, as its primary purpose, reduces emissions of air pollutants from such unit, and is limited to the installation or modification of any of the following:

(i) Conventional or advanced flue gas desulfurization, or sorbent injection for SO_2;

(ii) Electrostatic precipitators, baghouses, high efficiency multiclones, or scrubbers for particulate matter or other pollutants;

(iii) Flue gas recirculation, low-NO_X burners, selective non-catalytic reduction or selective catalytic reduction for NO_X;

(iv) Regenerative thermal oxidizers, catalytic oxidizers, condensers, thermal incinerators, flares, carbon adsorbers, or combustion devices installed or modified to comply with hazardous emission standards for volatile organic compounds or hazardous air pollutants;

(v) Activities or projects undertaken to accommodate switching to an inherently less polluting fuel, including but not limited to natural gas or coal reburning, or the cofiring of natural gas and other inherently less polluting fuels, for the purpose of controlling emissions, and including any activity that is necessary to accommodate switching to an inherently less polluting fuel;

(vi) Pollution prevention projects which the Director determines to be environmentally beneficial.

(vii) Installation or modification of a technology other than those listed in subparagraphs (ff)1.(i) through (v), for the purposes set forth in subparagraph (ff)1., which has demonstrated an effectiveness at reducing emissions and is determined by the Director to be environmentally beneficial.

2. Environmentally beneficial projects do not include:

(i) The replacement of an existing emissions unit with a newer or different unit;

(ii) Reconstruction of an existing emissions unit;

(iii) Pollution prevention projects which result in an increased risk from the release of hazardous air pollutants;

(iv) Any project which would result in the increased production of an existing emissions unit.

(v) Any project which reduces emissions solely by transferring them to or from another media.

(vi) Any project which would cause an exceedance of an existing enforceable emissions limitation which was established to avoid applicability of the requirements of this rule.

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

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

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

(jj) "Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the State implementation plans for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

(kk) "Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

1. Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

(ll) Reserved.

(mm) "Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in subparagraph (2)(w) of this rule) for that pollutant.

(nn) "Projected actual emissions" means

1. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (consecutive 12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

2. In determining the projected actual emissions under subparagraph (2)(nn)1. of this rule (before beginning actual construction), the owner or operator of the major stationary source:

(i) Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans under these regulations; and

(ii) Shall include fugitive emissions to the extent quantifiable and emissions associated with startups and shutdowns; and

(iii) Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under subparagraph (2)(uu) of this rule and that are not resulting from the particular project, including any increased utilization due to product demand growth; or

(iv) In lieu of using the method set out in subparagraphs (2)(nn)2.(i) through (iii), may elect to use the emissions unit's potential to emit, in tons per year, as defined under subparagraph (2)(d) of this rule.

(oo) Reserved.

(pp) "Prevention of Significant Deterioration (PSD) program" means the preconstruction permit program in this rule. Any permit issued under this program is a major NSR permit.

(qq) "Continuous emissions monitoring system (CEMS)" means all of the equipment that may be required to meet the data acquisition and availability requirements of this rule, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

(rr) "Predictive emissions monitoring system (PEMS)" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O2 or CO2

concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

(ss) "Continuous parameter monitoring system (CPMS)" means all of the equipment necessary to meet the data acquisition and availability requirements of this rule, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O2 or CO2 concentrations), and to record average operational parameter value(s) on a continuous basis.

(tt) "Continuous emissions rate monitoring system (CERMS)" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

(uu) "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with subparagraphs (2)(uu)1. through 4. of this rule.

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

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

(ii) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

(iii) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(iv) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subparagraph (2)(uu)1.(ii) of this rule.

2. For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator

begins actual construction of the project, or the date a complete permit application is received by the Department for a permit required under this rule, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

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

(ii) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(iii) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR part 63, the baseline actual emissions need only be adjusted if the State has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR § 51.165(a)(3)(ii)(G).

(iv) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(v) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subparagraphs (2)(uu)2.(ii) and (iii) of this rule.

3. For a new emissions unit, as defined in subparagraph (2)(g)1. of this rule, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero. During the first two years from the date which the emissions unit commenced operation, the baseline actual emissions shall equal the potential to emit for the unit. Thereafter, the unit will be considered an existing emissions unit and the baseline actual emissions will be determined in accordance with subparagraph (2)(uu)1. for an electric steam generating unit or subparagraph (2)(uu)2. for other emissions units.

4. For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in subparagraph (2)(uu)1. of this rule, for other existing emissions units in accordance with the procedures contained in

subparagraph (2)(uu)2. of this rule, and for a new emissions unit in accordance with the procedures contained in subparagraph (2)(uu)3. of this rule.

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

(ww) "Regulated NSR pollutant", for purposes of this rule, means the following:

1. Any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the Administrator of EPA (e.g., volatile organic compounds and NO_X are precursors for ozone);

2. Any pollutant that is subject to any standard promulgated under section 111 of the Clean Air Act;

3. Any Class I or II substance subject to a standard promulgated under or established by title VI of the Clean Air Act; or

4. Any pollutant that otherwise is subject to regulation under the Clean Air Act; except that any or all hazardous air pollutants either listed in section 112 of the Clean Air Act, including compounds listed in 40 CFR Part 68 pursuant to Section 112(r) of the Clean Air Act, or added to the list pursuant to section 112(b)(2) of the Clean Air Act, which have not been delisted pursuant to section 112(b)(3) of the Clean Air Act, are not regulated NSR pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Clean Air Act.

5. $PM_{2.5}$ and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. Such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10}. Applicability determinations made prior to January 1, 2011 without accounting for condensable particulate matter shall not be considered invalid.

(xx) Reserved.

(yy) "Project" means a physical change in, or change in the method of operation of, an existing major stationary source.

(zz) Greenhouse gases (GHGs) means the aggregate of: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(aaa) CO_2 equivalent emissions (CO_2e) shall represent the amount of GHGs emitted as computed by the following:

1. Multiplying the mass amount of emissions (TPY) for each of the six greenhouse gases in the pollutant GHGs by the gas's associated global warming potential as listed in Appendix I.

2. Sum the resultant value determined in subparagraph (aaa)1. for each gas to calculate the TPY of CO_2e.

(bbb) Replacement unit means an emissions unit for which all the criteria listed in subparagraphs (2)(bbb)1. through 4. of this section are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced. A replacement unit is subject to all permitting requirements for modifications under this rule.

1. The emissions unit is a reconstructed unit within the meaning of 40 CFR §60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

2. The emissions unit is identical to or functionally equivalent to the replaced emissions unit. A functionally equivalent unit would be a unit that serves the same purpose as the replaced unit. The Director shall be the determiner of whether a unit is functionally equivalent to the replaced unit.

3. The replacement does not alter the basic design parameters of the process unit. Basic design parameters shall include, but not be limited to, maximum hourly heat input, maximum hourly fuel utilization, or maximum hourly raw material feed, as appropriate. Basic design parameters of a replaced unit shall also include all source specific emission limits and/or monitoring requirements. The Director shall be the determiner of whether the basic design parameters of the replaced unit are altered.

4. The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

(3) Ambient Air Increments. In areas designated as Class I, II or III, increases in pollutant concentration over the baseline shall be limited to the following:

Area	Pollutant	Maximum Allowable Increase (micrograms per cubic meter)

Area	Pollutant	Maximum Allowable Increase (micrograms per cubic meter)
Class I	PM_{10}:	Annual arithmetic mean 4
		24-hour maximum..... 8
	$PM_{2.5}$	Annual arithmetic mean 1
		24-hour maximum..... 2
	Sulfur dioxide:	Annual arithmetic mean 2
		24-hour maximum..... 5
		3-hour maximum..... 25
	Nitrogen dioxide:	Annual arithmetic mean 2.5
Class II	PM_{10}:	Annual arithmetic mean 17
		24-hour maximum..... 30
	$PM_{2.5}$	Annual arithmetic mean 4
		24-hour maximum..... 9
	Sulfur dioxide:	Annual arithmetic mean 20
		24-hour maximum..... 91
		3-hour maximum.....512
	Nitrogen dioxide:	Annual arithmetic mean 25
Class III	PM_{10}:	Annual arithmetic mean 34
		24-hour maximum..... 60
	$PM_{2.5}$	Annual arithmetic mean 8
		24-hour maximum..... 18
	Sulfur dioxide:	Annual arithmetic mean 40
		24-hour maximum.....182
		3-hour maximum.....700
	Nitrogen dioxide:	Annual arithmetic mean 50

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

(4) Ambient Air Ceilings. No concentration of a pollutant shall exceed:

(a) The concentration permitted under the National Secondary Ambient Air Quality Standard, or

(b) The concentration permitted under the National Primary Ambient Air Quality Standard, whichever concentration is lowest for the pollutant for a period of exposure.

(5) Area Classifications.

(a) The following area, which was in existence on August 7, 1977, shall be a Class I area and may not be redesignated:

1. The Sipsey Wilderness Area, located in Franklin, Winston, and Lawrence counties, Alabama.

(b) Any other area is initially designated Class II:

(6) Exclusions from Increment Consumption.

(a) The following concentrations shall be excluded in determining compliance with a maximum allowable increase:

1. Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order;

2. Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan;

3. Concentrations of PM_{10} attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;

4. The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and

5. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, PM_{10}, or nitrogen oxides from stationary sources which are affected by plan revisions approved by the EPA as being exempt from increment consumption.

(b) No exclusion of such concentrations shall apply for more than five (5) years after the effective date of the order to which subparagraph (a)1. of this paragraph or the plan to which subparagraph (a)2. of this paragraph refers, whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply for more than five (5) years after the later of such effective dates.

(7) Reserved.

(8) Review of Major Stationary Sources and Major Modification - Source Applicability and Exemptions.

(a) No major stationary source or major modification shall begin actual construction unless, as a minimum, requirements contained in paragraphs (9) through (17) of this rule have been met.

(b) The requirements contained in paragraphs (9) through (17) shall apply to any major stationary source and any major modification with respect to each regulated NSR pollutant that it would emit, except as this rule would otherwise allow.

(c) The requirements contained in paragraphs (9) through (17) apply only to any major stationary source or major modification that would be constructed in an area designated as attainment or unclassified under Section 107(d)(1)(A)(ii) or (iii) of the CAA.

(d) The requirements contained in paragraphs (9) through (17) shall not apply to a major stationary source or major modification, if:

1. Reserved.

2. Reserved.

3. Reserved.

4. Reserved.

5. Reserved.

6. The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution; or

7. The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification, and the source does not belong to any of the following categories:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(ix) Hydrofluoric, sulfuric or nitric acid plants;

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;

(xv) Carbon black plants (furnace process);

(xvi) Primary lead smelters;

(xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

(xx) Chemical process plants;

(xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

(xxvi) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(xxvii) Any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the CAA; or

8. The source is a portable stationary source which has previously received a permit under this rule; and

(i) The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary; and

(ii) The emissions from the source would not exceed its allowable emissions; and

(iii) The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

(iv) Reasonable notice is given to the Director prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the Director not less than ten (10) days in advance of the proposed relocation unless a different time duration is previously approved by the Director.

(e) The requirements of paragraphs (9) through (17) of this rule shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under Section 107 of the CAA.

(f) The requirements of paragraphs (10), (12), and (14) of this rule shall not apply to a major stationary source or major modification with respect to a particular pollutant if the allowable emissions of that pollutant from the source or the net emissions increase of that pollutant from the modification:

1. Would impact no Class I area and no area where an applicable increment is known to be violated, and

2. Would be temporary.

(g) The requirements of paragraphs (10), (12), and (14) of this rule as they relate to any maximum allowable increase for a Class II area shall not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of BACT would be less than 50 tons per year.

(h) The Director may exempt a stationary source or modification from the requirements of paragraph (12) of this rule with respect to monitoring for a particular pollutant if:

1. The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts which are less than the following amounts:

Carbon monoxide ..... 575 μg/m³, 8-hour average;
Nitrogen dioxide ..... 14 μg/m³, annual average;
PM_{10} ..... 10 μg/m³, 24-hour average;
$PM_{2.5}$ 4 μg/m³, 24-hour average;
Sulfur dioxide..... 13 μg/m³, 24-hour average;
Ozone;[1]
Lead ..... 0.1 μg/m³, 3-month average;
Fluorides ..... 0.25 μg/m³, 24-hour average;
Total reduced sulfur ..... 10 μg/m³, 1-hour average;
Hydrogen sulfide ..... 0.2 μg/m³, 1-hour average;

or

2. The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in subparagraph (h)1. of this paragraph, or the pollutant is not listed in subparagraph (h)1. of this paragraph; or

3. The owner or operator of the stationary source or modification submits an application under this rule that the Director determines is complete, except with respect to the requirements for monitoring PM_{10} in paragraph (12) of this rule, on or before June 1, 1988. If a complete permit application is received after June 1, 1988, but not later than December 1, 1988, the requirements for PM_{10} monitoring under paragraph (12) of this rule apply in that data shall have been gathered over at least the period from February 1, 1988 to the date the complete application is received, except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four months) then the shorter period of data gathering will suffice to meet the requirements of paragraph (12) of this rule.

(i) Reserved.

(j) Reserved.

(k) At the discretion of the Director, the requirements for air quality monitoring of PM_{10} in subparagraphs (12)(a)1. through 4. of this rule may not apply to a particular source or modification when the owner or operator of the source or modification submits an application for a permit under this rule on or before June 1, 1988 and the Director subsequently determines that the application as submitted before that date was complete, except with respect to the requirements for monitoring PM_{10} in subparagraphs (12)(a)1. through 4.

(l) The requirements for air quality monitoring of PM_{10} in subparagraphs (12)(a)2. and 4. and subparagraph (12)(c) shall apply to a particular source or

---

[1]No de minimus air quality level is provided for ozone. However, any net increase of 100 tons per year or more of VOC or NO_X subject to rule 335-3-14-.04 would be required to perform an ambient impact analysis including the gathering of ambient air quality data.

modification if the owner or operator of the source of modification submits an application for permit under this rule after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions set forth under subparagraph (12)(a)8., except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that subparagraph (12)(a)3. requires shall have been gathered over that shorter period.

(m) Any project which is an environmentally beneficial project as defined in subparagraph (2)(ff) of this rule shall not be considered a major modification as defined in paragraph (2) of this rule and is exempt from all provisions of this rule except paragraphs (10), (11), (13), (15), and (16).

(n) The requirements of paragraphs (10), (11), (12), (14), and (15) of this Rule shall not apply with respect to GHGs for any major stationary source or major modification.

(9) Control Technology Review.

(a) A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable limitation standard and standard of performance under 40 CFR 60 and 61.

(b) A new major stationary source shall apply BACT for each regulated NSR pollutant that it would have the potential to emit in significant amounts.

(c) A major modification shall apply BACT for each regulated NSR pollutant for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(d) For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than eighteen (18) months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of BACT for the source.

(10) Source Impact Analysis.

(a) Required Demonstration. The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

1. Any National Ambient Air Quality Standard in any air quality control region; or

2. Any applicable maximum allowable increase over the baseline concentration in any area.

(b) Significant Impact Levels. The demonstration required in subparagraph (10)(a) is deemed to have been made if the emissions increase for the new stationary source alone or from the modification alone would cause, in all areas, air quality impacts less than the following amounts:

Pollutant	**Averaging Time**	**Class I Significance Level**	**Class II Significance Level**
SO_2	3 hour		25 μg/m³
	24 hour		5 μg/m³
	Annual		1 μg/m³
PM_{10}	24 hour		5 μg/m³
	Annual		1 μg/m³
$PM_{2.5}$	24 hour	0.07 μg/m³	1.2 μg/m³
	Annual	0.06 μg/m³	0.3 μg/m³
NO_2	Annual		1 μg/m³
CO	1 hour		2,000 μg/m³
	8 hour		500 μg/m³

(11) Air Quality Models.

(a) All estimates of ambient concentrations required under this rule shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models". (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711)

(12) Air Quality Analysis.

(a) Preapplication Analysis.

1. Any application for a permit under this rule shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

(i) For the source, each pollutant that it would have the potential to emit in a significant amount;

(ii) For the modification, each pollutant for which it would result in a significant net emissions increase.

2. With respect to any such pollutant for which no NAAQS exists, the analysis shall contain such air quality monitoring data as the Director determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

3. With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

4. In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one (1) year and shall represent the year preceding receipt of the application, except that, if the Director determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year (but not to be less than four (4) months), the data that is required shall have been gathered over at least that shorter period.

5. Reserved.

6. The owner or operator of a proposed stationary source or modification of VOC who satisfies all conditions of rule 335-3-14-.05 may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under subparagraph (a) of this paragraph.

7. For any application that becomes complete, except as the requirements of subparagraphs (a)3. and 4. of this paragraph pertaining to PM_{10}, after December 1, 1988 and no later than August 1, 1989 the data that subparagraph (a)3. of this paragraph requires shall have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete, except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that subparagraph (a)3. of this paragraph requires shall have been gathered over that shorter period.

8. With respect to any requirements for air quality monitoring of PM_{10} under subparagraphs (8)(k) and (l) of this rule, the owner or operator of the source or modification shall use a monitoring method approved by the Director and shall estimate the ambient concentrations of PM_{10} using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Director.

(b) Post-construction Monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the Director determines is necessary to determine the impact for said source or modification may have, or is having, on air quality in any area.

(c) Operations of Monitoring Stations. The owner or operator of a major stationary source or major modification shall meet Federal monitoring quality assurance requirements during the operation of monitoring stations for purposes of satisfying this paragraph.

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

(13) Source Information. The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or to make any determination required under this rule.

(a) With respect to a source or modification to which rules 335-3-14-.04(9), 335-3-14-.04(10), 335-3-14-.04(12), and 335-3-14-.04(14) apply, such information shall include:

1. A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

2. A detailed schedule for construction of the source or modification;

3. A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates and any other information necessary to determine that BACT would be applied.

(b) Upon request of the Director, the owner or operator shall also provide information on:

1. The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

2. The air quality impacts and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.

(14) Additional Impact Analyses.

(a) The owner or operator shall provide an analysis of the impact on visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not

provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(b) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification.

(15) Sources Impacting Federal Class I Areas - Additional Requirements.

(a) Notice to Federal Land Managers and to EPA. The Director shall provide notice of any permit application for a proposed major stationary source or major modification the emissions from which would affect a Class I area to EPA, the Federal Land Manager and the Federal official charged with direct responsibility for management of any lands within any such area. The Director shall provide such notice promptly after receiving the application. The Director shall also provide EPA, the Federal Land Manager and such Federal officials with notice of every action related to the consideration of such permit.

(b) The Director shall notify all affected Federal Land Managers within 30 days of receipt of an advance notification of any permit application for a proposed major stationary source or modification, the emissions from which may affect a Class I Area. The Director shall provide written notification to all affected Federal Land Managers within 30 days of receiving the permit application. At least 30 days prior to the publication of the notice for public comment on the application, the Director shall provide the Federal Land Manager with a copy of all information relevant to the permit application including an analysis provided by the source of the potential impact of the proposed source on visibility.

(c) Visibility analysis. The Director shall consider any analysis performed by the Federal Land Manager concerning visibility impairment if the analysis is received within 30 days of being provided the permit application information and analysis required by subparagraph (b) of this paragraph above. Where the Director finds that such an analysis does not demonstrate to the satisfaction of the Director that an adverse impact on visibility will result in the Federal Class I area, the Director must, in the notice of public comment on the permit application, either explain his decision or give notice as to where the explanation can be obtained.

(d) Denial - Impact on Air Quality Related Values. The Federal Land Manager of any such lands may demonstrate to the Director that the emissions from a proposed source or modification would have an adverse impact on the air quality related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Director concurs with such demonstration, then he shall not issue the permit.

(e) Class I Variances. The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions

from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with such demonstration and he so certifies, the Director may issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide, $PM_{2.5}$, PM_{10}, and nitrogen oxides would not exceed the following maximum allowable increases over baseline concentration for such pollutants:

Pollutant	**Maximum Allowable Increase (micrograms per cubic meter)**
PM_{10}	Annual arithmetic mean..... 17
	24-hour maximum 30
PM2.5	Annual arithmetic mean 4
	24-hour maximum.....9
Sulfur dioxide	Annual arithmetic mean..... 20
	24-hour maximum 91
	3-hour maximum 325
Nitrogen dioxide	Annual arithmetic mean..... 25

provided that the applicable requirements of this rule are otherwise met.

(f) Sulfur Dioxide Variance by Governor with Federal Land Manager's Concurrence. The owner or operator of a proposed source or modification which cannot be approved under subparagraph (c) of this paragraph may demonstrate to the Governor that the source or modification cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of twenty-four (24) hours or less applicable to any Class I area and, in the case of Federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the Director shall issue a permit to such source or modification pursuant to the requirements of paragraph (16) of this rule provided, that the applicable requirements of this rule are otherwise met.

(g) Variance by the Governor with the President's Concurrence. In any case where the Governor recommends a variance in which the Federal Land Manager does not concur, the recommendations of the Governor and Federal Land Manager shall be transmitted to the President. The President may approve the Governor's recommendation if he finds that the variance is in the

national interest. If the variance is approved, the Director shall issue a permit pursuant to the requirements of paragraph (16) of this rule provided, that the applicable requirements of this rule are otherwise met.

(h) Emission Limitations for Presidential or Gubernatorial Variance. In the case of a permit issued pursuant to subparagraphs (f) or (g) of this paragraph, the source or modification shall comply with such emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of twenty-four (24) hours or less for more than eighteen (18) days, not necessarily consecutive, during any annual period:

Period of exposure	**Maximum Allowable Increase (micrograms per cubic meter)**	
	Terrain areas	
	Low	**High**
24-hour maximum	36	62
3-hour maximum	130	221

(16) Public Participation.

(a) After receipt of an application for an Air Permit or any addition to such application, the Director shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this rule, the date on which the Director received all required information.

(b) Within one (1) year after receipt of a complete application, the Director shall make a final determination of the application. This involves performing the following actions in a timely manner:

1. Make a preliminary determination whether construction should be approved, approved with conditions or disapproved.

2. Make available ~~in at least one location in each region in which the proposed source or modification would be constructed~~on the Department's web site a copy of all materials the applicant submitted, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.

3. Notify the public, by ~~advertisement in a newspaper of general circulation in each region in which the proposed source or modification would~~

~~be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for written public comment, as well as comment at a public hearing. Public comments will be accepted for at least 30 days from the date of initial publication.~~posting on the Department's web site for the duration of the comment period of 30 days, the preliminary determination, the degree of increment consumption that is expected from the source or modification, the opportunity to comment on the proposed permit, how to request and/or attend a public hearing on the proposed permit, a copy of the proposed permit, and information on how to access the administrative record for the proposed permit.

4. Send a copy of the notice of public comment to the applicant, to EPA and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: any other State or local air pollution control agencies, the chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification.

5. Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.

6. Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than ten (10) days after the close of the public comment period, the applicant may, as part of the public record, submit a written response to any comments submitted by the public. The Director shall consider the applicant's response in making a final decision. The Director shall make all comments available for public inspection ~~in the same locations~~on the same web site where the Director made available preconstruction information relating to the proposed source or modification.

7. Make a final determination whether construction should be approved, approved with conditions or disapproved pursuant to this rule.

8. Notify the applicant in writing of the final determination and make such notification available for public inspection at the same ~~location~~ web site where the Director made available preconstruction information and public comments relating to the source or modification.

(17) Source Obligation.

(a) An Air Permit authorizing construction shall become invalid if construction is not commenced within twenty-four (24) months after receipt of such approval, if construction is discontinued for a period of twenty-four (24) months or more, or if construction is not completed within a reasonable time.

The Director may extend the twenty-four (24) month period upon satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within twenty-four (24) months of the projected and approved commencement date.

(b) An Air Permit authorizing construction shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, State or Federal law.

(c) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of paragraphs (9) through (17) of this rule shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(d) The provisions of this subparagraph (17)(d) apply to projects at an existing emissions unit at a major stationary source (other than projects at a source with a PAL), that are not excluded from the definition of physical change or change in the method of operation, where there is not a reasonable possibility that the project is a part of a major modification and may result in a significant emissions increase and the owner or operator elects to use the method specified in subparagraphs (2)(nn)2.(i) through (iii) of this rule for calculating projected actual emissions.

1. Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

(i) A description of the project;

(ii) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under subparagraph (2)(nn)2.(iii) of this rule and an explanation for why such amount was excluded, and any netting calculations, if applicable.

2. The owner or operator of the source shall make the information required to be documented and maintained pursuant to subparagraph (17)(d) of this rule available for review upon a request for inspection by the Department or the general public.

3. Nothing in this subparagraph shall be construed to exempt the owner or operator of such a unit from obtaining any minor source Air Permit in accordance with the requirements of this chapter.

(e) The provisions of this subparagraph (17)(e) apply to projects at an existing emissions unit at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification, and that is not excluded from the definition of physical change or change in the method of operation, may result in a significant emissions increase and the owner or operator elects to use the method specified in subparagraphs (2)(nn)2.(i) through (iii) of this rule for calculating projected actual emissions.

1. Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

(i) A description of the project;

(ii) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under subparagraph (2)(nn)2.(iii) of this rule and an explanation for why such amount was excluded, and any netting calculations, if applicable.

2. Before beginning actual construction, the owner or operator shall provide a copy of the information set out in subparagraph (17)(e)1. of this rule to the Director. Nothing in this subparagraph shall be construed to require the owner or operator of such a unit to obtain any determination from the Director before beginning actual construction; however, nothing in this subparagraph shall be construed to exempt the owner or operator of such a unit from obtaining any minor source Air Permit in accordance with the requirements of this chapter.

3. The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in subparagraph (17)(e)1.(ii) of this rule; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.

4. The owner or operator shall submit a report to the Director within 60 days after the end of each year during which records must be generated under subparagraph (17)(e)3. of this rule. The report shall contain the following:

(i) All information required by subparagraph (17)(e)1. of this rule.

(ii) The name, address and telephone number of the major stationary source;

(iii) The annual emissions as calculated pursuant to subparagraph (17)(e)3. of this rule; and

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

5. The owner or operator of the source shall make the information required to be documented and maintained pursuant to subparagraph (17)(e) of this rule available for review upon a request for inspection by the Department.

6. All information submitted to the Department pursuant to the requirements of subparagraph (17)(e) of this rule shall be available for review at the request of any member of the public in accordance with the Department's public records review procedures found in ADEM Admin. Code r. 335-1-1-.06.

(18) Innovative Control Technology.

(a) An owner or operator of a proposed major stationary source or major modification may request the Director in writing no later than the close of the comment period under paragraph (16) of this rule to approve a system of innovative control technology.

(b) The Director shall determine that the source or modification may employ a system of innovative control technology, if:

1. The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function;

2. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under subparagraph (9)(b) of this rule by a date specified by the Director. Such date shall not be later than four (4) years from the time of startup or seven (7) years from permit issuance;

3. The source or modification would meet the requirements of paragraphs (9) and (10) of this rule based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Director;

4. The source or modification would not before the date specified by the Director:

(i) Cause or contribute to a violation of an applicable National Ambient Air Quality Standard; or

(ii) Impact any Class I area; or

(iii) Impact any area where an applicable increment is known to be violated; and

5. The consent of the Governor of any other affected state is secured;

6. All other applicable requirements including those for public participation have been met.

(c) The Director shall withdraw any approval to employ a system of innovative control technology made under this rule, if:

1. The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

2. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare or safety; or

3. The Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare or safety.

(d) If a source or modification fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with subparagraph (c) of this paragraph, the Director may allow the source or modification up to an additional three (3) years to meet the requirement for the application of BACT through use of a demonstrated system of control.

(19) Permit Rescission.

(a) Any owner or operator of a stationary source or modification who holds a permit for the source or modification which was issued under this rule as in effect on July 30, 1987 or any earlier version of this rule, may request that the Director rescind the permit or a particular portion of the permit.

(b) The Director shall grant an application for rescission if the application shows that this rule would not apply to the source or modification.

(c) If the Director rescinds a permit under this rule, the public shall be given adequate notice of the rescission. Publication of an announcement of rescission ~~in a newspaper of general circulation in the affected region~~on the Department's web site within sixty (60) days of the rescission shall be considered adequate notice.

(20) Reserved.

(21) Reserved.

(22) Reserved.

(23) Actuals PALs. The provisions in subparagraphs (23)(a) through (o) of this rule govern actuals PALs.

(a) Applicability.

1. The Director may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in subparagraphs (23)(a) through (o) of this rule. The term "PAL" shall mean "actuals PAL" throughout paragraph (23) of this rule.

2. Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in subparagraphs (23)(a) through (o) of this rule, and complies with the PAL permit:

(i) Is not a major modification for the PAL pollutant;

(ii) Does not have to be approved through the PSD program;

3. A major stationary source shall continue to comply with all applicable Federal or State requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

(b) Definitions. For the purposes of this rule, the definitions in subparagraphs (23)(b)1. through 11. of this rule apply. When a term is not defined in these paragraphs, it shall have the meaning given in paragraph (2) of this rule or in the Clean Air Act.

1. "Actuals PAL" for a major stationary source means a PAL based on the baseline actual emissions (as defined in subparagraph (2)(uu) of this rule) of all emissions units (as defined in subparagraph (2)(g) of this rule) at the source, that emit or have the potential to emit the PAL pollutant.

2. "Allowable emissions" means "allowable emissions" as defined in subparagraph (2)(p) of this rule, except as this definition is modified according to subparagraphs (23)(b)2.(i) and (ii) of this rule.

(i) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

(ii) An emissions unit's potential to emit shall be determined using the definition in subparagraph (2)(d) of this rule, except that the words "or enforceable as a practical matter" should be added after "enforceable."

3. "Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in subparagraph (2)(w) of this rule or in the Clean Air Act, whichever is lower.

4. "Major emissions unit" means:

(i) Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant, other than GHG as CO2e, in an attainment area, or

(ii) Any emissions unit that has the potential to emit 75,000 tons per year of GHG as CO2e.

5. "Plantwide applicability limitation (PAL)" means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with subparagraphs (23)(a) through (o) of this rule.

6. "PAL effective date" generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

7. "PAL effective period" means the period beginning with the PAL effective date and ending 10 years later.

8. "PAL major modification" means, notwithstanding subparagraphs (2)(b) and (2)(c) of this rule (the definitions for major modification and net emissions increase), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

9. "PAL permit" means the major NSR permit, the minor NSR permit, or the title V permit issued by the Director that establishes a PAL for a major stationary source.

10. "PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

11. "Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in subparagraph (2)(w) of this rule or in the Clean Air Act, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in subparagraph (23)(b)4. of this rule.

(c) Permit application requirements. As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the Director for approval:

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

2. Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup and shutdown.

3. The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subparagraph (23)(m)1. of this rule.

(d) General requirements for establishing PALs.

1. The Director is allowed to establish a PAL at a major stationary source, provided that at a minimum, the requirements in subparagraphs (23)(d)1.(i) through (vii) of this rule are met.

(i) The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month total, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(ii) The PAL shall be established in a PAL permit that meets the public participation requirements in subparagraph (23)(e) of this rule.

(iii) The PAL permit shall contain all the requirements of subparagraph (23)(g) of this rule.

(iv) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

(v) Each PAL shall regulate emissions of only one pollutant.

(vi) Each PAL shall have a PAL effective period of 10 years.

(vii) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in subparagraphs (23)(l) through (n) of this rule for each emissions unit under the PAL through the PAL effective period.

2. At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under rule 335-3-14-.05 of this

chapter unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

(e) Public participation requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with those of this rule and 40 CFR Parts 51.160 and 51.161. This includes the requirement that the Director provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The Director must address all material comments before taking final action on the permit.

(f) Setting the 10-year actuals PAL level. The actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in subparagraph (2)(uu) of this rule) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under subparagraph (2)(w) of this rule or under the Clean Air Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shutdown after this 24-month period must be subtracted from the PAL level. Emissions from units on which actual construction began after the beginning of the 24-month period must be added to the PAL level in an amount equal to the potential to emit of the unit if the unit began operation less than 24 months prior to the submittal of the PAL application. Baseline actual emissions from units on which actual construction began after the beginning of the 24-month period and commenced operation 24 months or more prior to the submittal of the PAL application must be added to the PAL based upon any 24 month period since the unit commenced operation. The Director shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable Federal or State regulatory requirement(s) that the Director is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_X to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).

(g) Contents of the PAL permit. The PAL permit must contain, at a minimum, the information in subparagraphs (23)(g)1. through 10. of this rule.

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

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

3. Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with subparagraph

(23)(j) of this rule before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Director.

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

5. A requirement that, once the PAL expires, the major stationary source is subject to the requirements of subparagraph (23)(i) of this rule.

6. The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total as required by subparagraph (23)(m)1. of this rule.

7. A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under subparagraph (23)(l) of this rule.

8. A requirement to retain the records required under subparagraph (23)(m) of this rule on site. Such records may be retained in an electronic format.

9. A requirement to submit the reports required under subparagraph (23)(n) of this rule by the required deadlines.

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

(h) PAL effective period and reopening of the PAL permit. The requirements in subparagraphs (23)(h)1. and 2. of this rule apply to actuals PALs.

1. PAL effective period. The Director shall specify a PAL effective period of 10 years.

2. Reopening of the PAL permit.

(i) During the PAL effective period, the Director must reopen the PAL permit to:

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

(II) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under rule 335-3-14-.05 of this chapter; and

(III) Revise the PAL to reflect an increase in the PAL as provided under subparagraph (23)(k) of this rule.

(ii) The Director shall have discretion to reopen the PAL permit for the following:

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

(II) Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and is required by these regulations; and

(III) Reduce the PAL if the Director determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on a published air quality related value that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.

(iii) Except for the permit reopening in subparagraph (23)(h)2.(i)(I) of this rule for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of subparagraph (23)(e) of this rule.

(i) Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in subparagraph (23)(j) of this rule shall expire at the end of the PAL effective period, and the requirements in subparagraphs (23)(i)1. through 5. of this rule shall apply.

1. Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the procedures in subparagraphs (23)(i)1.(i) and (ii) of this rule.

(i) Within the time frame specified for PAL renewals in subparagraph (23)(j)2. of this rule, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Director) by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under subparagraph (23)(j)5. of this rule, such distribution shall be made as if the PAL had been adjusted.

(ii) The Director shall decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Director determines is appropriate.

2. Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Director may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS,

CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

3. Until the Director issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subparagraph (23)(i)1.(ii) of this rule, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

4. Any physical change or change in the method of operation at the major stationary source will be subject to major NSR requirements if such change meets the definition of major modification in subparagraph (2)(b) of this rule.

5. The major stationary source owner or operator shall continue to comply with any State or Federal applicable requirements (BACT, RACT, NSPS, synthetic minor limit, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period.

(j) Renewal of a PAL.

1. The Director shall follow the procedures specified in subparagraph (23)(e) of this rule in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Director.

2. Application deadline. A major stationary source owner or operator shall submit a timely application to the Director to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

3. Application requirements. The application to renew a PAL permit shall contain the information required in subparagraphs (23)(j)3.(i) through (iv) of this rule.

(i) The information required in subparagraphs (23)(c)1. through 3. of this rule.

(ii) A proposed PAL level.

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

(iv) Any other information the owner or operator wishes the Director to consider in determining the appropriate level for renewing the PAL.

4. PAL adjustment. In determining whether and how to adjust the PAL, the Director shall consider the options outlined in subparagraphs (23)(j)4.(i) and (ii) of this rule. However, in no case may any such adjustment fail to comply with subparagraph (23)(j)4.(iii) of this rule.

(i) If the emissions level calculated in accordance with subparagraph (23)(f) of this rule is equal to or greater than 80 percent of the PAL level, the Director may renew the PAL at the same level without considering the factors set forth in subparagraph (23)(j)4.(ii) of this rule; or

(ii) The Director may set the PAL at a level that he or she determines to be more representative of the source's baseline actual emissions, or that he or she determines to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Director in his or her written rationale.

(iii) Notwithstanding subparagraphs (23)(j)4.(i) and (ii) of this rule:

(I) If the potential to emit of the major stationary source is less than the PAL, the Director shall adjust the PAL to a level no greater than the potential to emit of the source; and

(II) The Director shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of subparagraph (23)(k) of this rule (increasing a PAL).

5. If the compliance date for a State or Federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Director has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or title V permit renewal, whichever occurs first.

(k) Increasing a PAL during the PAL effective period.

1. The Director may increase a PAL emission limitation only if the major stationary source complies with the provisions in subparagraphs (23)(k)1.(i) through(iv) of this rule.

(i) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(ii) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the

significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s) exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(iii) The owner or operator obtains a major NSR permit for all emissions unit(s) identified in subparagraph (23)(k)1.(i) of this rule, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the major NSR process (for example, BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.

(iv) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

2. The Director shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with subparagraph (23)(k)1.(ii)), plus the sum of the baseline actual emissions of the small emissions units.

3. The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of subparagraph (23)(e) of this rule.

(l) Monitoring requirements for PALs.

1. General requirements.

(i) Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(ii) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in subparagraphs (23)(l)2.(i) through (iv) of this rule and must be approved by the Director.

(iii) Notwithstanding subparagraph (23)(l)1.(ii) of this rule, an alternative monitoring approach that meets subparagraph (23)(l)1.(i) of this rule may be employed if approved by the Director.

(iv) Failure to use a monitoring system that meets the requirements of this rule renders the PAL invalid.

2. Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in subparagraphs (23)(l)3. through 9. of this rule:

(i) Mass balance calculations for activities using coatings or solvents;

(ii) CEMS;

(iii) CPMS or PEMS; and

(iv) Emission factors.

3. Mass balance calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

(i) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

(ii) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

(iii) Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Director determines there is site-specific data or a site-specific monitoring program to support another content within the range.

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

(i) CEMS must comply with applicable Performance Specifications found in 40 CFR part 60, appendix B; and

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

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

(i) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

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

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

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

(ii) The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

(iii) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the Director determines that testing is not required.

7. A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

8. Notwithstanding the requirements in subparagraphs (23)(l)3. through 7. of this rule, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Director shall, at the time of permit issuance:

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

(ii) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

9. Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Director. Such testing must occur at least once every 5 years after issuance of the PAL.

(m) Recordkeeping requirements.

1. The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of paragraph (23) of this rule and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record.

2. The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus 5 years:

(i) A copy of the PAL permit application and any applications for revisions to the PAL; and

(ii) Each annual certification of compliance pursuant to title V and the data relied on in certifying the compliance.

(n) Reporting and notification requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Director in accordance with the applicable title V operating permit. The reports shall meet the requirements in subparagraphs (23)(n)1. through 3. of this rule.

1. Semi-annual report. This report shall contain the information required in subparagraphs (23)(n)1.(i) through (vii) of this rule.

(i) The identification of owner and operator and the permit number.

(ii) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to subparagraph (23)(m)1. of this rule.

(iii) All data relied upon, including, but not limited to, any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions.

(iv) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period.

(v) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.

(vi) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by (23)(l)7 of this rule.

(vii) A signed statement by a responsible official (as defined in chapter 16 of these Regulations) certifying the truth, accuracy, and completeness of the information provided in the report.

2. Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to 335-3-16-.05(c)3.(ii) shall satisfy this reporting requirement. The reports shall contain the following information:

(i) The identification of owner and operator and the permit number;

(ii) The PAL requirement that experienced the deviation or that was exceeded;

(iii) Emissions resulting from the deviation or the exceedance; and

(iv) A signed statement by a responsible official (as defined in chapter 16 of these Regulations) certifying the truth, accuracy, and completeness of the information provided in the report.

3. Re-validation results. The owner or operator shall submit to the Director the results of any re-validation test or method within 3 months after completion of such test or method.

(o) Transition requirements.

1. The Director may not issue a PAL that does not comply with the requirements in subparagraphs (23)(a) through(o) of this rule after the effective date of this rule.

2. The Director may supersede any PAL that was established prior to the effective date of this rule with a PAL that complies with the requirements of subparagraphs (23)(a) through (o) of this rule.

(24) If any provision of this rule, or the application of such provision to any person or circumstance, is held invalid, the remainder of this rule, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Author: Marilyn G. Elliott; Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: December 10, 1981.
Amended: February 13, 1985; November 13, 1985; November 1, 1990, December 28, 1993; April 27, 1995; November 21, 1996; January 15, 1998; May 20, 1999; September 7, 2000; March 14, 2002; July 11, 2006; January 18, 2011; May 23, 2011; May 29, 2012; May 28, 2013; November 25, 2014~~.~~;XXXXXX, 2017.

335-3-14-.05~~5~~ Air Permits Authorizing Construction in or near Non-Attainment Areas

(1) Applicability.

(a) The requirements of this Rule apply to the construction of any new major stationary source (as defined in subparagraph (2)(a) of this Rule) or any project at an existing major stationary source in or near an area designated as nonattainment under sections 107(d) of the Clean Air Act for which the source or modification is major for the pollutant or its precursors for which the area is designated as nonattainment. If the source is not major for the pollutant or its precursors for which the area is designated as nonattainment, it shall comply with the requirements of 335-3-14-.04 which would be applicable if the area were classified as attainment or unclassifiable under sections 107(d)(1)(A)(ii) or (iii) of the Clean Air Act.

(b) The requirements of paragraphs (3) through (17) of this Rule apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this Rule otherwise provides.

(c) No new major stationary source or major modification to which the requirements of paragraphs (3) through (17)(c) of this Rule apply shall begin construction without a permit that states that the major stationary source or major modification will meet those requirements.

(d) Except as otherwise provided in subparagraph (1)(j) of this Rule, and consistent with the definition of major modification contained in subparagraph (2)(b) of this Rule, a project is a major modification for a regulated NSR pollutant only if it causes two types of emissions increases – a significant emissions increase (as defined in subparagraph (2)(mm) of this Rule), and a significant net emissions increase (as defined in subparagraphs (2)(c) and (2)(w) of this Rule).

(e) Before beginning actual construction, the procedure for calculating whether a significant emissions increase will occur depends upon the type of emissions units being modified, according to subparagraphs (1)(f) through (i) of this Rule. The procedure for calculating whether a significant net emissions increase will occur at the major stationary source is contained in the definition in subparagraphs (2)(c) and (2)(w) of this Rule. Regardless of any such preconstruction projections, a major modification can result only if the project causes a significant emissions increase and a significant net emissions increase.

(f) Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference(s) between the projected actual emissions (as defined in subparagraph (2)(nn) of this Rule) and the baseline actual emissions (as defined in subparagraphs (2)(uu)1. and 2. of

this Rule), for each existing emissions unit, equals or exceeds the significant rate for that pollutant (as defined in subparagraph (2)(w) of this Rule).

(g) Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in subparagraph (2)(d) of this Rule) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in subparagraph (2)(uu)3. of this Rule) of these units before the project equals or exceeds the significant rate for that pollutant (as defined in subparagraph (2)(w) of this Rule).

(h) Actual-to-potential test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference(s) between the potential to emit (as defined in subparagraph (2)(d) of this Rule) and the actual emissions (as defined in subparagraph (2)(u) of this Rule), for each existing emissions unit, equals or exceeds the significant rate for that pollutant (as defined in subparagraph (2)(w) of this Rule).

(i) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in subparagraphs (1)(f) through (h) of this Rule as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant rate for that pollutant (as defined in subparagraph (2)(w) of this Rule).

(j) Any major stationary source subject to a plantwide applicability limit (PAL), as defined in subparagraph (23)(b)5. of this Rule, for a regulated NSR pollutant shall comply with the requirements under paragraph (23) of this Rule.

(k) The fugitive emissions of a stationary source shall not be included in determining for any purposes of this Rule whether it is a major stationary source or major modification unless the source belongs to one of the following categories of stationary sources:

- Coal cleaning plants (with Thermal dryers);
- Kraft pulp mills;
- Portland cement plants;
- Primary zinc smelters;
- Iron and steel mills;
- Primary aluminum ore reduction plants;
- Primary copper smelters;

- Municipal incinerators capable of charging more than 250 tons of refuse per day;
- Hydrofluoric, sulfuric, or nitric acid plants;
- Petroleum refineries;
- Lime plants;
- Phosphate rock processing plants;
- Coke oven batteries;
- Sulfur recovery plants;
- Carbon black plants (furnace process);
- Primary lead smelters;
- Fuel conversion plants;
- Sintering plants;
- Secondary metal production plants;
- Chemical processing plants (excluding ethanol production facilities that produce ethanol by natural fermentation);
- Fossil fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour of heat input;
- Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- Taconite ore processing plants;
- Glass fiber processing plants;
- Charcoal production plants;
- Fossil fuel fired steam electric plants of more than 250 British thermal units per hour heat input; and
- Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Clean Air Act.

(2) Definitions. For the purposes of this Rule only, the following terms will have meanings ascribed in this paragraph:

(a) "Major Stationary Source" shall mean:

1. Any stationary source [see subparagraph (e) of this paragraph] that emits, or has the potential to emit [see subparagraph (d) of this paragraph] air pollutants at or above one or more of the following applicable thresholds:

Nonattainment Area Classification	**NO_x**	**VOC**	**CO**	**SO_2**	**PM_{10}**	**$PM_{2.5}$**
	All values expressed in tons per year (TPY)					
Ozone: Marginal and Moderate	100	100				
Ozone: Serious	50	50				
Ozone: Severe	25	25				
Ozone: Extreme	10	10				
CO (Other than Serious)			100			
CO: Serious, where stationary sources do not contribute significantly to CO levels			100			
CO: Serious, where stationary sources do contribute significantly to CO levels			50			
PM_{10} (Other than Serious)					100	
PM_{10}: Serious					70	
$PM_{2.5}$	100			100		100
SO_2				100		
NO_x	100					

2. Any physical change that would occur at a stationary source not otherwise qualifying under this Rule as a major stationary source, if the changes would constitute a major stationary source by itself.

3. A stationary source that is considered major for VOC or NOx shall be considered major for ozone.

(b) "Major Modification" shall mean any physical change in or change in the method of operation of a major stationary source that would result in a significant [see subparagraph (w) of this paragraph] net emissions increase [see subparagraph (c) of this paragraph] of any regulated NSR pollutant.

1. Any net emissions increase that is significant for VOC or NOx shall be considered significant for ozone.

2. A physical change or change in the method of operation shall not include:

(i) Routine maintenance, repair and replacement;

(ii) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (P.L. 93-319, 15 U.S.C. 791 note) or any superseding legislation, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act (June 10, 1920, P.L. 280, 16 U.S.C. 791a);

(iii) Use of an alternative fuel by reason of an order or rule under Section 125 of the CAA;

(iv) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) Use of an alternative fuel or raw material by a stationary source which:

(I) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any enforceable permit condition which was established after December 21, 1976.

(II) The source is approved to use under any permit issued under the Federal Prevention of Significant Deterioration ("PSD") regulations (40 CFR 52.21) or under regulations of this Chapter;

(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit condition which was established after December 21, 1976.

(vii) Any change in ownership at a stationary source.

(viii) Reserved.

(ix) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

3. This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under paragraph (23) of this Rule for a PAL for that pollutant. Instead, the definition at subparagraph (23)(b)8. of this Rule shall apply.

(c) "Net Emissions Increase" shall mean with respect to any regulated NSR pollutant, the amount by which the sum of the following exceeds zero:

1. Any increase in emissions as calculated pursuant to subparagraphs (1)(e) through (i) of this Rule from a particular physical change or change in method of operation at a stationary source; and

2. Any other increases and decreases in actual emissions at a major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this subparagraph shall be determined as provided in subparagraph (2)(uu) of this Rule, except that subparagraphs (2)(uu)1.(iii) and (2)(uu)2.(iv) of this Rule shall not apply.

(i) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(I) The date up to five (5) years before construction [see subparagraph (h) of this paragraph] on the particular change commences [see subparagraph (i) of this paragraph]; and

(II) The date that the increase from the particular change occurs.

(ii) An increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit for the source under this Rule, which is in effect when the increase in actual emissions from the particular change occurs.

(iii) With respect to particulate matter, only PM_{10} and $PM_{2.5}$ emissions can be used to evaluate the net emissions increase for PM_{10}. Only $PM_{2.5}$ emissions can be used to evaluate the net emissions increase for $PM_{2.5}$.

(iv) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(v) A decrease in actual emissions is creditable only to the extent that:

(I) The old level of actual emissions or the old level of allowable emissions [see subparagraph (p) of this paragraph], whichever is lower, exceeds the new level of actual emissions;

(II) It is enforceable [see subparagraph (q) of this paragraph], at and after the time that actual construction on the particular change begins; and

(III) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(IV) The Director has not relied upon the decrease in demonstrating attainment or reasonable further progress.

(vi) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

3. Fugitive emission increases and decreases are not creditable for those emissions units located at a facility whose primary activity is not listed in 335-3-14-.05(1)(k) and for which the unit, itself, is not part of a listed source category in 335-3-14-.05(1)(k).

(d) "Potential to Emit" shall mean the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have

on emissions is enforceable. Secondary emissions as defined in subparagraph (2)(r) of this Rule do not count in determining the potential to emit of a stationary source.

(e) "Stationary Source" shall mean any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

(f) "Building, Structure, Facility, or Installation" shall mean all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., all have the same two digit code) as described in the Standard Industrial Classification Manual.

(g) "Emissions Unit" shall mean any part of a stationary source which emits or would have the potential to emit any regulated NSR pollutant including an electric utility steam generating unit as defined in subparagraph (2)(vv) of this Rule. For purposes of this Rule, there are two types of emissions units as described in subparagraphs (2)(g)1. and 2. of this Rule.

1. A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

2. An existing emissions unit is any emissions unit that does not meet the requirements in subparagraph (2)(g)1. of this Rule.

(h) "Construction" shall mean any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in emissions.

(i) "Commence" as applied to construction of a major stationary source or major modification shall mean that the owner or operator has all necessary preconstruction approvals or permits [see subparagraph (2)(j) of this Rule] and either has:

1. Begun, or caused to begin, a continuous program of actual on-site construction [see subparagraph (2)(k) of this Rule] of the source, to be completed within a reasonable time; or

2. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(j) "Necessary Preconstruction Approvals or Permits" shall mean those permits or approvals required under Alabama air quality control laws and regulations which are part of the State Implementation Plan.

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

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

(m) "Lowest achievable emission rate" (LAER) shall mean, for any source, the more stringent rate of emissions based on the following:

1. The most stringent emissions limitation which is contained in the implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

2. The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source. In no event shall the application of the term allow a new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

(n) Reserved.

(o) Reserved.

(p) "Allowable Emissions" shall mean the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the

source is subject to enforceable limits which restrict the operating rate, the hours of operation, or both) and the most stringent of the following:

1. The applicable standards as set forth in 40 CFR Parts 60, 61, or 63;

2. The applicable State Implementation Plan emissions limitation, including those with a future compliance date; or

3. The emissions rate specified as an enforceable permit condition, including those with a future compliance date.

(q) "Enforceable" shall mean all limitations and conditions which are enforceable, including those requirements developed pursuant to 40 CFR Parts 60, 61, and 63, requirements within the State Implementation Plan, and any permit requirements established pursuant to Chapters 14, 15, or 16 of these regulations.

(r) "Secondary Emissions" shall mean emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this Rule, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(s) "Innovative Control Technology" shall mean any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

(t) "Fugitive Emissions" shall mean those emissions which could not reasonably pass through a stack, chimney, vent, roof monitor, or other functionally equivalent opening.

(u) "Actual Emissions" shall mean the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with subparagraphs (u)1. through (u)3. below, except that this definition shall not apply for establishing a PAL under paragraph (23) of this Rule. Instead, subparagraphs (2)(nn) and (2)(uu) of this Rule shall apply for this purpose.

1. In general, actual emissions as of any given date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the given data and which

is representative of normal source operation. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

2. The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

3. For any emissions unit which has not begun normal operations on the given date as determined in subparagraph (u)1. above, actual emissions shall equal the potential to emit of the unit on that date.

(v) "Complete" shall mean, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

(w) "Significant" shall mean, in reference to an emissions increase or a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant	**Emissions Rate (tons per year)**
Carbon monoxide	
Marginal and Moderate Nonattainment Areas.....	100
Serious Nonattainment Areas.....	50*
Nitrogen oxides.....	40
Sulfur dioxide.....	40
PM_{10}	15
$PM_{2.5}$.....	10 (of direct $PM_{2.5}$) 40 (of SO_2 or NOx)
Ozone	
Marginal and Moderate Nonattainment Areas.....	40 (of VOC or NOx)
Serious and Severe Nonattainment Areas.....	25 (of VOC or NOx)
Extreme Nonattainment Areas	Any (of VOC or NOx)
Lead..	0.6

* The significant emission rate of 50 tons for carbon monoxide in serious nonattainment areas shall only apply if the Director has made a determination that stationary sources significantly contribute to the carbon monoxide levels in the area.

(x) "Federal Land Manager" shall mean, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(y) "Nonattainment Area" shall mean any area designated by EPA as nonattainment for any national ambient air quality standard under Subpart C of 40 CFR part 81.301.

(z) Reserved.

(aa) Reserved.

(bb) Reserved.

(cc) Reserved.

(dd) Reserved.

(ee) Reserved.

(ff) Reserved.

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

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

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

(jj) "Temporary clean coal technology demonstration project" shall mean a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the State implementation plans for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

(kk) "Repowering" shall mean replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

1. Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

(ll) Reserved.

(mm) "Significant emissions increase" shall mean, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in subparagraph (2)(w) of this Rule) for that pollutant.

(nn) "Projected actual emissions" shall mean

1. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (consecutive 12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

2. In determining the projected actual emissions under subparagraph (2)(nn)1. of this Rule (before beginning actual construction), the owner or operator of the major stationary source:

(i) Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans under these regulations; and

(ii) Shall include fugitive emissions to the extent quantifiable, if appropriate under 335-3-14-.05(1)(k), and emissions associated with startups and shutdowns; and

(iii) Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive

24-month period used to establish the baseline actual emissions under subparagraph (2)(uu) of this Rule and that are not resulting from the particular project, including any increased utilization due to product demand growth; or

(iv) In lieu of using the method set out in subparagraphs (2)(nn)2.(i) through (iii), may elect to use the emissions unit's potential to emit, in tons per year, as defined under subparagraph (2)(d) of this Rule.

(oo) "Nonattainment Major new source review (NSR) program" *shall* mean the preconstruction permit program in this Rule. Any permit issued under this program is a major NSR permit.

(pp) "Prevention of Significant Deterioration (PSD) program" shall mean the preconstruction permit program in 335-3-14-.04. Any permit issued under this program is a major NSR permit.

(qq) "Continuous emissions monitoring system (CEMS)" shall mean all of the equipment that may be required to meet the data acquisition and availability requirements of this Rule, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

(rr) "Predictive emissions monitoring system (PEMS)" shall mean all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

(ss) "Continuous parameter monitoring system (CPMS)" shall mean all of the equipment necessary to meet the data acquisition and availability requirements of this Rule, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and to record average operational parameter value(s) on a continuous basis.

(tt) "Continuous emissions rate monitoring system (CERMS)" shall mean the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

(uu) "Baseline actual emissions" shall mean the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with subparagraphs (2)(uu)1. through 4. of this Rule.

1. For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The Director may

allow the use of a different time period upon a determination that it is more representative of normal source operation.

(i) The average rate shall include fugitive emissions to the extent quantifiable, if appropriate under 335-3-14-.05(1)(k), and emissions associated with startups and shutdowns.

(ii) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

(iii) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(iv) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subparagraph (2)(uu)1.(ii) of this Rule.

2. For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Department for a permit required under this Rule, whichever is earlier.

(i) The average rate shall include fugitive emissions to the extent quantifiable, if appropriate under 335-3-14-.05(1)(k), and emissions associated with startups and shutdowns.

(ii) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(iii) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR part 63, the baseline actual emissions need only be adjusted if the State has taken credit for such emissions reductions in an

attainment demonstration or maintenance plan consistent with the requirements of 40 CFR§51.165(a)(3)(ii)(G).

(iv) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(v) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subparagraphs (2)(uu)2.(ii) and (iii) of this Rule.

3. For a new emissions unit, as defined in subparagraph (2)(g)1. of this Rule, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero. During the first two years from the date which the emissions unit commenced operation, the baseline actual emissions shall equal the potential to emit for the unit. Thereafter, the unit will be considered an existing emissions unit and the baseline actual emissions will be determined in accordance with subparagraph (2)(uu)1. for an electric steam generating unit or subparagraph (2)(uu)2. for other emissions units.

4. For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in subparagraph (2)(uu)1. of this Rule, for other existing emissions units in accordance with the procedures contained in subparagraph (2)(uu)2. of this Rule, and for a new emissions unit in accordance with the procedures contained in subparagraph (2)(uu)3. of this Rule.

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

(ww) "Regulated NSR pollutant", for purposes of this Rule, shall mean the following:

1. Any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the Administrator of EPA (*e.g.*, volatile organic compounds and NOx are precursors for ozone);

2. $PM_{2.5}$ and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. Such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10}. Applicability determinations made prior to January 1, 2011 without accounting for condensable particulate matter shall not be considered invalid.

(xx) Reserved.

(yy) "Project" shall mean a physical change in, or change in the method of operation of, an existing major stationary source.

(zz) "Offset ratio" shall mean the ratio of total actual emissions reductions to total allowable emissions increases of such pollutant from the new source.

(aaa) "Significant Impact" shall mean the following significant levels would be exceeded in the portion of the designated nonattainment area where the ambient air quality standards are actually violated.

Pollutant	**Annual**	**24-Hour**	**8-Hour**	**3-Hour**	**1-Hour**
PM_{10}		5 μg/m³			
$PM_{2.5}$	0.3 μg/m³	1.2 μg/m³			
SO_2	1 μg/m³	5 μg/m³		25 μg/m³	
NO_2	1 μg/m³				
CO			0.5 mg/m³		2 mg/m³

(3) Permitting requirements. No Air Permit shall be issued for the construction of a new major source or the major modification of an existing source that is major for any pollutant or its precursors for which an area is nonattainment if the source or modification would be located in the nonattainment area or would be located outside the nonattainment area but have a significant impact on the nonattainment are unless the following conditions are met, as applicable:

(a) The applicant demonstrates that the new source or the major modification would meet an emission limitation that would represent the lowest achievable emission rate (LAER) for that source or facility;

(b) The applicant certifies that all existing major sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with that person) within the state of Alabama are in compliance with all applicable air emission limits or are on an acceptable compliance schedule; and

(c) The applicant demonstrates that emission reductions from existing source(s) in the area of the proposed source/major modification (whether or not under the same ownership) meet the offset requirements of paragraph (4) of this rule.

(d) Alternative Sites Analysis. An analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification shall be required.

(e) Requirements for sources located outside of a nonattainment area. Any new major stationary source or major modification undergoing a PSD permitting review near a nonattainment area which has a significant impact, as defined in 335-3-14-.05(2)(aaa), on the nonattainment area shall either:

1. Obtain offsets from within the nonattainment area in accordance with the requirements in paragraph (4) of this Rule, or

2. Obtain emissions reductions in or near the nonattainment area which will, at a minimum, reduce the impact of the project to below the significant impact level. All emissions reductions must be calculated in accordance with the requirements in paragraph (4) and be enforceable.

(f) The requirements of this Rule shall apply to all pollutants for which a nonattainment area has been designated as nonattainment and all precursors for those pollutants.

(g) Interpollutant trading may be utilized only for the purpose of satisfying offset requirements for $PM_{2.5}$. Emissions reductions may only be utilized once in determining allowable offsets, i.e. the same reductions in SO_2 may not be utilized to offset SO_2 increases and $PM_{2.5}$ increases. Any offsets utilized in interpollutant offset trading must meet the requirements of paragraph (4). Interpollutant offsets shall be determined based upon the following ratios:

1. 200 tons of NO_x to 1 ton of $PM_{2.5}$,

2. 1 ton of $PM_{2.5}$ to 200 tons of NO_x,

3. 40 tons of SO_2 to 1 ton of $PM_{2.5}$,

4. 1 ton of $PM_{2.5}$ to 40 tons of SO_2.

(h) Exemptions. Temporary emission sources, such as pilot plants and portable facilities which will be relocated outside of the nonattainment area after a short period of time, are exempt from the requirements of subparagraphs (3)(c) through (e) of this Rule.

(i) The total amount of increased emissions resulting from a major modification that must be offset, in tons per year, shall be determined by

summing the difference between the allowable emissions after the modification, as defined in 335-3-14-.05(2)(p), and the actual emissions before the modification, as defined in 335-3-14-.05(2)(u), for each emissions unit.

(4) Offset Standards.

(a) Where the emissions limit under these regulations allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential;

(b) For an existing fuel combustion source, credit shall be based on the allowable emissions under these regulations for the type of fuel being burned at the time the application to construct is filed. If the existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the allowable (or actual) emissions for the fuels involved is not acceptable, unless the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date

(c) Emissions reductions achieved by shutting down an existing emission unit or curtailing production or operating hours may be generally credited for offsets if they meet the following requirements:

1. Such reductions are surplus, permanent, quantifiable, and enforceable.

2. The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this paragraph, the Director may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units. No credit may be given for shutdowns that occurred before August 7, 1977.

(d) Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements in paragraph (4)(c)2. of this section may be generally credited only if:

1. The shutdown or curtailment occurred on or after the date the construction permit application is filed; or

2. The applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit, and the emissions reductions achieved by the shutdown or curtailment are surplus, permanent, quantifiable, and enforceable.

(e) No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic

Compounds" (42 FR 35314, July 8, 1977; (This document is also available from Mr. Ted Creekmore, Office of Air Quality Planning and Standards, (MD–15) Research Triangle Park, NC 27711.))

(f) All emission reductions claimed as offset credit shall be federally enforceable;

(g) Credit for an emissions reduction can be claimed provided that the Department has not relied on it in issuing any permit under 335-3-14-.04 or .05 or has not relied on it in a demonstration of attainment or reasonable further progress.

(h) If a designated nonattainment area is projected to be an attainment area as part of an approved SIP control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

(i) Calculation of Emission Offsets.

1. The following procedure shall be followed to calculate emission offsets:

(i) The source shall calculate average annual actual emissions, in tons per year (tpy), before the emission reduction using data from the 24-month period immediately preceding the reduction in emissions. With the Director's approval, the use of a different time period, not to exceed 10 years immediately preceding the reduction in emissions, may be allowed if the owner or operator of the source documents that such period is more representative of normal source operation, but not prior to the base year inventory date, which is the last day of the two years preceding the date of nonattainment designation; and

(ii) The emission offsets created shall be calculated by subtracting the allowable emissions following the reduction from the average annual actual emissions prior to the reduction.

2. For any emissions unit that has been operating for a consecutive period of at least 12 months but less than 24 months on the base year inventory date, based on the unit's potential to emit, emissions shall be calculated equal to the amount needed to complete a 24 month period on the base year inventory date. The baseline for determining credit for emission offsets of any source shall be the allowable emissions of said source or the actual emissions of said source, not including any malfunctions, whichever is less.

(j) Location of offsetting emissions. Emission offsets shall be obtained from sources currently operating within the same designated nonattainment area as the new or modified stationary source. Emission offsets may be obtained from another nonattainment area with the Director's approval only if

1. The other area has an equal or higher nonattainment classification then the area in which the proposed source is located; and

2. Emissions from the other area contribute to a violation of the NAAQS in the nonattainment area in which the source is located.

(k) Emission offsetting ratios. Emission offsets shall be required in nonattainment areas in accordance with the following provisions:

1. Emissions increases in carbon monoxide (CO), nitrogen dioxide (NO_2), sulfur dioxide (SO_2), lead (Pb), and particulate matter (PM_{10} and $PM_{2.5}$) nonattainment areas shall be offset at a ratio greater than 1 to 1.

2. Emissions increases in ozone nonattainment areas shall be offset for volatile organic compounds (VOC) and nitrogen oxides (NOx) in accordance with the following:

(i) Marginal 1.1 to 1

(ii) Moderate 1.15 to 1

(iii) Serious 1.2 to 1

(iv) Severe 1.3 to 1

(v) Extreme 1.5 to 1

(5) Banking of Emission Offsets. Offsets approved after January 16, 1979, which exceed the requirement of reasonable further progress may be "banked" for future use; likewise, reductions in emissions from existing sources which exceed the requirement of reasonable further progress may be "banked" for future use. The banking is subject to the following requirements:

(a) Application shall be made in writing to the Director, describing the emission offsets to be banked, such description to include location, source, and type of emissions.

(b) Emission offsets cannot be banked beyond the allowable emissions of said source or the existing emissions of said source, not including any malfunctions, whichever is less.

(c) Upon approval by the Director of said application, the banked emissions shall be credited to the facility submitting such application.

(d) No emission offsets banked in accordance with the provisions of this Paragraph shall be used unless written notice is provided to the Director thirty (30) days prior to submission of the necessary permit applications, to provide opportunity for review of the proposed use of the banked emission offsets.

(e) In the event that a determination is made that the banked emission offsets may not be used for the proposed construction, written notice shall be afforded the applicant, as provided in Rule 335-3-14-.02(3), herein.

(f) In the event that a determination under subparagraph (e) of this paragraph is made by the Director, construction may proceed if, and only if, emission offsets are obtained sufficient to satisfy the requirements of paragraph (4) of this Rule.

(g) Nothing contained in this Paragraph shall prohibit the transfer, assignment, sale, or otherwise complete disposition of said banked emission offsets, provided that written notice is provided to the Director, thirty (30) days prior to such disposition, describing in detail the recipient of the banked emissions.

(6) Area Classifications.

(a) The following area, which was in existence on August 7, 1977, shall be a Class I area and may not be redesignated:

1. The Sipsey Wilderness Area, located in Franklin, Winston, and Lawrence counties, Alabama.

(b) Any other area is initially designated Class II:

(7) Air Quality Models.

(a) All estimates of ambient concentrations required under this Rule shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models". (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711)

(8) Reserved.

(9) Control Technology Review.

(a) A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable limitation standard and standard of performance under 40 CFR Parts 60, 61, and 63.

(b) A new major stationary source shall apply LAER for each regulated NSR pollutant and precursors that it would have the potential to emit in significant amounts for which the area is designated as nonattainment.

(c) A major modification shall apply LAER for each regulated NSR pollutant and precursors for which it would result in a significant net emissions increase for which the area is designated as nonattainment. This requirement applies to each emissions unit at which a net emissions increase in the

pollutant or precursors would occur as a result of a physical change or change in the method of operation in the unit.

(d) For phased construction projects, the determination of LAER shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than eighteen (18) months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of LAER for the source.

(10) Reserved.

(11) Reserved.

(12) Air Quality Monitoring.

(a) Post-construction Monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the Director determines is necessary to determine the impact said source or modification may have, or is having, on air quality in any area.

(b) Operations of Monitoring Stations. The owner or operator of a major stationary source or major modification shall meet Federal monitoring quality assurance requirements during the operation of monitoring stations for purposes of satisfying this paragraph.

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

(13) Source Information. The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or to make any determination required under this Rule.

(a) Such information shall include:

1. A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

2. A detailed schedule for construction of the source or modification;

3. A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that LAER would be applied.

(b) Upon request of the Director, the owner or operator shall also provide information on:

1. The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

2. The air quality impacts and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.

(14) Reserved.

(15) Reserved.

(16) Public Participation.

(a) After receipt of an application for an Air Permit or any addition to such application, the Director shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this Rule, the date on which the Director received all required information.

(b) Within one (1) year after receipt of a complete application, the Director shall make a final determination of the application. This involves performing the following actions in a timely manner:

1. Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

2. Make available on the Department's web site ~~in at least one location in each region in which the proposed source or modification would be constructed~~ a copy of all materials the applicant submitted, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.

3. Notify the public, by posting on the Department's web site for the duration of the comment period of 30 days, the preliminary determination, the opportunity to comment on the proposed permit, how to request and/or attend a public hearing on the proposed permit, a copy of the proposed permit, and information on how to access the administrative record for the proposed permit.~~advertisement in a newspaper of general circulation in each region in which the proposed source or modification would be constructed, of the application, the preliminary determination, and the opportunity for written public comment, as well as comment at a public hearing. Public comments will be accepted for at least 30 days from the date of initial publication.~~

4. Send a copy of the notice of public comment to the applicant, to EPA, and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: any other State or local air pollution control agencies, the chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency, and any State, Federal Land Manager, or Indian Governing

Body whose lands may be affected by emissions from the source or modification.

5. Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.

6. Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than ten (10) days after the close of the public comment period, the applicant may, as part of the public record, submit a written response to any comments submitted by the public. The Director shall consider the applicant's response in making a final decision. The Director shall make all comments available for public inspection on the same web site ~~in the same locations~~ where the Director made available preconstruction information relating to the proposed source or modification.

7. Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this Rule.

8. Notify the applicant in writing of the final determination and make such notification available for public inspection on the same web site ~~at the same location~~ where the Director made available preconstruction information and public comments relating to the source or modification.

(17) Source Obligation.

(a) An Air Permit authorizing construction shall become invalid if construction is not commenced within twenty-four (24) months after receipt of such approval, if construction is discontinued for a period of twenty-four (24) months or more, or if construction is not completed within a reasonable time. The Director may extend the twenty-four (24) month period upon satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within twenty-four (24) months of the projected and approved commencement date.

(b) An Air Permit authorizing construction shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, State or Federal law.

(c) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of paragraphs (9)

through (17) of this Rule shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(d) The provisions of this subparagraph (17)(d) apply to projects at an existing emissions unit at a major stationary source (other than projects at a source with a PAL), that are not excluded from the definition of physical change or change in the method of operation, where there is not a reasonable possibility that the project is a part of a major modification and may result in a significant emissions increase and the owner or operator elects to use the method specified in subparagraphs (2)(nn)2.(i) through (iii) of this Rule for calculating projected actual emissions.

1. Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

(i) A description of the project;

(ii) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under subparagraph (2)(nn)2.(iii) of this Rule and an explanation for why such amount was excluded, and any netting calculations, if applicable.

2. The owner or operator of the source shall make the information required to be documented and maintained pursuant to subparagraph (17)(d) of this Rule available for review upon a request for inspection by the Department or the general public.

3. Nothing in this subparagraph shall be construed to exempt the owner or operator of such a unit from obtaining any minor source Air Permit in accordance with the requirements of this Chapter.

(e) The provisions of this subparagraph (17)(e) apply to projects at an existing emissions unit at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification, and that is not excluded from the definition of physical change or change in the method of operation, may result in a significant emissions increase and the owner or operator elects to use the method specified in subparagraphs (2)(nn)2.(i) through (iii) of this Rule for calculating projected actual emissions.

1. Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

(i) A description of the project;

(ii) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under subparagraph (2)(nn)2.(iii) of this Rule and an explanation for why such amount was excluded, and any netting calculations, if applicable.

2. Before beginning actual construction, the owner or operator shall provide a copy of the information set out in subparagraph (17)(e)1. of this Rule to the Director. Nothing in this subparagraph shall be construed to require the owner or operator of such a unit to obtain any determination from the Director before beginning actual construction; however, nothing in this subparagraph shall be construed to exempt the owner or operator of such a unit from obtaining any minor source Air Permit in accordance with the requirements of this chapter.

3. The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in subparagraph (17)(e)1.(ii) of this Rule; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.

4. The owner or operator shall submit a report to the Director within 60 days after the end of each year during which records must be generated under subparagraph (17)(e)3. of this Rule. The report shall contain the following:

(i) All information required by subparagraph (17)(e)1. of this Rule.

(ii) The name, address and telephone number of the major stationary source;

(iii) The annual emissions as calculated pursuant to subparagraph (17)(e)3. of this Rule; and

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

5. The owner or operator of the source shall make the information required to be documented and maintained pursuant to subparagraph (17)(e) of this Rule available for review upon a request for inspection by the Department.

6. All information submitted to the Department pursuant to the requirements of subparagraph (17)(e) of this Rule shall be available for review at

the request of any member of the public in accordance with the Department's public records review procedures found in ADEM Admin. Code R-335-1-1-.06.

(18) Innovative Control Technology.

(a) An owner or operator of a proposed major stationary source or major modification may request in writing no later than the close of the comment period under paragraph (16) of this Rule that the Director approve a system of innovative control technology.

(b) The Director shall determine that the source or modification may employ a system of innovative control technology, if:

1. The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function;

2. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under subparagraph (9)(b) of this Rule by a date specified by the Director. Such date shall not be later than four (4) years from the time of startup or seven (7) years from permit issuance;

3. The source or modification would meet the requirements of paragraph (9) of this Rule based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Director;

4. The source or modification has obtained all emission reductions as required in paragraph (4) prior to initial startup of the source or modification.

5. The consent of the Governor of any other affected state is secured;

6. All other applicable requirements including those for public participation have been met.

(c) The Director shall withdraw any approval to employ a system of innovative control technology made under this Rule, if:

1. The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

2. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare or safety; or

3. The Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare or safety.

(d) If a source or modification fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with subparagraph (c) of this paragraph, the

Director may allow the source or modification up to an additional three (3) years to meet the requirement for the application of LAER through use of a demonstrated system of control.

(19) Reserved.

(20) Reserved.

(21) Reserved.

(22) Reserved.

(23) Actuals PALs. The provisions in subparagraphs (23)(a) through (o) of this Rule govern actuals PALs.

(a) Applicability.

1. The Director may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in subparagraphs (23)(a) through (o) of this Rule. The term "PAL" shall mean "actuals PAL" throughout paragraph (23) of this Rule.

2. Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in subparagraphs (23)(a) through (o) of this Rule, and complies with the PAL permit:

(i) Is not a major modification for the PAL pollutant;

(ii) Does not have to be approved through the nonattainment major NSR program;

3. A major stationary source shall continue to comply with all applicable Federal or State requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

(b) Definitions. For the purposes of this Rule, the definitions in subparagraphs (23)(b)1. through 11. of this Rule apply. When a term is not defined in these paragraphs, it shall have the meaning given in paragraph (2) of this Rule or in the Clean Air Act.

1. Actuals PAL for a major stationary source means a PAL based on the baseline actual emissions (as defined in subparagraph (2)(uu) of this Rule) of all emissions units (as defined in subparagraph (2)(g) of this Rule) at the source, that emit or have the potential to emit the PAL pollutant.

2. Allowable emissions means "allowable emissions" as defined in subparagraph (2)(p) of this Rule, except as this definition is modified according to subparagraphs (23)(b)2.(i) and (ii) of this Rule.

(i) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

(ii) An emissions unit's potential to emit shall be determined using the definition in subparagraph (2)(d) of this Rule, except that the words "or enforceable as a practical matter" should be added after "enforceable."

3. *Small emissions unit* means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in subparagraph (2)(w) of this Rule or in the Clean Air Act, whichever is lower.

4. Major emissions unit means:

(i) Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area.

5. Plantwide applicability limitation (PAL) means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with subparagraphs (23)(a) through (o) of this Rule.

6. PAL effective date generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

7. PAL effective period means the period beginning with the PAL effective date and ending 10 years later.

8. PAL major modification means, notwithstanding subparagraphs (2)(b) and (2)(c) of this Rule (the definitions for major modification and net emissions increase), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

9. PAL permit means the major NSR permit, the minor NSR permit, or the title V permit issued by the Director that establishes a PAL for a major stationary source.

10. PAL pollutant means the pollutant for which a PAL is established at a major stationary source.

11. Significant emissions unit means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in subparagraph (2)(w) of this Rule or in the Clean Air Act, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in subparagraph (23)(b)4. of this Rule.

(c) Permit application requirements. As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the Director for approval:

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

2. Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup and shutdown.

3. The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subparagraph (23)(m)1. of this Rule.

(d) General requirements for establishing PALs.

1. The Director is allowed to establish a PAL at a major stationary source, provided that at a minimum, the requirements in subparagraphs (23)(d)1.(i) through (vii) of this Rule are met.

(i) The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month total, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(ii) The PAL shall be established in a PAL permit that meets the public participation requirements in subparagraph (23)(e) of this Rule.

(iii) The PAL permit shall contain all the requirements of subparagraph (23)(g) of this Rule.

(iv) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

(v) Each PAL shall regulate emissions of only one pollutant.

(vi) Each PAL shall have a PAL effective period of 10 years.

(vii) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in subparagraphs (23)(l) through (n) of this Rule for each emissions unit under the PAL through the PAL effective period.

2. At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under Rule 335-3-14-.05 of this chapter unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

(e) Public participation requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with those of this Rule and 40 CFR Parts 51.160 and 51.161. This includes the requirement that the Director provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The Director must address all material comments before taking final action on the permit.

(f) Setting the 10-year actuals PAL level. The actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in subparagraph (2)(uu) of this Rule) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under subparagraph (2)(w) of this Rule or under the Clean Air Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shutdown after this 24-month period must be subtracted from the PAL level. Emissions from units on which actual construction began after the beginning of the 24-month period must be added to the PAL level in an amount equal to the potential to emit of the unit if the unit began operation less than 24 months prior to the submittal of the PAL application. Baseline actual emissions from units on which actual construction began after the beginning of the 24-month period and commenced operation 24 months or more prior to the submittal of the PAL application must be added to the PAL based upon any 24 month period since the unit commenced operation. The Director shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable Federal or State regulatory requirement(s) that the Director is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NOX to a new Rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).

(g) Contents of the PAL permit. The PAL permit must contain, at a minimum, the information in subparagraphs (23)(g)1. through 10. of this Rule.

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

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

3. Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with subparagraph (23)(j) of this Rule before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Director.

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

5. A requirement that, once the PAL expires, the major stationary source is subject to the requirements of subparagraph (23)(i) of this Rule.

6. The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total as required by subparagraph (23)(m)1. of this Rule.

7. A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under subparagraph (23)(l) of this Rule.

8. A requirement to retain the records required under subparagraph (23)(m) of this Rule on site. Such records may be retained in an electronic format.

9. A requirement to submit the reports required under subparagraph (23)(n) of this Rule by the required deadlines.

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

(h) PAL effective period and reopening of the PAL permit. The requirements in subparagraphs (23)(h)1. and 2. of this Rule apply to actuals PALs.

1. PAL effective period. The Director shall specify a PAL effective period of 10 years.

2. Reopening of the PAL permit.

(i) During the PAL effective period, the Director must reopen the PAL permit to:

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

(II) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Rule 335-3-14-.05; and

(III) Revise the PAL to reflect an increase in the PAL as provided under subparagraph (23)(k) of this Rule.

(ii) The Director shall have discretion to reopen the PAL permit for the following:

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

(II) Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and is required by these regulations; and

(III) Reduce the PAL if the Director determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on a published air quality related value that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.

(iii) Except for the permit reopening in subparagraph (23)(h)2.(i)(I) of this Rule for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of subparagraph (23)(e) of this Rule.

(i) Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in subparagraph (23)(j) of this Rule shall expire at the end of the PAL effective period, and the requirements in subparagraphs (23)(i)1. through 5. of this Rule shall apply.

1. Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the procedures in subparagraphs (23)(i)1.(i) and (ii) of this Rule.

(i) Within the time frame specified for PAL renewals in subparagraph (23)(j)2. of this Rule, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Director) by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under subparagraph (23)(j)5. of this Rule, such distribution shall be made as if the PAL had been adjusted.

(ii) The Director shall decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable

limits for each emissions unit, or each group of emissions units, as the Director determines is appropriate.

2. Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Director may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

3. Until the Director issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subparagraph (23)(i)1.(ii) of this Rule, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

4. Any physical change or change in the method of operation at the major stationary source will be subject to major NSR requirements if such change meets the definition of major modification in subparagraph (2)(b) of this Rule.

5. The major stationary source owner or operator shall continue to comply with any State or Federal applicable requirements (BACT, RACT, NSPS, synthetic minor limit, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period.

(j) Renewal of a PAL.

1. The Director shall follow the procedures specified in subparagraph (23)(e) of this Rule in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Director.

2. Application deadline. A major stationary source owner or operator shall submit a timely application to the Director to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

3. Application requirements. The application to renew a PAL permit shall contain the information required in subparagraphs (23)(j)3.(i) through (iv) of this Rule.

(i) The information required in subparagraphs (23)(c)1. through 3. of this Rule.

(ii) A proposed PAL level.

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

(iv) Any other information the owner or operator wishes the Director to consider in determining the appropriate level for renewing the PAL.

4. PAL adjustment. In determining whether and how to adjust the PAL, the Director shall consider the options outlined in subparagraphs (23)(j)4.(i) and (ii) of this Rule. However, in no case may any such adjustment fail to comply with subparagraph (23)(j)4.(iii) of this Rule.

(i) If the emissions level calculated in accordance with subparagraph (23)(f) of this Rule is equal to or greater than 80 percent of the PAL level, the Director may renew the PAL at the same level without considering the factors set forth in subparagraph (23)(j)4.(ii) of this Rule; or

(ii) The Director may set the PAL at a level that he or she determines to be more representative of the source's baseline actual emissions, or that he or she determines to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Director in his or her written rationale.

(iii) Notwithstanding subparagraphs (23)(j)4.(i) and (ii) of this Rule:

(I) If the potential to emit of the major stationary source is less than the PAL, the Director shall adjust the PAL to a level no greater than the potential to emit of the source; and

(II) The Director shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of subparagraph (23)(k) of this Rule (increasing a PAL).

5. If the compliance date for a State or Federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Director has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or title V permit renewal, whichever occurs first.

(k) Increasing a PAL during the PAL effective period.

1. The Director may increase a PAL emission limitation only if the major stationary source complies with the provisions in subparagraphs (23)(k)1.(i) through(iv) of this Rule.

(i) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(ii) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s) exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(iii) The owner or operator obtains a major NSR permit for all emissions unit(s) identified in subparagraph (23)(k)1.(i) of this Rule, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the major NSR process (for example, BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.

(iv) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

2. The Director shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with subparagraph (23)(k)1.(ii)), plus the sum of the baseline actual emissions of the small emissions units.

3. The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of subparagraph (23)(e) of this Rule.

(l) Monitoring requirements for PALs.

1. General requirements.

(i) Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(ii) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in subparagraphs (23)(l)2.(i) through (iv) of this Rule and must be approved by the Director.

(iii) Notwithstanding subparagraph (23)(l)1.(ii) of this Rule, an alternative monitoring approach that meets subparagraph (23)(l)1.(i) of this Rule may be employed if approved by the Director.

(iv) Failure to use a monitoring system that meets the requirements of this Rule renders the PAL invalid.

2. Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in subparagraphs (23)(l)3. through 9. of this Rule:

(i) Mass balance calculations for activities using coatings or solvents;

(ii) CEMS;

(iii) CPMS or PEMS; and

(iv) Emission factors.

3. Mass balance calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

(i) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

(ii) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

(iii) Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Director determines there is site-specific data or a site-specific monitoring program to support another content within the range.

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

(i) CEMS must comply with applicable Performance Specifications found in 40 CFR part 60, appendix B; and

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

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

(i) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

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

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

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

(ii) The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

(iii) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the Director determines that testing is not required.

7. A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

8. Notwithstanding the requirements in subparagraphs (23)(l)3. through 7. of this Rule, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Director shall, at the time of permit issuance:

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

(ii) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

9. Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Director. Such testing must occur at least once every 5 years after issuance of the PAL.

(m) Recordkeeping requirements.

1.The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of paragraph (23) of this Rule and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record.

2. The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus 5 years:

(i) A copy of the PAL permit application and any applications for revisions to the PAL; and

(ii) Each annual certification of compliance pursuant to title V and the data relied on in certifying the compliance.

(n) Reporting and notification requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Director in accordance with the applicable title V operating permit. The reports shall meet the requirements in subparagraphs (23)(n)1. through 3. of this Rule.

1. Semi-annual report. This report shall contain the information required in subparagraphs (23)(n)1.(i) through (vii) of this Rule.

(i) The identification of owner and operator and the permit number.

(ii) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to subparagraph (23)(m)1. of this Rule.

(iii) All data relied upon, including, but not limited to, any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions.

(iv) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period.

(v) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.

(vi) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by subparagraph (23)(l)7. of this rule.

(vii) A signed statement by a responsible official (as defined in Chapter 335-3-16 of these Regulations) certifying the truth, accuracy, and completeness of the information provided in the report.

2. Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to 335-3-16-.05(c)3.(ii) shall satisfy this reporting requirement. The reports shall contain the following information:

(i) The identification of owner and operator and the permit number;

(ii) The PAL requirement that experienced the deviation or that was exceeded;

(iii) Emissions resulting from the deviation or the exceedance; and

(iv) A signed statement by a responsible official (as defined in Chapter 335-3-16 of these Regulations) certifying the truth, accuracy, and completeness of the information provided in the report.

3. Re-validation results. The owner or operator shall submit to the Director the results of any re-validation test or method within 3 months after completion of such test or method.

(o) Transition requirements.

1. The Director may not issue a PAL that does not comply with the requirements in subparagraphs (23)(a) through(o) of this Rule after the effective date of this Rule.

2. The Director may supersede any PAL that was established prior to the effective date of this Rule with a PAL that complies with the requirements of subparagraphs (23)(a) through (o) of this Rule.

(24) If any provision of this Rule, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Rule, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Author: James W. Cooper; John E. Daniel; and Larry W. Brown.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: January 18, 1972.
Amended: April 3, 1979; February 13, 1980; March 24, 1981; March 23, 1982; February 13, 1985; November 13, 1985; September 18, 1986; June 9, 1987; May 4, 1988; September 21, 1989; November 1, 1990; October 30, 1992, December 28, 1993, April 27, 1995; November 21, 1996; March 27, 1998; January 13, 2000; September 7, 2000; May 23, 2011~~;~~XXXXXX, 2017.

335-3-14-.06 Requirements for Control Technology [Determinations for Major Sources in Accordance with Clean Air Act Section 112(g)].

(1) Applicability.

(a) The requirements of paragraphs (1) through (4) of this rule carry out Section 112(g)(2)(B) of the 1990 Clean Air Act Amendments (hereinafter, referred to as 'the Act' in this rule).

(b) Overall requirements. The requirements of paragraphs (1) through (4) of this rule apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after the effective date of this rule unless the major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to Section 112(d), Section 112(h), or Section 112(j) and incorporated in another Subpart of Part 63 of the 40 Code of Federal Regulations or chapter 335-3-11 of this Division, or the owner or operator of such major source has received all necessary air quality permits for such construction or reconstruction project before the effective date of this rule.

(c) Exclusion for electric utility steam generating units. The requirements of this rule do not apply to electric utility steam generating units unless and until such time as these units are added to the source category list pursuant to Section 112(c)(5) of the Act.

(d) Exclusion for stationary sources in deleted source categories. The requirements of this rule do not apply to stationary sources that are within a source category that has been deleted from the source category list pursuant to Section 112(c)(9) of the Act.

(e) Exclusion for research and development activities. The requirements of this rule do not apply to research and development activities, as defined in paragraph (2) below.

(f) Prohibition. After the effective date of this rule, no person may begin actual construction or reconstruction of a major source of HAP unless:

1. The major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to Section 112(d), Section 112(h) or Section 112(j) in Part 63 [40 CFR 63, Subpart B, as incorporated by reference in rule 335-3-11-.06(1)], and the owner and operator has fully complied with all procedures and requirements for preconstruction review established by that standard, including any applicable requirements set forth in Subpart A of Part 63; or

2. The Department has made a final and effective case-by-case determination pursuant to the provisions of this rule such that emissions from the constructed or reconstructed major source will be controlled to a level no

less stringent than the maximum achievable control technology emission limitation for new sources.

(2) Definitions.

Terms used in this rule that are not defined below have the meaning given to them in the Act and in 40 CFR Subpart A.

(a) "Affected Source" means the stationary source or group of stationary sources which, when fabricated (on site), erected, or installed meets the definition of "construct a major source" or the definition of "reconstruct a major source" contained in this paragraph.

(b) "Affected States" are all States:

1. Whose air quality may be affected and that are contiguous to the State in which a MACT determination is made in accordance with this rule; or

2. Whose air quality may be affected and that are within 50 miles of the major source for which a MACT determination is made in accordance with this rule.

(c) "Available Information" means, for purposes of identifying control technology options for the affected source, information contained in the following information sources as of the date of approval of the MACT determination by the Department:

1. A relevant proposed regulation, including all supporting information;

2. Background information documents for a draft or proposed regulation;

3. Data and information available from the Control Technology Center developed pursuant to Section 113 of the Act;

4. Data and information contained in the Aerometric Informational Retrieval System including information in the MACT data base;

5. Any additional information that can be expeditiously provided by the Director; and

6. For the purpose of determinations by the Department, any additional information provided by the applicant or others, and any additional information considered available by the Department.

(d) "Construct a Major Source" means:

1. To fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAPs, or

2. To fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAPs, unless the process or production unit satisfies criteria (i) through (vi) below:

(i) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of this rule will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

(ii) The Department has determined within a period of 5 years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented best available control technology (BACT), or lowest achievable emission rate (LAER) under chapter 335-3-14; or the Department determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT or LAER determination);

(iii) The Department determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

(iv) The Department has provided notice and an opportunity for public comment concerning its determination that criteria in subparagraphs 2.(i), 2.(ii), and 2.(iii) of this definition apply and concerning the continued adequacy of any prior LAER or BACT determination;

(v) If any commenter has asserted that a prior LAER or BACT determination is no longer adequate, the Department has determined that the level of control required by that prior determination remains adequate; and

(vi) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the Department are predicated will be construed by the Department as applicable requirements under Section 504(a) and either have been incorporated into any existing Major Source Operating Permit for the affected facility or will be incorporated into such permit upon issuance.

(e) "Control Technology" means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants through process changes, substitution of materials or other modifications including, but not limited to, measures that:

1. Reduce the quantity of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications;

2. Enclose systems or processes to eliminate emissions;

3. Collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

4. Are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 U.S.C. 7412(h); or

5. Are a combination of subparagraphs 1. - 4. of this definition.

(f) "Department" means the Department as defined in this Division.

(g) "Effective Date of Section 112(g)(2)(B)" means the effective date of this rule adopted by the Department.

(h) "Electric Utility Steam Generating Unit" means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that co-generates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

(i) "Greenfield Site" means a contiguous area under common control that is an undeveloped site.

(j) "Hazardous Air Pollutant or HAP" means any of the substances listed in Appendix G of this Division.

(k) "List of Source Categories" means the Source Category List required by Section 112(c) of the Act.

(l) "Maximum Achievable Control Technology (MACT) Emission Limitation for New Sources" means the emission limitation which is not less stringent than the emission limitation achieved in practice by the best controlled similar source, and which reflects the maximum degree of reduction in emissions that the Department, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.

(m) "Process or Production Unit" means any collection of structures and/or equipment, that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.

(n) "Reconstruct a Major Source" means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAPs, whenever:

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 process or production unit; and

2. It is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this rule.

(o) "Research and Development Activities" means activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.

(p) "Similar Source" means a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology.

(3) Maximum Achievable Control Technology (MACT) Determinations for Constructed and Reconstructed Major Sources.

(a) Applicability. The requirements of this paragraph apply to an owner or operator who constructs or reconstructs a major source of HAP subject to a case-by-case determination of maximum achievable control technology pursuant to this rule.

(b) Principles of MACT determinations. The following general principles shall govern preparation by the owner or operator of each permit application or other application requiring a case-by-case MACT determination concerning construction or reconstruction of a major source, and all subsequent review of and actions taken concerning such an application by the Department:

1. The MACT emission limitation or MACT requirements recommended by the applicant and approved by the Department shall not be less stringent than the emission control which is achieved in practice by the best controlled similar source, as determined by the Department.

2. Based upon available information, as defined in this rule, the MACT emission limitation and control technology (including any requirements under subparagraph (b)3. below) recommended by the applicant and approved by the Department shall achieve the maximum degree of reduction in emissions of HAP which can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements associated with the emission reduction.

3. The applicant may recommend a specific design, equipment, work practice, or operational standard, or a combination thereof, and the Department may approve such a standard if the Department specifically determines that it is not feasible to prescribe or enforce an emission limitation under the criteria set forth in Section 112(h)(2) of the Act.

4. If the Administrator has either proposed a relevant emission standard pursuant to Section 112(d) or Section 112(h) of the Act or adopted a presumptive MACT determination for the source category which includes the constructed or reconstructed major source, then the MACT requirements applied to the constructed or reconstructed major source shall have considered those MACT emission limitations and requirements of the proposed standard or presumptive MACT determination.

(c) Application requirements for a case-by-case MACT determination.

1. An application for a MACT determination (whether a permit application under chapter 335-3-16, or other permit specified by the Department under subparagraph (d) of this paragraph) shall specify a control technology selected by the owner or operator that, if properly operated and maintained, will meet the MACT emission limitation or standard as determined according to the principles set forth in subparagraph (b) of this paragraph.

2. In each instance where a constructed or reconstructed major source would require additional control technology or a change in control technology, the application for a MACT determination shall contain the following information:

(i) The name and address (physical location) of the major source to be constructed or reconstructed;

(ii) A brief description of the major source to be constructed or reconstructed and identification of any listed source category or categories in which it is included;

(iii) The expected commencement date for the construction or reconstruction of the major source;

(iv) The expected completion date for construction or reconstruction of the major source;

(v) the anticipated date of start-up for the constructed or reconstructed major source;

(vi) The HAP emitted by the constructed or reconstructed major source, and the estimated emission rate for each such HAP, to the extent this information is needed by the Department to determine MACT;

(vii) Any enforceable emission limitations applicable to the constructed or reconstructed major source;

(viii) The maximum and expected utilization of capacity of the constructed or reconstructed major source, and the associated uncontrolled emission rates for that source, to the extent this information is needed by the Department to determine MACT;

(ix) The controlled emissions for the constructed or reconstructed major source in tons/yr at expected and maximum utilization of capacity, to the extent this information is needed by the Department to determine MACT;

(x) A recommended emission limitation for the constructed or reconstructed major source consistent with the principles set forth in subparagraph (b) of this paragraph;

(xi) The selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the Department);

(xii) Supporting documentation including identification of alternative control technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology; and

(xiii) Any other relevant information required pursuant to Subpart A, 40 CFR 63.

3. In each instance where the owner or operator contends that a constructed or reconstructed major source will be in compliance, upon startup, with case-by-case MACT under this rule without a change in control technology, the application for a MACT determination shall contain the following information:

(i) The information described in subparagraphs (c)2.(i) through (c)2.(x) of this paragraph; and

(ii) Documentation of the control technology in place.

(d) Permit Content.

1. The Air Permit will contain a MACT emission limitation (or a MACT work practice standard if the Department determines it is not feasible to prescribe or enforce an emission standard) to control the emissions of HAP. The MACT emission limitation or standard will be determined by the Department and will conform to the principles set forth in subparagraph (3)(b) of this rule.

2. The Air Permit will specify any notification, operation and maintenance, performance testing, monitoring, reporting and record keeping requirements, including:

(i) Additional emission limits, production limits, operational limits or other terms and conditions necessary to ensure enforceability of the MACT emission limitation;

(ii) Compliance certifications, testing, monitoring, reporting and record keeping requirements that are consistent with the requirements of 335-3-16-.07;

(iii) In accordance with Section 114(a)(3) of the Act, monitoring shall be capable of demonstrating continuous compliance during the applicable reporting period. Such monitoring data shall be of sufficient quality to be used as a basis for enforcing all applicable requirements established under this rule, including emission limitations;

(iv) A statement requiring the owner or operator to comply with all applicable requirements contained in Subpart A of 40 CFR 63;

3. All provisions contained in the Air Permit shall be enforceable upon the effective date of issuance of said permit, as provided by subparagraph (g) of this paragraph.

4. The Air Permit shall expire if construction or reconstruction has not commenced within 18 months of issuance, unless the Department has granted an extension which shall not exceed an additional 12 months.

(e) Public participation.

1. Notice shall be ~~given by~~ posted on the Department's web site for the duration of the comment period, and also transmitted to a list developed by the Department for persons desiring notice of permit action, including persons who have requested in writing to be on such a list;~~publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice and also to persons on a mailing list developed by the Department for persons desiring notice of permit action, including persons who have requested in writing to be on such a list;~~

2. The notice shall include a link to the proposed permit and information on how to access the administrative record for the proposed permit; identify the affected facility; the name and address of the permittee; the address of the Department; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person (or an email or web site address) from whom interested persons may obtain additional information, including ~~copies of the permit draft,~~ the application, all relevant supporting materials, including any compliance plan, monitoring and compliance certification report, except for information entitled to be kept confidential, and all other materials available to the Department that are relevant to the permit decision; a brief description of the comment procedures required by this chapter; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled);

3. The Department shall provide at least 30 days for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing; and

4. The Department shall keep a record of the comments made during the public participation process.

5. Exceptions.

(i) If the owner or operator obtains a Major Source Operating Permit prior to construction or reconstruction of a source subject to this rule, then the requirements of this subparagraph do not apply.

(ii) If the owner or operator is concurrently applying for an Air Permit under rules 335-3-14-.04 or 335-3-14-.05, the public participation requirements of those rules shall substitute for the requirements of this paragraph.

(f) Prohibition of construction. An owner or operator applying for a MACT emission limitation for new sources under this rule shall not begin construction until a permit has been issued pursuant to this rule.

(g) Effective date. The effective date of a MACT determination shall be the date of issuance of a final Major Source Operating Permit incorporating a MACT determination (in those instances where the owner or operator either is required or elects to obtain such a permit before construction or reconstruction), or a permit issued pursuant to this rule.

(h) Compliance date. On and after the date of start-up, a constructed or reconstructed major source which is subject to the requirements of this rule shall be in compliance with all applicable requirements specified in the MACT determination.

(i) Compliance with MACT determinations.

1. An owner or operator of a constructed or reconstructed major source that is subject to a MACT determination shall comply with all requirements in the final Major Source Operating Permit (in those instances where the owner or operator either is required or elects to obtain such a permit before construction or reconstruction), or other permit issued pursuant to this rule, including but not limited to any MACT emission limitation or MACT work practice standard, and any notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements.

2. An owner or operator of a constructed or reconstructed major source which has obtained a MACT determination shall be deemed to be in compliance with Section 112(g)(2)(B) of the Act and this rule only to the extent that the constructed or reconstructed major source is in compliance with all requirements set forth in the final Major Source Operating Permit (in those instances where the owner or operator either is required or elects to obtain

such a permit before construction or reconstruction), or other permit issued pursuant to this rule. Any violation of such requirements by the owner or operator shall be deemed by the Department and by EPA to be a violation of the prohibition on construction or reconstruction in Section 112(g)(2)(B) and this rule for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action under the Act.

(4) Requirements for Constructed or Reconstructed Major Sources Subject to a Subsequently Promulgated MACT Standard or MACT Requirement.

(a) If the Administrator promulgates an emission standard under Section 112(d) or Section 112(h) of the Act or the Department issues a determination under Section 112(j) of the Act [40 CFR 63, Subpart B, as incorporated by reference in rule 335-3-11-.06(1)] that is applicable to a stationary source or group of sources which would be deemed to be a constructed or reconstructed major source under this rule before the date that the owner or operator has obtained a final and legally effective MACT determination pursuant to this rule, the owner or operator of the source(s) shall comply with the promulgated standard or determination rather than any MACT determination under this rule, and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

(b) If the Administrator promulgates an emission standard under Section 112(d) or Section 112(h) of the Act or the Department makes a determination under Section 112(j) of the Act [40 CFR 63, Subpart B, as incorporated by reference in rule 335-3-11-.06(1)] that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this rule and has been subject to a prior case-by-case MACT determination pursuant to this rule, and the owner and operator obtained a final and legally effective case-by-case MACT determination prior to the promulgation date of such emission standard, then the Department shall (if the initial Major Source Operating Permit has not yet been issued) issue an initial operating permit which incorporates the emission standard or determination, or shall (if the initial Major Source Operating Permit has been issued) revise the operating permit according to the reopening procedures in chapter 335-3-16 to incorporate the emission standard or determination.

1. The EPA may include in the emission standard established under Section 112(d) or Section 112(h) of the Act a specific compliance date for those sources which have obtained a final and legally effective MACT determination under this rule and which have submitted the information required by paragraph (3) of this rule to the EPA before the close of the public comment period for the standard established under Section 112(d) of the Act. Such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but not longer than 8 years after such standard is promulgated. In that event, the Department shall incorporate the applicable compliance date in the Major Source Operating Permit.

2. If no compliance date has been established in the promulgated Section 112(d) or 112(h) standard or Section 112(j) determination [40 CFR 63, Subpart B, as incorporated by reference in rule 335-3-11-.06(1)], for those sources which have obtained a final and legally effective MACT determination under this rule, then the Department shall establish a compliance date in the permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than 8 years after such standard is promulgated or a Section 112(j) determination [40 CFR 63, Subpart B, as incorporated by reference in rule 335-3-11-.06(1)] is made.

(c) Notwithstanding the requirements of subparagraphs (a) and (b) of this paragraph, if the Administrator promulgates an emission standard under Section 112(d) or Section 112(h) of the Act or the Department issues a determination under Section 112(j) of the Act [40 CFR 63, Subpart B, as incorporated by reference in rule 335-3-11-.06(1)] that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this rule and which is the subject of a prior case-by-case MACT determination pursuant to paragraph (3) of this rule, and the level of control required by the emission standard issued under Section 112(d) or Section 112(h) or the determination issued under Section 112(j) [40 CFR 63, Subpart B, as incorporated by reference in rule 335-3-11-.06(1)] is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the Department is not required to incorporate any less stringent terms of the promulgated standard in the Major Source Operating Permit applicable to such source(s) and may in its discretion consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such an operating permit.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-11, 22-28-14, 22-28-16, 22-22A-5.
History: Effective Date: March 27, 1998.
Amended: September 7, 2000~~.~~;XXXXXX, 2017.

Part J –

Proposed Revisions to Chapter 335-3-15
(Synthetic Minor Operating Permits)

Author: Richard E. Grusnick
Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: December 28, 1993.
Amended: November 21, 1996.

335-3-15-.05 Public Participation.

(a) The provisions of this Rule apply only to potential major sources as specified in Rules 335-3-15-.04(1)(b) and -.04(4)(b). Notice shall be ~~given by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice~~posted on the Department's web site for the duration of the public comment period and ~~also to persons on a mailing~~transmitted~~sent~~ to a list developed by the Department for persons desiring notice of permit action, including persons who have requested in writing to be on such a list. The notice shall contain a link to the ~~draft~~proposed permit. A copy of the notice shall also be provided to EPA~~.~~;

(b) The notice shall identify the affected facility; the name and address of the permittee; the address of the Department; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person (or an email or web site address) from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, except for information entitled to be kept confidential, and all other materials available to the Department that are relevant to the permit decision; a brief description of the comment procedures required by this Rule; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled);

(c) The Department shall provide at least 15 days for public comment; and

(d) The Department shall keep a record of the commenters and also of the issues raised during the public participation process.

Author: Richard E. Grusnick
Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: December 28, 1993.
Amended: November 21, 1996~~.~~;XXXXXX, 2017.

Part K -

Proposed Revisions to Chapter 335-3-16
(Major Source Operating Permits)

(4) Any application pertaining to a change designated by the applicant as an off-permit change shall be submitted by the applicant to EPA in fulfillment of the obligation to provide written notice, provided, that no change meeting the criteria for an insignificant activity or trivial activity is subject to the procedures set forth in this rule.

Author: Richard E. Grusnick.
Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: December 28, 1993.
Amended: November 21, 1996.

335-3-16-.15 Permit Review by EPA, Affected States and Public.

(1) Transmission of information to EPA.

(a) The Department shall submit each application, each proposed permit and each final permit to EPA. The Department may require the applicant to submit a copy of its application directly to EPA. The Department also shall submit a copy of the draft permit to the applicant at the same time that EPA is sent a copy.

(b) Upon agreement with EPA, the Department may submit a summary of the application instead of the full application.

(c) The Department shall keep 5 years of records of the information sent to EPA that is required in subparagraph (a) of this paragraph.

(2) Review by affected states.

(a) The Department shall give notice to each affected state of each draft permit on or before public notice, unless public notice is not required.

(b) The Department shall respond in writing its reasons for refusing to accept an affected State's recommendations or for refusing to accept the Administrator's recommendations.

(3) EPA objection.

(a) If EPA objects in writing within 45 days of receipt of a proposed permit or prior to issuance of a final permit, the Department shall not issue the permit, except that the Department may issue a permit that is valid pursuant to Alabama's Air Pollution Control Act only. However, the Department shall advise the source that issuance of such permit shall not provide any protection from federal requirements.

(b) The objection must include the reasons for the objection and a description of the terms that the permit must include to respond to the objections. EPA must supply the applicant with a copy of the objection.

(c) Failure of the Department to do any of the following are also grounds for objection:

1. Comply with paragraphs (1) or (2) of this rule.

2. Submit any information requested by EPA in writing necessary to review the permit.

3. Process the permit under the significant permit modification procedures (unless the modification is minor).

(4) Public participation. Except for modifications qualifying for administrative or minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall use the following procedures for public notice:

(a) Notice shall be ~~given by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice~~posted on the Department's web site for the duration of the public comment period and also ~~to persons on a mailing~~transmitted to a list developed by the Department for persons desiring notice of permit action, including persons who have requested in writing to be on such a list. The notice shall contain a link to the draft permit;

(b) The notice shall identify the affected facility; the name and address of the permittee; the address of the Department; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person (or an email or web site address) from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, monitoring and compliance certification report, except for information entitled to be kept confidential, and all other materials available to the Department that are relevant to the permit decision; a brief description of the comment procedures required by this chapter; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled);

(c) The Department shall provide at least 30 days for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing; and

(d) The Department shall keep a record of the comments made during the public participation process.

Author: Richard E. Grusnick.
Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: December 28, 1993.
Amended: November 21, 1996~~.~~;XXXXXX, 2017.

Part L -

Proposed Revisions to Chapter 335-3-19
(Control of Municipal Solid Waste Landfill Gas Emissions)
ADEM Plan for the Control of Landfill Gas Emissions
at Existing Municipal Solid Waste Landfills

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT PLAN FOR THE CONTROL OF LANDFILL GAS EMISSIONS AT EXISTING MUNICIPAL SOLID WASTE LANDFILLS

Proposed Plan Revision
January 2017

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT PLAN FOR THE CONTROL OF LANDFILL GAS EMISSIONS AT EXISTING MUNICIPAL SOLID WASTE LANDFILLS

Executive Summary

On March 12, 1996, the USEPA promulgated New Source Performance Standards (NSPS) for Municipal Solid Waste Landfills (MSWLFs) and Emission Guidelines for Existing MSWLFs. The Emission Guidelines (EG) implement §111(d) of the Clean Air Act (the Act). USEPA finalized updates to the EG and the NSPS on August 29, 2016. The EG require a State to submit a plan that will establish emission standards for existing sources when an NSPS have been promulgated for a designated pollutant, such as landfill gas (LFG). Landfill gas is composed of many ~~air pollutants~~constituents, including methane and nonmethane organic compounds (NMOC). Since it would be difficult to measure all compounds in LFG, the EPA has specified NMOC as a surrogate for LFG.

An existing MSWLF is a landfill for which construction, modification, or reconstruction commenced on or before July 17, 2014. ~~prior to May 30, 1991.~~ An existing landfill may be active; i.e., currently accepting waste, or have additional capacity available to accept waste, or may be closed; i.e., no longer accepting waste nor having available capacity for future waste deposition. The designated facility for which this plan applies is each existing MSWLF that has accepted waste since November 8, 1987.

The final rules require affected and designated MSWLFs having design capacities below 2.5 million megagrams (or 2.5 million cubic meters) to file a design capacity report. Those existing landfills having design capacities greater than 2.5 million megagrams or (2.5 million cubic meters) are subject to the EG and those that emit more than ~~50~~ 34 megagrams/year (~~55~~ 37.5 tons/year) are required to install controls. The EG requires the reduction of LFG from the affected existing MSWLFs by: (1) installing a well-designed and well-operated gas collection system and (2) routing those gases to ~~-~~a control device capable of reducing NMOC in the collected gas by 98 weight-percent, or to 20 parts per million.

Subpart B of 40 CFR 60 specifies the contents of the state plan. The Department's plan provides for proposed regulations that will provide for the incorporation of the EG requirements into the Air Division Administrative Code. The plan demonstrates the Department's determination of the regulated universe, as well as the legal authority for implementing this plan.

CONTENTS OF STATE PLAN

Contents	Reference
Certification that a public hearing was held prior to adoption of the State Plan.	§60.23(f)(1)
A list of attendees at the hearing and their affiliation; summary of their presentation and handouts.	§60.23(f)(2)
Emission Standards and compliance schedules.	§60.24(a)
Test methods and procedures used for determining compliance with the emission standards.	§60.24(b)(2)
Legally enforceable increments of progress for facilities to achieve compliance.	§60.24(e)(1)
May provide that compliance schedules for individual facilities will be formulated after plan submittal, if certain procedures are followed.	§60.24(e)(2)
For particular facilities, a case-by-case basis for less stringent standards or compliance times.	§60.24(f)
An inventory of all designated facilities, including emission data for the designated pollutants and information related to emissions.	§60.25(a)
Provide for monitoring a facility's compliance status as follows:	§60.25(b)
1. Legally enforceable procedures for requiring the maintenance of records and periodic reporting to the State for the determination of compliance, and	
2. Periodic inspections and testing	
Information obtained under 60.25(b) shall be correlated with applicable emission standards and made available to the public.	§60.25(c)
Show that the State has legal authority to carry out the plan.	§60.26

§60.23 Adoption and Submittal of State Plans; Public Hearings

The Alabama Administrative Procedures Act (Title 41, Chapter 22, Code of Alabama 1975, as amended) prescribes the procedures for which all state agencies must adhere when filing revisions or new rules to the Administrative Code. Per §60.23(d), a legal notice is placed in the four regional newspapers of the State which describes the notice of the date, time and location of a public hearing. The notice describes the locations in which the material for review is located as well as procedures for obtaining copies. The Department places copies of the material for viewing in its four offices located in Decatur, Birmingham, Montgomery, and Mobile. Notification and copies of supporting materials are sent to the Regional Administrator and the State's two local air programs; i.e., the City of Huntsville and the Jefferson County Department of Health. The public hearing gives interested parties an opportunity to comment on the agency's proposal; however, it is not necessary for persons to be present at the hearing. Written comments are accepted during the public comment period. Pursuant to §60.23(f), the State will submit to EPA documentation certifying that proper notice and public participation procedures were followed.

§60.24 Emission Standards and Compliance Schedules

The Department proposes to adopt equivalent emission standards and compliance times to the federal Emission Guidelines [40 CFR 60, Subpart ~~Ce~~Cf] in the proposed ADEM Admin. Code Chapter 335-3-19 [Appendix A]. ~~However, per §60.24(f), the Department proposes to allow alternative emission standards or compliance times through a petition process as described in proposed Rule 335-3-19-.05.~~

~~Individual decisions regarding alternative emission standards or compliance schedules will be considered implementation of the plan and not plan revisions. Therefore, a separate Federal Register as to each individual decision will not be issued. However, the Department will give public notice of the relief requested by each petition, as discussed below.~~

~~The applicant must demonstrate the technical or economic factors supporting the petition for alternative emission standards or compliance times. These factors must include at least one of the following: unreasonable cost of control resulting from facility age, location or design; the physical impossibility of installing necessary control equipment; or other factors that would make the application of an alternative emission standard or longer compliance time significantly more reasonable.~~

~~Upon a facility becoming subject to the requirements of Chapter 335-3-19 and its management electing to seek an alternative emission standard or compliance schedule pursuant to the criteria described herein, the facility (petitioner) shall apply to the Department for said alternative emission standard or compliance schedule. This is accomplished by the petitioner filing an application that contains the information required by proposed Rule 335-3-19-.05(1). The Department must then determine if the petition is adequate to meet the requirements of Rule 335-3-19-.05(1). If the Department determines that the petition is inadequate, the Department shall dismiss the petition. However, if it is determined that the petition is adequate and the Department is inclined to grant the petition, it shall solicit EPA's concurrence prior to any granting of an alternative emission standard or compliance schedule. If EPA concurs with the Department's proposal, the Department will then give public notice of the relief requested in the petition through the mandates of the Title V program and receive any comments from the public thereon. Any approval of the petition shall be incorporated into a Title V permit. In the event the Department denies a petition, the Department will notify the petitioner in writing of the reasons for the denial and provide the procedures for appealing the Department's decision per ADEM Admin Code R. 335-2.~~

The affected facilities are ~~otherwise~~ expected to fulfill the requirements of the State's rules. Compliance is expected to occur within 30 months of the effective date of the State's rules. Thus, the increments of progress would be as follows:

Milestone	Compliance Schedule
1. Design Capacity Report	Within 30-90 days after the effective date of the State standard
2. NMOC Emission Rate Report	Within 30-90 days after the effective date of the State standard, and then annually
3. Collection and Control System Design Plan	Within 1 year after reporting NMOC emissions ≥ ~~50~~ 34 Mg/yr
4. Installation of Collection and Control System Completed	Within 30 months after the effective date of the State standard or the date of the first annual NMOC emission rate is ≥ ~~50~~ 34 Mg/yr
5. Initial Performance Test of Collection and Control System to Document Compliance	Within 180 days of control system startup

As early as possible within the first twelve months following the reporting of NMOC emissions ≥ ~~50~~ 34 MG/yr, the MSWLF owner/operator should submit to the Department, the collection and control system design plan. Within ninety (90) days of receipt, the Department shall review and evaluate the design plan. Within this same period, the Department will provide the owner/operator written notification of deficiencies or final design approval, as applicable. The owner/operator should correct deficiencies within 60 days of receipt of notice.

The test methods and procedures for determining compliance are specified in the proposed rules which reference the Methods found in Appendix A of 40 CFR, Part 60. These test methods were previously incorporated by reference into the ADEM Code which were effective November 21, 1996.

§60.25 Emission Inventories, Source Surveillance, Reports.

An initial inventory of MSWLFs was performed in 1996, when the original NSPS and EG were promulgated. A review of that inventory, and of the permitting of new facilities since 1996 was performed to determine the facilities which would be subject to the proposed regulations. A table illustrating the regulated universe and the estimated emissions of NMOCs is included in Appendix B of this document. If there are significant changes, a revised emission inventory will be submitted after the initial

design capacity and NMOC emission rate reports are received. ~~Approximately 120 letters were sent to currently operating landfills and landfills known to have operated between 1987 and 1991. A table illustrating the regulated universe and the estimated emissions of NMOCs is included in Appendix B of this document. The revised emission inventory data will be submitted after the initial design capacity and NMOC emission rate reports are received.~~

Compliance status is generally accomplished by providing the following:

1. Legally enforceable procedures for requiring the maintenance of records and periodic reporting to the State for the determination of compliance; and
2. Periodic inspections, and when applicable, testing of designated facilities.

The EG contains provisions for testing, monitoring, reporting, and recordkeeping that fulfill these requirements. The State's proposed Rules adopt these specifications from the EG thus fulfilling the requirements. State plans must include provisions that allow information obtained from testing, monitoring, reporting, and recordkeeping requirements of §60.25(b) to be made available to the general public. Any emission data must be correlated with applicable emission standards. ADEM Admin. Code R. 335-1-1-.06 (Availability of Records and Information), as well as the Department's E-File system, provides for the public inspection of the Department's records.

States are required under §60.25(e) and (f) to submit annual progress reports. These reports are to inform the Administrator of the progress in plan enforcement. The first report is due one year after plan approval or promulgation of a plan by EPA. The following is a list of the contents of these reports taken from §60.25(f):

1. Enforcement actions initiated against a facility during the reporting period;
2. Increments of progress,
3. Identification of facilities that have ceased operation;
4. Emission inventory data for facilities that were not in operation at the time of plan development;
5. Updated information or emission data on facilities; and
6. Copies of technical reports on all performance testing with concurrent process data.

In general, the first two items of the list apply to landfills affected by the EG. The State must report any enforcement action and any increments of progress made by landfills such as submittal of a final control plan or initiation of on-site construction.

The third item is most applicable to emission sources that cease to emit air pollutants upon ceasing operation. Landfills may continue to emit NMOC after the facility has ceased to accept MSW; however, the landfill must continue to operate control equipment after closure. The State will list landfills that have removed control devices after closure and after their emissions have decreased to less than the emission rate cutoff. The fourth item does not apply to landfills affected by the EG since by definition these landfills were existing during plan development.

The fifth and sixth items are clearly applicable to landfills. Updated facility information or emission data will be reported. The EG and the proposed rules require that facilities above the minimum size exemption limit submit NMOC emission rate reports if not controlled or annual reports if controlled. Therefore, the requirements of the fifth item can be met. Regarding the sixth item, the EG requires that the initial performance test be submitted with the initial annual report. However, State progress reports are to include concurrent process data with performance test reports. Since landfill emissions are not generated by a manufacturing process, the concurrent process data is not applicable. Control device operating conditions during the tests will be reported.

§60.26 LEGAL AUTHORITY

The following is a discussion of the State's authority to carry out this plan. Copies of Alabama's statutes referenced are found in Appendix C.

Authority to adopt emission standards and compliance schedules applicable to designated facilities.

The Department is authorized to adopt emission requirements through regulation that are necessary to prevent, abate or control air pollution[1]. See §22-28-11, Code of

[1] Air pollution is defined in § 22-28-2(1) as follows: "The presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life or property or would interfere with the enjoyment of life or property throughout the state and in such territories of the state as shall be affected thereby." An air contaminant is defined

Alabama 1975, as amended. Section 22-28-14 specifically gives the Department the authority to adopt regulations that prescribe emissions standards. That same section generally grants the Department the authority to adopt compliance schedules to implement new or additional standards. Furthermore, §22-22A-5(10) states that the Department can issue orders citations, notices of violation, licenses, certifications or permits. Consequently, the Department may develop compliance schedules in orders or permits it is authorized to issue. Section 22-22A-5(20) states that the Department may perform any other duty that is necessary to implement and enforce the Environmental Management Act (§22-22A-1 et seq.) which incorporates the Alabama Air Pollution Control Act (§22-28-1 et seq.).

Authority to enforce applicable laws, regulations, standards, and compliance schedules, and seek injunctive relief.

Section 22-22A-5(12) states that the Department may "enforce all provisions" of the Environmental Management Act (including the Alabama Air Pollution Control Act) including the ability to file legal actions in the name of the Department for that purpose. Furthermore, § 22-22A-5(18) grants the Department the authority to issue administrative orders or initiate legal actions that assess civil penalties for the violation of any rule, regulation or standard promulgated by the Department and for the violation of any order, permit, etc. that has been issued by the Department.

Section 22-22A-5(19) states that the Department may commence a civil action in state circuit court so as to enjoin threatened or continuing violations of the Alabama Air Pollution Control Act or any rule, regulation or standard promulgated by the Department and any provision of any order, permit etc. issued by the Department.

Furthermore, § 22-28-22(a) states that any person who knowingly violates or fails or refuses to comply with the Alabama Air Pollution Control Act or any regulation adopted pursuant thereto or submits false information may be convicted for said violation and be subject to imprisonment or a monetary penalty.

---

as "any solid, liquid or gaseous matter, ~~and~~ any odor or any combination thereof, from whatever source." See § 22-28-2(2).

Authority to obtain information necessary to determine whether designated facilities are in compliance with applicable laws, regulations, standards, and compliance schedules, including authority to require recordkeeping and to make inspections and conduct tests of designated facilities.

Section 22-28-18 states that the Department may require owners and operators of air contaminant sources to maintain records and make reports to the Department as it prescribes. See also ADEM Admin. Code R. 335-3-1-.04. Section 22-28-19(b) and ADEM Admin. Code R. 335-3-1-.05 also authorize the Department to conduct tests and take samples of air contaminants, etc. from any source.[2] Section 22-28-19(a) states that the Department's inspectors are authorized to enter and inspect any property or premises on, or at, which an air contaminant source is located or being constructed, installed or established at any reasonable time for the purpose of ascertaining the state of compliance with the Alabama Air Pollution Control Act and the regulations adopted pursuant to that Act.

Authority to require owners or operators of designated facilities to install, maintain, and use emission monitoring devices and to make periodic reports to the State on the nature and amounts of emissions from such facilities; also authority for the State to make such data available to the public as reported and as correlated with applicable emissions standards.

The Department is authorized, pursuant to § 22-28-18, to require owners and operators of air contaminant sources to install, use and maintain monitoring equipment as it may prescribe. Furthermore, as stated above, § 22-28-18 gives the Department the authority to require owners and operators of air contaminant sources to maintain records and make reports to the Department as it prescribes. Again, see also ADEM Admin. Code R. 335-3-1-.04.

Section 22-28-20 states that all records, reports or information obtained pursuant to the Alabama Air Pollution Control Act must be available to the public. The only exception to this requirement is if the information in the Department's possession

---

[2] Source is defined in ADEM Admin. Code R. 335-3-1-.02(qqq) as follows: "[A]ny building, structure, facility, installation, article, machine, equipment, device, or other contrivance which emits or may emit any air contaminant. Any activity which utilizes abrasives or chemicals for cleaning or any other purpose (such as cleaning the exterior or buildings) which emits air contaminants shall be considered a source."

would divulge production or sales figures or methods, processes or productions unique to the particular entity about which the information is requested or would tend to affect adversely the competitive position of the entity by revealing trade secrets. In those instances, the information can be considered confidential by the Department. However, emission data is not subject to the exception and the exception does not apply to federal state or local representatives that request the information for the purpose of administering federal, state or local air pollution control laws.

Authority of the State to permit a local agency to carry out a plan or portion thereof, within the local agency's jurisdiction if the local agency has the legal authority necessary to implement the plan or portion thereof, and that the State is not relieved of its responsibility for carrying out the plan or portion thereof.

Section 22-28-23 specifically authorizes certain local agencies the ability to establish and administer local air pollution control programs. In doing so, those local agencies that elect to establish and administer a local air pollution control program must craft their programs so as to be consistent with, or more strict, than the air pollution control program that is administered by the Department. The afore-referenced statutory provision [specifically §22-28-23(b)(2)] also affords local programs the same enforcement power for issuing administrative orders with penalties that the Department is authorized to exercise. Finally, the statutory provision also provides that in the event the local program is, or becomes, inadequate, the Department may preempt the local enforcement authority of said program. The local air programs in the Jefferson County Department of Health and the City of Huntsville will be delegated authority to carry out the State's plan upon promulgation of equivalent Rules in their jurisdiction.

APPENDIX A
PROPOSED RULES

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Air Division

Chapter 335-3-19

Control of Municipal Solid Waste Landfill Gas Emissions

Table of Contents

335-3-19-.01 Definitions
335-3-19-.02 General Provisions
335-3-19-.03 Standards for Existing Municipal Solid Waste Landfills
335-3-19-.04 Compliance Schedules
335-3-19-.05 Petition for Alternative Standards and Compliance Schedules

335-3-19-.01 Definitions. For the purposes of this Chapter and ~~Rules~~ rules 335-3-10-.02(75) and 335-3-10-.02(76) only, the following words and phrases, unless a different meaning is plainly required by the content, shall have the following meanings.

(a) "Active collection system" means a gas collection system that uses gas mover equipment.

(b) "Active landfill" means a landfill in which solid waste is being placed or a landfill that is planned to accept waste in the future.

(c) "Closed area" means a separately lined area of an MSW landfill in which solid waste is no longer being placed. If additional solid waste is placed in that area of the landfill, that landfill area is no longer closed. The area shall be separately lined to ensure that the landfill gas does not migrate between open and closed areas.

(~~c~~d) "Closed landfill" means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under §60.7(a)(4), 40 CFR. Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed.

(e) "Closed landfill subcategory" means a closed landfill that has submitted a closure report as specified in rule 335-3-19-.03(6)(e) on or before September 27, 2017.

(~~d~~f) "Closure" means that point in time when a landfill becomes a closed landfill.

(~~e~~g) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

(~~f~~h) "Controlled landfill" means any landfill at which collection and control systems are required under this Chapter as a result of the nonmethane organic compounds emission rate. The landfill is considered controlled at the time a collection and control system design plan is submitted in compliance with ~~Rule~~ rule 335-3-19-.03(1)(~~b~~d)2.(i).

(i) "Corrective action analysis" means a description of all reasonable interim and long-term measures, if any, that are available, and an explanation of why the selected corrective action(s) is/are the best alternative(s), including, but not limited to, considerations of cost effectiveness, technical feasibility, safety, and secondary impacts.

(~~g~~j) "Design capacity" means the maximum amount of solid waste a landfill can accept, as indicated in terms of volume or mass in the most recent permit issued by the Department, plus any in-place waste not accounted for in the most recent permit. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation must include a site specific density, which must be recalculated annually.

(k) "Disposal facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal of solid waste.

(~~h~~l) "Emission rate cutoff" means the threshold annual emission rate to which a landfill compares its estimated emission rate to determine if control under the regulation is required.

(~~i~~m) "Enclosed combustor" means an enclosed firebox which maintains a relatively constant limited peak temperature generally using a limited supply of combustion air. An enclosed flare is considered an enclosed combustor.

(~~j~~n) "Flare" means an open combustor without enclosure or shroud.

(~~k~~o) "Gas mover equipment" means the equipment (i.e., fan, blower, compressor) used to transport landfill gas through the header system.

(p) "Gust" means the highest instantaneous wind speed that occurs over a 3-second running average.

(~~l~~q) "Household waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including, but not limited to, single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). Household waste does not include fully segregated yard

waste. Segregated yard waste means vegetative matter resulting exclusively from the cutting of grass, the pruning and/or removal of bushes, shrubs, and trees, the weeding of gardens, and other landscaping maintenance activities. Household waste does not include construction, renovation, or demolition wastes, even if originating from a household.~~any solid waste including garbage and trash derived from households (including, but not limited to, single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).~~

(~~m~~r) "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of the Resource Conservation and Recovery Act. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include fly ash waste, bottom ash waste, boiler slag waste, or flue gas emission control waste which result from the combustion of coal or other fossil fuels at electric or steam generating plants. Additionally, this term does not include mining waste or oil and gas wastes, or small quantity generator waste as defined in ADEM Admin. Code R. 335-14-2-.01(5). Uncontaminated concrete, soil, brick, rock, and similar materials are excluded from this definition.

(~~n~~s) "Interior Well" means any well or similar collection component located inside the perimeter of the landfill waste. A perimeter well located outside the landfilled waste is not an interior well.

(~~o~~t) "Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile as those terms are defined under ADEM Admin. Code R. 335-13-1-.03.

(~~p~~u) "Lateral expansion" means a horizontal expansion of the waste boundaries of an existing MSW landfill. A lateral expansion is not a modification unless it results in an increase in the design capacity of the landfill.

(v) "Leachate recirculation" means the practice of taking the leachate collected from the landfill and reapplying it to the landfill by any of one of a variety of methods, including pre-wetting of the waste, direct discharge into the working face, spraying, infiltration ponds, vertical injection wells, horizontal gravity distribution systems, and pressure distribution systems.

(~~q~~w) "Modification" means an increase in the permitted volume design capacity of the landfill by either ~~horizontal~~ lateral or vertical expansion based on its design capacity as of ~~May 30, 1991~~July 17, 2014. Modification does not

occur until the owner or operator commences construction on the ~~horizontal~~ lateral or vertical expansion.

(~~r~~x) "Municipal solid waste landfill" or "MSW landfill" means an entire disposal facility in a contiguous geographic space where household waste is placed in or on land. An MSW landfill may also receive other types of RCRA Subtitle D wastes (ADEM Admin. Code R. 335-13-1-.03) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned. An MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion.

(~~s~~y) "Municipal solid waste landfill emissions" or "MSW landfill emissions" means gas generated by the decomposition of organic waste deposited in an MSW landfill or derived from the evolution of organic compounds in the waste.

(~~t~~z) "NMOC" means nonmethane organic compounds, as measured according to the provisions of ~~Rule~~ rule 335-3-19-.03(3).

(~~u~~aa) "Nondegradable waste" means any waste that does not decompose through chemical breakdown or microbiological activity. Examples are, but are not limited to, concrete, municipal waste combustor ash, and metals.

(~~v~~bb) "Passive collection system" means a gas collection system that solely uses positive pressure within the landfill to move the gas rather than using gas mover equipment.

(cc) "Root cause analysis" means an assessment conducted through a process of investigation to determine the primary cause, and any other contributing causes, of positive pressure at a wellhead.

(~~w~~dd) "Sludge" means any nonhazardous solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

(~~x~~ee) "Solid waste" means any garbage or rubbish, construction/demolition debris, ash, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities or materials intended for or capable of recycling, but which have not been diverted or removed from the solid waste stream. The term "solid waste" does not include recovered material, solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to National Pollutant Discharge permits under the Federal Water Pollution Control Act 33 U.S.C. 1342, as amended, or source, special nuclear, or by-product

material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.). Also excluded from this definition are wastes from silvicultural operations, land application of crop residues, animal residues, animal manure and ash resulting exclusively from the combustion of fossil fuels or wood during normal agricultural operations or mining refuse as defined and regulated pursuant to the Alabama Mining Act.

(~~y~~ff) "Sufficient density" means any number, spacing, and combination of collection system components, including vertical wells, horizontal collectors, and surface collectors, necessary to maintain emission and migration control as determined by measures of performance set forth in this Chapter.

(~~z~~gg) "Sufficient extraction rate" means a rate sufficient to maintain a negative pressure at all wellheads in the collection system without causing air infiltration, including any wellheads connected to the system as a result of expansion or excess surface emissions, for the life of the blower.

(hh) "Treated landfill gas" means landfill gas processed in a treatment system as defined in this rule.

(ii) "Treatment system" means a system that filters, de-waters, and compresses landfill gas for sale or beneficial use.

(jj) "Untreated landfill gas" means any landfill gas that is not treated landfill gas.

Author: Ronald W. Gore
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.
History: Effective Date: January 15, 1998.
Amended: January 13, 2000~~.~~;XXXXXX, 2017.

335-3-19-.02~~22~~ General Provisions.

(1) The provisions of this Chapter apply to each existing MSW landfill for which construction, reconstruction or modification was commenced on or before ~~May 30, 1991~~July 17, 2014. Physical or operational changes made to an existing MSW landfill solely to comply with this Chapter are not considered a modification or reconstruction and would not subject an existing MSW landfill to the requirements of Subpart ~~WWW~~ XXX as incorporated by reference in ~~Rule~~ rule 335-3-10-.02(~~75~~76), [see §60.~~750~~ 760 of Subpart ~~WWW~~XXX, 40 CFR].

(2) Collection and ~~C~~control of MSW landfill emissions shall be required at each MSW landfill meeting the following three conditions:

(a) The landfill has accepted municipal solid waste at any time since November 8, 1987~~;~~, or has additional design capacity available for future waste deposition.

(b) The landfill has a design capacity greater than or equal to 2.5 million megagrams by mass and 2.5 million cubic meters by volume. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions shall be documented and submitted with the design capacity report; and

(c) The landfill has a nonmethane organic compound emission rate ~~of 50 megagrams per year or more~~greater than or equal to 34 megagrams per year or Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.

(d) The landfill in the closed landfill subcategory and has an NMOC emission rate greater than or equal to 50 megagrams per year or Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.

(3) For purposes of obtaining an operating permit under Chapter 335-3-16 of this Division, the owner or operator of a MSW landfill subject to this Chapter with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters is not subject to the requirement to obtain an operating permit for the landfill under Chapter 335-3-16, unless the landfill is otherwise subject to Chapter 335-3-16. For purposes of submitting a timely application for an operating permit, the owner or operator of a MSW landfill subject to this Chapter with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters on the effective date of EPA's approval of the state's program [December 7, 1998], and not otherwise subject to Chapter 335-3-16, becomes subject to the requirements of Chapter 335-3-16, 90 days after the effective date [March 7, 1999] of said program approval, even if the design capacity report is submitted earlier.

(4) When a MSW landfill subject to this Chapter is closed as defined in this rule, the owner or operator is no longer subject to the requirement to maintain an operating permit under Chapter 335-3-16 for the landfill if the landfill is not otherwise subject to the requirements of Chapter 335-3-16 and if either of the following conditions are met.

(a) The landfill was never subject to the requirement to install and operate a gas collection and ~~for a~~ control system under ~~Rule~~ rule 335-3-19-.03; or

(b) The owner or operator meets the condition for control system removal specified in ~~Rule~~ rule 335-3-19-.03(1)~~(b)2.(v)~~(e).

(5) When an MSW landfill subject to this rule is in the closed landfill subcategory, the owner or operator is not subject to the following reports of this rule, provided the owner or operator submitted these reports under the provisions of Subpart WWW as incorporated by reference in rule 335-3-10-.02(75); or under the provisions of this rule on or before July 17, 2014;

(a) Initial design capacity report specified in subparagraph 335-3-19-.03(6)(a) of this rule.

(b) Initial or subsequent NMOC emission rate report specified in subparagraph 335-3-19-.03(6)(b) of this rule, provided that the most recent NMOC emission rate report indicated the NMOC emissions were below 50 Mg/yr.

(c) Collection and control system design plan specified in subparagraph 335-3-19-.03(6)(c) of this rule.

(d) Closure report specified in subparagraph 335-3-19-.03(6)(e) of this rule.

(e) Equipment removal report specified in subparagraph 335-3-19-.03(6)(f) of this rule.

(f) Initial annual report specified in subparagraph 335-3-19-.03(6)(g) of this rule.

(g) initial performance test report in subparagraph 335-3-19-.03(6)(h) of this rule.

Author: Ronald W. Gore
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.
History: Effective Date: January 15, 1998.
Amended: January 13, 2000~~.~~; XXXXXX, 2017.

335-3-19-.03~~33~~ Standards for Existing Municipal Solid Waste Landfills.

(1) Standards for Air Emissions from Existing Municipal Solid Waste Landfills.

(a) *Collection system.* Each MSW landfill meeting the conditions in 335-3-19-.02(2) shall install a gas collection as specified in subparagraphs (a)1. through (a)3. of this paragraph.

1. Install and start up a collection and control system that captures the gas generated within the landfill within 30 months after:

(i) The first annual report in which the NMOC emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 34 megagrams per year, as specified in subparagraph (6)(c)4. of this rule; or

(ii) The first annual NMOC emission rate report for a landfill in the closed landfill subcategory in which the NMOC emission rate equals or exceeds 50 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 50 megagrams per year, as specified in subparagraph (6)(c)4. of this rule; or

(iii) The most recent NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year based on Tier 2, if the Tier 4 surface emissions monitoring shows a surface methane emission concentration of 500 parts per million methane or greater as specified in subparagraph (6)(c)4.(iii) of this rule.

2. *Active.* An active collection system shall:

(i) Be designed to handle the maximum expected gas flow rate from the entire area of the landfill that warrants control over the intended use period of the gas control system equipment.

(ii) Collect gas from each area, cell, or group of cells in the landfill in which the initial solid waste has been placed for a period of 5 years or more if active; or 2 years or more if closed or at final grade.

(iii) Collect gas at a sufficient extraction rate.

(iv) Be designed to minimize off-site migration of subsurface gas.

3. *Passive.* A passive collection system shall:

(i) Comply with the provisions specified in subparagraphs (1)(a)2.(i), (ii), and (iv) of this paragraph.

(ii) Be installed with liners on the bottom and all sides in all areas in which gas is to be collected. The liners shall be installed as required under 40 CFR §258.40.

(b) *Control system.* Each MSW landfill meeting the conditions in rule 335-3-19-.02(2) shall control gas collected from within the landfill through the use of control devices meeting the following requirements, except as provided in 40 CFR §60.24.

1. A non-enclosed flare designed and operated in accordance with the parameters established in 40 CFR §60.18 except as noted in subparagraph (5)(d) of this rule; or

2. A control system designed and operated to reduce NMOC by 98 weight percent; or when an enclosed combustion device is used for control, to either reduce NMOC by 98 weight percent or reduce the outlet NMOC concentration to less than 20 parts per million by volume, dry basis as hexane at 3 percent oxygen or less. The reduction efficiency or concentration in parts per million by volume shall be established by an initial performance test to be completed no

later than 180 days after the initial startup of the approved control system using the test methods specified in subparagraph (3)(d) of this rule. The performance test is not required for boilers and process heaters with design heat input capacities equal to or greater than 44 megawatts that burn landfill gas for compliance with this Chapter.

(i) If a boiler or process heater is used as the control device, the landfill gas stream shall be introduced into the flame zone.

(ii) The control device shall be operated within the parameter ranges established during the initial or most recent performance test. The operating parameters to be monitored are specified in paragraph (5) of this rule.

(iii) For the closed landfill subcategory, the initial or most recent performance test conducted to comply with 40 CFR 60 Subpart WWW of this; or any other requirement of this Chapter on or before July 17, 2014 is sufficient for compliance with this Chapter.

3. Route the collected gas to a treatment system that processes the collected gas for subsequent sale or beneficial use such as fuel for combustion, production of vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process. Venting of treated landfill gas to the ambient air is not allowed. If the treated landfill gas cannot be routed for subsequent sale or beneficial use, then the treated landfill gas shall be controlled according to either subparagraph (b)1. or 2. of this paragraph.

4. All emissions from any atmospheric vent from the gas treatment system are subject to the requirements of subparagraph (a) or (b) of this paragraph. For purposes of this Chapter, atmospheric vents located on the condensate storage tank are not part of the treatment system and are exempt from the requirements of subparagraph (a) or (b) of this paragraph.

(~~a~~c) *Design capacity.* Each owner or operator of an MSW landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume shall submit an initial design capacity report to the Director as provided in subparagraph (6)(a) of this ~~Rule~~rule. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions shall be documented and submitted with the report. Submittal of the initial design capacity report shall fulfill the requirements of this ~~Rule~~ rule except as provided for in subparagraphs (a)1. and (a)2. below.

1. The owner or operator shall submit to the Director an amended design capacity report, as provided for in subparagraph (6)(a)3. [Guidance: Note that if the design capacity increase is the result of a modification, as defined in ~~Rule~~ rule 335-3-19-.01, that was commenced ~~construction on or~~ after ~~May 30, 1991~~July 17, 2014, the landfill will become subject to Rule 335-3-10-.02(~~75~~76), 40 CFR 60, Subpart ~~WWW~~XXX. If the design capacity increase is the

result of a change in operating practices, density, or some other change that is not a modification as the defined in rule 335-3-19-.01, the landfill remains subject to this Chapter.]

2. When an increase in the maximum design capacity of a landfill with an initial design capacity less than 2.5 million megagrams or 2.5 million cubic meters results in a revised maximum design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the owner or operator shall comply with the provision of subparagraph (~~b~~d) below.

(~~b~~d) Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, shall either install a collection and control system as provided in subparagraphs (a) and (b) of this paragraph comply with subparagraph (~~b~~d)2. of this paragraph or calculate an NMOC emission rate for the landfill using the procedures specified in paragraph (3) of this ~~Rule~~rule. The NMOC emission rate shall be recalculated annually, except as provided in subparagraph(6)(b)~~1.(ii)~~3. of this ~~Rule~~rule. The owner or operator of an MSW landfill subject to this Chapter with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters is subject to major source operating permitting requirements in Chapter 335-3-16.

1. If the calculated NMOC emission rate is less than ~~50~~ 34 megagrams per year, the owner or operator shall:

(i) submit an annual NMOC emission report to the Director, except as provided for in subparagraph(6)(b)~~1.(ii)~~3. of this ~~Rule~~rule; and

(ii) recalculate the NMOC emission rate annually using the procedures specified in subparagraph (3)(a) of this ~~Rule~~ rule until such time as the calculated NMOC emission rate is equal to or greater than ~~50~~ 34 megagrams per year, or the landfill is closed.

(I) If the NMOC emission rate, upon initial calculation or annual recalculation required in subparagraph (~~b~~d)1.(ii) above, is equal to or greater than ~~50~~ 34 megagrams per year, the owner or operator shall install a collection and control system in compliance with subparagraph (b)2. below~~.~~; calculate NMOC emission using the next higher tier in subparagraph (3) of this rule; or conduct a surface emission monitoring demonstration using the procedures specified in subparagraph (3)(a)6. of this rule.

(II) If the landfill is permanently closed, a closure ~~notification~~ report shall be submitted to the Director as provided for in subparagraph (6)(~~d~~e) of this ~~Rule~~rule, except for exemption allowed under 335-3-19-.02(5)(d).

(III) For the closed landfill subcategory, if the most recently calculated NMOC emission rate is equal to or greater than 50 megagrams per year, the owner or operator shall either: Submit a gas collection and control system design plan as specified in subparagraph (6)(c) of this rule, except for exemptions allowed under rule 335-3-19-.02(5)(c), and install a collection and

control system as provided in subparagraphs (a) and (b) of this paragraph; calculate NMOC emissions using the next higher tier in paragraph (3) of this rule; or conduct a surface emission monitoring demonstration using the procedures specified in subparagraph (3)(a)6. of this rule.

2. If the calculated NMOC emission rate is equal to or greater than ~~50~~ 34 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator shall either:

(i) ~~Submit~~ submit a collection and control system design plan prepared by a professional engineer to the Director within 1 year as specified in subparagraph (6)(c) of this rule, except for exemptions allowed under rule 335-3-19-.02(5)(c);

(ii) calculate NMOC emissions using a higher tier in paragraph (3) of this rule; or

(iii) conduct a surface emission monitoring demonstration using the procedures specified in subparagraph (3)(a)6. of this rule.

~~(I) The collection and control system as described in the plan shall meet the design requirements of subparagraph (b)2.(ii) of this paragraph, below.~~

~~(II) The collection and control system design plan shall include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping or reporting provisions of paragraphs (2) through (7) of this Rule proposed by the owner or operator.~~

~~(III) The collection and control system design plan shall either conform with specifications for active collection systems in paragraph (8) of this Rule or include a demonstration to the Director's satisfaction of the sufficiency of the alternative provisions to paragraph (8) of this Rule.~~

~~(IV) The Director shall review the information submitted under subparagraphs (b)2.(i)(I), (II) and (III) of this paragraph and either approve it, disapprove it, or request that additional information be submitted. Because of the many site-specific factors involved with landfill gas system design, alternative systems may be necessary. A wide variety of system designs are possible, such as vertical wells, combination horizontal and vertical collection systems, or horizontal trenches only, leachate collection components, and passive systems.~~

~~(ii) Install a collection and control system that captures the gas generated within the landfill as required by Rule 335-3-19-.03(1)(b)2.(ii)(I) or (II) and (b)2.(iii) of this Chapter within 30 months after the first annual report in which the emission rate equals or exceeds 50 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the emission rate is less than 50 megagrams per year, as specified in subparagraph (6)(c)1. or 2. of this Rule.~~

~~(I) An active collection system shall:~~

~~I. Be designed to handle the maximum expected gas flow rate from the entire area of the landfill that warrants control over the intended use period of the gas control or treatment system equipment;~~

~~II. Collect gas from each area, cell, or group of cells in the landfill in which the initial solid waste has been placed for a period of:~~

~~A. 5 years or more if active; or~~

~~B. 2 years or more if closed or at final grade;~~

~~III. Collect gas at a sufficient extraction rate;~~

~~IV. Be designed to minimize off-site migration of subsurface gas.~~

~~(II) A passive collection system shall:~~

~~I. Comply with the provisions specified in subparagraphs (I)I., (I)II., and (I)IV. of subparagraph (b)2.(ii) of this paragraph.~~

~~II. Be installed with liners on the bottom and all sides in all areas in which gas is to be collected. The liners shall be installed as required under ADEM Admin. Code Chapter 335-13-4.~~

~~(iii) Route all the collected gas to a control system that complies with the requirements in either subparagraph (b)2.(iii)(I), (II) or (III) below.~~

~~(I) An open flare designed and operated in accordance with §60.18, 40 CFR;~~

~~(II) A control system designed and operated to reduce NMOC by 98 weight percent, or, when an enclosed combustion device is used for control, to either reduce NMOC by 98 weight percent or reduce the outlet NMOC concentration to less than 20 parts per million by volume, dry basis as hexane at 3 percent oxygen. The reduction efficiency or parts per million by volume shall be established by an initial performance test to be completed no later than 180 days after initial startup of the approved control system, using the test methods specified in subparagraph(3)(d) of this Rule.~~

~~I. If a boiler or process heater is used as the control device, the landfill gas stream shall be introduced into the flame zone.~~

~~II. The control device shall be operated within the parameter ranges established during the initial or most recent performance test. The operating parameters to be monitored are specified in paragraph (5) of this Rule;~~

~~(III) Route the collected gas to a treatment system that processes the collected gas for subsequent sale or use. All emissions from any atmospheric vent from the gas treatment system shall be subject to the requirements of subparagraph (b)2.(iii)(I) or (II) of this paragraph.~~

~~(iv) Operate the collection and control device installed to comply with this Chapter in accordance with the provisions of paragraphs (2), (4) and (5) of this Rule.~~

3. For the closed landfill subcategory, if the calculated NMOC emission rate is equal to or greater than 50 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator shall either:

(i) Submit a collection and control system design plan as specified in subparagraph (6)(c) of this rule, except for exemptions allowed under rule 335-3-19-.02(5)(c);

(ii) calculate NMOC emissions using a higher tier in paragraph (3) of this rule; or

(iii) conduct a surface emission monitoring demonstration using the procedures specified in subparagraph (3)(a)6. of this rule.

~~(v)~~(e) *Removal criteria.* The collection and control system may be capped, ~~or~~ removed, or decommissioned provided that ~~all the conditions of subparagraphs (b)2.(v)(I), (II), and (III) of this paragraph below are met:~~the following criteria are met:

~~(I)~~1. The landfill ~~shall be~~is a closed landfill as defined in ~~Rule~~ rule 335-3-19-.01(~~e~~d). A closure report shall be submitted to the Director as provided in subparagraph (6)(~~d~~e) of this ~~Rule~~rule;

~~(II)~~2. The collection and control system shall have been in operation a minimum of 15 years~~; and~~ or the landfill owner or operator demonstrates that the GCCS will be unable to operate for 15 years due to declining gas flow.

~~(III)~~3. Following the procedures specified in subparagraph (3)(b) of this ~~Rule~~rule, the calculated NMOC gas produced by the landfill shall be less than ~~50~~ 34 megagrams per year on three successive test dates. The test dates shall be no less than 90 days apart, and no more than 180 days apart.

4. For the closed landfill subcategory (as defined in rule 335-3-19-.01(e)), following the procedures specified in subparagraph (3)(b) of this rule, the calculated NMOC emission rate at the landfill is less than 50 megagrams per year on three successive test dates. The test dates shall be no less than 90 days apart, and no more than 180 days apart.

(2) Operational Standards for Collection and Control Systems.

Each owner or operator of an MSW landfill with a gas collection and control system used to comply with the provisions of subparagraph ~~(1)(b)2.(ii)~~(1)(a) and (b) of this ~~Rule~~ rule shall:

(a) Operate the collection system such that gas is collected from each area, cell, or group of cells in the MSW landfill in which solid waste has been in place for:

1. 5 years or more if active; or

2. 2 years or more if closed or at final grade;

(b) Operate the collection system with negative pressure at each wellhead except under the following conditions:

1. a fire or increased well temperature. The owner or operator shall record instances when positive pressure occurs in efforts to avoid a fire. These records shall be submitted with the annual reports as provided in subparagraph (6)(~~f~~g)~~1.~~ of this ~~Rule~~rule;

2. use of a geomembrane or synthetic cover. The owner or operator shall develop acceptable pressure limits in the design plan;

3. a decommissioned well. A well may experience a static positive pressure after shut down to accommodate for declining flows. All design changes shall be approved by the Director as specified in subparagraph 335-3-19-.03(6)(c) of this rule;

(c) Operate each interior wellhead in the collection system with a landfill gas temperature less than 55°C (131°F). ~~and with either a nitrogen level less than 20 percent or an oxygen level less than 5 percent.~~ The owner or operator may establish a higher operating temperature~~, nitrogen, or oxygen~~ value at a particular well. A higher operating value demonstration shall be submitted to the Director for approval and shall include ~~show supporting data that the elevated parameter does not cause fires or significantly inhibit anaerobic decomposition by killing methanogens.~~supporting data demonstrating that the elevated parameter neither causes fires nor significantly inhibits anaerobic decomposition by killing methanogens. The demonstration shall satisfy both criteria in order to be approved (i.e., neither causing fires nor killing methanogens is acceptable).

~~1. the nitrogen level shall be determined using Method 3C (40 CFR 60), unless an alternative test method is established as allowed by subparagraph (1)(b)2.(i) of this Rule.~~

~~2. unless an alternative test method is established as allowed by subparagraph (1)(b)2.(i) of this Rule, the oxygen shall be determined by an oxygen meter using Method 3A (40 CFR 60) except that:~~

~~(i) the span shall be set so that the regulatory limit is between 20 and 50 percent of the span;~~

~~(ii) a data recorder is not required;~~

~~(iii) only two calibration gases are required, a zero and span, and ambient air may be used as the span;~~

~~(iv) a calibration error check is not required;~~

~~(v) the allowable sample bias, zero drift, and calibration drift are ± 10 percent.~~

(d) Operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner or operator shall conduct surface using an organic vapor analyzer, flame inoniazation deterctor, or other portable monitor meeting the specifications provided in subparagraph (4)(d) of this rule. The owner or operator shall conduct surface testing around the perimeter of the collection area and along a pattern that traverses the landfill at no more than 30 meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations. ~~The~~ Thus the owner or operator shall monitor any openings that are within an area of the landfill where waste has been placed and a gas collection system is required. The owner or operator ~~may~~ shall establish an alternative traversing pattern that ensures equivalent coverage. A surface monitoring design plan shall be developed that includes a topographical map with the monitoring route and the rationale for any site-specific deviations from the 30 meter intervals. Areas with steep slopes or other dangerous areas may be excluded from the surface testing.

(e) Operate the system such that all collected gases are vented to a control system designed and operated in compliance with subparagraph (1)(b)~~2.(iii)~~ of this ~~Rule~~rule. In the event the collection or control system is inoperable, the gas mover system shall be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere shall be closed within 1 hour of the collection or control system not operating. ~~; and~~

(f) Operate the control ~~or treatment~~ system at all times when the collected gas is routed to the system.

(g) If monitoring demonstrates that the operational requirements in subparagraphs (b), (c), or (d) of this paragraph are not met, corrective action shall be taken as specified in subparagraphs (4)(a)3. ~~through~~ and 5. or subparagraph (4)(c) of this ~~Rule~~rule. If corrective actions are taken as specified in paragraph (4) of this ~~Rule~~rule, the monitored exceedance is not a violation of the operational requirements in this paragraph.

(3) Test Methods and Procedures.

(a) *NMOC Emission Rate.* The landfill owner or operator shall calculate the NMOC emission rate using either the equation provided in subparagraph (a)1. of this paragraph or the equation provided in subparagraph (a)1.(ii) of this paragraph. Both equations may be used if the actual year-to-year solid waste acceptance rate is known, as specified in subparagraph (a)1. of this paragraph, for part of the life of the landfill and the actual year-to-year solid waste acceptance rate is unknown, as specified in subparagraph (a)1.(ii) of this paragraph, for part of the life of the landfill. The values to be used in both equations are 0.05 per year for k, 170 cubic meters per megagram for L_o, and 4,000 parts per million by volume as hexane for the C_{NMOC}. For landfills located in geographical areas with a 30-year annual average precipitation of less than 25 inches, as measured at the nearest representative official meteorological site, the k value to be used is 0.02 per year.

1. The following equation shall be used if the actual year-to-year solid waste acceptance rate is known.

$$M_{NMOC} = \sum_{i=1}^{n} 2kL_o M_i \left(e^{-kt_i}\right)\left(C_{NMOC}\right)\left(3.6 \times 10^{-9}\right)$$

where,

M_{NMOC} = Total NMOC emission rate from the landfill, megagrams per year

k = methane generation rate constant, year^{-1}

L_o = methane generation potential, cubic meters per megagram solid waste

M_i = mass of solid waste in the ith section, megagrams

t_i = age of the ith section, years

C_{NMOC} = concentration of NMOC, parts per million by volume as hexane

3.6×10^{-9} = conversion factor

(i) The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value for M_i if the documentation of the nature and amount of such wastes is maintained.

(ii) The following equation shall be used if the actual year-to-year solid waste acceptance rate is unknown.

$$M_{NMOC} = 2L_o R\left(e^{-kc} - e^{-kt}\right)\left(C_{NMOC}\right)\left(3.6 \times 10^{-9}\right)$$

where,

M_{NMOC} = mass emission rate of NMOC, megagrams per year

L_o = methane generation potential, cubic meters per megagram solid waste

R = average annual acceptance rate, megagrams per year

k = methane generation rate constant, $year^{-1}$

t = age of landfill, years

C_{NMOC} = concentration of NMOC, parts per million by volume as hexane

c = time since closure, years. For active landfill c = 0 and $e^{-kc} = 1$

3.6×10^{-9} = conversion factor

(iii) The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating a value for R, if the documentation of the nature and amount of such wastes is maintained.

2. Tier 1. The owner or operator shall compare the calculated NMOC mass emission rate to the standard of ~~50~~ 34 megagrams per year.

(i) If the NMOC emission rate calculated in subparagraph (a) of this paragraph is less than ~~50~~ 34 megagrams per year, then the landfill owner or operator shall submit an NMOC emission rate report as provided in subparagraph (6)(b)1. of this ~~Rule~~rule, and shall recalculate the NMOC mass emission rate annually as required under subparagraph (1)(~~b~~d)1. of this ~~Rule~~rule.

(ii) If the calculated NMOC emission rate is equal to or greater than ~~50~~ 34 megagrams per year, then the landfill owner or operator shall either: ~~comply with subparagraph (1)(b)2. of this Rule, or determine a site-specific NMOC concentration and recalculate the NMOC emission rate using the procedures provided in subparagraph (a)3. of this paragraph.~~

(I) Submit a gas collection and control system design plan within 1 year as specified in subparagraph (6)(c) of this rule, and install and operate a gas collection and control system within 30 months according to subparagraphs (1)(a) and (b) of this rule;

(II) Determine a site-specific NMOC concentration and recalculate the NMOC emission rate using the Tier 2 procedures provided in subparagraph (3)(a)3. of this paragraph; or

(III) Determine a site-specific methane generation rate constant and recalculate the NMOC emission rate using the Tier 3 procedures provided in subparagraph (3)(a)4. of this paragraph.

3. Tier 2. The landfill owner or operator shall determine the site-specific NMOC concentration using the following sampling procedure. The landfill owner or operator shall install at least two sample probes per hectare, evenly distributed over the ~~of~~ landfill surface that has retained waste for at least 2 years. If the landfill is larger than 25 hectares in area, only 50 samples are required. The ~~sample~~ probes should be evenly distributed across the sample area. The sample probes should be located to avoid known areas of nondegradable solid waste. The owner or operator shall collect and analyze one sample of landfill gas from each probe to determine the NMOC concentration using Method 25 or 25C of Appendix A ~~or Method 18 of Appendix A~~ of (40 CFR Part 60). ~~If using Method 18 of Appendix A, the minimum list of compounds to be tested shall be those published in the most recent Compilation of Air Pollutant Emission Factors (AP-42).~~ Taking composite samples from different probes into a single cylinder is allowed; however, equal sample volumes shall be taken from each probe. For each composite, the sampling rate, collection times, beginning and ending cylinder vacuums, or alternative volume measurements shall be recorded to verify that composite volumes are equal. Composite sample volumes should not be less than one liter unless evidence can be provided to substantiate the accuracy of smaller volumes. Terminate compositing before the cylinder approaches ambient pressure where measurement accuracy diminishes. If more than the required number of samples is taken, all samples shall be used in the analysis.~~If composite sampling is used, equal volumes shall be taken from each sample probe. If more than the required number of samples are taken, all samples shall be used in the analysis.~~ The landfill owner or operator shall divide the NMOC concentration from Method 25 or 25C by six to convert from C_{NMOC} as carbon to C_{NMOC} as hexane. If the landfill has an active or passive gas removal system in place, Method 25 or 25C samples may be collected from these systems instead of surface probes provided the removal system can be shown to provide sampling as representative as the two sampling probe per hectare requirement. For active collection systems, samples may be collected from the common header pipe. The sample location on the common header pipe shall be before any gas moving, condensate removal, or treatment system equipment. For active collection systems, a minimum of three samples shall be collected from the header pipe.

[**NOTE:** Test Methods found in Appendix A of 40 CFR part 60 are incorporated by reference in ADEM Admin. Code ~~R~~r. 335-3-10-.03.]

(i) Within 60 days after the date of determining the NMOC concentration and corresponding NMOC emission rate, the owner or operator shall submit the results according to subparagraph (6)(i)2. of this rule.

(ii) The landfill owner or operator shall recalculate the NMOC mass emission rate using the equations provided in subparagraph (3)(a)1. or (a)1.(ii) of this paragraph and using the average site-specific NMOC concentration from

the collected samples instead of the default value in the equation provided in subparagraph (a) of this paragraph.

~~(ii) If the resulting mass emission rate calculated using the site-specific NMOC concentration is equal to or greater than 50 megagrams per year, then the landfill owner or operator shall either comply with subparagraph (1)(b)2., or determine the site-specific methane generation rate constant and recalculate the NMOC emission rate using the site-specific methane generation rate using the procedure specified in subparagraph (a)4. of this paragraph below.~~

(iii) If the resulting NMOC mass emission rate is less than ~~50~~ 34 megagrams per year, the owner or operator shall submit a periodic estimate of the NMOC emissions in an NMOC emission rate report as provided in subparagraph (6)(b)1. of this ~~Rule~~ rule and shall recalculate the NMOC mass emission rate annulally as required under subparagraphs (1)(a) and (b) of this rule. The site-specific NMOC concentration shall be retested ~~retest the site-specific NMOC concentration~~ every 5 years using the methods specified in this paragraph.

(iv) If the NMOC mass emission rate as calculated using the Tier 2 site-specific NMOC concentration is equal to or greater than 34 megagrams per year, the owner or operator shall either:

(I) Submit a gas collection and control system design plan within 1 year as specified in subparagraph (6)(c) of this rule, and install and operate a gas collection and control system within 30 months according to subparagraphs (1)(a) and (b) of this rule;

(II) Determine a site-specific methane generation rate constant and recalculate the NMOC emission rate using the site-specific methane generation rate using the Tier 3 procedures specified in subparagraph ~~(a)(4)~~(3)(a)4. of this ~~section~~paragraph; or

(III) Conduct a surface emission monitoring demonstration using the Tier 4 procedures specified in subparagraph (a)6 of this paragraph.

4. Tier 3. The site-specific methane generation rate constant shall be determined using the procedures provided in Method 2E of Appendix A. The landfill owner or operator shall estimate the NMOC mass emission rate using equations in subparagraph (a)1. or (a)1.(ii) of this paragraph and using a site-specific methane generation rate constant k, and the site-specific NMOC concentration as determined in subparagraph (a)3. of this paragraph instead of the default values provided in subparagraph (a) of this paragraph. The landfill owner or operator shall compare the resulting NMOC mass emission rate to the standard of ~~50~~ 34 megagrams per year.

(i) If the NMOC mass emission rate as calculated using the Tier site-specific methane generation rate and concentration of NMOC is equal to or greater than 50 megagrams per year, the owner or operator shall comply with subparagraph (1)(b)2. of this Rule.

(I) Submit a gas collection and control system design plan within 1 year as specified in subparagraph (6)(c) of this rule, and install and operate a gas collection and control system within 30 months according to subparagraphs (1)(a) and (b) of this rule; or

(II) Conduct a surface emission monitoring demonstration using the Tier 4 procedures specified in subparagraph (3)(a)6.of this paragraph.

(ii) If the NMOC mass emission rate is less than 34 megagrams per year, then the owner or operator shall recalculate the NMOC mass emission rate annually using either equation in subparagraph (a)1. of this paragraph and using the site-specific Tier 2 NMOC concentration and Tier 3 methane generation rate constant and submit a periodic NMOC emission rate report as provided in subparagraph (6)(b) of this rule.~~If the NMOC mass emission rate is less than 50 megagrams per year, then the owner or operator shall submit a periodic emission rate report as provided in subparagraph (6)(b)1. of this Rule and shall recalculate the NMOC mass emission rate annually, as provided in subparagraph (6)(b)1. of this Rule using the equations in subparagraph (a) of this paragraph and using the site-specific methane generation rate constant and NMOC concentration obtained in subparagraph (a)3. of this paragraph.~~ The calculation of the methane generation rate constant is performed only once, and the value obtained from this test shall be used in all subsequent annual NMOC emission rate calculations.

5. *Other methods.* The owner or operator may use other methods to determine the NMOC concentration or a site-specific k as an alternative to the methods required in subparagraphs (a)3. and (a)4. of this paragraph if the method has been approved by the Administrator.

6. *Tier 4.* The landfill owner or operator shall demonstrate that surface methane emissions are below 500 parts per million. Surface emission monitoring shall be conducted on a quarterly basis using the following procedures. Tier 4 is allowed only if the landfill owner or operator can demonstrate that NMOC emissions are greater than or equal to 34 Mg/yr but less than 50 Mg/yr using Tier 1 or Tier 2. If both Tier 1 and Tier 2 indicate NMOC emissions are 50 Mg/yr or greater, then Tier 4 cannot be used. In addition, the landfill shall meet the criteria in subparagraph (a)6.(viii) of this paragraph.

(i) The owner or operator shall measure surface concentrations of methane along the entire perimeter of the landfill and along a pattern that traverses the landfill at no more than 30-meter intervals using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in subparagraph (4)(d) of this rule.

(ii) The background concentration shall be determined by moving the probe inlet upwind and downwind at least 30 meters from the waste mass boundary of the landfill.

(iii) Surface emission monitoring shall be performed in accordance with section 8.3.1 of Method 21 of appendix A of 40 CFR Part 60, except that the probe inlet shall be placed no more than 5 centimeters above the landfill surface; the constant measurement of distance above the surface should be based on a mechanical device such as with a wheel on a pole.

(I) The owner or operator shall use a wind barrier, similar to a funnel, when onsite average wind speed exceeds 4 miles per hour or 2 meters per second or gust exceeding 10 miles per hour. Average on-site wind speed shall also be determined in an open area at 5-minute intervals using an on-site anemometer with a continuous recorder and data logger for the entire duration of the monitoring event. The wind barrier shall surround the SEM monitor, and shall be placed on the ground, to ensure wind turbulence is blocked. SEM cannot be conducted if average wind speed exceeds 25 miles per hour.

(II) Landfill surface areas where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover, and all cover penetrations shall also be monitored using a device meeting the specifications provided in subparagraph (4)(d) of this rule.

(iv) Each owner or operator seeking to comply with the Tier 4 provisions in subparagraph (a)6. of this paragraph shall maintain records of surface emission monitoring as provided in subparagraph(7)(g) of this rule, and submit a Tier 4 surface emissions report as provided in subparagraph (6)(c)4.(iii) of this rule.

(v) If there is any measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator shall submit a gas collection and control system design plan within 1 year of the first measured concentration of methane of 500 parts per million or greater from the surface of the landfill according to subparagraph (6)(c) of this rule, and install and operate a gas collection and control system according to subparagraphs (1)(a) and (b) of this rule, within 30 months of the most recent NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year based on Tier 2.

(vi) If after four consecutive quarterly monitoring periods at a landfill, other than a closed landfill, there is no measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator shall continue quarterly surface emission monitoring using the methods specified in this paragraph.

(vii) If after four consecutive quarterly monitoring periods at a closed landfill there is no measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator shall conduct annual surface emission monitoring using the methods specified in this paragraph.

(viii) If a landfill has installed and operates a collection and control system that is not required by this Chapter, then the collection and control system shall meet the following criteria:

(I) The gas collection and control system shall have operated for at least 6,570 out of 8,760 hours preceding the Tier 4 surface emissions monitoring demonstration.

(II) During the Tier 4 surface emissions monitoring demonstration, the gas collection and control system shall operate as it normally would to collect and control as much landfill gas as possible.

(b) After the installation and startup of a collection and control system in compliance with paragraph (4) of this ~~Rule~~rule, the owner or operator shall calculate the NMOC emission rate for purposes of determining when the system can be capped, removed, or decommissioned as provided in subparagraph ~~(1)(b)2.(v)~~(1)(e) of this ~~Rule~~rule, using the following equation:

$$M_{NMOC} = 1.89 \times 10^{-3}(Q_{LFG})(C_{NMOC})$$

where,

M_{NMOC} = mass emission rate of NMOC, megagrams per year

Q_{LFG} = flow rate of landfill gas, cubic meters per minute

C_{NMOC} = NMOC concentration, parts per million by volume as hexane

1. The flow rate of landfill gas, Q_{LFG}, shall be determined by measuring the total landfill gas flow rate at the common header pipe that leads to the control device using a gas flow measuring device calibrated according to the provisions of Section ~~4~~10 of Method 2E of Appendix A.

2. The average NMOC concentration, C_{NMOC}, shall be determined by collecting and analyzing landfill gas sampled from the common header pipe before the gas moving or condensate removal equipment using the procedures in Method 25 or 25C or Method 18 of Appendix A. If using Method 18, the minimum list of compounds to be tested shall be those published in the most recent Compilation of Air Pollutant Emission Factors (AP-42). The sample location on the common header pipe shall be before any condensate removal or other gas refining units. The landfill owner or operator shall divide the NMOC concentration from Method 25 or 25C by six to convert from C_{NMOC} as carbon to C_{NMOC} as hexane.

3. The owner or operator may use another method to determine landfill gas flow rate and NMOC concentration if the method has been approved by the Director.

(i) Within 60 days after the date of calculating the NMOC emission rate for purposes of determining when the system can be capped or removed, the owner or operator shall submit the results according to subparagraph (6)(i)2. of this rule.

(ii) [Reserved]

(c) When calculating emissions for PSD purposes, the owner or operator of each MSW landfill subject to the provisions of this Chapter shall estimate the NMOC emission rate for comparison to the PSD major source and significance levels in ~~Rule~~ rule 335-3-14-.04(2)(w) using AP-42 or other approved measurement procedures.

(d) For the performance test required in subparagraph (1)(b)1. of this rule, the net heating value of the combusted landfill gas as determined in 40 CFR §60.18(f)(3) is calculated from the concentration of methane in the landfill gas as measured by Method 3C. A minimum of three 30-minute Method 3C samples are determined. The measurement of other organic components, hydrogen, and carbon monoxide is not applicable. Method 3C may be used to determine the landfill gas molecular weight for calculating the flare gas exit velocity under 40 CFR §60.18(f)(4).

1. Within 60 days after the date of completing each performance test (as defined in 40 CFR §60.8), the owner or operator shall submit the results of the performance tests required by paragraph (b) or (d) of this section, including any associated fuel analyses, according to subparagraph (6)(i)1. of this rule.

2. [Reserved].

(~~d~~e) For the performance test required in subparagraph ~~(1)(b)2.(iii)(II)~~(i)(b)2., Method 25 or 25C or Method 18 (Method 25C may be used at the inlet only) shall be used to determine compliance with 98 weight-percent efficiency or the 20 ppmv outlet NMOC concentration level, unless another method to demonstrate compliance has been approved by the Director as provided by subparagraph ~~(1)(b)2.(iii)(II)~~(6)(c)2. of this rule. If using Method 18, the minimum list of compounds to be tested shall be those published in the most recent Compilation of Air Pollutant Emission Factors (AP-42). Method 3, 3A, or 3C shall be used to determine oxygen for correcting the NMOC concentration as hexane to 3 percent. In cases where the outlet concentration is less than 50 ppm NMOC as carbon (8 ppm NMOC as hexane), Method 25A should be used in place of Method 25. Method 18 may be used in conjunction with Method 25A on a limited basis (compound specific, *e.g.*, methane) or Method 3C may be used to determine methane. The methane as carbon should be subtracted from the Method 25A total hydrocarbon value as carbon to give NMOC concentration as carbon. The landfill owner or operator shall divide the NMOC concentration as carbon by 6 to convert the C_{NMOC} as carbon to C_{NMOC} as hexane. -The following equation shall be used to calculate efficiency:

$$\text{Control Efficiency} = \left(NMOC_{in} - NMOC_{out}\right) / NMOC_{in}$$

where,

$NMOC_{in}$ = mass of NMOC entering control device

$NMOC_{out}$ = mass of NMOC exiting control device

1. Within 60 days after the date of completing each performance test (as defined in 40 CFR §60.8), the owner or operator shall submit the results of the performance tests, including any associated fuel analyses, according to subparagraph (6)(i)1. of this rule.

2. [Reserved].

(4) Compliance Provisions.

(a) Except as provided in subparagraph ~~(1)(b)2.(i)(II)~~(6)(c)2. of this ~~Rule~~rule, the specified methods in subparagraphs (a)1. through (a)6. of this paragraph shall be used to determine whether the gas collection system is in compliance with subparagraph (1)(b)2.(ii) of this ~~Rule~~rule.

1. For the purposes of calculating the maximum expected gas generation flow rate from the landfill to determine compliance with subparagraph ~~(1)(b)2.(ii)(I)I.~~(1)(a)2.(i) of this ~~Rule~~rule, one of the following equations shall be used. The k and L_o kinetic factors should be those published in the most recent Compilation of Air Pollutant Emission Factors (AP-42) or other site specific values demonstrated to be appropriate and approved by the Director. If k has been determined as specified in subparagraph (3)(a)4. of this ~~Rule~~rule, the value of k determined from the test shall be used. A value of no more than 15 years shall be used for the intended use period of the gas mover equipment. The active life of the landfill is the age of the landfill plus the estimated number of years until closure.

(i) For sites with unknown year-to-year solid waste acceptance rate:

$$Q_m = 2L_o R\left(e^{-kc} - e^{-kt}\right)$$

where,

Q_m = maximum expected gas generation flow rate, cubic meters per year

L_o = methane generation potential, cubic meters per megagram solid waste

R = average annual acceptance rate, megagrams per year

k = methane generation rate constant, $year^{-1}$

t = age of the landfill at equipment installation plus the time the owner or operator intends to use the gas mover equipment or active life of the landfill, whichever is less. If the equipment is installed after closure, t is the age of the landfill at installation, years

c = time since closure, years (for an active landfill c = 0 and $e^{-kc} = 1$)

(ii) For sites with known year-to-year solid waste acceptance rate:

$$Q_m = \sum_{i=1}^{n} 2kL_o M_i \left(e^{-kt_i}\right)$$

where,

Q_m = maximum expected gas generation flow rate, cubic meters per year

k = methane generation rate constant, $year^{-1}$

L_o = methane generation potential, cubic meters per megagram solid waste

M_i = mass of solid waste in the ith section, megagrams

t_i = age of the ith section, years

(iii) If a collection and control system has been installed, actual flow data may be used to project the maximum expected gas generation flow rate instead of, or in conjunction with, the equations in subparagraphs (a)1.(i) and (ii) of this paragraph. If the landfill is still accepting waste, the actual measured flow data will not equal the maximum expected gas generation rate, so calculations using the equations in subparagraphs (a)1.(i) or (ii) or other methods shall be used to predict the maximum expected gas generation rate over the intended period of use of the gas control system equipment.

2. For the purposes of determining sufficient density of gas collectors for compliance with subparagraph (1)(~~b~~a)2.(ii)~~(I)II~~ of this rule., the owner or operator shall design a system of vertical wells, horizontal collectors, or other collection devices, satisfactory to the Director, capable of controlling and extracting gas from all portions of the landfill sufficient to meet all operational and performance standards.

3. For the purpose of demonstrating whether the gas collection system flow rate is sufficient to determine compliance with subparagraph ~~(1)(b)2.(ii)(I)III~~(1)(a)2.(iii)~~.~~ of this ~~Rule~~rule, the owner or operator shall measure gauge pressure in the gas collection header at each individual well, monthly. If a positive pressure exists, action shall be initiated to correct the exceedance

within 5 calendar days, except for the three conditions allowed under subparagraph (2)(b) of this ~~Rule~~rule. ~~If negative pressure cannot be achieved without excess air infiltration within 15 calendar days of the first measurement, the gas collection system shall be expanded to correct the exceedance within 120 days of the initial measurement of positive pressure.~~ Any attempted corrective measure shall not cause exceedances of other operational or performance standards. ~~An alternative timeline for correcting the exceedance may be submitted to the Director for approval.~~

(i) If negative pressure cannot be achieved without excess air infiltration within 15 calendar days of the first measurement of positive pressure, the owner or operator shall conduct a root cause analysis and correct the exceedance as soon as practicable, but not later than 60 days after positive pressure was first measured. The owner or operator shall keep records according to subparagraph (7)(e)3 of this rule.

(ii) If corrective actions cannot be fully implemented within 60 days following the positive pressure measurement for which the root cause analysis was required, the owner or operator shall also conduct a corrective action analysis and develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the positive pressure measurement. The owner or operator shall submit the items listed in subparagraph (6)(g)7. of this rule as part of the next annual report. The owner or operator shall keep records according to subparagraph (7)(e)4. of this rule.

(iii) If corrective action is expected to take longer than 120 days to complete after the initial exceedance, the owner or operator shall submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Director, according to subparagraph (6)(g)7. and (j) of this rule. The owner or operator shall keep records according to ~~§60.39f(e)(5)~~subparagraph (7)(e)5. of this rule.

4. [Reserved]. ~~Owners or operators are not required to expand the system as required in subparagraph (a)3. of this paragraph during the first 180 days after gas collection system start-up.~~

5. For the purpose of identifying whether excess air infiltration into the landfill is occurring, the owner or operator shall monitor each well monthly for temperature ~~and nitrogen or oxygen~~ as provided in subparagraph (2)(c) of this ~~Rule~~rule. If a well exceeds ~~one of these~~the operating parameter~~s~~ for temperature, action shall be initiated to correct the exceedance within 5 calendar days. ~~If correction of the exceedance cannot be achieved within 15 calendar days of the first measurement, the gas collection system shall be expanded to correct the exceedance within 120 days of the initial exceedance.~~ Any attempted corrective measure shall not cause exceedances of other operational or performance standards. ~~An alternative timeline for correcting the exceedance may be submitted to the Director for approval.~~

(i) If a landfill gas temperature less than 55 degrees Celsius (131 degrees Fahrenheit) cannot be achieved within 15 calendar days of the first measurement of landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit), the owner or operator shall conduct a root cause analysis and correct the exceedance as soon as practicable, but no later than 60 days after a landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit) was first measured. The owner or operator shall keep records according to subparagraph (7)(e)3. of this rule.

(ii) If corrective actions cannot be fully implemented within 60 days following the positive pressure measurement for which the root cause analysis was required, the owner or operator shall also conduct a corrective action analysis and develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the measurement of landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit). The owner or operator shall submit the items listed in subparagraph (6)(g)7. of this rule, as part of the next annual report. The owner or operator shall keep records according to subparagraph (7)(e)4. of this rule.

(iii) If corrective action is expected to take longer than 120 days to complete after the initial exceedance, the owner or operator shall submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Director, according to subparagraphs (6)(g)7. and (j) of this rule. The owner or operator shall keep records according to subparagraph (7)(e)5. of this rule.

6. An owner or operator seeking to demonstrate compliance with subparagraph ~~(1)(b)2.(ii)(I)IV.~~(l)(a)2.(iv) of this ~~Rule~~ rule through the use of a collection system not conforming to the specifications provided in paragraph (8) of this ~~Rule~~ rule shall provide information satisfactory to the Director as specified in subparagraph ~~(1)(b)2.(i)(III)~~(6)(c)3. of this ~~Rule~~ rule demonstrating that off-site migration is being controlled.

(b) For purposes of compliance with subparagraph (2)(a) of this ~~Rule~~rule, each owner or operator of a controlled landfill shall place each well or design component as specified in the approved design plan as provided in subparagraph ~~(1)(b)2.(i)~~(6)(c) of this rule. Each well shall be installed no later than 60 days after the date on which the initial solid waste has been in place for a period of:

1. 5 years or more if active; or

2. 2 years or more if closed or at final grade.

(c) The following procedures shall be used for compliance with the surface methane operational standard as provided in subparagraph (2)(d) of this ~~Rule~~rule.

1. After installation and startup of the gas collection system, the owner or operator shall monitor surface concentrations of methane along the entire

perimeter of the collection area and along a pattern that traverses the landfill at no more than 30 meter intervals (or a site-specific established spacing) for each collection area on a quarterly basis using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in subparagraph (d) of this paragraph.

2. The background concentration shall be determined by moving the probe inlet upwind and downwind outside the boundary of the landfill at a distance of at least 30 meters from the perimeter wells.

3. Surface emission monitoring shall be performed in accordance with Section 4~~8~~.3.1 of Method 21 of Appendix A of 40 CFR Part 60, except that the probe inlet shall be placed within 5 to 10 centimeters of the ground. Monitoring shall be performed during typical meteorological conditions.

4. Any reading of 500 parts per million or more above background at any location shall be recorded as a monitored exceedance and the actions specified in subparagraphs (c)4.(i) through (v) of this paragraph below shall be taken. As long as the specified actions are taken, the exceedance is not a violation of the operational requirements of subparagraph (2)(d) of this ~~Rule~~rule.

(i) The location of each monitored exceedance shall be marked and the location and concentration recorded. For location, the owner or operator shall determine the latitude and longitude coordinates using an instrument with an accuracy of at least 4 meters. The coordinates shall be in decimal degrees with at least five decimal places.

(ii) Cover maintenance or adjustments to the vacuum of the adjacent wells to increase the gas collection in the vicinity of each exceedance shall be made and the location shall be re-monitored within 10 calendar days of detecting the exceedance.

(iii) If the re-monitoring of the location shows a second exceedance, additional corrective action shall be taken and the location shall be monitored again within 10 days of the second exceedance. If the re-monitoring shows a third exceedance for the same location, the action specified in subparagraph (c)4.(v) of this paragraph shall be taken, and no further monitoring of that location is required until the action specified in subparagraph (c)4.(v) has been taken.

(iv) Any location that initially showed an exceedance but has a methane concentration less than 500 ppm methane above background at the 10-day re-monitoring specified in subparagraph (c)4.(ii) or (iii) of this paragraph shall be re-monitored 1 month from the initial exceedance. If the 1-month remonitoring shows a concentration less than 500 parts per million above background, no further monitoring of that location is required until the next quarterly monitoring period. If the 1-month remonitoring shows an exceedance, the actions specified in subparagraph (c)4.(iii) or (v) of this paragraph shall be taken.

(v) For any location where monitored methane concentration equals or exceeds 500 parts per million above background three times within a quarterly period, a new well or other collection device shall be installed within 120 calendar days of the initial exceedance. An alternative remedy to the exceedance, such as upgrading the blower, header pipes or control device, and a corresponding timeline for installation may be submitted to the Director for approval.

5. The owner or operator shall implement a program to monitor for cover integrity and implement cover repairs as necessary on a monthly basis.

(d) Each owner or operator seeking to comply with the provisions in subparagraph (c) of this paragraph shall comply with the following instrumentation specifications and procedures for surface emission monitoring devices:

1. The portable analyzer shall meet the instrument specifications provided in Section ~~3~~ 6 of Method 21 of Appendix A, except that "methane" shall replace all references to VOC.

2. The calibration gas shall be methane, diluted to a nominal concentration of 500 parts per million in air.

3. To meet the performance evaluation requirements in Section ~~3.1.3~~8.1 of Method 21 of Appendix A, the instrument evaluation procedures of Section ~~4.4~~ 8.1 of Method 21 of Appendix A shall be used.

4. The calibration procedures provided in Section ~~4.2~~8 and 10 of Method 21 of Appendix A shall be followed immediately before commencing a surface monitoring survey.

(e) The provisions of this paragraph apply at all times, including periods of startup, shutdown, or malfunction. During periods of startup, shutdown, and malfunction, the owner or operator shall comply with the work practice specified in subparagraph (2)(e) of this rule, in lieu of the compliance provisions in paragraph (4) of this rule.~~except during periods of start-up, shutdown, or malfunction, provided that the duration of start-up, shutdown, or malfunction shall not exceed 5 days for collection systems and shall not exceed 1 hour for treatment or control devices~~.

(5) Monitoring of Operations.

Except as provided in subparagraph ~~(1)(b)2.(i)(II)~~(6)(c)2. of this ~~Rule~~rule,

(a) Each owner or operator seeking to comply with subparagraph ~~(1)(b)2.(ii)(I)~~(l)(a)2. of this ~~Rule~~ rule for an active gas collection system shall install a sampling port and a thermometer, other temperature measuring device, or an access port for temperature measurements at each wellhead and:

1. Measure the gauge pressure in the gas collection header on a monthly basis as provided in subparagraph (4)(a)3. of this ~~Rule~~rule; and

2. Monitor nitrogen or oxygen concentration in the landfill gas on a monthly basis as ~~provided in subparagraph (4)(a)5. of this Rule; and~~follows:

(i) The nitrogen level shall be determined using Method 3C, unless an alternative test method is established as allowed by subparagraph (6)(c)2. of this rule.

(ii) Unless an alternative test method is established as allowed by subparagraph (6)(c)2. of this rule, the oxygen level shall be determined by an oxygen meter using Method 3A, 3C, or ASTM D6522-11 (incorporated by reference, see 40 CFR §60.17). Determine the oxygen level by an oxygen meter using Method 3A, 3C, or ASTM D6522-11 (if sample location is prior to combustion) except that:

(I) The span shall be set between 10 and 12 percent oxygen;

(II) A data recorder is not required;

(III) Only two calibration gases are required, a zero and span;

(IV) A calibration error check is not required; and

(V) The allowable sample bias, zero drift, and calibration drift are ±10 percent.

(iii) A portable gas composition analyzer may be used to monitor the oxygen levels provided:

(I) The analyzer is calibrated; and

(II) The analyzer meets all quality assurance and quality control requirements for Method 3A or ASTM D6522-11 (incorporated by reference, see 40 CFR §60.17).

3. Monitor temperature of the landfill gas on a monthly basis as provided in subparagraph (4)(a)5. of this ~~Rule~~rule. The temperature measuring device shall be calibrated annually using the procedure in this 40 CFR Part 60, Appendix A-1, Method 2, Section 10.3.

(b) Each owner or operator seeking to comply with subparagraph (1)(b)2.(iii) of this ~~Rule~~ rule using an enclosed combustor shall calibrate, maintain, and operate according to the manufacturer's specifications, the following equipment.

1. A temperature monitoring device equipped with a continuous recorder and having a minimum accuracy of ±1 percent of the temperature being measured expressed in °Celsius or ±0.5 °C, whichever is greater. A temperature

monitoring device is not required for boilers or process heaters with design heat input capacity equal to or greater than 44 megawatts.

2. A device that records flow to the control device ~~or~~ and bypass of the control device (if applicable). The owner or operator shall ~~either~~:

(i) Install, calibrate, and maintain a gas flow rate measuring device that shall record the flow to the control device at least every 15 minutes; ~~or~~and

(ii) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(c) Each owner or operator seeking to comply with subparagraph ~~(b)2.(iii)~~(1)(b) of this ~~Rule~~ rule using an open flare shall install, calibrate, maintain, and operate according to the manufacturer's specifications the following equipment:

1. A heat sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light or the flame itself to indicate the continuous presence of a flame.

2. A device that records flow to the flare and ~~or~~ bypass of the flare (if applicable). The owner or operator shall ~~either~~:

(i) Install, calibrate, and maintain a gas flow rate measuring device that shall record the flow to the control device at least every 15 minutes; ~~or~~and

(ii) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(d) Each owner or operator seeking to demonstrate compliance with subparagraph (1)(b)2.(iii) of this ~~Rule~~ rule using a device other than an open flare or an enclosed combustor or a treatment system shall provide information satisfactory to the Director as provided in subparagraph ~~(1)(b)2.(i)(II)~~(6)(c)2. of this ~~Rule~~ rule describing the operation of the control device, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The Director shall review the information and either approve it, or request that additional information be submitted. The Director may specify additional appropriate monitoring procedures.

(e) Each owner or operator seeking to install a collection system that does not meet the specifications in paragraph (8) of this ~~Rule~~ rule or seeking to monitor alternative parameters to those required by paragraphs (2) through (5) of this ~~Rule~~ rule shall provide information satisfactory to the Director as

provided in subparagraphs ~~(1)(b)2.(i)(II) and (III)~~(6)(c)2. And 3. of this ~~Rule~~ rule describing the design and operation of the collection system, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The Director may specify additional appropriate monitoring procedures.

(f) Each owner or operator seeking to demonstrate compliance with the 500 parts per million surface methane operational standard in subparagraph (2)(d) of this rule, shall monitor surface concentrations of methane according to the procedures provided in subparagraph (4)(c) of this rule, and the instrument specifications in subparagraph (4)(d) of this rule.~~Each owner or operator seeking to demonstrate compliance with subparagraph (4)(c) of this Rule, shall monitor surface concentrations of methane according to the instrument specifications and procedures provided in subparagraph (4)(d) of this Rule.~~ Any closed landfill that has no monitored exceedances of the operational standard in three consecutive quarterly monitoring periods may skip to annual monitoring. Any methane reading of 500 ppm or more above background detected during the annual monitoring returns the frequency for that landfill to quarterly monitoring.

(g) Each owner or operator seeking to demonstrate compliance with the control system requirements in subparagraph (l)(b) of this rule, using a landfill gas treatment system shall maintain and operate all monitoring systems associated with the treatment system in accordance with the site-specific treatment system monitoring plan required in subparagraph (7)5.(ii) of this rule, and shall calibrate, maintain, and operate according to the manufacturer's specifications a device that records flow to the treatment system and bypass of the treatment system (if applicable). The owner or operator shall:

1. Install, calibrate, and maintain a gas flow rate measuring device that records the flow to the treatment system at least every 15 minutes; and

2. Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(h) The monitoring requirements of subparagraphs (b), (c) (d) and (g) of this paragraph apply at all times the affected source is operating, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. The owner or operator shall complete monitoring system repairs in response to monitoring system malfunctions and to return the monitoring system to operation as expeditiously as practicable.

(6) Reporting Requirements.

Except as provided 40 CFR §60.24 and in subparagraph ~~(1)(b)2.(i)(II)~~(6)(c)2. of this ~~Rule~~rule,

(a) *Design capacity report.* Each owner or operator subject to the requirements of this Chapter shall submit an initial design capacity report to the Director.

1. The initial design capacity report shall fulfill the requirements of the notification of the date construction is commenced as required under §60.7(a)(1), 40 CFR and shall be submitted no later than 90 days from the effective date of these ~~Rules~~rules.

2. The initial design capacity report shall contain the following information:

(i) A map or plot of the landfill, providing the size and location of the landfill, and identifying all areas where solid waste may be landfilled according to the provisions of the State permit;

(ii) The maximum design capacity of the landfill. Where the maximum design capacity is specified in the State permit, a copy of the permit specifying the maximum design capacity may be submitted as part of the report. If the maximum design capacity of the landfill is not specified in the permit, the maximum design capacity shall be calculated using good engineering practices. The calculations shall be provided, along with the relevant parameters as part of the report. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation shall include a site-specific density, which shall be recalculated annually. Any density conversions shall be documented and submitted with the design capacity report. The Director may request other reasonable information as may be necessary to verify the maximum design capacity of the landfill.

3. *Amended design capacity report.* An amended design capacity report shall be submitted to the Director providing notification of any increase in the design capacity of the landfill, within 90 days of an increase in the maximum design capacity of the landfill to ~~or~~meet or ~~above~~ exceed 2.5 million megagrams and 2.5 million cubic meters. This increase in design capacity may result from an increase in the permitted volume of the landfill or an increase in the density as documented in the annual recalculation required in subparagraph (7)(f) of this ~~Rule~~rule.

(b) *NMOC emission rate report.* Each owner or operator of an existing MSW landfill subject to the requirements of this Chapter with a design capacity equal to or greater than 2.5million megagrams and 2.5 million cubic meters, shall submit an NMOC emission rate report to the Director ~~initially and~~

annually following the procedure specified in subparagraph (i)2. of this paragraph, ~~thereafter,~~ except as provided for in subparagraphs ~~(b)1.(ii) or~~ (b)3. of this paragraph. The Director may request such additional information as may be necessary to verify the reported NMOC emission rate.

1. The NMOC emission rate report shall contain an annual or 5-year estimate of the NMOC emission rate calculated using the formula and procedures provided in subparagraphs (3)(a) or (b) of this ~~Rule~~rule, as applicable.

(i) The ~~initial~~ NMOC emission rate report shall be submitted following the procedure specified in subparagraph (i)2. of this paragraph no later than ~~within~~ 90 days from the effective date of these ~~Rules~~ rules. ~~and may be combined with the initial design capacity report required in subparagraph (a) of this paragraph. Subsequent NMOC emission rate reports shall be submitted annually thereafter, except as provided for in subparagraphs (b)1.(ii) and (b)3. of this paragraph.~~

~~(ii) If the estimated NMOC emission rate as reported in the annual report to the Director is less than 50 megagrams per year in each of the next 5 consecutive years, the owner or operator may elect to submit an estimate of the NMOC emission rate for the next 5-year period in lieu of the annual report. This estimate shall include the current amount of solid waste in place and the estimated waste acceptance rate for each year of the 5 years for which an NMOC emission rate is estimated. All data and calculations upon which this estimate is based shall be provided to the Director. This estimate shall be revised at least once every 5 years. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the 5-year estimate, a revised 5-year estimate shall be submitted to the Director. The revised estimate shall cover the 5-year period beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate.~~

2. The NMOC emission rate report shall include all the data, calculations, sample reports and measurements used to estimate the annual or 5-year emissions.

3. If the estimated NMOC emission rate as reported in the annual report to the Director is less than 34 megagrams per year in each of the next 5 consecutive years, the owner or operator may elect to submit, following the procedure specified in subparagraph (i)2. of this paragraph, an estimate of the NMOC emission rate for the next 5-year period in lieu of the annual report. This estimate shall include the current amount of solid waste-in-place and the estimated waste acceptance rate for each year of the 5 years for which an NMOC emission rate is estimated. All data and calculations upon which this estimate is based shall be provided to the Director. This estimate shall be revised at least once every 5 years. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the 5-year estimate, a revised 5-year estimate shall be submitted to the Director. The revised

estimate shall cover the 5-year period beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate.

~~3~~4. Each owner or operator subject to the requirements of this Chapter is exempted to submit an NMOC emission rate report ~~from the requirements of subparagraphs (b)1. and 2. of this paragraph,~~ after the installation of a collection and control system in compliance with subparagraphs ~~(1)(b)2.~~(l)(a) and (b) of this ~~Rule~~rule, during such time as the collection and control system is in operation and in compliance with paragraphs (2) and (4) of this ~~R~~rule.

(c) *Collection and control system design plan.* A design plan for each gas collection and control system shall be prepared and approved by a professional engineer and shall meet the following requirements:

1. The collection and control system as described in the design plan shall meet the design requirements in subparagraphs (l)(a) and (b) of this rule.

2. The collection and control system design plan shall include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping, or reporting provisions of paragraphs (4) through (7) of this rule, proposed by the owner or operator.

3. The collection and control system design plan shall either conform to specifications for active collection systems in paragraph (8) of this rule, or include a demonstration to the Director's satisfaction of the sufficiency of the alternative provisions to paragraph (8) of this rule.

~~(c)~~4. Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters shall submit a copy of the collection and control system design plan cover page that contains the engineer's seal to the Director within 1 year of the first NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year, except as follows:~~Each owner or operator subject to the provisions of subparagraph (1)(b)2.(i) of this Rule shall submit a collection and control system design plan to the Director within 1 year of the first report, required under subparagraph (b) of this paragraph, in which the emission rate equal to or exceeds 50 megagrams per year, except as follows~~:

~~1.~~(i) If the owner or operator elects to recalculate the NMOC emission rate after Tier 2 NMOC sampling and analysis as provided in subparagraph (3)(a)3. of this ~~Rule~~ rule and the resulting rate is less than ~~50~~ 34 megagrams per year, annual periodic reporting shall be resumed, using the Tier 2 determined site-specific NMOC concentration, until the calculated NMOC emission rate is equal to or greater than ~~50~~ 34 megagrams per year or the landfill is closed. The revised NMOC emission rate report, with the recalculated NMOC emission rate based on NMOC sampling and analysis, shall be submitted, following the procedures in subparagraph (6)(i)2. of this rule, within 180 days of the first calculated exceedance of ~~50~~ 34 megagrams per year.

~~2.~~(ii) If the owner or operator elects to recalculate the NMOC emission rate after determining a site-specific methane generation rate constant (k), as provided in Tier 3 in subparagraph (3)(a)4. of this ~~Rule~~rule, and the resulting NMOC emission rate is less than ~~50~~ 34 Mg/yr, annual periodic reporting shall be resumed. The resulting site-specific methane generation rate constant (k) shall be used in the NMOC emission rate calculation until such time as the emissions rate calculation results in an exceedance. The revised NMOC emission rate report based on the provisions of subparagraph (3)(a)4. of this ~~Rule~~ rule and the resulting site-specific methane generation rate constant (k) shall be submitted to the Director within 1 year of the first calculated NMOC emission rate equaling or exceeding ~~50~~ 34 megagrams per year.

(iii) If the owner or operator elects to demonstrate that site-specific surface methane emissions are below 500 parts per million methane, based on the provisions of subparagraph (3)(a)6. of this rule, then the owner or operator shall submit annually a Tier 4 surface emissions report as specified in this subparagraph (d)4.(iii) following the procedure specified in subparagraph (6)(i)2. of this paragraph until a surface emissions readings of 500 parts per million methane or greater is found. If the Tier 4 surface emissions report shows no surface emissions readings of 500 parts per million methane or greater for four consecutive quarters at a closed landfill, then the landfill owner or operator may reduce Tier 4 monitoring from a quarterly to an annual frequency. The Director may request such additional information as may be necessary to verify the reported instantaneous surface emission readings. The Tier 4 surface emissions report shall clearly identify the location, date and time (to the nearest second), average wind speeds including wind gusts, and reading (in parts per million) of any value 500 parts per million methane or greater, other than non-repeatable, momentary readings. For location, the owner or operator shall determine the latitude and longitude coordinates using an instrument with an accuracy of at least 4 meters. The coordinates shall be in decimal degrees with at least five decimal places. The Tier 4 surface emission report should also include the results of the most recent Tier 1 and Tier 2 results in order to verify that the landfill does not exceed 50 Mg/yr of NMOC.

(I) The initial Tier 4 surface emissions report shall be submitted annually, starting within 30 days of completing the fourth quarter of Tier 4 surface emissions monitoring that demonstrates that site-specific surface methane emissions are below 500 parts per million methane, and following the procedure specified in subparagraph (6)(i)2. of this paragraph.

(II) The Tier 4 surface emissions rate report shall be submitted within 1 year of the first measured surface exceedance of 500 parts per million methane, following the procedure specified in subparagraph (6)(i)2. of this paragraph.

(iv) If the landfill is in the closed landfill subcategory, the owner or operator shall submit a collection and control system design plan to the Director within 1 year of the first NMOC emission rate report in which the NMOC emission rate equals or exceeds 50 megagrams per year, except as follows:

(I) If the owner or operator elects to recalculate the NMOC emission rate after Tier 2 NMOC sampling and analysis as provided in subparagraph (3)(a)3. of this rule, and the resulting rate is less than 50 megagrams per year, annual periodic reporting shall be resumed, using the Tier 2 determined site-specific NMOC concentration, until the calculated NMOC emission rate is equal to or greater than 50 megagrams per year or the landfill is closed. The revised NMOC emission rate report, with the recalculated NMOC emission rate based on NMOC sampling and analysis, shall be submitted, following the procedure specified in subparagraph (6)(i)2. of this paragraph, within 180 days of the first calculated exceedance of 50 megagrams per year

(II) If the owner or operator elects to recalculate the NMOC emission rate after determining a site-specific methane generation rate constant k, as provided in Tier 3 in subparagraph (3)(a)4. of this rule, and the resulting NMOC emission rate is less than 50 megagrams per year, annual periodic reporting shall be resumed. The resulting site-specific methane generation rate constant k shall be used in the NMOC emission rate calculation until such time as the emissions rate calculation results in an exceedance. The revised NMOC emission rate report based on the provisions of subparagraph (3)(a)4. of this rule, and the resulting site-specific methane generation rate constant k shall be submitted, following the procedure specified in subparagraph (6)(i)2. of this paragraph, to the Director within 1 year of the first calculated NMOC emission rate equaling or exceeding 50 megagrams per year.

(III) The landfill owner or operator elects to demonstrate surface emissions are low, consistent with the provisions in subparagraph (d)4.(iii) of this paragraph.

(IV) The landfill has already submitted a gas collection and control system design plan consistent with the provisions of Subpart WWW of 40 CFR part 60 or any other requirements of this Chapter.

5. The landfill owner or operator shall notify the Director that the design plan is completed and submit a copy of the plan's signature page. The Director has 90 days to decide whether the design plan should be submitted for review. If the Director chooses to review the plan, the approval process continues as described in subparagraph (c)6. of this paragraph. However, if the Director indicates that submission is not required or does not respond within 90 days, the landfill owner or operator can continue to implement the plan with the recognition that the owner or operator is proceeding at their own risk. In the event that the design plan is required to be modified to obtain approval, the owner or operator shall take any steps necessary to conform any prior actions to the approved design plan and any failure to do so could result in an enforcement action.

6. Upon receipt of an initial or revised design plan, the Director shall review the information submitted under subparagraphs (6)(c)1. through 3. of this paragraph, and either approve it, disapprove it, or request that additional information be submitted. Because of the many site-specific factors involved

with landfill gas system design, alternative systems may be necessary. A wide variety of system designs are possible, such as vertical wells, combination horizontal and vertical collection systems, or horizontal trenches only, leachate collection components, and passive systems. If the Director does not approve or disapprove the design plan, or does not request that additional information be submitted within 90 days of receipt, then the owner or operator may continue with implementation of the design plan, recognizing they would be proceeding at their own risk.

7. If the owner or operator chooses to demonstrate compliance with the emission control requirements of this Chapter using a treatment system as defined in this Chapter, then the owner or operator shall prepare a site-specific treatment system monitoring plan as specified in subparagraph (7)(b)5. of this rule.

(d) *Revised design plan.* The owner or operator who has already been required to submit a design plan under subparagraph (c) of this paragraph, or under Subpart WWW of 40 CFR part 60; or any other requirements of this Chapter shall submit a revised design plan to the Director for approval as follows:

1. At least 90 days before expanding operations to an area not covered by the previously approved design plan.

2. Prior to installing or expanding the gas collection system in a way that is not consistent with the design plan that was submitted to the Director according to subparagraph (c) of this paragraph.

(~~d~~e) *Closure report.* Each owner or operator of a controlled landfill shall submit a closure report to the Director within 30 days of waste acceptance cessation. The Director may request additional information as may be necessary to verify that permanent closure has taken place in accordance with the requirements of ADEM Admin. Code Chapter 335-13-4. If a closure report has been submitted to the Director, no additional wastes may be placed into the landfill without filing a notification of modification as described under §60.7(a)(4), 40 CFR.

(~~e~~f) *Equipment removal report.* Each owner or operator of a controlled landfill shall submit an equipment removal report to the Director 30 days prior to removal or cessation of operation of the control equipment.

1. The equipment removal report shall contain all of the following items:

(i) A copy of the closure report submitted in accordance with subparagraph (~~d~~e) of this paragraph;

(ii) A copy of the initial performance test report demonstrating that the 15 year minimum control period has expired, unless the report of the results of the performance test has been submitted to the EPA via the EPA's CDX, or information that demonstrates that the GCCS will be unable to operate for 15

years due to declining gas flows. In the equipment removal report, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in lieu of the performance test report if the report has been previously submitted to the EPA's CDX; and

(iii) Dated copies of three successive NMOC emission rate reports demonstrating that the landfill is no longer producing ~~50~~ 34 megagrams or greater of NMOC per year, unless the NMOC emission rate reports have been submitted to the EPA via the EPA's CDX. If the NMOC emission rate reports have been previously submitted to the EPA's CDX, a statement that the NMOC emission rate reports have been submitted electronically and the dates that the reports were submitted to the EPA's CDX may be submitted in the equipment removal report in lieu of the NMOC emission rate reports; or~~.~~

(iv) For the closed landfill subcategory, dated copies of three successive NMOC emission rate reports demonstrating that the landfill is no longer producing 50 megagrams or greater of NMOC per year, unless the NMOC emission rate reports have been submitted to the EPA via the EPA's CDX. If the NMOC emission rate reports have been previously submitted to the EPA's CDX, a statement that the NMOC emission rate reports have been submitted electronically and the dates that the reports were submitted to the EPA's CDX may be submitted in the equipment removal report in lieu of the NMOC emission rate reports.

2. The Director may request such additional information as may be necessary to verify that all of the conditions for removal in subparagraph ~~(1)(b)2.(v)~~(l)(e)2. of this ~~Rule~~ rule have been met.

(~~f~~g) *Annual report.* Each owner or operator of a landfill seeking to comply with subparagraph (1)(~~b~~d)~~2.~~ of this ~~Rule~~ rule using an active collection system designed in accordance with subparagraph ~~(1)(b)2.(ii)~~(l)(a) of this ~~Rule~~ rule shall submit to the Director annual reports of the recorded information in subparagraphs ~~(f)~~(g)1. through ~~(f)~~(g)6. of this paragraph. The initial annual report shall be submitted within 180 days of installation and start-up of the collection and control system, and shall include the initial performance test report required under §60.8, 40 CFR as applicable, unless the report of the results of the performance test has been submitted to the EPA via the EPA's CDX. In the initial annual report, the process unit(s) tested, the pollutant(s) tested and the date that such performance test was conducted may be submitted in lieu of the performance test report if the report has been previously submitted to the EPA's CDX. The initial performance test report shall be submitted, following the procedure specified in subparagraph (i)1. of this paragraph, no later than the date that the initial annual report is submitted. For enclosed combustion devices and flares, reportable exceedances are defined under subparagraph (7)(c) of this ~~Rule~~rule.

1. Value and length of time for exceedance of applicable parameters monitored under subparagraphs (5)(a), (b), (c), ~~and~~ (d), and (g) of this ~~Rule~~rule.

2. Description and duration of all periods when the gas stream ~~is~~ was diverted from the control device or treatment system through a bypass line or the indication of bypass flow as specified under paragraph (5) of this ~~Rule~~rule.

3. Description and duration of all periods when the control device or treatment system was not operating ~~for a period exceeding 1 hour~~ and length of time the control device or treatment system was not operating.

4. All periods when the collection system was not operating ~~in excess of 5 days~~.

5. The location of each exceedance of the 500 parts per million methane concentration as provided in subparagraph (2)(d) of this ~~Rule~~ rule and the concentration recorded at each location for which an exceedance was recorded in the previous month. For location, the owner or operator shall determine the latitude and longitude coordinates using an instrument with an accuracy of at least 4 meters. The coordinates shall be in decimal degrees with at least five decimal places.

6. The date of installation and the location of each well or collection system expansion added pursuant to subparagraphs (a)3., (a)5., (b), and (c)4. of paragraph (4).

7. For any corrective action analysis for which corrective actions are required in subparagraph (4)(a)3. or 5. of this rule, and that take more than 60 days to correct the exceedance, the root cause analysis conducted, including a description of the recommended corrective action(s), the date for corrective action(s) already completed following the positive pressure reading, and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

(~~g~~h) *Initial performance test report.* Each owner or operator seeking to comply with subparagraph ~~(1)(b)2.(iii)~~(l)(b) of this ~~Rule~~ rule shall include the following information with the initial performance test report required under §60.8, 40 CFR:

1. A diagram of the collection system showing collection system positioning including all wells, horizontal collectors, surface collectors, or other gas extraction devices, including the locations of any areas excluded from collection and the proposed sites for the future collection system expansion;

2. The data upon which the sufficient density of wells, horizontal collectors, surface collectors, or other gas extraction devices and the gas mover equipment sizing are based;

3. The documentation of the presence of asbestos or nondegradable material for each area from which collection wells have been excluded based on the presence of asbestos or nondegradable material;

4. The sum of the gas generation flow rates for all areas from which collection wells have been excluded based on nonproductivity and the calculations of gas generation flow rate for each excluded area; ~~and~~

5. The provisions for increasing gas mover equipment capacity with increased gas generation flow rate, if the present gas mover equipment is inadequate to move the maximum flow rate expected over the life of the landfill; and

6. The provisions for the control of off-site migration.

(i) *Electronic reporting.* The owner or operator shall submit reports electronically according to subparagraphs (i)1. and 2. of this paragraph.

1. Within 60 days after the date of completing each performance test (as defined in 40 CFR §60.8), the owner or operator shall submit the results of each performance test according to the following procedures:

(i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*https://www3.epa.gov/ttn/chief/ert/ert_info.html*) at the time of the test, the owner or operator shall submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). Performance test data shall be submitted in a file format generated through the use of the EPA's ERT or an alternative file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site, once the XML schema is available. If the owner or operator claim that some of the performance test information being submitted is confidential business information (CBI), the owner or operator shall submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive or other commonly used electronic storage media to the EPA. The electronic media shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this subparagraph (i)1.(i) of this paragraph.

(ii) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, the owner or operator shall submit the results of the performance test to the Director at the appropriate address listed in 40 CFR §60.4.

2. Each owner or operator required to submit reports following the procedure specified in this paragraph shall submit reports to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX.) The owner or operator shall use the appropriate electronic report in CEDRI for this ~~t~~Chapter or an alternate electronic file format consistent with the XML schema listed on the

CEDRI Web site (*https://www3.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this Chapter is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Director at the appropriate address listed in §60.4. Once the form has been available in CEDRI for 90 calendar days, the owner or operator shall begin submitting all subsequent reports via CEDRI. The reports shall be submitted by the deadlines specified in this Chapter, regardless of the method in which the reports are submitted.

(j) *Corrective action and the corresponding timeline.* The owner or operator shall submit according to paragraphs (j)1. and 2. of this below.

1. For corrective action that is required according to subparagraphs (4)(a)3.(iii) or (a)5.(iii) of this rule, and is expected to take longer than 120 days after the initial exceedance to complete, the owner or operator shall submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Director as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature monitoring value of 55 degrees Celsius (131 degrees Fahrenheit) or above. The Director shall approve the plan for corrective action and the corresponding timeline.

2. For corrective action that is required according to subparagraphs (4)(a)3.(iii) or (a)5.(iii) of this rule, and is not completed within 60 days after the initial exceedance, the owner or operator shall submit a notification to the Director as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature exceedance.

(k) *Liquids addition.* The owner or operator of an affected landfill with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters that has employed leachate recirculation or added liquids based on a Research, Development, and Demonstration permit (issued through Resource Conservation and Recovery Act, subtitle D, part 258) within the last 10 years shall submit to the Director, annually, following the procedure specified in subparagraph (i)2. of this paragraph, the following information:

1. Volume of leachate recirculated (gallons per year) and the reported basis of those estimates (records or engineering estimates).

2. Total volume of all other liquids added (gallons per year) and the reported basis of those estimates (records or engineering estimates).

3. Surface area (acres) over which the leachate is recirculated (or otherwise applied).

4. Surface area (acres) over which any other liquids are applied.

5. The total waste disposed (megagrams) in the areas with recirculated leachate and/or added liquids based on on-site records to the extent data are available, or engineering estimates and the reported basis of those estimates.

6. The annual waste acceptance rates (megagrams per year) in the areas with recirculated leachate and/or added liquids, based on on-site records to the extent data are available, or engineering estimates.

7. The initial report shall contain items in subparagraph (k)1. through 6. of this paragraph per year for the most recent 365 days as well as for each of the previous 10 years, to the extent historical data are available in on-site records, and the report shall be submitted no later than:

(i) September 27, 2017, for landfills that commenced construction, modification, or reconstruction after July 17, 2014 but before August 29, 2016; or

(ii) 365 days after the date of commenced construction, modification, or reconstruction for landfills that commence construction, modification, or reconstruction after August 29, 2016.

8. Subsequent annual reports shall contain items in subparagraph (k)1. through 6. of this paragraph for the 365-day period following the 365-day period included in the previous annual report, and the report shall be submitted no later than 365 days after the date the previous report was submitted.

9. Landfills in the closed landfill subcategory are exempt from reporting requirements contained in subparagraphs (k)1. through 7. of this paragraph.

10. Landfills may cease annual reporting of items in subparagraphs (k)1. through 6. of this paragraph once they have submitted the closure report in subparagraph (e) of this paragraph.

(l) *Tier 4 notification.*

1. The owner or operator of an affected landfill with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters shall provide a notification of the date(s) upon which it intends to demonstrate site-specific surface methane emissions are below 500 parts per million methane, based on the Tier 4 provisions of subparagraph (3)(a)6. of this rule. The landfill shall also include a description of the wind barrier to be used during the SEM in the notification. Notification shall be postmarked not less than 30 days prior to such date.

2. If there is a delay to the scheduled Tier 4 SEM date due to weather conditions, including not meeting the wind requirements in subparagraph (3)(a)6.(iii)(I) of this rule, the owner or operator of a landfill shall notify the Director by email or telephone no later than 48 hours before any known delay in the original test date, and arrange an updated date with the Director by mutual agreement.

(7) Recordkeeping Requirements.

(a) Except as provided in subparagraph ~~(1)(b)2.(i)(II)~~(6)(c)2. of this ~~Rule~~rule, each owner or operator of an MSW landfill subject to the provisions of subparagraph (1)(~~b~~d) of this ~~Rule~~ rule shall keep for at least 5 years up-to-date, readily accessible, on-site records of the design capacity report which triggered subparagraph (1)(~~b~~d), the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

(b) Except as provided in subparagraph ~~(1)(b)2.(i)(II)~~(6)(c)2. of this ~~Rule~~rule, each owner or operator of a controlled landfill shall keep up-to-date, readily accessible records for the life of the control equipment of the data listed in subparagraphs (b)1. through (b)~~4~~5. of this paragraph as measured during the initial performance test or compliance determination. Records of subsequent tests or monitoring shall be maintained for a minimum of 5 years. Records of the control device vendor specifications shall be maintained until removal.

1. Where an owner or operator subject to the provisions of this Chapter seeks to demonstrate compliance with subparagraph ~~(1)(b)2.(ii)~~(l)(a) of this Rule:

(i) The maximum expected gas generation flow rate as calculated in subparagraph (4)(a)1. of this ~~Rule~~rule. The owner or operator may use another method to determine the maximum gas generation flow rate, if the method has been approved by the Director.

(ii) The density of wells, horizontal collectors, surface collectors, or other gas extraction devices determined using the procedures specified in subparagraph (8)(a)1. of this ~~Rule~~rule.

2. Where an owner or operator subject to the provisions of this Chapter seeks to demonstrate compliance with subparagraph ~~(1)(b)2.(iii)~~(l)(b) of this ~~Rule~~ rule through use of an enclosed combustion device other than a boiler or process heater with a design heat input capacity equal to or greater than 44 megawatts:

(i) The average combustion temperature measured at least every 15 minutes and averaged over the same time period of the performance test.

(ii) The percent reduction of NMOC determined as specified in subparagraph ~~(1)(b)2.(iii)(II)~~(l)(b)2. of this paragraph achieved by the control device.

3. Where an owner or operator subject to the provisions of this Chapter seeks to demonstrate compliance with subparagraph ~~(1)(b)2.(iii)(II)I.~~(l)(b)2.(i) of this ~~Rule~~ rule through use of a boiler or process heater of any size: a description of the location at which the collected gas vent stream is introduced into the boiler or process heater over the same time period of the performance testing.

4. Where an owner or operator subject to the provisions of this Chapter seeks to demonstrate compliance with subparagraph ~~(1)(b)2.(iii)(I)~~(l)(b)1. of this ~~Rule~~ rule through use of an open flare, the flare type (i.e., steam-assisted, air-assisted, or nonassisted), all visible emission readings, heat content determination, flow rate or bypass flow rate measurements, and exit velocity determinations made during the performance test as specified in §60.18, 40 CFR; continuous records of the flare pilot flame or flare flame monitoring and records of all periods of operations during which the pilot flame of the flare flame is absent.

5. Where an owner or operator subject to the provisions of this Chapter seeks to demonstrate compliance with subparagraph (l)(b)3. of this rule through use of a landfill gas treatment system:

(i) *Bypass records.* Records of the flow of landfill gas to, and bypass of, the treatment system.

(ii) *Site-specific treatment monitoring plan,* to include:

(I) Monitoring records of parameters that are identified in the treatment system monitoring plan and that ensure the treatment system is operating properly for each intended end use of the treated landfill gas. At a minimum, records should include records of filtration, de-watering, and compression parameters that ensure the treatment system is operating properly for each intended end use of the treated landfill gas.

(II) Monitoring methods, frequencies, and operating ranges for each monitored operating parameter based on manufacturer's recommendations or engineering analysis for each intended end use of the treated landfill gas.

(III) Documentation of the monitoring methods and ranges, along with justification for their use.

(IV) Identify who is responsible (by job title) for data collection.

(V) Processes and methods used to collect the necessary data.

(VI) Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems.

(c) Except as provided in subparagraph ~~(1)(b)2.(i)(II)~~(6)(c)2. of this ~~Rule~~rule, each owner or operator of a controlled landfill subject to the provisions of this Chapter shall keep for 5 years up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored in paragraph (5) of this ~~Rule~~ rule as well as up-to-date, readily accessible records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded.

1. The following constitute exceedances that shall be recorded and reported under subparagraph (6)~~(f)~~ of this ~~Rule~~rule:

(i) For enclosed combustors except for boilers and process heaters with design heat input capacity of 44 megawatts (150 million British thermal unit per hour) or greater, all 3-hour periods of operation during which the average combustion temperature was more than 28 °C (82 degrees Fahrenheit) below the average combustion temperature during the most recent performance test at which compliance with subparagraph ~~(1)(b)2.(iii)~~(l)(b) of this ~~Rule~~ rule was determined.

(ii) For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone as required under subparagraph (b)3. of this paragraph.

2. Each owner or operator subject to the provisions of this Chapter shall keep up-to-date, readily accessible continuous records of the indication of flow to the control device or the indication of bypass flow or records of monthly inspections of car-seals or lock-and-key configurations used to seal bypass lines, specified under paragraph (5) of this ~~Rule~~rule.

3. Each owner or operator subject to the provisions of this Chapter who uses a boiler or process heater with a design heat input capacity of 44 megawatts or greater to comply with subparagraph ~~(1)(b)2.(iii)~~(l)(b) shall keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater. (Examples of such records could include records of steam use, fuel use, or monitoring data collected pursuant to other State regulatory requirements.)

4. Each owner or operator seeking to comply with the provisions of this Chapter by use of an open flare shall keep up-to-date, readily accessible continuous records of the flame or flare pilot flame monitoring specified under subparagraph (5)(c) of this ~~Rule~~rule, and up-to-date, readily accessible records of all periods of operation in which the flame or flare pilot flame is absent.

5. Each owner or operator of a landfill seeking to comply with subparagraph (l)(d) of this rule using an active collection system designed in accordance with subparagraph (l)(d) of this rule shall keep records of periods when the collection system or control device is not operating.

(d) Except as provided in subparagraph ~~(1)(b)2.(i)(II)~~(6)(c)2. of this ~~Rule~~rule, each owner or operator subject to the provisions of this Chapter shall keep for the life of the collection system an up-to-date, readily accessible plot map showing each existing and planned collector in the system and providing a unique identification location label for each collector that matches the labeling on the plot map.

1. Each owner or operator subject to the provisions of this Chapter shall keep up-to-date, readily accessible records of the installation date and location of all newly installed collectors as specified under subparagraph (4)(b) of this ~~Rule~~rule.

2. Each owner or operator subject to the provisions of this Chapter shall keep readily accessible documentation of the nature, date of deposition, amount, and location of asbestos-containing or nondegradable waste excluded from collection as provided in subparagraph (8)(a)3.(i) of this ~~Rule~~ rule as well as any nonproductive areas excluded from collection as provided in subparagraph (8)(a)3.(ii) of this ~~Rule~~rule.

(e) Except as provided in subparagraph ~~(1)(b)2.(i)(II)~~(6)(c)2. of this ~~Rule~~rule, each owner or operator subject to the provisions of this Chapter shall keep for at least 5 years up-to-date, readily accessible records of the following:

1. ~~all~~ All collection and control system exceedances of the operational standards in paragraph (2) of this ~~Rule~~rule, the reading in the subsequent month whether or not the second reading is an exceedance, and the location of each exceedance.

2. Each owner or operator subject to the provisions of this Chapter shall also keep records of each wellhead temperature monitoring value of 55 degrees Celsius (131 degrees Fahrenheit) or above, each wellhead nitrogen level at or above 20 percent, and each wellhead oxygen level at or above 5 percent.

3. For any root cause analysis for which corrective actions are required in subparagraph (4)(a)3. or 5. of this rule, keep a record of the root cause analysis conducted, including a description of the recommended corrective action(s) taken, and the date(s) the corrective action(s) were completed.

4. For any root cause analysis for which corrective actions are required in subparagraph (4)(a)3.(ii) or (a)5.(ii) of this rule, keep a record of the root cause analysis conducted, the corrective action analysis, the date for corrective action(s) already completed following the positive pressure reading or high temperature reading, and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

5. For any root cause analysis for which corrective actions are required in subparagraph (4)(a)3.(iii) or (a)5.(iii) of this rule, keep a record of the root cause analysis conducted, the corrective action analysis, the date for corrective action(s) already completed following the positive pressure reading or high temperature reading, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates, and a copy of any comments or final approval on the corrective action analysis or schedule from the regulatory agency.

(f) Landfill owners or operators who convert design capacity from volume to mass or mass to volume to demonstrate that landfill design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, as provided in the definition of "design capacity", shall keep readily accessible, on-site records of the annual recalculation of site-specific density, design capacity, and the supporting documentation. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic format are acceptable.

(g) Landfill owners or operators seeking to demonstrate that site-specific surface methane emissions are below 500 parts per million by conducting surface emission monitoring under the Tier 4 procedures specified in subparagraph (3)(a)6. of this rule shall keep for at least 5 years up-to-date, readily accessible records of all surface emissions monitoring and information related to monitoring instrument calibrations conducted according to sections 8 and 10 of Method 21 of appendix A of this part, including all of the following items:

1. Calibration records:

(i) Date of calibration and initials of operator performing the calibration.

(ii) Calibration gas cylinder identification, certification date, and certified concentration.

(iii) Instrument scale(s) used.

(iv) A description of any corrective action taken if the meter readout could not be adjusted to correspond to the calibration gas value.

(v) If an owner or operator makes their own calibration gas, a description of the procedure used.

2. Digital photographs of the instrument setup. The photographs shall be time and date-stamped and taken at the first sampling location prior to sampling and at the last sampling location after sampling at the end of each sampling day, for the duration of the Tier 4 monitoring demonstration.

3. Timestamp of each surface scan reading:

(i) Timestamp should be detailed to the nearest second, based on when the sample collection begins.

(ii) A log for the length of time each sample was taken using a stopwatch (*e.g.*, the time the probe was held over the area).

4. Location of each surface scan reading. The owner or operator shall determine the coordinates using an instrument with an accuracy of at least 4 meters. Coordinates shall be in decimal degrees with at least five decimal places.

5. Monitored methane concentration (parts per million) of each reading.

6. Background methane concentration (parts per million) after each instrument calibration test.

7. Adjusted methane concentration using most recent calibration (parts per million).

8. For readings taken at each surface penetration, the unique identification location label matching the label specified in subparagraph (d) of this paragraph.

9. Records of the operating hours of the gas collection system for each destruction device.

(h) Except as provided in subparagraph (6)(c)2. of this rule, each owner or operator subject to the provisions of this Chapter shall keep for at least 5 years up-to-date, readily accessible records of all collection and control system monitoring data for parameters measured in subparagraphs (5)(a)1., 2., and 3. of this rule.

(i) Any records required to be maintained by this Chapter that are submitted electronically via the EPA's CDX may be maintained in electronic format.

(j) For each owner or operator reporting leachate or other liquids addition under subparagraph (6)(k) of this rule, keep records of any engineering calculations or company records used to estimate the quantities of leachate or liquids added, the surface areas for which the leachate or liquids were applied, and the estimates of annual waste acceptance or total waste in place in the areas where leachate or liquids were applied.

(8) Specifications for Active Collection Systems.

(a) Each owner or operator seeking to comply with subparagraph ~~(1)(b)2.(i)~~ of this ~~Rule~~ rule shall site active collection wells, horizontal collectors, surface collectors, or other extraction devices at a sufficient density throughout all gas producing areas using the following procedures unless alternative procedures have been approved by the Director ~~as provided in subparagraphs (1)(b)2.(i)(III) and (IV) of this Rule~~rule~~:~~

1. The collection devices within the interior and along the perimeter areas shall be certified to achieve comprehensive control of surface gas emissions by a professional engineer. The following issues shall be addressed in the design: depths of refuse, refuse gas generation rates and flow characteristics, cover properties, gas system expandability, leachate and condensate management, accessibility, compatibility with filling operations, integration with closure end use, air intrusion control, corrosion resistance, fill settlement, ~~and~~ resistance to the refuse decomposition heat, and ability to isolate individual components or sections for repair or troubleshooting without shutting down entire collection system.

2. The sufficient density of gas collection devices determined in subparagraph (a)1. of this paragraph shall address landfill gas migration issues and augmentation of the collection system through the use of active or passive systems at the landfill perimeter or exterior.

3. The placement of gas collection devices determined in subparagraph (a)1. of this paragraph shall control all gas producing areas, except as provided by subparagraphs (a)3.(i) and (a)3.(ii) of this paragraph.

(i) Any segregated area of asbestos or nondegradable material may be excluded from collection if documented as provided under subparagraph (7)(d) of this ~~Rule~~rule. The documentation shall provide the nature, date of deposition, location and amount of asbestos or nondegradable material deposited in the area, and shall be provided to the Director upon request.

(ii) Any nonproductive area of the landfill may be excluded from control, provided that the total of all excluded areas can be shown to contribute less than 1 percent of the total amount of NMOC emissions from the landfill. The amount, location, and age of the material shall be documented and provided to the Director upon request. A separate NMOC emissions estimate shall be made for each section proposed for exclusion, and the sum of all such sections shall be compared to the NMOC emissions estimate for the entire landfill.

(I) The NMOC ~~E~~emissions from each section proposed for exclusion shall be computed using the following equation:

$$Q_i = 2kL_oM_i\left(e^{-kt_i}\right)\left(C_{NMOC}\right)\left(3.6 \times 10^{-9}\right)$$

where,

Q_i = NMOC emission rate from the ith section, megagrams per year

k = methane generation rate constant, $year^{-1}$

L_o = methane generation potential, cubic meters per megagram solid waste

M_i = mass of the degradable solid waste in the ith section, megagram

t_i = age of the solid waste in the ith section, years

C_{NMOC} = concentration of nonmethane organic compounds, parts per million by volume

3.6×10^{-9} = conversion factor

(II) If the owner or operator is proposing to exclude, or cease gas collection and control from, nonproductive physically separated (*e.g.*, separately lined) closed areas that already have gas collection systems, NMOC emissions from each physically separated closed area shall be computed using either equation in subparagraph (3)(b) of this rule, or the equation in subparagraph (a)3.(ii)(I) of this paragraph.

(iii) The values for k, and C_{NMOC} determined in field testing shall be used, if field testing has been performed in determining the NMOC emission rate or the radii of influence (the distance from the well center to a point in the landfill where the pressure gradient applied by the blower or compressor approaches zero). If field testing has not been performed, the default values for k, L_o and C_{NMOC} provided in ~~sub~~paragraph (3)~~(a)~~ of this ~~Rule~~ rule or the alternative values from ~~sub~~paragraph (3)~~(a)5.~~ of this ~~Rule~~ rule shall be used. The mass of nondegradable solid waste contained within the given section may be subtracted from the total mass of the section when estimating emissions provided the nature, location, age, and amount of the nondegradable material is documented as provided in subparagraph (a)3.(i) of this paragraph.

(b) Each owner or operator seeking to comply with subparagraph ~~(1)(b)2.(i)(I)~~(I)(a) of this ~~Rule~~ rule shall construct the gas collection devices using the following equipment or procedures:

1. The landfill gas extraction components shall be constructed of polyvinyl chloride (PVC), high density polyethylene (HDPE) pipe, fiberglass, stainless steel, or other nonporous corrosion resistant material of suitable dimensions to: convey projected amounts of gases; withstand installation, static, and settlement forces; and withstand planned overburden or traffic

loads. The collection system shall extend as necessary to comply with emission and migration standards. Collection devices such as wells and horizontal collectors shall be perforated to allow gas entry without head loss sufficient to impair performance across the intended extent of control. Perforations shall be situated with regard to the need to prevent excessive air infiltration.

2. Vertical wells shall be placed so as not to endanger underlying liners and shall address the occurrence of water within the landfill. Holes and trenches constructed for piped wells and horizontal collectors shall be of sufficient cross-section so as to allow for their proper construction and completion including, for example, centering of pipes and placement of gravel backfill. Collection devices shall be designed so as not to allow indirect short circuiting of air into the cover or refuse into the collection system or gas into the air. Any gravel used around pipe perforations should be of a dimension so as not to penetrate or block perforations.

3. Collection devices may be connected to the collection header pipes below or above the landfill surface. The connector assembly shall include a positive closing throttle valve, any necessary seals and couplings, access couplings and at least one sampling port. The collection devices shall be constructed of PVC, HDPE, fiberglass, stainless steel, or other nonporous material of suitable thickness.

(c) Each owner or operator seeking to comply with subparagraph ~~(1)(b)2.(i)(I)~~(l)(b) of this ~~Rule~~ rule shall convey the landfill gas to a control system in compliance with subparagraph ~~(1)(b)2.(iii)~~(l)(b) of this ~~Rule~~ rule through the collection header pipe(s). The gas mover equipment shall be sized to handle the maximum gas generation flow rate expected over the intended use period of the gas moving equipment using the following procedures:

1. For existing collection systems, the flow data shall be used to project the maximum flow rate. If no flow data exists, the procedures in subparagraph (c)2. of this paragraph shall be used.

2. For new collection systems, the maximum flow rate shall be in accordance with subparagraph (4)(a)1. of this ~~Rule~~rule.

Author: Ronald W. Gore
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.
History: Effective Date: January 15, 1998.
Amended: January 13, 2000; September 7, 2000; March 14, 2002~~.~~; XXXXXX, 2017.

335-3-19-.04 Compliance Schedules.

(1) Planning, awarding of contracts, installing, and starting up MSW landfill air emission collection and control equipment that is capable of meeting the emission standards under this Chapter shall be completed within 30 months after the date an NMOC emission rate report shows NMOC emissions

equal or exceed 34 megagrams per year (50 megagrams per year for the closed landfill subcategory); or ~~Except as provided for under paragraph (2) of this Rule, planning, awarding of contracts, and installation of MSW landfill air emission collection and control equipment capable of meeting the emission standards established under this Chapter, shall be accomplished within 30 months after the date the initial NMOC emission rate report shows NMOC emissions equal or exceed 50 megagrams per year.~~

(2) Within 30 months after the date of the most recent NMOC emission rate report that shows NMOC emissions equal or exceed 34 megagrams per year (50 megagrams per year for the closed landfill subcategory), if Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.~~For each existing MSW landfill meeting the conditions in Rules 335-3-19-.02(2)(a) and (2)(b) whose NMOC emission rate is less than 50 megagrams per year on the effective date of Rule 335-3-19-.03, installation of collection and control systems capable of meeting emission standards established under this Chapter shall be accomplished within 30 months of the date when the condition in Rule 335-3-19-.02(2)(c) is met (i.e., the date of the first annual nonmethane organic compounds emission rate which equals or exceeds 50 megagrams per year).~~

Author: Ronald W. Gore
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.
History: Effective Date: January 15, 1998.
Amended: January 13, 2000~~.~~; XXXXXX, 2017.

335-3-19-.05 Petition for Alternative Standards and Compliance Schedules.

(1) A MSW landfill owner or operator may request through petition, alternative emission standards or a longer compliance schedule that is/are not specified in this Chapter through the following procedures.

(a) Petition Requirements. To enable the Department to rule on the Petition, the following information, where determined applicable by the Department, shall be included in the petition:

1. A clear and complete statement of the precise extent of the relief sought including specific identification of the particular provisions of the regulations from which the relief is sought. The criteria for relief include:

(i) Unreasonable cost of control resulting from landfill age, location, or basic design:

(ii) Physical impossibility of installing necessary control equipment; or

(iii) Other factors specific to the landfill that make application of a less stringent standard or final compliance time significantly more reasonable.

(2) An assessment, with supporting factual information, of the impact that the petition will impose on the public health and the environment in the affected area.

(3) Any additional information requested by the Department as necessary to evaluate the petition.

(4) A concise factual statement of the reasons the petitioner believes that alternative emission limits or a longer compliance schedule will not threaten the public health or unreasonably create environmental pollution.

(b) Extension of Prior or Existing Alternative Emission Standards or Compliance Schedule. A petition to extend a prior or existing petition granted by the Department shall be commenced by filing a new petition with the Department in accordance with the requirements of paragraph (1) of this ~~Rule~~rule. To the extent that the information required by paragraph (1) of this ~~Rule~~ rule has been included in the prior petition for which extension is sought, a submission of that information shall not be required provided that the petition shall request the incorporation of the record, opinion and order in the prior proceeding into the new petition.

(c) Department Actions on Petitions. On receipt of a petition, the Department will authorize one of the following actions, as they shall determine:

1. The petition may be dismissed if the Department determines that it is not adequate under paragraph (1) of this ~~Rule~~rule.

2. The Department may grant the request of the petition, as petitioned or by imposing such conditions as this Division may require in the Major Source Operating Permit, including the establishment of schedules of compliance and monitoring requirements, if EPA consents to the alternative emission standards or compliance schedule as submitted to EPA by the Department.

3. The Department may deny the petition. If such a denial is made, the Department shall notify the petitioner in writing, state the reasons for denial and outline procedures for appeal.

(d) Termination Procedures.

Any petition granted by the Department may be terminated by the Department whenever the Department finds, after an opportunity for the petitioner to demonstrate compliance and after notice and an opportunity for hearing, that the petitioner is in violation of any requirement, condition,

schedule, limitation or any other provision of the petition or that operation under the petition does not meet the minimum requirements established by state and federal laws and regulations or is unreasonably threatening the public health.

Author: Ronald W. Gore
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.
History: Effective Date: January 15, 1998.
Amended: September 7, 2000~~;~~XXXXXX, 2017.

APPENDIX B
INVENTORY

Active Sanitary Landfills

	LANDFILL DATA (ACTIVE)	4/9/1997		landfilo.xls								
					NMOC			Date	Date	Date	Waste	
	LANDFILL NAME	LOCATION	DESIGN	Units	Mg/yr		Status	constructed	modified	first Waste	Acc Rate	NSPS
			CAPACITY		(by facility)	Tier					tpd	
1	Cedar Hill MSWLF	St. Clair	52,372,187	m3	30.80	II	existing	before 1990	1995	unknown	600	X
2	Arrowhead MSWLF	Perry	51,076,967	Mg	2.41	II	existing	June 2007		Oct 2007	15000	X
3	Three Corners MSWLF	Cherokee	32,789,459	Mg	22.6	II	existing			1998		X
4	Star Ridge MSWLF	St. Clair	32,040,585	m3	16.44	II	existing	1983	aft 1991	unknown	1500	X
3	Brundidge MSWLF	Pike	28,289,064	m3	18.18	II	existing	Oct. 1993		no waste	1500	X
5	North Montgomery MSWLF	Montgomery	25,000,000	Mg	13.40	II	existing	July 1995		Oct.1995	1165	X
6	Turkey Trot MSWLF	Washington	19,829,621	m3	29.01	II	existing				4000	X
7	Stone's Throw MSWLF	Tallapoosa	19,749,068	Mg	174.60	II	existing		2015		1500	X
8	Chastang MSWLF	Mobile	19,600,000	Mg	9.40	II	existing	1976		1976	1725	X
9	Sand Valley MSWLF	Dekalb	19,458,810	Mg	86.14	II	existing				1500	X
10	Salem MSWLF	Lee	19,402,857	m3	47.74	II	existing	1985	1994	1985	1500	X
11	Pineview MSWLF	Walker	12,000,000	Mg	50.00	II	existing	1993		Oct.1993	1500	X
12	Decatur/Morgan County	Morgan	10,127,000	m3	5.40	II	existing	Sept. 1980	1996 cell	Sept. 1980	700	X
13	Black Warrior MSWLF	Tuscaloosa	8,913,263	Mg	22.36	II	existing	1987	1996 cell	unknown	300	X
14	Morris Farms MSWLF	Lawerence	7,700,000	Mg	17.72	II	existing	1995		Oct. 1996	1500	X
15	Magnolia MSWLF	Baldwin	7,542,100	m3	30.68	II	existing	1972	1997	new 10/97	1500	X
16	Coffee County MSWLF	Coffee	6,136,363	Mg	9.86	II	existing	Feb. 1993		Oct. 1993	1200	X
17	Timberlands MSWLF	Escambia	4,300,000	Mg	20.05	II	existing	1993		1994	2500	X
18	Shelby County MSWLF	Shelby	3,174,500	Mg	34.20	II	existing	1982		1982	1500	X
					568.74							

APPENDIX C
LEGAL AUTHORITY

Chapter 28 ALABAMA AIR POLLUTION CONTROL ACT.

- Section 22-28-1 Short title.
- Section 22-28-2 Definitions.
- Section 22-28-3 Declaration of policy; purpose of chapter.
- Section 22-28-4 through 22-28-8 Repealed.
- Section 22-28-9 Authority of commission to hire consultants, assistants and other employees.
- Section 22-28-10 Powers of commission generally; advisory committees.
- Section 22-28-11 Emission control requirements.
- Section 22-28-12 Motor vehicle emissions.
- Section 22-28-13 Variances.
- Section 22-28-14 Regulations — Authority of commission.
- Section 22-28-15 Regulations — Hearings; procedure for adoption.
- Section 22-28-16 Permits.
- Section 22-28-17 Review of plans and specifications.
- Section 22-28-18 Providing of information.
- Section 22-28-19 Right of entry for inspection; tests and samples.
- Section 22-28-20 Availability of records, reports or information.
- Section 22-28-21 Air pollution emergencies.
- Section 22-28-22 Proceedings upon violation of chapter; penalties; subpoenas; injunctions.
- Section 22-28-23 Local air pollution control programs.

Section 22-28-1

Short title.

This chapter shall be known and may be cited as the "Alabama Air Pollution Control Act of 1971."

(Acts 1971, No. 769, p. 1481, §1.)

Section 22-28-2

Definitions.

For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

(1) Air pollution.

The presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life or property or would interfere with the enjoyment of life or property throughout the state and in such territories of the state as shall be affected thereby.

(2) Air contaminant.

Any solid, liquid or gaseous matter, any odor or any combination thereof, from whatever source.

(3) Commission.

The Alabama Department of Environmental Management.

(4) Person.

Any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, or other legal or other business organization or any governmental entity, and any successor, representative, agent or agency of the foregoing.

(5) Emission.

A release into the outdoor atmosphere of air contaminants.

(6) Director.

The Director of the Alabama Department of Environmental Management.

(7) State Health Officer.

The Director of the Alabama Department of Environmental Management.

(8) Chairman.

The director of the Alabama Department of Environmental Management.

(9) State Air Pollution Control Commission.

The Alabama Department of Environmental Management.

(10) Environmental Management Commission.

The Environmental Management Commission of the Alabama Department of Environmental Management.

(Acts 1971, No. 769, p. 1481, §3; Acts 1982, No. 82-612, p. 1111, §11(g).)

Section 22-28-3

Declaration of policy; purpose of chapter.

(a) It is hereby declared to be the public policy of this state and the purpose of this chapter to achieve and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the social development of this state and facilitate the enjoyment of the natural attractions of this state.

(b) It is also declared that local air pollution control programs are to be provided for to the extent practicable as essential instruments for the securing and maintenance of appropriate levels of air quality.

(c) To these ends, it is the purpose of this chapter to provide for a coordinated statewide program of air pollution prevention, abatement and control; to facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within single jurisdictions and to provide a framework within which all values may be balanced in the public interest.

(Acts 1971, No. 769, p. 1481, §2.)

Sections 22-28-4 through 22-28-8 Repealed by Acts 1982, No. 82-612, p. 1111, §14(a)(1), effective October 1, 1982.

Section 22-28-9

Authority of commission to hire consultants, assistants and other employees.

The commission may employ and compensate, within appropriations available therefor, consultants and such assistants and employees as may be necessary to carry out the provisions of this chapter and may prescribe their powers and duties. Employees of the commission shall be employed in accordance with the State Merit System.

(Acts 1971, No. 769, p. 1481, §4.)

Section 22-28-10

Powers of commission generally; advisory committees.

In addition to other powers conferred on it by law, the commission shall have power to:

(1) Hold hearings relating to any aspect of or matter in the administration of this chapter and, in connection therewith, compel the attendance of witnesses and the production of evidence through subpoena, as provided in this chapter;

(2) Issue such orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings;

(3) Require access to records relating to emissions which cause or contribute to air contamination;

(4) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise;

(5) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution in this state;

(6) Encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;

(7) Encourage and conduct studies, investigations and research relating to air contamination and air pollution and their causes, effects, prevention, abatement and control;

(8) Determine by means of field studies and sampling the degree of air contamination and air pollution in the state and the several parts thereof;

(9) Make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere of this state, and the several parts thereof, and make recommendations to appropriate public and private bodies with respect thereto;

(10) Collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution;

(11) Advise, consult, contract and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government and with interested persons or groups;

(12) Consult, upon request, with any person proposing to construct, install or otherwise acquire an air contaminant source or device or system for the control thereof concerning the efficacy of such device or system or the air pollution problem which may be related to the source, device or system. Nothing in any such consultation shall be construed to relieve any person from compliance with this chapter, rules and regulations in force pursuant thereto or any other provision of law;

(13) Accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter. Such funds received by the commission pursuant to this section shall be deposited in the State Treasury to the account of the commission. In addition to the authority to accept, receive and administer grants or other funds from the federal government, the commission is hereby designated as the State Air Pollution Control Agency for the purposes of the Federal Clean Air Act, as amended;

(14) Provide for the performance by its officers and employees, in the name of the commission, of any act or duty necessary or incidental to the administration of this chapter; and

(15) Provide for the establishment of advisory committees, appointment of the membership of such committees, scope of investigation and other duties of such committees. The period of duration of such committees and the terms of members of such committees shall be established by the commission. No salary or compensation shall be allowed any member of such committees for services thereon. Travel, subsistence and other expenses incurred by members of such committees in the discharge of their official duties as members of such committees, and when approved by the chairman or the director, by direction of the commission shall be paid at the rate allowed other state employees as provided by Article 2 of Chapter 7 of Title 36 of this Code from any funds which are, or may become, available for the purpose of this chapter.

(Acts 1971, No. 769, p. 1481, §6.)

Section 22-28-11

Emission control requirements.

The commission may establish such emission control requirements, by rule or regulation, as in its judgment may be necessary to prevent, abate or control air pollution. Such requirements may be for the state as a whole or may vary from area to area, as may be appropriate, to facilitate accomplishment of the purposes of this chapter and in order to take account of varying local conditions.

(Acts 1971, No. 769, p. 1481, §10.)

Section 22-28-12

Motor vehicle emissions.

(a) As the state of knowledge and technology relating to the control of emissions from motor vehicles may permit or make appropriate, and in furtherance of the purposes of this chapter, the commission may provide by rules and regulations for the control of emissions from any class or classes of motor vehicles. Such rules and regulations may, in addition, prescribe requirements for the installation and use of equipment designed to reduce or eliminate emissions and for the proper maintenance of such equipment and of such vehicles.

(b) (1) The commission may establish standards and requirements providing for periodic inspections and testing of motor vehicles by the commission to enforce compliance with this section.

(2) The commission may establish reasonable fees for the inspection and testing of motor vehicles and provide by rules and regulations for the payment and collection of such fees.

(3) If, after inspecting and testing any motor vehicle, the commission determines that such motor vehicle complies in every respect with rules, regulations, standards and requirements issued by the commission pursuant to this section, the commission shall attach to such vehicle in a clearly visible location a certificate of inspection and approval.

(c) (1) The commission may suspend or revoke the certificate of inspection and approval of any motor vehicle not equipped with an air pollution control system or mechanism in good working order and adjustment as required by the rules and regulations of the commission. The vehicle shall not thereafter be eligible for such certificate until all parts and equipment constituting operational elements of the motor vehicle have been restored, replaced or repaired and are in good working order.

(2) No motor vehicle shall be issued an official certificate of inspection and approval as required pursuant to this section unless all features or equipment required in or on the motor vehicle for the purpose of controlling emissions therefrom have been inspected in accordance with the standards and testing techniques required by the commission pursuant to subsection (b) of this section and have been found to meet these standards.

(3) No person shall drive or move and no owner shall cause or knowingly permit to be driven or moved on any highway any motor vehicle unless the vehicle is equipped with an air pollution control system or mechanism in good working order and adjustment as required by rules and regulations of the commission.

(4) When, and if, the commission shall establish standards and requirements for periodic inspections and testing of motor vehicles pursuant to subsection (b) of this section, no person shall drive or move and no owner shall cause or knowingly permit to be driven or moved on any highway any motor vehicle unless there is attached to such vehicle by the commission a valid certificate of inspection and approval which has not been suspended or revoked.

(5) Failure to comply with subdivisions (3) and (4) of this subsection shall subject the driver or owner to a penalty as provided in this chapter.

(d) The commission, in its discretion, is hereby authorized to delegate any, or all, of the authority vested in it by this section to any agency or instrumentality of the state now or hereafter authorized to inspect motor vehicles for any purpose.

(e) As used in this section, "motor vehicle" shall mean every self-propelled device in, or upon, or by which any person or property is or may be transported or drawn upon a public highway.

(Acts 1971, No. 769, p. 1481, §16.)

Section 22-28-13

Variances.

(a) The commission may grant individual variances beyond the limitations prescribed in this chapter whenever it is found, upon presentation of adequate proof, that compliance with any rule or regulation, requirement or order of the commission would impose serious hardship without equal or greater benefits to the public and the emissions occurring, or proposed to occur, do not endanger or tend to endanger human health or safety, human comfort and aesthetic values. In granting or denying a variance, the commission shall file and publish a written opinion stating the facts and reasons leading to its decision.

(b) In granting a variance, the commission may impose such conditions as the policies of this chapter may require. If the hardship complained of consists solely of the need for a reasonable delay in which to correct a violation of this chapter or of the commission regulations, the commission shall condition the grant of such variance upon the posting of sufficient performance bond or other security to assure the correction of such violation within the time prescribed.

(c) Any variance granted pursuant to the provisions of this section shall be granted for such period of time, not exceeding one year, as shall be specified by the commission at the time of the grant of such variance and upon the condition that the person who receives such variance shall make such periodic progress reports as the commission shall specify. Such variance may be extended from year to year by affirmative action of the commission, but only if satisfactory progress has been shown.

(d) Any person seeking a variance shall do so by filing a petition for variance with the commission, which shall promptly give notice of such petition in a newspaper of general circulation in the county in which the installation or property for which variance sought is located. The director shall promptly investigate such petition, consider the views of persons who might be adversely affected by the grant of a variance and make a recommendation to the commission as to the disposition of the petition. If the commission, in its discretion, concludes that a hearing would be advisable, or if any person files a written objection to the grant of such variance within 21 days, then a hearing shall be held, under the rules prescribed in subsection (b) of Section 22-28-15, and the burden of proof shall be on the petitioner.

(e) If the commission fails to take final action upon a variance request within 90 days after the filing of the petition, the petitioner may deem the request denied under this chapter.

(f) A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the commission; however, any person adversely affected by a variance or renewal granted by the commission may obtain judicial review by filing notice of appeal with the register or clerk of the circuit court in the county where the pollution source is located within 20 days from the action of the commission thereon. The case shall be heard by the court under the same rules and with the same requirements as a petition for injunction would be heard. On appeal, the circuit court shall grant said variance unless it finds the operation of the air contamination source in the manner allowed in the variance would amount to a private or public nuisance or unless it finds that the commission acted arbitrarily and capriciously.

(Acts 1971, No. 769, p. 1481, §12.)

Section 22-28-14

Regulations — Authority of commission.

The commission, pursuant to procedures prescribed in Section 22-28-15, may adopt regulations to promote the purposes of this chapter. Without limiting the generality of this authority, such regulations may among other things prescribe:

(1) Ambient air quality standards specifying the maximum permissible short-term and long-term concentrations of various air contaminants in the atmosphere;

(2) Emission standards specifying the maximum amounts or concentrations of air contaminants that may be discharged into the atmosphere;

(3) Standards and conditions regarding the sale, offer or use of any fuel or other article determined to constitute an air pollution hazard or which could constitute an air pollution hazard;

(4) Alert and abatement standards relative to air pollution episodes or emergencies constituting an acute danger to health or to the environment;

(5) Requirements and procedures for the inspection of any equipment, facility, vehicle, vessel or aircraft that may cause or contribute to air pollution;

(6) Requirements for making reports containing information as may be required by the commission concerning location, size and height of contaminant outlets, processes employed, fuels used and the nature and time periods or duration of emissions and such other information as is relevant to air pollution; and

(7) Effective and application dates; however, unless otherwise specified by the commission, all rules, regulations, standards, requirements, procedures, orders, resolutions, prohibitions, amendments thereto or repeal thereof shall become effective and applicable upon adoption by the commission.

(Acts 1971, No. 769, p. 1481, §5.)

Section 22-28-15

Regulations — Hearings; procedure for adoption.

(a) No substantive regulations shall be adopted, amended or repealed until after a public hearing. At least 20 days prior to the scheduled date of the hearing, the commission shall give notice of such hearing by public advertisement in a newspaper of general circulation in the area of the state concerned of the date, time, place and purpose of such hearing and make available to any person upon request copies of the proposed regulations, together with summaries of the reasons supporting their adoption.

(b) Repealed by Acts 1982, No. 82-612, p. 1111, §14(a)(1).

(c) After such hearing, the commission may revise the proposed regulations before adoption in response to testimony made at the hearing without conducting a further hearing on the revisions.

(d) Any such regulations may make different provisions, as required by circumstances, for different contaminant sources and for different geographical areas; may apply to sources outside this state causing, contributing to or threatening environmental damage in Alabama and may make special provision for alert and abatement standards and procedures respecting occurrences or emergencies of pollution or on other short-term conditions constituting an acute danger to health or to the environment. In promulgating regulations under this chapter, the commission shall take into account the purpose of the chapter.

(e) Nothing in this section shall be construed to require a hearing prior to the issuance of an emergency order pursuant to Section 22-28-21.

(Acts 1971, No. 769, p. 1481, §13; Acts 1982, No. 82-612, p. 1111, §14(a)(1).)

Section 22-28-16

Permits.

(a) The commission, by regulation, shall prohibit the construction, installation, modification or use of any equipment, device or other article which it finds may cause or contribute to air pollution or which is intended primarily to prevent or control the emission of air pollutants unless a permit therefor has been obtained from the director.

(b) The commission may require that applications for such permits shall be accompanied by plans, specifications and such other information as it deems necessary.

(c) The commission shall provide for the issuance, suspension, revocation and renewal of any permits which it may require pursuant to this section.

(d) No person shall construct, install, modify or use any equipment, device or other article designated by regulations capable of causing, or contributing to, air pollution or designated to prevent air pollution without a permit from the director or in violation of any conditions imposed by such permits.

(Acts 1971, No. 769, p. 1481, §18.)

Section 22-28-17

Review of plans and specifications.

(a) The commission may require that notice be given to the director prior to the undertaking of the construction, installation or establishment of particular types or classes of new air contamination sources specified in its rules and regulations. Within 15 days of its receipt of such notice, the director may require, as a condition precedent to the construction, installation or establishment of the air contaminant source or sources covered thereby, the submission of plans, specifications and such other information as it deems necessary in order to determine whether the proposed construction, installation or establishment will be in accord with applicable rules and regulations in force pursuant

to this chapter. If, within 60 days of the receipt of plans, specifications or other information required pursuant to this section, the director determines that the proposed construction, installation or establishment will not be in accord with the requirements of this chapter or applicable rules and regulations, he shall issue an order prohibiting the construction, installation or establishment of the air contaminant source or sources. Failure of such an order to issue within the time prescribed in this section shall be deemed a determination that the construction, installation or establishment may proceed, provided that it is in accordance with the plans, specifications or other information, if any, required to be submitted.

(b) In addition to any other remedies available on account of the issuance of an order prohibiting construction, installation or establishment, and prior to invoking any such remedies, the person or persons aggrieved thereby shall, upon request in accordance with rules of the commission, be entitled to a hearing on the order. Following such hearing, the order may be affirmed, modified or withdrawn.

(c) For the purposes of this chapter, addition to, or enlargement or replacement of an air contaminant source, or any major alteration therein, shall be construed as construction, installation or establishment of a new air contaminant source.

(d) Any features, machines and devices constituting parts of, or called for by, plans, specifications or other information submitted pursuant to subsection (a) of this section shall be maintained in good working order.

(e) Nothing in this section shall be construed to authorize the commission to require the use of machinery, devices or equipment from a particular supplier or produced by a particular manufacturer if the required performance standards may be met by machinery, devices or equipment otherwise available.

(f) The absence or failure to issue a rule, regulation or order pursuant to this section shall not relieve any person from compliance with any emission control requirements or with any other provision of law.

(g) The commission, by rule or regulation, may prescribe and provide for the payment and collection of reasonable fees for the review of plans and specifications required to be submitted pursuant to this section. All such fees, when collected, shall be deposited in the State Treasury to the account of the Division of Air Pollution Control of the State Department of Health.

(Acts 1971, No. 769, p. 1481, §8.)

Section 22-28-18

Providing of information.

The commission may require the owner or operator of any air contaminant source to establish and maintain such records, make such reports, install, use and maintain such monitoring equipment or methods, sample such emissions in accordance with such methods, at such locations, intervals and procedures as the commission shall prescribe, and provide such other information as the commission reasonably may require.

(Acts 1971, No. 769, p. 1481, §7.)

Section 22-28-19

Right of entry for inspection; tests and samples.

(a) Any duly authorized officer, employee or representative of the department may enter and inspect any property, premises or place on, or at, which an air contaminant source is located or is being constructed, installed or established, at any reasonable time, for the purpose of ascertaining the state of compliance with this chapter and rules and regulations in force pursuant thereto. No person shall refuse entry or access to any authorized representative of the department who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such inspection. If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

(b) The department may conduct tests and take samples of air contaminants, fuel, process material or other material which affects, or may affect, emission of air contaminants from any source. Upon request of the department, the person responsible for the source to be tested shall provide necessary holes in stacks or ducts and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants. If an authorized employee of the department during the course of an inspection obtains a sample of air contaminant, fuel, process material or other material, he shall give the owner or operator of the equipment or fuel facility a receipt for the sample obtained.

(Acts 1971, No. 769, p. 1481, §9.)

Section 22-28-20

Availability of records, reports or information.

(a) Any records, reports or information obtained under this chapter shall be available to the public; except, that upon a showing satisfactory to the commission by any person that records, reports or information, or particular part thereof, other than emission data, to which the commission has access if made public would divulge production or sales figures or methods, processes or production unique to such person or would otherwise tend to affect adversely the competitive position of such person by revealing trade secrets, the commission shall consider such record, report or information, or particular portion thereof, confidential in the administration of this chapter.

(b) Nothing in this section shall be construed to prevent disclosure of such report, record or information to federal, state or local representatives as necessary for purposes of administration of any federal, state or local air pollution control laws or when relevant in any proceeding under this chapter.

(Acts 1971, No. 769, p. 1481, §14.)

Section 22-28-21

Air pollution emergencies.

(a) Any other provisions of law to the contrary notwithstanding, if the director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the director shall order persons causing or contributing to the air pollution to reduce or discontinue immediately

the emission of air contaminants, and such order shall fix a place and time, not later than 24 hours thereafter, for a hearing to be held before the Environmental Management Commission. Not more than 24 hours after the commencement of such hearing, and without adjournment thereof, the Environmental Management Commission shall affirm, modify or set aside the order of the director.

(b) In the absence of a generalized condition of air pollution of the type referred to in subsection (a) of this section, but if the director finds that emissions from the operation of one or more air contaminants sources is causing imminent danger to human health or safety, he may order the person or persons responsible for the operation or operations in question to reduce or discontinue emissions immediately, without regard to the provisions of Section 22-28-19. In such event, the requirements for hearing and affirmance, modification or setting aside of orders set forth in subsection (a) of this section shall apply.

(c) Nothing in this section shall be construed to limit any power which the Governor or any other officer may have to declare an emergency and act on the basis of such declaration, if such power is conferred by statute or constitutional provision or inheres in the office.

(d) In addition to, and without in any way limiting the foregoing, if the State Health Officer, determines, at any time, that air pollution in any county, locality, place or other area in the state constitutes an emergency risk to health of those present within said area of the state and that the resources of the commission are not sufficient to abate said air pollution, such determination shall be communicated in writing, with the factual findings on which such determination is based, to the Governor; the State Health Officer may delegate in writing to any employee of the commission the power to make such determination and deliver the same to the Governor in the absence of the State Health Officer from the state. Upon being so advised, the Governor shall, by proclamation, declare, as to all or any part of said area mentioned in the aforesaid determination, that an air pollution emergency exists, and, upon making such declaration, the Governor shall have the following powers which he may exercise, in whole or in part, by the issuance of an order or orders:

(1) To prohibit, restrict or condition motor vehicle travel of every kind, including trucks and buses, in the area;

(2) To prohibit, restrict or condition the operation of retail, commercial, manufacturing, industrial or similar activity in the area;

(3) To prohibit, restrict or condition operation of incinerators in the area;

(4) To prohibit, restrict or condition the burning or other consumption of any type of fuel in the area;

(5) To prohibit, restrict or condition the burning of any materials whatsoever in the area; and

(6) To prohibit, restrict or condition any, and all, other activity in the area which contributes or may contribute to the air pollution emergency.

(e) The declaration by proclamation of the Governor of an air pollution emergency, and any order issued by the Governor pursuant to such declaration, shall be given maximum publicity throughout the state.

(f) Any gubernatorial order may be amended or modified by further gubernatorial orders. Said order or orders shall not require any judicial or other order or confirmation of any type in order to become immediately effective as the legal obligation of all persons, firms, corporations and other entities within the state. Said order shall remain in effect for the duration of the time set forth in same, and if no time limit is specified in said order, same shall remain in effect until the governor declares by further proclamation that the emergency has terminated.

(g) The aforesaid orders of the Governor shall be enforced by the state and county departments of health, the state and local police, commission personnel, the Alabama National Guard, if same is authorized in the Governor's order, and such other persons or agencies as may be designated by the Governor. Those enforcing any Governor's order shall require no further authority or warrant in executing same than the issuance of the order itself. Those authorized to enforce said orders may use such reasonable force as is required in the enforcement thereof and may take such reasonable steps as are required to assure compliance therewith, including, but without limiting the generality of the foregoing, the following:

(1) Entering any property or establishment whatsoever, commercial, industrial or residential, believed, on reasonable cause, to be violating said order, excepting single or double family homes or any dwelling unit within a multiple-dwelling unit larger than a double family home, and, if a request does not produce compliance, causing compliance with said order;

(2) Stopping, detouring, rerouting and prohibiting motor vehicle travel and traffic;

(3) Disconnecting incinerator or other types of combustion facilities;

(4) Terminating all burning activities;

(5) Closing down or restricting the use of any business, commercial, retail, manufacturing, industrial or other establishment.

Where any person authorized to enforce such an order believes, on reasonable cause, that same is being violated in a single or double family residence or within the dwelling portion of a larger multiple-dwelling unit, said residence, or dwelling portion thereof, may be entered only upon obtaining a search warrant from any magistrate having power to issue same.

(h) Any person, firm or corporation or other entity aggrieved by any gubernatorial order, upon application to the State Health Officer, shall be granted a public hearing on the question of whether or not the continuance of any such order, in whole or in part, is unreasonable in the light of the then prevailing conditions of air pollution, the contribution to the same of any particular activity and the purposes of this chapter. Said public hearing shall be conducted as quickly as possible by said State Health Officer or his delegate who shall give public notice of same. The State Health Officer or his delegate shall have the power to compel attendance, testimony and the production of documents by the use of subpoena powers. The number of witnesses and the extent of testimony shall be within his control. If the State Health Officer, upon conclusion of such hearing, determines that any such order should be terminated or modified in any way whatsoever, he shall report such findings and recommendations to the Governor for such action as he deems appropriate.

(Acts 1971, No. 769, p. 1481, §11; Acts 1982, No. 82-612, p. 1111, §11(g).)

Section 22-28-22

Proceedings upon violation of chapter; penalties; subpoenas; injunctions.

(a) Any person who knowingly violates or fails or refuses to obey or comply with this chapter, or any rule or regulation adopted thereunder, or knowingly submits any false information under this chapter, or any rule or regulation thereunder, including knowingly making a false material statement, representation, or certification, or knowingly rendering inaccurate a monitoring device or method, upon conviction, shall be punished by a fine not to exceed ten thousand dollars ($10,000) for the violation and an additional penalty not to exceed ten thousand dollars ($10,000) for each day thereafter during which the violation continues and may also be sentenced to hard labor for the county for not more than one year.

(b) Any local air pollution control program operating pursuant to subsection (b) of Section 22-28-23 may enforce violations of the local air pollution control program and its rules and regulations in the same manner described in subsection (a) of this section.

(c) Any duly designated employee of the commission, including any hearing officer, may administer oath to witnesses and may conduct hearings or investigations, and any such duly designated employee of the commission may sign and issue subpoenas requiring persons to appear before him or her or the commission to give testimony and requiring the production of any papers, books, accounts, payrolls, documents, or records. The commission, through its designated officers, shall have the power to serve subpoenas upon any person by sending a copy of the subpoena through the United States mail, postage prepaid, registered or certified, with return receipt attached, and the service shall be complete when the registered or certified mail is delivered to the person and the receipt is returned to the commission or its designated employee, signed by the person being subpoenaed. Obedience to a subpoena issued by the commission or any person authorized and designated by the commission to issue a subpoena may be enforced by application to any judge of the circuit court of the county in which the subpoena was issued or to the judge of any circuit court in which the person subpoenaed resides in the same manner as is provided by law for the grand jury of a county to enforce its subpoenas and with the same penalty as provided for the failure of any person failing or refusing to comply with a subpoena.

(Acts 1971, No. 769, p. 1481, §17; Acts 1982, No. 82-612, p. 1111, §14(a)(1); Acts 1986, No. 86-542, p. 1053, §6; Acts 1996, No. 96-516, p. 660, §1.)

Section 22-28-23

Local air pollution control programs.

(a) Except as provided in this section, it is the intention of this chapter to occupy by preemption the field of air pollution control within all areas of the State of Alabama. However, nothing in this section shall be construed to limit or abrogate any private remedies now available to any person for the alleviation, abatement, control, correction, or prevention of air pollution or restitution for damage resulting therefrom.

(b) Subject to the provisions of this section, each municipal governing body which had municipal ordinances in effect on, or before, July 1, 1969, which pertain to air pollution control and which provide for the creation and establishment of an air pollution control board and each county board of health shall have the authority to establish, and thereafter administer, within their jurisdictions, a local air pollution control program which:

(1) Provides, subject to subsection (d) of this section, by ordinance, regulation, or resolution, for requirements for the control or prevention of air pollution consistent with, or more strict than, those imposed by this chapter or the rules, regulations, and standards promulgated by the commission under this chapter;

(2) Provides for the enforcement of such requirement by appropriate administrative and judicial process, including a process for the administrative assessment of penalties substantially equivalent to that provided in subdivision (18) of Section 22-22A-5, provided however, that no person subject to the jurisdiction of the municipal or county program shall be subject to the administrative assessment of penalties by the municipal or county program if the department has issued an order that assesses a penalty or if the department or Attorney General has commenced a civil action to recover a penalty for the same violation pursuant to subdivision (18) of Section 22-22A-5. Each municipal governing body and each county board of health establishing a program under this section may advertise and adopt all rules and regulations in accordance with the same procedure provided in this chapter for the adoption of rules, regulations, and standards by the commission, and all judicial remedies provided by this chapter and Chapter 22A of this title shall be available and enforceable by the municipal governing body and by the county board of health; and

(3) Provides for administrative organization, staff, financial, and other resources necessary to effectively and efficiently carry out its program. The county commission of each county and the council or other governing body of each municipal governing body within the jurisdiction of a local air pollution control program established by a county board of health may appropriate such sums as they may determine necessary and desirable for the establishment, administration, and enforcement of the program.

(c) No county board of health shall have the authority to exercise air pollution control jurisdiction within the bounds of any incorporated municipality or the police jurisdiction thereof having an air pollution control program as authorized. Provided further, however, that no municipal governing body having an air pollution control program as authorized shall have the authority to exercise air pollution control jurisdiction over any agricultural and farming operations conducted within the corporate limits or police jurisdiction of the municipality.

(d) Any municipal governing body and each county board of health may adopt and enforce any ordinance, regulation, or resolution requiring the control or prevention of air pollution as follows:

(1) Where any ordinance, regulation, or resolution is identical in substance to requirements for the control or prevention of air pollution imposed by this chapter, or the rules, regulations, and standards promulgated by the commission under this chapter, then the ordinance, regulation, or resolution may be adopted and enforced without further approval of the commission.

(2) Where any ordinance, regulation, or resolution provides for the control or prevention of air pollution regarding classes or types of sources or classes or types of air contaminants for which the commission has not promulgated rules, regulations, or standards applicable to such sources of air contaminants within the area of

jurisdiction of the local air pollution control program of the municipal governing body or county board of health, then the ordinance, regulation, or resolution may be adopted and enforced without further approval of the commission.

(3) Where any ordinance, regulation, or resolution is adopted which provides for requirements for the control or prevention of air pollution for particular classes or types of sources or classes or types of air contaminants, which requirements are more strict than those imposed by this chapter, or the rules, regulations, and standards promulgated by the commission under this chapter, which are applicable within the area of jurisdiction of the local air pollution control program of the municipal governing body or county board of health, then the ordinance, regulation, or resolution may not be enforced unless the commission finds within 60 days of the adoption that the ordinance, regulation, or resolution is compatible with the purposes of this chapter and with any comprehensive plan adopted by the commission pursuant to Section 22-28-10.

(4) Each municipal governing body or county board of health shall notify the commission of the adoption of any ordinance, regulation, or resolution requiring the control or prevention of air pollution and provide to the commission a certified copy of the ordinance, regulation, or resolution within 15 days of adoption.

(e)(1) If the commission has reason to believe that a local air pollution control program established pursuant to subsection (b) of this section is inadequate to prevent and control air pollution in the jurisdiction to which the program relates or that the program is being administered in a manner inconsistent with the requirements of this chapter, the commission shall, on due notice, conduct a hearing on the matter; and

(2) If, after such hearing, the commission finds that the program is inadequate to prevent and control air pollution in the jurisdiction to which the program relates, that the program is not accomplishing the purposes of this chapter, that the program is not adhering to the requirements of subsection (f) of this section or that the program is being administered in a manner inconsistent with requirements of this chapter, the commission may preempt the local enforcement authority of that program.

(f)(1) Each municipal governing body or county board of health which has established and administers a local air pollution control program pursuant to this section shall submit to the commission a detailed report of its activities during the previous year. The annual report shall be submitted as of October 1, of each year. The reports shall include, but not be limited to, information regarding:

a. Ordinances and resolutions adopted or under consideration requiring control or prevention of air pollution and administrative procedures followed in the adoption;
b. Administrative organization;
c. Staff, financial, and other resources;
d. Enforcement activities;
e. Emission inventories;
f. Air quality monitoring systems and data;
g. Progress and problems related to administration of the local air pollution control programs; and
h. Any other information which the commission may reasonably require.

(2) The commission may also require special interim reports by the municipal governing body or county board of health regarding activities of its local air pollution control program.

(g) Any municipal governing body and any county board of health establishing a program under this section may, upon receipt of authorization from the commission, issue permits for the construction, installation, modification, or use of categories of equipment, devices, or articles specifically included in that authorization, provided however, that the commission may require the municipal governing body or county board of health to notify the commission of any permit proposed to be issued. Such permits shall be in lieu of those required by Section 22-28-16. The commission may enforce, suspend, or revoke any permit issued by a municipal governing body or county board of health pursuant to this subsection. Criteria for granting authorization and for suspension or revocation of that authorization, or permits issued pursuant to that authorization, whether in whole or in part, shall be established by the commission by regulation. No fee charged by a local air pollution control program shall exceed the fee charged by the commission for emissions and/or the review of plans and specifications for the same category of permit, except any county or municipality having a population of 55,000 or less according to the most recent federal census, which counties or cities may charge a higher fee.

(h) Nothing in this section shall be construed to prohibit the commission from enforcing any provision of this chapter or any rule or regulation issued thereunder, nor to supersede or oust the jurisdiction of the commission in any matter.

(Acts 1971, No. 769, p. 1481, §15; Acts 1980, No. 80-439, p. 666; Acts 1986, No. 86-542, p. 1053, §7; Act 2000-798,p. 1896 §1.)

Chapter 22A ENVIRONMENTAL MANAGEMENT.

- Section 22-22A-1 Short title.
- Section 22-22A-2 Legislative intent and purposes of chapter.
- Section 22-22A-3 Definitions.
- Section 22-22A-4 Department of Environmental Management created; principal office; director; deputy director; divisions and division chiefs; transfer of functions; designation as State Environmental Control Agency, etc.; contract with Health Department for routine bacteriological analyses.
- Section 22-22A-5 Powers and functions of department; representation of department by Attorney General in legal actions.
- Section 22-22A-6 Environmental Management Commission; powers and duties; composition; appointments; vacancies; qualifications; terms; chairman; quorum; regular and special meetings; effect of failure to attend three consecutive meetings; record of proceedings; compensation; expenses; ethical requirements.
- Section 22-22A-7 Hearings and procedures before commission; appeal and review.Section 22-22A-8 Adoption of rules, regulations and standards; review by director; public notice and hearing.
- Section 22-22A-9 Transfer of functions, personnel, equipment, funds, etc., to Department of Environmental Management.
- Section 22-22A-10 Transfer of functions, personnel, equipment, etc., of coastal area board to Office of State Planning and Federal Programs; exception.
- Section 22-22A-11 Alabama Department of Environmental Management Fund.
- Section 22-22A-12 Coastal Resources Advisory Committee; composition; terms; chairman; meetings.
- Section 22-22A-13 Effect of chapter on powers of Attorney General.
- .
- Section 22-22A-15 Chapter does not repeal Section 22-30-5.1.
- Section 22-22A-16 Pollution Control Grant Fund.

Section 22-22A-1

Short title.

This chapter shall be known and may be cited as "the Alabama Environmental Management Act."

(Acts 1982, No. 82-612, p. 1111, §1.)

Section 22-22A-2

Legislative intent and purposes of chapter.

The Legislature finds the resources of the state must be managed in a manner compatible with the environment, and the health and welfare of the citizens of the state. To respond to the needs of its environment and citizens, the state must have a comprehensive and coordinated program of environmental management. It is therefore the intent of the Legislature to improve the ability of the state to respond in an efficient, comprehensive and coordinated manner to environmental problems, and thereby assure for all citizens of the state a safe, healthful and productive environment.

(1) To this end an Alabama Department of Environmental Management is created by this chapter within the Executive Branch of State Government in order to effect the grouping of state agencies which have primary responsibility for administering environmental legislation into one department, to promote economy and efficiency in the operation and management of environmental programs, to eliminate overlapping or duplication of effort within the environmental programs of the state, to provide for timely resolution of permitting actions, to improve services to the citizens of the state, to protect human health and safety, to develop and provide for a unified environmental regulatory and permit system, to provide that the responsibility within the Executive Branch for the implementation of environmental programs and policies is clearly fixed and ascertainable, and to insure that government is responsive to the needs of the people and sufficiently flexible to meet changing conditions.

(2) It is also declared to be the intent of the Legislature to retain for the state, within the constraints of appropriate federal law, the control over its air, land and water resources and to secure cooperation between agencies of the state, agencies of other states, interstate agencies and the federal government in carrying out these objectives.

(3) It is the intent of the Legislature to recognize the unique characteristics of the Alabama coastal region and to provide for its protection and enhancement through a continued coastal area program.

(4) It is not the intent of the Legislature to abrogate any of the powers or duties of the State Board of Health which are found in Sections 22-2-1 through 22-2-14.

(Acts 1982, No. 82-612, p. 1111, §2.)

Section 22-22A-3

Definitions.

For the purposes of this chapter, the following words and phrases, unless a different meaning is plainly required by the context or by legislation governing functions transferred by this chapter, shall have the following meanings:

(1) Department.

The Alabama Department of Environmental Management, established by this chapter.

(2) Director.

The director of the Alabama Department of Environmental Management.

(3) Division.

A subdivision of the Alabama Department of Environmental Management, which may be headed by a division chief. Such divisions may be divided into sections where appropriate.

(4) Environmental Management Commission.

The Environmental Management Commission of the Alabama Department of Environmental Management.

(5) Function(s).

A duty, power or program exercised by or assigned to a commission, board or the State Health Department, including all positions and personnel relating to the performance of such function, unless otherwise provided by this chapter.

(6) Hearing officer.

An attorney licensed to practice law in the State of Alabama, designated by the Environmental Management Commission to hear appeals for the Environmental Management Commission and to make findings of fact, conclusions of law and recommendations to the Environmental Management Commission for its final decision.

(7) Person.

Any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, or other legal entity or other business organization or any governmental entity, and any successor, representative, agent or agency of the foregoing.

(8) Administrative action(s).

The issuance, modification, repeal or denial of any permit, license, certification, or variance, or the issuance, modification or repeal of any order, notice of violation, citation, rule or regulation by the department.

(9) All definitions of the Alabama Water Pollution Control Act, Section 22-22-1, shall be the definitions of the department for its Water Pollution Control Program.

(10) All definitions found in Section 22-23-31, relating to safe drinking water, shall be the definitions of the department for its Safe Drinking Water Program.

(11) All definitions of the Alabama Air Pollution Control Act, Section 22-28-2, shall be the definitions of the department for its Air Pollution Control Program.

(12) All definitions found in Section 22-24-1, relating to water well standards, shall be the definitions of the department for its Water Well Standards Program.

(13) All definitions found in Section 22-25-1, relating to water and wastewater systems and treatment plants, shall be the definitions of the department for its Water and Wastewater Systems and Treatment Plant Operator Program.

(14) All definitions found in Section 22-27-2, relating to solid wastes, shall be the definitions of the department for its Solid Waste Program.

(15) All definitions found in Section 9-7-10, relating to the coastal area Management Program, shall be the definitions of the Department and the Office of State Planning and Federal Programs for their Coastal Area Program.

(16) All definitions found in Section 22-30-3, relating to hazardous wastes, Shall be the definitions of the department for its Hazardous Waste Program.

(Acts 1982, No. 82-612, p. 1111, §3.)

Section 22-22A-4

Department of Environmental Management created; principal office; director; deputy director; divisions and division chiefs; transfer of functions; designation as State Environmental Control Agency, etc.; contract with Health Department for routine bacteriological analyses.

(a) There is hereby created and established the Alabama Department of Environmental Management to carry out the purposes of this chapter and to administer and enforce the provisions of this chapter and all functions transferred to the department by this chapter. The department shall maintain its principal office in the City of Montgomery, Montgomery County, Alabama.

(b) The department shall be under the supervision and control of an officer who shall be designated as the director of the Alabama Department of Environmental Management. The director shall be an individual knowledgeable and experienced in environmental matters. The director shall employ such officers, agents and employees as he deems necessary to properly administer and enforce the programs and activities of the department and to fully implement the requirements of this chapter and the intent of the Legislature. All powers, duties and functions transferred to the department by this chapter, except those specifically granted to the Environmental Management Commission, shall be performed by the director; provided that the director may delegate the performance of such of his powers, duties and functions, to employees of the department, wherever it appears desirable and practicable in fulfilling the policies and purposes of this chapter. The director shall be appointed by and serve at the pleasure of the Environmental Management Commission. The director shall be exempt from Chapter 26 of Title 36. The pay of the director shall be set by the Environmental Management Commission and shall be consistent with that of cabinet level appointees.

(c) There shall be a deputy director of the department who shall be a Merit System employee. The deputy director shall assist the director and shall have charge and general supervision of the department in the absence or disability of the director. In the case of a vacancy in the office of director, the deputy director shall become the acting director of the department and shall have the full powers of the office of director until the Environmental Management Commission appoints a successor to the director.

(d) The department shall be divided into such divisions as the director deems appropriate. Each division shall be supervised by a division chief who shall be selected by the director and shall be a Merit System employee.

(e) The functions of the Air Pollution Control Commission and of the Division of Air Pollution Control in the State Health Department as set forth in Sections 22-28-1 through 22-28-23 are transferred to the department on October 1, 1982.

(f) The functions of the Water Improvement Commission, as set forth in Sections 22-22-1 through 22-22-14 are transferred to the department on October 1, 1982.

(g) The functions of the State Health Department with respect to public water systems, as set forth in Sections 22-23-30 through 22-23-53 are transferred to the department on October 1, 1982.

(h) The functions of the Alabama Water Well Standards Board, as set forth in Sections 22-24-1 through 22-24-12 are transferred to the department on October 1, 1982.

(i) The functions of the State Health Department with respect to solid waste collection and disposal, as set forth in Sections 22-27-1 through 22-27-7, which are specified below, are transferred to the department on October 1, 1982. Specifically, those functions of Section 22-27-3 relating to the location and control of solid waste disposal by sanitary landfill, incineration, or composting; and the burning of solid wastes are transferred to the department. Those provisions of Section 22-27-4 relating to the control of unauthorized dumping are transferred to the department. Those provisions of Section 22-27-5 relating to the issuance of permits to individuals or corporations engaging in the disposal of solid wastes are transferred to the department. Those provisions of Section 22-27-7 relating to the supervision and regulation of solid waste management are transferred to the department. Nothing in this chapter shall be construed to limit or curtail the authority of the State Health Department in the realm of sanitation or disease control and prevention, or in any matters relating to the public health which are not specifically transferred to the department by this chapter on October 1, 1982. Nothing in the chapter should be construed to transfer any function relating to collection of solid waste to the department. Such functions shall remain with the State Health Department or county health department as appropriate.

(j) Any permitting, regulatory and enforcement functions of the Coastal Area Board, as set forth in Sections 9-7-10 through 9-7-22, are transferred to the department on October 1, 1982.

(k) The functions of the State Health Department, with respect to hazardous waste management, as set forth in Sections 22-30-1 through 22-30-24, are transferred to the department on October 1, 1982.

(l) The functions of the Environmental Health Administration Laboratory of the State Health Department are transferred to the department on October 1, 1982.

(m) The functions of the Board of Certification of Water and Wastewater Systems Personnel and the functions of the State Health Officer as set forth in Sections 22-25-1 through 22-25-15 are transferred to the department on October 1, 1982.

(n) Beginning October 1, 1982, the department is hereby designated as the State Environmental Control Agency for the purposes of federal environmental law. Specifically, the department is designated as the State Air Pollution Control Agency for

the purposes of the Federal Clean Air Act, 42 U.S.C. §7401 et seq., as amended; as the State Water Pollution Control Agency for the purposes of the Federal Clean Water Act, 33 U.S.C. § 1251 et seq., as amended; the State Agency responsible for the promulgation and enforcement of drinking water regulations in accordance with the Federal Safe Drinking Water Act, 42 U.S.C. § 201 et seq., as amended; the State Agency responsible for the promulgation and enforcement of solid and hazardous waste regulations in accordance with the Solid Waste Disposal Act, 42 U.S.C. § 3251 et seq., as amended, including 42 U.S.C. § 6901 et seq., as amended; and is hereby authorized to take all actions necessary and appropriate to secure to this state the benefits of federal environmental laws.

(o) Beginning October 1, 1982, the State Health Department shall provide certain routine bacteriological analyses to the Alabama Department of Environmental Management and the department shall reimburse the State Health Department for the reasonable costs and expenses incurred in providing such analyses. For an appropriate period of time, the department shall contract with the State Health Department to provide the routine bacteriological analyses necessary to the department in its Public Water Systems Program.

(Acts 1982, No. 82-612, p. 1111, §4.)

Section 22-22A-5

Powers and functions of department; representation of department by Attorney General in legal actions.

In addition to any other powers and functions which may be conferred upon it by law, the department is authorized beginning October 1, 1982 to:

(1) Administer appropriate portions of Sections 9-7-10 through 9-7-20, which relate to permitting, regulatory and enforcement functions; administer and enforce the provisions and execute the functions of Chapter 28 of this title; Chapter 22 of this title; Article 2 of Chapter 23 of this title; Chapter 30 of this title; appropriate portions of Article 1 of Chapter 27 of this title; Sections 22-24-1 through 22-24-11; Sections 22-25-1 through 22-25-15; and Sections 22-36-1 through 22-36-10.

(2) Acting through the Environmental Management Commission, promulgate rules, regulations and standards in order to carry out the provisions and intent of this chapter; provided, however, that prior to the promulgation of any state primary or secondary drinking water standard governed by Sections 22-23-30 through 22-23-53 or any regulations dealing with hazardous wastes governed by Sections 22-30-1 through 22-30-24, the department shall receive the approval of the State Board of Health. The State Board of Health shall provide the department a response to its request for approval within 60 days of receipt of such request unless such other time is mutually agreed upon by the department and the State Board of Health.

(3) Acting through the Environmental Management Commission, adopt and promulgate rules, regulations and standards for the department, and to develop environmental policy for the state.

(4) Consistent with the provisions in subsection 22-22A-4(n), serve as the State Agency responsible for administering federally approved or federally delegated environmental programs.

(5) Serve as the state's clearinghouse for environmental data. The clearinghouse shall be developed in coordination and cooperation with other governmental data collection and record keeping systems to provide for an inventory, and for the cataloguing and dissemination of environmental information.

(6) Report, as appropriate, to the Governor and to the Legislature on the programs and activities of the department and to recommend needed changes in legislation or administrative practice.

(7) Develop, conduct and disseminate education and training programs. Pursuant to this authority, the department shall establish a citizens' advisory committee to provide input into such education and training programs.

(8) Enter into agreements and contracts, where appropriate, with other state agencies, the federal government or private individuals, in order to accomplish the purposes of this chapter.

(9) Establish and maintain regional or field offices in order to provide more effective and efficient services to the citizens of the state.

(10) Issue, modify, suspend or revoke orders, citations, notices of violation, licenses, certifications or permits.

(11) Hold hearings relating to any provision of this chapter or relating to the administration thereof.

(12) Enforce all provisions of this chapter and all provisions of law identified in subdivision (1) of this section and to file legal actions in the name of the department and to prosecute, defend or settle actions brought by or against the department or its agents. The Attorney General shall represent the department in any and all legal actions brought by the department to enforce any provisions of this chapter; provided however, that if, within a reasonable time after the department refers the matter to him, he fails to file any such action, then the department may commence appropriate legal action. Nothing in this subdivision shall be construed so as to impair the authority of the Attorney General to independently enforce the provisions of this chapter.

(13) When necessary to achieve conformance with Sections 9-7-10 through 9-7-20, acquire fee simple or less than fee simple, interest in land, water and other property under the procedures of Title 18 or other means; provided, however, that such power shall not apply to property and interest therein which is devoted to public use.

(14) Apply for, where appropriate, accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions, purposes or provisions of this chapter or any of the functions or provisions transferred to the department by this chapter.

(15) Employ such professional, technical, clerical and other workers including attorneys and special counsel, and such consultants as are necessary and within available funds to carry out the purposes of this chapter.

(16) Adopt rules and regulations relating to charging and collecting fees sufficient to cover the reasonable anticipated costs to be incurred by the department and directly related to the issuance, reissuance, modification or denial of any permit, license, certification or variance, such fees to include, but not be limited to, the reasonable anticipated cost of the examination and processing of applications, plans, specifications or any other data and any necessary public hearings and investigations; provided, however, that nothing in this subdivision shall be construed as modifying or affecting the provisions of Section 22-24-5. A schedule of estimated reasonable anticipated costs shall be appended to rules and regulations with the understanding that fees may be higher or lower on a case-by-case basis.

(17) In addition to any other remedies provided by law, recover in a civil action from any person who has violated, or threatens to violate, any provision of this chapter, or any provision of law identified in subdivision (1) of this section, or any rule or regulation promulgated thereunder, or any order, or condition of any permit, license, certification or variance issued by the department pursuant thereto, the actual costs reasonably incurred by the department to prevent, minimize or abate any adverse effect on air, land or water resources which results or may result from such violation. Such civil actions may be filed in the circuit court of the county in which the defendant resides or does business, or in which the violation or threatened violation occurs or in which the adverse effect occurs.

(18)a. Issue an order assessing a civil penalty to any person who violates any provision of law identified in subdivision (1) of this section, any rule, regulation or standard promulgated by the department, any provision of any order, or any condition of any permit, license, certification or variance issued by the department, provided however, that no such order shall be issued to a person:

1. If a civil action to recover a penalty for such violation has been commenced against such person as provided in paragraph b. of this subdivision.

2. For any violation at a coal mining operation regulated under Sections 9-16-70 through 9-16-107 or Title V of Public Law 95-87, 30 U.S.C. §1251-1279.

3. If an order assessing a civil penalty for such violation has been issued to such person pursuant to subdivision (2) of subsection 22-28-23(b).

4. Who is a responsible corporate officer subject to a civil action for the recovery of a penalty under paragraph b. of this subdivision.

The department shall commence enforcement action under this paragraph by notifying the person subject thereto in writing of the alleged violation and affording the person an opportunity for an informal conference with the director or his or her designated representative concerning the alleged violation and any proposed order. The informal

conference shall not be subject to the procedures for hearings under Section 22-22A-7. Before issuing any consent or unilateral order under this section, the department shall cause public notice to be published for one day in a newspaper of general circulation in the area where the alleged violation occurred and on the website of the department for the duration of the comment period; provided, however, that unavailability of the website during the comment period shall not affect the validity of an order issued under this paragraph. The notice shall reasonably describe the nature and location of the alleged violation and the amount of civil penalty proposed, contain a summary of any proposed corrective measures, provide instructions for obtaining a copy of the proposed order, and indicate that persons may submit written comments to the department and request a hearing on the proposed order within 30 days of the first date of publication. The department may hold a hearing if the information submitted in support of the request is material and if a hearing may clarify one or more issues raised in the written comments. If the department grants a request for a hearing, the department shall provide written notice of the time, date, and location of the hearing by regular mail at least 20 days prior to the hearing to all persons subject to the proposed order and all persons who submitted written comments on the proposed order that contain a current return address. At any such hearing, the department shall provide a reasonable opportunity for persons subject to the proposed order and persons who submitted written comments on the proposed order to be heard and to submit information to the director or his or her designated representative, provided, however, that the hearing shall not be subject to the procedures for hearings under Section 22-22A-7, or practices or procedures governing public hearings. The department shall also accept additional written comments from any interested party that are received on or before the date of the hearing. After consideration of written comments, any information submitted at the hearing, if one was held, and any other publicly available information, the department may issue the order as proposed, issue a modified order, or withdraw the proposed order. Any order issued under this paragraph shall include findings of fact relied upon by the department in determining the alleged violation and the amount of the civil penalty and shall be served on persons subject to the order in the manner provided for service of process in the Alabama Rules of Civil Procedure. Upon issuance of an order, the department shall also provide written notice of the order by regular mail to each person who submitted written comments on the proposed order that contain a current return address. The notice shall reasonably describe the nature and location of the alleged violation and the amount of civil penalty, contain a summary of any required corrective measures, provide instructions for obtaining a copy of the order, and indicate that persons who submitted written comments on the proposed order may, within 30 days of the issuance of the order, request a hearing on the order before the Environmental Management Commission in accordance with Section 22-22A-7. Where the department has issued an order finding that a violation has occurred and assessing a civil penalty, the person subject thereto shall, unless the department and that person agree on a different schedule, pay the penalty in full within 45 days after issuance of such order unless any person has filed a timely request for a hearing to contest the issuance of such order in accordance with Section 22-22A-7, in which case the penalty assessed in the order as approved or modified by the Environmental Management Commission shall, unless the department and that person agree on a different schedule, be paid in full within 30 days after the order is approved or modified by the Environmental Management Commission or, if an appeal thereof is taken to circuit court, within 42 days after the court affirms the order as approved or modified by the Environmental Management Commission. Civil penalties assessed in an order under this paragraph and

not paid as provided herein may be recovered in a civil action brought by the department in the Circuit Court of Montgomery County or the county in which the defendant does business.

.

b. Commence a civil action in the circuit court of the county in which the defendant or any material defendant resides or does business or in which the violation occurred to recover a civil penalty from such person for any violation of any provision of law identified in subdivision (1) of this section, any rule, regulation or standard promulgated by the department, any provision of any order or any condition of any permit, license, certification or variance issued by the department, provided however, that no such civil action may be commenced against a person if an order assessing a civil penalty for such violation has been issued to such person under paragraph a. of this subdivision. Whenever such person is a corporation and the violation is of a provision of law in Chapter 22 of this title, or any rule, regulation or standard promulgated by the department thereunder, or any provision of any order or any condition of any permit, license, certification or variance issued by the department thereunder, the same civil penalties that may be imposed upon a person under this subdivision may be imposed upon the responsible corporate officers in a civil action. Any person having an interest which is or may be adversely affected may intervene as a matter of right in any civil action commenced under this paragraph. The Attorney General may also commence a civil action under this paragraph.

c. Any civil penalty assessed or recovered under paragraph a. or b. of this subdivision shall not be less than $100.00 or exceed $25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the department under paragraph a. of this subdivision shall not exceed $250,000.00. Each day such violation continues shall constitute a separate violation for purposes of this subdivision. In determining the amount of any penalty, consideration shall be given to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Civil penalties may be assessed under this subdivision for any violation occurring within two years prior to the date of issuance of an order under paragraph a. of this subdivision or commencement of such civil action under paragraph b. of this subdivision. All civil penalties recovered under this subdivision by the department or Attorney General shall be deposited into the State Treasury to the credit of the General Fund, except that portion which represents the reasonable costs incurred by the department or Attorney General to recover such penalties which shall be deposited to the credit of the operating fund of the department or Attorney General, whichever incurred such costs.

(19) Commence a civil action in the circuit court of the county in which the defendant or any material defendant resides or does business or in which the threatened or continuing violation of any provision of law identified in subdivision (1) of this section, any rule, regulation or standard promulgated by the department, any provision of any order, or any condition of any permit, license, certification or

variance issued by the department. The Attorney General or district attorney having jurisdiction in the circuit, county or territory in which the threatened or continuing violation occurs may also commence a civil action to enjoin such violation. In any such action, any person having an interest which is or may be adversely affected may intervene as a matter of right.

(20) Perform any other duty or take any other action necessary for the implementation and enforcement of this chapter.

(Acts 1982, No. 82-612, p. 1111, §5; Acts 1984, 1st Ex. Sess., No. 84-783, p. 163, §1; Acts 1986, No. 86-542, p. 1053, §1; Acts 1988, No. 88-537, p. 823, §9; Act 2003-397, p. 1136, §1.)

Section 22-22A-6

Environmental Management Commission; powers and duties; composition; appointments; vacancies; qualifications; terms; chairman; quorum; regular and special meetings; effect of failure to attend three consecutive meetings; record of proceedings; compensation; expenses; ethical requirements.

(a) There is hereby created a seven member Environmental Management Commission of the Alabama Department of Environmental Management which shall have the following duties:

(1) To select a director for the Department of Environmental Management and to advise the director on environmental matters which are within the department's scope of authority;

(2) To establish, adopt, promulgate, modify, repeal and suspend any rules, regulations or environmental standards for the department which may be applicable to the state as a whole or any of its geographical parts;

(3) To develop environmental policy for the state; and

(4) To hear and determine appeals of administrative actions.

(b) The Environmental Management Commission shall be composed of seven members who are citizens of the State of Alabama. Initial members of the commission shall be appointed to places on the Environmental Management Commission by the Governor, Lieutenant Governor, and Speaker of the House of Representatives pursuant to the procedure set out in subsection (d) of this section with the advice and consent of the Senate. Initial appointments shall be made on or before October 1, 1982. All subsequent appointments to places on the Environmental Management Commission after the initial appointments shall be made by the Governor with the advice and consent of the Senate. No member of the Environmental Management Commission may serve more than a total of 18 years. When a vacancy occurs during a period when the Legislature is not in session to advise and consent, such appointee shall have the full power of the office until and unless the Senate, upon the reconvening of the Legislature, shall by affirmative vote refuse to consent in such appointment. Qualifications of the seven members shall be as follows:

(1) One member shall be a physician licensed to practice medicine in the State of Alabama and shall be familiar with environmental matters;

(2) One member shall be a professional engineer registered in the State of Alabama and shall be familiar with environmental matters;

(3) One member shall be an attorney licensed to practice law in the State of Alabama and shall be familiar with environmental matters;

(4) One member shall be a chemist possessing as a minimum a bachelor's degree from an accredited university or a veterinarian licensed to practice veterinary medicine in the State of Alabama and shall be familiar with environmental matters;

(5) One member that has been certified by the National Water Well Association Certification Program;

(6) One member shall be a biologist or an ecologist possessing as a minimum a bachelor's degree from an accredited university and shall have training in environmental matters; and

(7) One member shall be a resident of the state for at least two years but shall not be required to have any specialized experience.

(c) At the expiration of the terms of all members initially appointed, their successors shall be promptly appointed by the Governor for terms of six years. At the expiration of a term of office or in the event of a vacancy on the Environmental Management Commission, the Governor shall promptly make an appointment to fill the vacancy. The expiring term of an incumbent member shall be continued until an appointment is made.

(d) Provided however that the initial appointments to the Environmental Management Commission shall be made as follows notwithstanding the other provisions of this chapter:

(1) The Governor shall appoint three members of the Environmental Management Commission, two of whom shall come from the voting members of the boards or commissions abolished by this chapter. The Governor's three initial appointments shall fill the positions described in subdivisions (4), (6) and (7) of subsection (b) of this section. The terms of these initial position appointments shall be for six years.

(2) The Lieutenant Governor shall appoint two members of the Environmental Management Commission, one who shall come from the voting members of the boards or commissions abolished by this chapter. The Lieutenant Governor's appointments pursuant to this subsection shall fill the positions described in subdivisions (1) and (5) of subsection (b) of this section. The term of the initial position described in subdivision (1) of subsection (b) of this section shall be for four years. The term of the initial position described in subdivision (5) of subsection (b) of this section shall be for two years.

(3) The Speaker of the House of Representatives shall appoint two members of the Environmental Management Commission, one who shall come from the voting members of the boards or commissions abolished by this chapter. The Speaker of the House of Representatives' appointments pursuant to this subsection shall fill the positions described in subdivisions (2) and (3) of subsection (b) of this section. The

term of the initial position described in subdivision (2) of subsection (b) of this section shall be for four years. The term of the initial position described in subdivision (3) of subsection (b) of this section shall be for two years.

(e) The Environmental Management Commission shall select a chairman from among its members, and the chairman's term of office shall be determined by the Environmental Management Commission, but shall not exceed three consecutive years. The Environmental Management Commission shall not take official action unless a quorum is present. A quorum shall be any four of the seven members. Recusal of a member shall not affect the quorum.

(f) The Environmental Management Commission shall meet regularly, at least once every two months at times and places to be fixed by the Environmental Management Commission. Special meetings may be called at the discretion of the chairman of the Environmental Management Commission and special meetings shall be called by him on written request of any four members to take up any matters within the jurisdiction of the Environmental Management Commission. All members shall be notified of the time and place of any regular or special meeting in any one of the following ways: in writing or by telegram to a member's last known address as provided to the department or by telephone.

(g) Any member of the Environmental Management Commission who misses three consecutive regularly scheduled meetings, shall immediately cease to be a member of the commission and the Governor shall promptly appoint a new member with appropriate qualifications to fill the remainder of the term.

(h) The Environmental Management Commission shall keep a complete and accurate record of the proceedings of all its meetings, a copy of which shall be kept on file in the office of the director and open to public inspection.

(i)

(1) Each member shall receive $100.00 per day for each day of attendance at an official meeting. Members of the Environmental Management Commission shall be reimbursed for expenses when attending meetings which are approved and certified by the director. Reimbursement shall be in accordance with Sections 36-7-1 through 36-7-42;

(2) All proper expenses of the Environmental Management Commission shall be paid from the appropriations to or funds of the department in the same manner as expenses of the department are paid.

(j) Members of the Environmental Management Commission shall meet all requirements of the state ethics law and the conflict of interest provisions of applicable federal laws and regulations.

(Acts 1982, No. 82-612, p. 1111, §6.)

Section 22-22A-7

Hearings and procedures before commission; appeal and review.

(a) Beginning October 1, 1982, the Environmental Management Commission, in addition to any other authority which may be conferred upon it by law, shall have the power to:

(1) Develop and prescribe its own hearing procedures, unless otherwise specified by law; and

(2) Administer oaths, certify to official acts, take and cause to be taken depositions of witnesses, issue subpoenas, and compel the attendance of witnesses and the production of papers, books, accounts, payrolls, documents and records. In the event of failure of any person to comply with any subpoena lawfully issued, or on the refusal of any witness to produce evidence or to testify as to any matter regarding which he may be lawfully interrogated, it shall be the duty of any court of competent jurisdiction or of the judge thereof, upon the application of the Environmental Management Commission or its designee, to compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued by such court or a refusal to testify therein. The fees of witnesses for attendance and travel shall be the same as fees of witnesses before courts of record and shall be paid from the funds of the department.

(b)(1) The Environmental Management Commission may delegate the power to hear appeals which are before it to a hearing officer. Any such hearing conducted by a hearing officer shall be in accordance with rules and regulations prescribed by the Environmental Management Commission pursuant to subdivision (1) of subsection (a) of this section, and in such case the hearing officer shall prepare findings of fact, conclusions of law and recommendations to the Environmental Management Commission for its final decision.

(2) The Environmental Management Commission may hire hearing officers to hear appeals which are before it. Such hearing officers shall be attorneys licensed to practice in the State of Alabama and shall be paid appropriately from department funds.

(c) Upon a proper request made in accordance with subdivisions (1) or (2) of this subsection and any hearing procedures prescribed by the Environmental Management Commission, any person aggrieved by an administrative action of the department shall be entitled to a hearing before the Environmental Management Commission or its designated hearing officer. To obtain a hearing on any order assessing a civil penalty issued pursuant to subdivision (18) of Section 22-22A-5, an aggrieved person shall either be subject to the order or have submitted timely written comments on the proposed order in accordance with subdivision (18) of Section 22-22A-5.

(1) Request for such hearing to contest an administrative action of the department, other than to contest the issuance of any rule or regulation or emergency order, must be filed with the Environmental Management Commission within 30 days of the contested administrative action.

(2) Request for a hearing before the Environmental Management Commission or its designated hearing officer to contest the issuance of any rule or regulation by the department must be filed with the Environmental Management Commission within 45 days of the promulgation of the rule or regulation by the department; except, that if such request is based solely on grounds arising after such forty-fifth day, then any request for a hearing under this subdivision must be filed within 45 days after such grounds arise.

(3) The Environmental Management Commission or its designated hearing officer shall within a reasonable time, not to exceed 45 days after receipt of a request in accordance with subdivisions (1) or (2) of this subsection, hold a hearing of which at least 15 days' written notice shall be given to such person requesting the hearing and any other named or necessary party. Within 30 days after such hearing, the Environmental Management Commission shall issue an appropriate order modifying, approving or disapproving the department's administrative action. A copy of the Environmental Management Commission's order shall be served upon all parties either personally, by registered mail or by certified mail return receipt requested. The notice and hearing requirements of this subsection shall not apply to emergency orders. Hearings on emergency orders shall be held before the Environmental Management Commission and notice of such hearing as may be reasonable under the circumstances shall be given to such persons as the Environmental Management Commission deems appropriate.

(4) Pending the determination by the Environmental Management Commission, and upon application therefor, the Environmental Management Commission may stay the operation of such administrative action upon such terms and conditions as it may deem proper.

(5) The parties shall not be bound by the strict rules of evidence prevailing in the courts. However, a full and complete record shall be kept of all proceedings before the Environmental Management Commission. All testimony or comments given in any hearing before the Environmental Management Commission shall be electronically or stenographically recorded, but need not be transcribed unless an appeal is taken to court or unless requested by any party who shall pay for the cost of transcription.

(6) Any order of the Environmental Management Commission made pursuant to the above procedure, modifying, approving or disapproving the department's administrative action, constitutes a final action of the department and is appealable to the Montgomery County Circuit Court or the circuit court in which the applicant does business or resides for judicial review on the administrative record provided that such appeal is filed within 30 days after issuance of such order.

(7) Administrative action with respect to which review was or could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(Acts 1982, No. 82-612, p. 1111, §7; Acts 1986, No. 86-542, p. 1053, §2; Act 2003-397, p. 1136, §1.)

Section 22-22A-8

Adoption of rules, regulations and standards; review by director; public notice and hearing.

(a) All rules, regulations or standards shall be adopted by and promulgated by the Environmental Management Commission. With the exception of editorial changes, no rule, regulation or standard shall be adopted, amended or repealed unless such rule, regulation or standard has been reviewed by the director and until after a public hearing has been held. Unless different notice provisions are specifically required elsewhere by law, at least 45 days prior to the scheduled date of the hearing the department shall give notice of such hearing by public advertisement in the three newspapers of this state with the largest regional circulation of the date, time, place and purpose of such hearing; and make available to any person upon request copies of the proposed rules, regulations or standards, together with summaries of the reasons supporting their adoption, amendment or repeal.

(b) Any public hearing relating to the adoption, amendment or repeal of department rules, regulations or standards under this section shall be held before a department representative, who shall be designated by the Environmental Management Commission. All such hearings shall be open to the public, and reasonable opportunity to be heard with respect to the subject of the hearing shall be afforded to any person. All testimony taken before the department representative shall be recorded and transcribed. The transcript, any exhibits or any written submissions to the department in relation to such hearings shall be open to public inspection.

(c) After such hearing, the department may revise the proposed rules, regulations or standards, before adoption in response to testimony, written submissions or exhibits introduced at the hearing, without conducting a further hearing on the revisions.

(d) Nothing in this section shall be construed to require a hearing prior to the issuance of any temporary emergency rule or regulation.

(Acts 1982, No. 82-612, p. 1111, §8.)

Section 22-22A-9

Transfer of functions, personnel, equipment, funds, etc., to Department of Environmental Management.

(a) All employees engaged in duties pertaining to the functions transferred by this chapter to the department, shall be assigned to the department on October 1, 1982, to perform their usual duties, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing personnel and employees.

(b) All files, books, papers, records, equipment, furniture, motor vehicles, any other tangible property, and any other asset employed in carrying out the powers, duties and functions transferred by this chapter to the department shall, on October 1, 1982, be transferred to the department.

(c) All reports, documents, surveys, books, records, files, correspondence, papers or other writings in the possession of any department, division, bureau, board, commission or other agency, the functions, powers and duties of which have been transferred to the department by this chapter, or which have been employed in carrying out the functions,

powers and duties transferred by this chapter to the department shall, on October 1, 1982, be transferred to the department.

(d) All funds, credits or other moneys held in connection with the functions transferred by this chapter, shall be transferred to the Alabama Department of Environmental Management Fund created by Section 22-22A-11 on October 1, 1982. Subsequent to the transfer of all funds, credits or other moneys to the department for programs whose functions are transferred by this chapter to the department, the Water Improvement Commission Fund established by Section 22-22-10; the Safe Drinking Water Fund established by Section 22-23-51; the Well Driller Licensing Fund established by Section 22-24-10; the Operator's Certification Fund established by Section 22-25-10; and the Hazardous Waste Management Fund established by Section 22-30-23 are abolished, and any funds from any source whatsoever which may accrue to any of the foregoing funds in the future shall accrue to the Alabama Department of Environmental Management.

(e) Any appropriation made for the purpose of carrying out the powers, duties and functions transferred by this chapter to the department, shall on October 1, 1982, be transferred and credited to the department for the purpose of carrying out such transferred powers, duties and functions.

(f) Except where in conflict with provisions of this chapter, on October 1, 1982, all rules, regulations, standards, comprehensive plans for the prevention, abatement and control of pollution in this state; and all orders, permits, licenses, certificates, bonds and variances of the departments, divisions, boards, commissions, or other agencies, relating to the functions transferred by this chapter to the department, are enforceable as the rules, regulations, standards, plans, orders, permits, licenses, certificates, bonds and variances of the department and shall continue to be effective until revised, amended, repealed or nullified pursuant to law.

(g) All pending business before the boards, commissions, or agencies affected by this chapter, relating to the functions transferred by this chapter to the department, shall be continued and acted upon by the department. All existing contracts, obligations and memoranda of understanding pertaining to the functions transferred by this chapter to the department, shall remain in force and effect and shall be performed by the department.

(h) All state officials required to maintain contact with or provide services to any agency, board or commission affected by this chapter shall continue to perform such services for the department unless otherwise directed by this chapter.

(i) Neither the abolition of any agency nor any of the transfers authorized by this chapter shall affect the validity of any action performed by such agency, board or commission affected by this chapter, prior to October 1, 1982.

(j) Except where required elsewhere by the chapter, on October 1, 1982, the performance of any such transferred duties or functions by the department or its respective divisions shall have the same effect as if done by the former agency, board or commission referred to or designated by law or contract. The reference to or designation of the former agency, board or commissions shall apply to the department.

(k) During an appropriate transition period after October 1, 1982, the State Health Department shall continue to assist the department in personnel and fiscal matters in order to effect the smooth transition of such functions to the department.

(Acts 1982, No. 82-612, p. 1111, §9.)

Section 22-22A-10

Transfer of functions, personnel, equipment, etc., of coastal area board to Office of State Planning and Federal Programs; exception.

(a) On October 1, 1982, all functions of the Coastal Area Board, as set forth in Sections 9-7-10 through 9-7-22, except those which relate to permitting, regulatory and enforcement functions, shall be transferred to the Office of State Planning and Federal Programs established pursuant to Sections 41-9-205 through 41-9-214.

(b) All employees engaged in duties pertaining to the functions transferred by this section, shall be assigned to the Office of State Planning and Federal Programs on October 1, 1982 to perform their usual duties, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing personnel and employees.

(c) All files, books, papers, records, equipment, furniture, motor vehicles, any other tangible property and any other asset employed in carrying out the powers, duties and functions transferred by this chapter to the Office of State Planning and Federal Programs shall, on October 1, 1982, be transferred to the Office of State Planning and Federal Programs.

(d) All reports, documents, surveys, books, records, files, correspondence, papers or other writings in the possession of the Coastal Area Board, the functions, powers and duties of which have been transferred to the Office of State Planning and Federal Programs by this chapter, or which have been employed in carrying out the functions, powers and duties transferred by this chapter to said office shall, on October 1, 1982, be transferred to the Office of State Planning and Federal Programs.

(e) All funds, credits or other moneys held in connection with the functions transferred by this chapter to the Office of State Planning and Federal Programs, shall be transferred to said office on October 1, 1982. Subsequent to the transfer of all funds, credits or other moneys to the Office of State Planning and Federal Programs, the Coastal Area Board fund established by Section 9-7-19 is abolished.

(f) Any appropriation made to the coastal area board for the purpose of carrying out the powers, duties and functions transferred by this chapter to the Office of State Planning and Federal Programs shall, on October 1, 1982, be transferred and credited to said office for the purpose of carrying out such transferred powers, duties and functions.

(g) The Office of State Planning and Federal Programs shall provide the department sufficient funds to administer the permitting, regulatory and enforcement functions of the Coastal Area Management Program from those federal funds obtained by the office for such purposes.

(h) All pending business before the Coastal Area Board, relating to the functions transferred by this chapter to the Office of State Planning and Federal Programs, shall

be continued and acted upon by said office. All existing contracts, obligations and memoranda of understanding pertaining to the functions herein transferred shall remain in force and effect and shall be performed by the Office of State Planning and Federal Programs.

(i) All State Officials required to maintain contact with or provide services to the Coastal Area Board shall continue to perform such services for the Office of State Planning and Federal Programs or as otherwise directed by this chapter.

(j) Neither the abolition of the Coastal Area Board nor any of the transfers to the Office of State Planning and Federal Programs authorized by this chapter shall affect the validity of any action performed by the Coastal Area Board, prior to October 1, 1982.

(Acts 1982, No. 82-612, p. 1111, §10.)

Section 22-22A-11

Alabama Department of Environmental Management Fund.

There is hereby created a fund known as the Alabama Department of Environmental Management Fund. This fund shall consist of: (1) all appropriations; (2) all grants, gifts, bequests or donations; (3) all money derived through any source of federal aid; (4) all fees; (5) all moneys from any program whose functions were transferred to the department by this chapter; and (6) all moneys from any other source whatsoever. However, the department may not solicit or accept any gift or donation from any person that has any official request or action pending before the Alabama Department of Environmental Management. All moneys deposited in said fund are hereby appropriated to the use of the department in addition to any other appropriations heretofore or hereafter made. The fund shall be used and expended by the department in accordance with the terms of the appropriations, gift, bequest, grant, donation or transfer from which said moneys are derived and in the absence of any such terms or stipulations, shall be expended by the department in furtherance of any of the provisions of this chapter. All necessary expenses of the department shall likewise be paid out of the fund on the requisition of the director as may be deemed advisable.

(Acts 1982, No. 82-612, p. 1111, §12; Acts 1984, 1st Ex. Sess., No. 84-783, p. 163, §2; Acts 1986, No. 86-542, p. 1053, §3.)

Section 22-22A-12

Coastal Resources Advisory Committee; composition; terms; chairman; meetings.

(a) There is hereby created a Coastal Resources Advisory Committee to advise the department and the Office of State Planning and Federal Programs on all matters concerning the coastal area. The committee shall consist of not less than seven members who shall be predominantly from Baldwin and Mobile Counties.

(b) The initial members of the Coastal Resources Advisory Committee shall be the current Coastal Area Board established by Section 9-7-14, as amended and abolished by this chapter. The terms of the initial members of the committee shall be for one year beginning October 1, 1982.

(c) The subsequent membership of the Coastal Resources Advisory Committee shall be as follows:

(1) One member shall be a member of the Mobile City Commission and shall be selected by that commission;

(2) One member shall be a member of the Mobile County Commission and shall be selected by that commission;

(3) One member shall be a member of the Baldwin County Commission and shall be selected by that commission;

(4) One member shall be an official of a municipal corporation in Baldwin County and shall be selected by the Baldwin County Mayors Association;

(5) One member shall be the Commissioner of Conservation and Natural Resources, who may designate an employee of his department to represent him on the committee;

(6) One member shall be the State Geologist who may designate an employee of his agency to represent him on the committee; and

(7) One member shall be the director of the Marine Environmental Science Consortium.

The term of each of these members of the Coastal Resources Advisory Committee shall be consistent with his elective or appointive office.

(d) Additional members of the Coastal Resources Advisory Committee may be appointed by the Governor for terms not to exceed four years and shall be eligible for reappointment.

(e) The committee shall meet initially to select a chairman and subsequent meetings of the committee shall be at the call of the chairman of the Coastal Resources Advisory Committee or the director of the Office of State Planning and Federal Programs.

(Acts 1982, No. 82-612, p. 1111, §13.)

Section 22-22A-13

Effect of chapter on powers of Attorney General.

All remedies for the prevention and abatement of pollution given to the Attorney General through the authority of this chapter are merely cumulative. Except as provided in subdivisions (12) and (15) of Section 22-22A-5 nothing in this chapter shall be interpreted as negating or destroying any common law or statutory right, duty, power or authority of the Attorney General of Alabama.

(Acts 1982, No. 82-612, p. 1111, §15.)

Section 22-22A-15

Chapter does not repeal Section 22-30-5.1.

No provision of this chapter shall be construed to repeal in whole or in part any provision of Section 22-30-5.1.

(Acts 1982, No. 82-612, p. 1111, §14(e); Acts 1983, 2nd Ex. Sess., No. 83-131, p. 137, §1.)

Section 22-22A-16

Pollution Control Grant Fund.

(a) There is hereby created a fund known as the Pollution Control Grant Fund. This fund shall consist of

(1) All appropriations made to the fund; and

(2) All grants, gifts, bequests or donations made to the fund from any source whatsoever. This fund shall be used and expended by the Alabama Department of Environmental Management in accordance with the terms of the appropriation, gift, bequest, grant or donation from which said moneys are derived and in the absence of such terms or stipulations, shall be expended by said department in accordance with the provisions of subsection (b). All necessary expenses of said department in implementing the provisions of this section shall likewise be paid out of the fund on the requisition of the director of said department as may be deemed advisable.

(b) Except as provided in subsection (a), the Alabama Department of Environmental Management is authorized to make grants to any county, municipality or public corporation, agency or instrumentality organized under the laws of the state, for the purpose of carrying out any air, land or water pollution control, prevention or abatement practices, measures, experiments or research, from the Pollution Control Grant Fund and to enter into and carry out contracts or agreements in connection therewith and include in any contract or agreement such conditions as it may deem reasonable and appropriate.

(c) Acting through the Environmental Management Commission, the Alabama Department of Environmental Management is authorized to promulgate rules, regulations and standards to carry out the provisions of this section.

(Acts 1985, No. 85-755, p. 1255.)

335-1-1-.06 Availability of Records and Information.

(1) Public inspection of records. Except as provided herein, any records, reports, rules, forms, or information obtained under the Act and the official records of the Department shall be available to the public for inspection. Requests for permission to inspect such records should be made to the Department of Environmental Management at its Montgomery, Alabama office, unless otherwise directed in published organizational, procedural, or regulatory statements pertaining to specific records or classes of records. Such requests should state the general subject matter of the records sought to be inspected to permit identification and location.

(2) Exceptions. Upon a showing satisfactory to the Director by any person that records, reports, or information, or particular parts thereof (other than emission, effluent, manifest, or compliance data) to which the Department has access, if made public, would divulge production of sales figures or methods, processes, or production unique to such person, or otherwise tend to affect adversely the competitive position of such person by revealing trade secrets, the Director shall consider such records, reports, or information, or particular portion thereof, confidential. Any showing of confidentiality must be based on statutory authority which empowers the Department to grant confidentiality for the particular program in question and must accompany the documents, records, reports, or information provided to the Department. If a claim covering the information is received after the information itself is received, efforts, as are administratively practicable can be made, will be made to associate the late claim with the copies of the previously submitted information in the file.

(3) Requests for records and information must be made to the Office of the Director at the Department's Montgomery address. Responses to such requests shall be made within 10 working days after receipt in the Office of the Director.

(4) Creation of record. Records will not be created by compiling selected items from other documents at the request of a member of the public, nor will records be created to provide the requester with data such as ratios, proportions, percentages, frequency distribution, trends, correlations, or comparisons except as necessary to administer the Act.

(5) Denial of requests for, or non-existence of, information. If it is determined pursuant to this Part that requested information will not be provided or that, to the best knowledge of the Director, requested information does not exist, the Director shall notify in writing the party requesting the information that the request is denied and shall state the reasons for denial and shall maintain a file of such denials.

(6) Copies of documents. If it is determined that information requested may be disclosed, the requesting party shall be afforded the opportunity to obtain copies of the documents containing such information.

However, records shall not be released for copying by non-Division personnel except by permission of the Director or his designee. When a determination not to disclose a portion of information requested has been made, records shall be prepared for copying on nonexcepted portions of the information. Cost of providing copies will be the responsibility of the person requesting the copies. Charges are as follows:

(a) 30 cents per black and white page 8.5 x 11, 8.5 x 14 or 11 x 17 inches in size.

(b) $1.50 per color page 8.5 x 11, 8.5 x 14 or 11 x 17 inches in size. $4.00 per page for black and white and $7.00 per page for color, wide-format documents such as maps and blue prints. Compact discs are $15.00 each for files retrievable from electronic data bases.

(c) 50 cents per page for certified documents.

(d) 10 cents per page rounded to the nearest dollar for paper copies of each Division of the regulations. Compact discs of a Division of the regulations are $15.00.

(e) The Department will not invoice unless the charges exceed $10.00.

(7) Requests which do not reasonably describe records sought. The Department may communicate with the requester to clarify records sought and with a view toward reducing the administrative burden of processing a broad request and minimizing the fees payable by the requester.

(8) Public distribution. Any written request for records prepared by the Department for routine public distribution, e.g. pamphlets, copies of speeches, press releases, and education materials, shall be honored.

(9) Disclosure of information to other agencies. Nothing in these rules and regulations shall be construed to prevent disclosure of any report, record, or information obtained under the Act, or any of the official records of the Commission to federal, or state, agencies, or when relevant in any proceedings under the Act.

Author: Marilyn Elliott, Russell A. Kelly.
Statutory Authority: Code of Alabama 1975, § 22-22A-5, 22-22A-6, 22-22A-8, 41-22-4, 41-22-5.
History: August 1, 1988.
Amended: January 28, 2004; July 11, 2006.

335-3-1-.04 Monitoring, Records, and Reporting.

(1) The Director may require the owner or operator of any air contaminant source to establish and maintain such records; make such reports; install, use, and maintain such monitoring equipment or methods; sample such emissions in accordance with such methods at such locations, intervals, and procedures as the Director may prescribe; and provide such periodic emission reports as required in paragraph (2) of this rule below.

(2) Reports. Records and reports as the Director may prescribe on air contaminants or fuel shall be recorded, compiled, and submitted on forms furnished by the Director or when forms are not so furnished, then in formats approved by the Director. These may include but not be limited to any of the following:

(a) Emissions of particulate matter, sulfur dioxide, and oxides of nitrogen shall be expressed as follows: in pounds per hour and pounds per million BTU of heat input for fuel-burning equipment; in pounds per hour and pounds per 100 pounds of refuse burned for incinerators; and in pounds per hour and in pounds per hourly process weight or production rate or in terms of some other easily measured and meaningful process unit specified by the Director.

(b) Sulfur dioxide and oxides of nitrogen emission data shall be averaged over a 24-hour period and shall be summarized monthly. Daily averaged and monthly summaries shall be submitted to the Director biannually. Data should be calculated daily and available for inspection at any time.

(c) Particulate matter emissions shall be sampled and submitted biannually.

(d) Visible emissions shall be measured continuously, and records kept indicating total minutes per day in which stack discharge effluent exceeds 20 percent opacity. Data should be summarized monthly and submitted monthly and biannually. Current daily results shall be available for inspection at any time.

(e) The sulfur content of fuels, as burned, except natural gas, shall be determined in accordance with current recognized ASTM procedures. Averages for periods prescribed by the Director shall be submitted biannually. Records shall be kept current and be available for inspection.

Author: James W. Cooper and John E. Daniel.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: January 18, 1972.
Amended: November 21, 1996.

335-3-1-.05 Sampling and Testing Methods.

(1) Methods. All required sampling and testing shall be made and the results calculated in accordance with sampling testing procedures and methods approved by the Director. All required samples and tests shall be made under the direction of persons qualified by training and/or experience in the field of air pollution control.

(2) Standard Methods. The Director, to the extent practicable, should recognize and approve the test methods and procedures established by 40 CFR, as the same may be amended or revised.

(3) The Division may conduct tests and take samples of air contaminants, fuel, process material, or other material which affects or may affect emission of air contaminants from any source. Upon request of the Division, the person responsible for the source to be tested shall provide necessary holes in stacks or ducts and such other safe and proper sampling and testing facilities exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants. If an authorized employee of the Division during the course of an inspection obtains a sample of air contaminant, fuel, process material, or other material, he shall give the owner or operator of the equipment or fuel facility a receipt for the sample obtained.

(4) Report to Owner or Operator. At the conclusion of any inspection under Section 9 of the Act or conduction of any testing or sampling under this Part, if requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status with the Act and these rules and regulations.

Author: James W. Cooper and John E. Daniel.
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: January 18, 1972.
Amended:

APPENDIX C

Environmental Protection Agency Regulations
Reference Documents

Cross Referenced to ADEM Rules and Regulations

New Source Performance Standards
National Emission Standards For Hazardous Air Pollutants

The complete text of all finalized EPA regulations incorporated into these regulations is located in the documents listed below. Amendments, revisions, or clarifications of EPA regulations which have been codified in the CFR, as well as of finalized regulations which have not yet been codified, are not included in this listing and interested parties are advised to consult the Federal Register for such amendments or revisions. The exceptions listed below are identified by EPA as nondelegable to the States.

ADEM Chapter 335-3-10	40 CFR Part 60	Exceptions
335-3-10-.02(1) Subpart A	Subpart A	§60.8(b)(2)
		§60.8(b)(3)
		§60.11(e)(7)
		§60.11(e)(8)
		§60.13(g)
		§60.13(i)
		§60.13(j)(2)
335-3-10-.02(2)Subpart D	Subpart D	
335-3-10-.02(2)(a) Subpart Da	Subpart Da	§60.45a
335-3-10-.02(2)(b) Subpart Db	Subpart Db	§60.44b(f)
		§60.44b(g)
		§60.49b(a)(4)
335-3-10-.02(2)(c) Subpart Dc	Subpart Dc	§60.48c(a)(4)
335-3-10-.02(3) Subpart E	Subpart E	
335-3-10-.02(3)(a) Subpart Ea	Subpart Ea	
335-3-10-.02(3)(b) Subpart Eb	Subpart Eb	
335-3-10-.02(3)(c) Subpart Ec	Subpart Ec	§60.50c(i)
335-3-10-.02(4) Subpart F	Subpart F	§60.66

ADEM Chapter 335-3-10	40 CFR Part 60	Exceptions
335-3-10-.02(5) Subpart G	Subpart G	
335-3-10-.02(5)(a) Subpart Ga	Subpart Ga	
335-3-10-.02(6) Subpart H	Subpart H	
335-3-10-.02(7) Subpart I	Subpart I	
335-3-10-.02(8) Subpart J	Subpart J	§60.105(a)(13)(iii) §60.106(i)(12)
335-3-10-.02(8) (a) Subpart Ja	Subpart Ja	§60.109b
335-3-10-.02(9) Subpart K	Subpart K	
335-3-10-.02(9)(a) Subpart Ka	Subpart Ka	§60.114a
335-3-10-.02(9)(b) Subpart Kb	Subpart Kb	§60.111b(f)(4) §60.114(b) §60.116(e)(3)(iii) §60.116(e)(3)(iv) §60.116b(f)(2)(iii)
335-3-10-.02(12) Subpart L	Subpart L	
335-3-10-.02(13) Subpart M	Subpart M	
335-3-10-.02(14) Subpart N	Subpart N	
335-3-10-.02(14)(a) Subpart Na	Subpart Na	
335-3-10-.02(15) Subpart O	Subpart O	§60.153(e)
335-3-10-.02(16) Subpart P	Subpart P	
335-3-10-.02(17) Subpart Q	Subpart Q	
335-3-10-.02(18) Subpart R	Subpart R	
335-3-10-.02(19) Subpart S	Subpart S	
335-3-10-.02(20) Subpart T	Subpart T	
335-3-10-.02(21) Subpart U	Subpart U	
335-3-10-.02(22) Subpart V	Subpart V	
335-3-10-.02(23) Subpart W	Subpart W	
335-3-10-.02(24) Subpart X	Subpart X	
335-3-10-.02(25) Subpart Y	Subpart Y	
335-3-10-.02(26) Subpart Z	Subpart Z	
335-3-10-.02(27) Subpart AA	Subpart AA	

ADEM Chapter 335-3-10	40 CFR Part 60	Exceptions
335-3-10-.02(27)(a) Subpart AAa	Subpart AAa	
335-3-10-.02(28) Subpart BB	Subpart BB	
335-3-10-.02(28) Subpart BBa	Subpart BBa	
335-3-10-.02(29) Subpart CC	Subpart CC	
335-3-10-.02(30) Subpart DD	Subpart DD	
335-3-10-.02(31) Subpart EE	Subpart EE	§60.316(d)
335-3-10-.02(32) Subpart FF	Reserved	
335-3-10-.02(33) Subpart GG	Subpart GG	§60.334(b)(2) §60.335(f)(1)
335-3-10-.02(34) Subpart HH	Subpart HH	
335-3-10-.02(35) Subpart II	Reserved	
335-3-10-.02(36) Subpart JJ	Reserved	
335-3-10-.02(37) Subpart KK	Subpart KK	
335-3-10-.02(38) Subpart LL	Subpart LL	
335-3-10-.02(39) Subpart MM	Subpart MM	
335-3-10-.02(40) Subpart NN	Subpart NN	
335-3-10-.02(41) Subpart OO	Reserved	
335-3-10-.02(42) Subpart PP	Subpart PP	
335-3-10-.02(43) Subpart QQ	Subpart QQ	
335-3-10-.02(44) Subpart RR	Subpart RR	§60.446(c)
335-3-10-.02(45) Subpart SS	Subpart SS	§60.456(d)
335-3-10-.02(46) Subpart TT	Subpart TT	§60.466(d)
335-3-10-.02(47) Subpart UU	Subpart UU	§60.474(g)
335-3-10-.02(48) Subpart VV	Subpart VV	§60.482-1(c)(2) §60.484
335-3-10-.02(48)(a) Subpart VVa	Subpart VVa	
335-3-10-.02(49) Subpart WW	Subpart WW	§60.496(c)
335-3-10-.02(50) Subpart XX	Subpart XX	§60.502(e)(6)
335-3-10-.02(51) Subpart YY	Reserved	
335-3-10-.02(52) Subpart ZZ	Reserved	
335-3-10-.02(53) Subpart AAA	Reserved	

ADEM Chapter 335-3-10	40 CFR Part 60	Exceptions
335-3-10-.02(54) Subpart BBB	Subpart BBB	§60.543(c)(2)(ii)(B)
335-3-10-.02(55) Subpart CCC	Reserved	
335-3-10-.02(56) Subpart DDD	Subpart DDD	§60.562-2(c)
335-3-10-.02(57) Subpart EEE	Reserved	
335-3-10-.02(58) Subpart FFF	Subpart FFF	
335-3-10-.02(59) Subpart GGG	Subpart GGG	
335-3-10-.02(59)(a) Subpart GGGa	Subpart GGGa	
335-3-10-.02(60) Subpart HHH	Subpart HHH	
335-3-10-.02(61) Subpart III	Subpart III	§60.613(e)
335-3-10-.02(62) Subpart JJJ	Subpart JJJ	
335-3-10-.02(63) Subpart KKK	Subpart KKK	
335-3-10-.02(64) Subpart LLL	Subpart LLL	
335-3-10-.02(65) Subpart MMM	Reserved	
335-3-10-.02(66) Subpart NNN	Subpart NNN	§60.663(e)
335-3-10-.02(67) Subpart OOO	Subpart OOO	
335-3-10-.02(68) Subpart PPP	Subpart PPP	
335-3-10-.02(69) Subpart QQQ	Subpart QQQ	
335-3-10-.02(70) Subpart RRR	Subpart RRR	§60.703(e)
335-3-10-.02(71) Subpart SSS	Subpart SSS	§60.711(a)(16) §60.713(b)(1)(i) §60.713(b)(1)(ii) §60.713(b)(5)(i) §60.713(d) §60.715(a) §60.716
335-3-10-.02(72) Subpart TTT	Subpart TTT	§60.723(b)(1) §60.723(b)(2)(i)(C) §60.723(b)(2)(iv) §60.724(e) §60.725(b)
335-3-10-.02(73) Subpart UUU	Subpart UUU	

ADEM Chapter 335-3-10	40 CFR Part 60	Exceptions
335-3-10-.02(74) Subpart VVV	Subpart VVV	§60.743(a)(3)(v)(A) §60.743(a)(3)(v)(B) §60.743(e) §60.745(a) §60.746
335-3-10-.02(75) Subpart WWW	Subpart WWW	§60.754(a)(5)
335-3-10-.02(76) ~~Reserved~~Subpart XXX	~~Reserved~~Subpart XXX	§60.764(a)(5)
335-3-10-.02(77) Reserved	Reserved	
335-3-10-.02(78) Reserved	Reserved	
335-3-10-.02(79) Subpart AAAA	Subpart AAAA	
335-3-10-.02(80) Reserved	Reserved	
335-3-10-.02(81) Subpart CCCC	Subpart CCCC	§60.2030 §60.2115 §60.2100(b)(2)
335-3-10-.02(82) Reserved	Reserved	
335-3-10-.02(83) Reserved	Reserved	
335-3-10-.02(84) Reserved	Reserved	
335-3-10-.02(85) Reserved	Reserved	
335-3-10-.02(86) Reserved	Reserved	
335-3-10-.02(87) Subpart IIII	Subpart IIII	
335-3-10-.02(88) Subpart JJJJ	Subpart JJJJ	
335-3-10-.02(89) Subpart KKKK	Subpart KKKK	
335-3-10-.02(90) Subpart LLLL	Subpart LLLL	§60.4785(c)
335-3-10-.02(91) Subpart OOOO	Subpart OOOO	
335-3-10-.02(91a) Subpart OOOOa	Subpart OOOOa	
335-3-10-.02 (92) Reserved	Reserved	
335-3-10-.02 (93) Reserved	Reserved	
335-3-10-.02 (94) Reserved	Reserved	
335-3-10-.02 (95) Reserved	Reserved	
335-3-10-.02 (96) TTTT	Subpart TTTT	§60.5575(b)

ADEM Chapter 335-3-10	40 CFR Part 60	Exceptions

History: Effective Date: May 25, 1976.
Amended: June 23, 1981; February 13, 1985; April 15, 1987; June 16, 1988; September 21, 1989; November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 24, 1991; December 28, 1993; April 27, 1995; November 21, 1996; September 25, 1997; March 27, 1998; July 15, 1999; January 13, 2000; September 7, 2000; March 14, 2002; October 3, 2002; April 3, 2003; October 2, 2003; March 22, 2005; December 12, 2005; July 11, 2006; November 14, 2006; April 3, 2007; January 22, 2008; August 5, 2008; January 19, 2009; March 30, 2010; May 23, 2011; May 29, 2012; January 22, 2013; May 28, 2013; September 24, 2013; November 24, 2015~~.~~;XXXXXX, 2017.

335-3-10-.03(1) Appendix A	Appendix A
335-3-10-.03(2) Appendix B	Appendix B
335-3-10-.03(3) Appendix F	Appendix F

History: Effective Date: June 16, 1988.
Amended: November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 24, 1991; December 28, 1993; November 21, 1996; March 27, 1998; January 13, 2000; September 7, 2000; March 14, 2002; October 3, 2002; March 22, 2005; November 14, 2006; April 3, 2007; January 22, 2008; January 19, 2009; March 30, 2010, May 23, 2011; May 28, 2013; November 24, 2015~~.~~;XXXXXX, 2017.

ADEM Chapter 335-3-11	40 CFR Part 61	Exceptions
335-3-11-.02(1) Subpart A	Subpart A	§61.04(b)
		§61.12
		§61.13(h)
		§61.13(i)
		§61.14(d)
		§61.14(g)
335-3-11-.02(2) Subpart C	Subpart C	§61.32(b)
335-3-11-.02(3) Subpart D	Subpart D	

ADEM Chapter 335-3-11	40 CFR Part 61	Exceptions
335-3-11-.02(4) Subpart E	Subpart E	§61.53(c)(4) §61.55(d)
335-3-11-.02(5) Subpart F	Subpart F	§61.66 §61.67(g)
335-3-11-.02(9) Subpart J	Subpart J	§61.112(c)
335-3-11-.02(11) Subpart L	Subpart L	§61.136(d)
335-3-11-.02(12) Subpart M	Subpart M	§61.149(c)(2) §61.150(a)(4) §61.151(c) §61.152(b)(3) §61.154(d) §61.155(a)
335-3-11-.02(13) Subpart N	Subpart N	§61.162(c) §61.163(h) §61.164(a)
335-3-11-.02(14) Subpart O	Subpart O	§61.174(a)
335-3-11-.02(15) Subpart P	Subpart P	
335-3-11-.02(21) Subpart V	Subpart V	§61.242-1(c)(2) §61.244
335-3-11-.02(22) Reserved	Reserved	
335-3-11-.02(23) Reserved	Reserved	
335-3-11-.02(24) Subpart Y	Subpart Y	§61.273
335-3-11-.02(25) Reserved	Reserved	
335-3-11-.02(26) Reserved	Reserved	
335-3-11-.02(27) Subpart BB	Subpart BB	
335-3-11-.02(28) Reserved	Reserved	
335-3-11-.02(29) Reserved	Reserved	
335-3-11-.02(30) Reserved	Reserved	

ADEM Chapter 335-3-11	40 CFR Part 61	Exceptions
335-3-11-.02(31) Subpart FF	Subpart FF	§61.353

History: Effective Date: May 25, 1976.
Amended: June 23, 1981; February 13, 1985; June 9, 1987; November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 30, 1992; December 28, 1993; January 13, 2000; March 14, 2002; October 2, 2003; March 22, 2005; December 12, 2005; January 22, 2008: November 24, 2015~~.~~;XXXXXX, 2017.

335-3-11-.03(1) Appendix B	Appendix B	

History: Effective Date: June 16, 1988
Amended: March 28, 1991; November 21, 1996; March 14, 2002: November 24, 2015~~.~~;XXXXXX, 2017.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(1) Subpart A	Subpart A	§63.6(g)
		§63.6(h)(9)
		§63.7(e)(2)(ii)
		§63.7(f)
		§63.8(f)
		§63.10(f)
335-3-11-.06(2) Subpart B	Subpart B	
335-3-11-.06(3) Subpart D	Subpart D	
335-3-11-.06(4) Reserved	Reserved	
335-3-11-.06(5) Subpart F	Subpart F[1]	See Footnote
335-3-11-.06(6) Subpart G	Subpart G	§63.153(c)(1)-(4)

[1] The following are not delegable: (1) Approval of alternatives to requirements in §§ 63.100, 63.102, and 63.104. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-4-11-.06(7) Subpart H	Subpart H[2]	See Footnote
335-3-11-.06(8) Subpart I	Subpart I[3]	See Footnote
335-3-11-.06(9) Reserved	Reserved	
335-3-11-.06(10) Reserved	Reserved	
335-3-11-.06(11) Subpart L	Subpart L[4]	See Footnote
335-3-11-.06(12) Subpart M	Subpart M[5]	See Footnote

---

[2] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.160, 63.162 through 63.176, 63.178 through 63.179. Follow the applicable procedures of § 63.177 to request an alternative means of emission limitation for batch processes and enclosed-vented process units. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. Where these standards reference another subpart and modify the requirements, the requirements shall be modified as described in this subpart. Delegation of the modified requirements will also occur according to the delegation provisions of the referenced subpart. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[3] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.190 and 63.192(a) through (b), (e), and (h) through (j). Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[4] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.300 and 63.302 through 63.308 (except the authorities in 63.306(a)(2) and (d)). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in §63.90, and as required in this subpart. (3) Approval of any changes to section 2 of Method 303 in appendix A of this part. (4) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (5) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(13) Subpart N	Subpart N	§63.348(c)(1)-(4)
335-3-11-.06(14) Subpart O	Subpart O	§63.368(c)(1)-(4)
335-3-11-.06(15) Reserved	Reserved	
335-3-11-.06(16) Subpart Q	Subpart Q[6]	See Footnote
335-3-11-.06(17) Subpart R	Subpart R[7]	See Footnote
335-3-11-.06(18) Subpart S	Subpart S[8]	See Footnote

---

[5] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.320 and 63.322(a) through (j). Follow the requirements in § 63.325 to demonstrate that alternative equipment or procedures are equivalent to the requirements of § 63.322. (2) Approval of major alternatives to test methods under 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[6] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.400 and 63.402 through 63.403. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[7] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.420, 63.422 through 63.423, and 63.424. Any owner or operator requesting to use an alternative means of emission limitation for storage vessels covered by § 63.423 must follow the procedures in § 63.426. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart, and any alternatives to § 63.427(a)(1) through (4) per § 63.427(a)(5). (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[8] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.440, 63.443 through 63.447 and 63.450. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Approval of alternatives to using §§ 63.457(b)(5)(iii), 63.457(c)(5)(ii) through (iii), and 63.257(c)(5)(ii), and any major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of alternatives using § 64.453(m) and any major alternatives to monitoring under

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(19) Subpart T	Subpart T[9]	See Footnote
335-3-11-.06(20) Subpart U	Subpart U[10]	See Footnote
335-3-11-.06(21) Reserved	Reserved	
335-3-11-.06(22) Subpart W	Subpart W[11]	See Footnote

---

§ 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[9] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.460, 63.462(a) through (d), and 63.463 through 63.464 (except for the authorities in § 63.463(d)(9)). Use the procedures in § 63.469 to request the use of alternative equipment or procedures. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[10] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.480 through 63.481, 63.483(a) through (c), 63.484, 63.485(a) through (k), (m), through (s), (u), 63.486 through 63.487, 63.488(a), (b)(1) through (4), (5)(iv) through (v), (6) through (7), (c) through (i), 63.493 through 63.494, 63.500(a)(1) through (3), (b), 63.501, 63.502(a) through (f), (i), (k) through (m), and 63.503. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. Where these standards reference another subpart and modify the requirements, the requirements shall be modified as described in this subpart. Delegation of the modified requirements will also occur according to the delegation provisions of the referenced subpart. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[11] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.520, 63.521, 63.523, and 63.524. Where these standards reference another rule, the cited provisions in that rule will be delegated according to the delegation provisions of that rule. (2) Approval of major alternatives to test methods for under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(23) Subpart X	Subpart X	§63.551(c)(1)-(4)
335-3-11-.06(24) Subpart Y	Subpart Y	§63.568(c)(1)-(4)
335-3-11-.06(25) Reserved	Reserved	
335-3-11-.06(26) Subpart AA	Subpart AA[12]	§63.611(b)(1)-(5)~~See Footnote~~
335-3-11-.06(27) Subpart BB	Subpart BB[13]	§63.632(b)~~See Footnote~~
335-3-11-.06(28) Subpart CC	Subpart CC	§63.656(c)(1)-(4)
335-3-11-.06(29) Subpart DD	Subpart DD[14]	See Footnote
335-3-11-.06(30) Subpart EE	Subpart EE[15]	See Footnote

~~[12] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.600, 63.602 through 63.604, and 63.609 through 63.610. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.~~

~~[13] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.620, 63.622 through 63.624, and 63.629 through 63.631. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.~~

[14] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.680, 63.683 through 63.691, and 63.693. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[15] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.701 and 63.703. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(31) Reserved	Reserved	
335-3-11-.06(32) Subpart GG	Subpart GG	§63.759(c)(1)-(4)
335-3-11-.06(33) Subpart HH	Subpart HH[16]	See Footnote
335-3-11-.06(34) Subpart II	Subpart II[17]	See Footnote
335-3-11-.06(35) Subpart JJ	Subpart JJ[18]	See Footnote
335-3-11-.06(36) Subpart KK	Subpart KK[19]	See Footnote

---

in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[16] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.760, 63.764 through 63.766, 63.769, 63.771, and 63.777. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[17] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.780 through 63.781, and 63.783 through 63.784. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[18] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.800, 63.802, and 63.803(a)(1), (b), (c) introductory text, and (d) through (l). (2) Approval of alternatives to the monitoring and compliance requirements in §§ 63.804(f)(4)(iv)(D) and (E), 63.804(g)(4)(iii)(C), 63.804(g)(4)(vi), and 63.804(g)(6)(vi). (3) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart, as well as approval of any alternatives to the specific test methods under §§ 63.805(a), 63.805(d)(2)(v), and 63.805(e)(1). (4) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (5) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(37) Reserved	Reserved	
335-3-11-.06(38) Subpart MM	Subpart MM[20]	See Footnote
335-3-11-.06(39) Reserved	Reserved	
335-3-11-.06(40) Subpart OO	Subpart OO[21]	See Footnote
335-3-11-.06(41) Subpart PP	Subpart PP[22]	See Footnote
335-3-11-.06(42) Subpart QQ	Subpart QQ[23]	See Footnote

---

[19] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.820 through 63.821 and 63.823 through 63.826. (2) Approval of alternatives to the test method for organic HAP content determination in § 63.827(b) and alternatives to the test method for volatile matter in § 63.827(c), and major alternatives to other test methods under § 63.7(e)((2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in defined in § 63.90, and as required in this subpart.

[20] The following are not delegable: (1) Pursuant to §63.6(g), approval of alternatives to standards in §63.862. (2) Pursuant to §63.7(e)(2)(ii) and (f) and as defined in §63.90, approval of major alternatives to test methods. (3) Pursuant to §63.8(f) and as defined in §63.90, approval of major alternatives to monitoring. (4) Pursuant to §63.10(f) and as defined in §63.90, approval of major alternatives to recordkeeping and reporting.

[21] The following are not delegable: (1) Approval of alternatives to the requirements in § 63.900 and 63.902. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[22] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.920 and 63.922 through 63.924. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(43) Subpart RR	Subpart RR[24]	See Footnote
335-3-11-.06(44) Subpart SS	Subpart SS[25]	See Footnote
335-3-11-.06(45) Subpart TT	Subpart TT[26]	See Footnote
335-3-11-.06(46) Subpart UU	Subpart UU[27]	See Footnote

---

[23] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.940, 63.942, and 63.943. Where these standards reference subpart DD, the cited provisions will be delegated according to the delegation provisions of subpart DD. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[24] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.960 and 63.962. Where these standards reference subpart DD, the cited provisions will be delegated according to the delegation provisions subpart DD of this part. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[25] The following are not delegable: (1) Approval of alternatives to the non-opacity emissions standards in § 63.983(a) and (d), 63.984, 63.985(a), 63.986(a), 63.987 (a), 63.988(a), 63.990(a), 63.993(a), 63.994(a), and 63.995(a) under § 63.6(g). Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Reserved. (3) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (4) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (5) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[26] The following are not delegable: (1) Approval of alternatives to the non-opacity emissions standards in § 63.1003 through 63.1015, under § 63.6(g). Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Reserved. (3) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (4) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (5) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(47) Subpart VV	Subpart VV[28]	See Footnote
335-3-11-.06(48) Subpart WW	Subpart WW[29]	See Footnote
335-3-11-.06(49) Subpart XX	Subpart XX[30]	See Footnote
335-3-11-.06(50) Subpart YY	Subpart YY	§63.1114(b)(1)-(5)
335-3-11-.06(51) Reserved	Reserved	
335-3-11-.06(52) Reserved	Reserved	

---

[27] The following are not delegable: (1) Approval of alternatives to the non-opacity emissions standards in § 63.1022 through 63.1034, under § 63.6(g), and the standards for quality improvement programs in § 63.1035. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Reserved. (3) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (4) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (5) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[28] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.1040 and 63.1042 through 63.1045. Where these standards reference subpart DD, the cited provisions will be delegated according to the delegation provisions of subpart DD of this part. (2) Approval of major alternatives to test methods under § 63.7(e)(20(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[29] The following are not delegable: (1) Approval of alternatives to the non-opacity emissions standards in §§ 63.1062 and 63.1063(a) and (b) for alternative means of emission limitation, under § 63.6(g). (2) Reserved. (3) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (4) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (5) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[30] The following are not delegable: (1) Approval of alternatives to the non-opacity emissions standards in §§ 63.1085, 63.1086 and 63.1095 under § 63.6(g). Where these standards reference another subpart, the cited provisions will be delegated provisions of the referenced subpart. (2) Reserved. (3) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (4) Approval of major changes to monitoring under § 63.90. (5) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(53) Reserved	Reserved	
335-3-11-.06(54) Subpart CCC	Subpart CCC[31]	See Footnote
335-3-11-.06(55) Subpart DDD	Subpart DDD[32]	§~~See Footnote~~63.1195(c)
335-3-11-.06(56) Subpart EEE	Subpart EEE[33]	See Footnote
335-3-11-.06(57) Reserved	Reserved	
335-3-11-.06(58) Subpart GGG	Subpart GGG	§63.1261(c)(1)-(4)
335-3-11-.06(59) Subpart HHH	Subpart HHH[34]	See Footnote

[31] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.1155, 63.1157 through 63.1159, and 63.1160(a). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of any alternative measurement methods for HCl and CL_2 to those specified in § 63.1161(d)(1). (4) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (5) Approval of any alternative monitoring requirements to those specified in §§ 63.1162(a)(2) through (5) and 63.1162(b)(1) through (3). (6) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart. (7) Waiver of recordkeeping requirements specified in § 63.1165. (8) Approval of an alternative schedule for conducting performance tests to the requirement specified in § 63.1162 (a)(1).

~~[32] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.1177 through 63.1180. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.~~

[33] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.1200, 63.1203 through 63.1205, and 63.1206(a). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[34] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.1270, 63.1274 through 63.1275, 63.1281, and 63.1287. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(60) Subpart III	Subpart III	§63.1309(c)(1)-(4)
335-3-11-.06(61) Subpart JJJ	Subpart JJJ	§63.1336(c)(1)-(4)
335-3-11-.06(62) Reserved	Reserved	
335-3-11-.06(63) Subpart LLL	Subpart LLL	§63.1358
335-3-11-.06(64) Subpart MMM	Subpart MMM	§63.1369(c)(1)-(4)
335-3-11-.06(65) Subpart NNN	Subpart NNN[35]	§~~See Footnote~~63.1388(c)
335-3-11-.06(66) Subpart OOO	Subpart OOO	§63.1419(c)(1)-(4)
335-3-11-.06(67) Subpart PPP	Subpart PPP	§63.1421(c)(1)-(4)
335-3-11-.06(68) Reserved	Reserved	
335-3-11-.06(69) Subpart RRR	Subpart RRR	§63.1519(c)(1)-(4)
335-3-11-.06(70) Reserved	Reserved	
335-3-11-.06(71) Reserved	Reserved	
335-3-11-.06(72) Subpart UUU	Subpart UUU[36]	§63.1578(c)(1)-(5)~~See Footnote~~
335-3-11-.06(73) Subpart VVV	Subpart VVV[37]	See Footnote

---

alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

~~[35] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.1380, 63., and 63.1387. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.~~

~~[36] The following are not delegable: (1) Approval of alternatives to the non-opacity emission limitations and work practice standards in §§63.1564 through 63.1569 under §63.6(g). (2) Approval of alternative opacity emission limitations in §§63.1564 through 63.1569 under §63.6(h)(9). (3) Approval of major alternatives to test methods under §63.7(e)(2)(ii) and (f) and as defined in §63.90. (4) Approval of major alternatives to monitoring under §63.8(f) and as defined in §63.90. (5) Approval of major alternatives to recordkeeping and reporting under §63.10(f) and as defined in §63.90.~~

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(74) Reserved	Reserved	
335-3-11-.06(75) Subpart XXX	Subpart XXX[38]	See Footnote
335-3-11-.06(76) Reserved	Reserved	
335-3-11-.06(77) Reserved	Reserved	
335-3-11-.06(78) Subpart AAAA	Subpart AAAA[39]	See Footnote
335-3-11-.06(79) Reserved	Reserved	
335-3-11-.06(80) Subpart CCCC	Subpart CCCC	
335-3-11-.06(81) Subpart DDDD	Subpart DDDD[40]	See Footnote
335-3-11-.06(82) Subpart EEEE	Subpart EEEE[41]	See Footnote

---

[37] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.1580, 63.1583 through 63.1584, and 63.1586 through 63.1587. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[38] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.1650 and 63.1652 through 63.1654. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[39] The following is not delegable: Approval of alternatives to the standards in §63.1955.

[40] The following is not delegable: (1) Approval of alternatives to the compliance options, operating requirements, and work practice requirements in §§ 63.2240 and 63.2241 as specified in § 63.6(g). For the purposes of delegation authority under 40 CFR part 63, subpart E, "compliance options" represent "emission limits"; "operating requirements" represent "operating limits"; and "work practice requirements" represent "work practice standards." (2) Approval of major alternatives to test methods as specified in § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring as specified in § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting as specified in § 63.10(f) and as defined in § 63.90. (5) Approval of PCWP sources demonstrations of eligibility for the low-risk subcategory developed according to appendix B of this subpart.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(83) Subpart FFFF	Subpart FFFF[42]	See Footnote
335-3-11-.06(84) Subpart GGGG	Subpart GGGG	
335-3-11-.06(85) Subpart HHHH	Subpart HHHH[43]	See Footnote
335-3-11-.06(86) Subpart IIII	Subpart IIII[44]	See Footnote
335-3-11-.06(87) Subpart JJJJ	Subpart JJJJ[45]	See Footnote
335-3-11-.06(88) Subpart KKKK	Subpart KKKK[46]	See Footnote

---

[41] The following are not delegable: (1) Approval of alternatives to the non-opacity emission limitations, operating limits, and work practice standards in § 63.2346(a) through (c) under § 63.6(g). (2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[42] The following are not delegable: (1) Approval of alternatives to the non-opacity emission limits and work practice standards in § 63.2450(a) under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[43] The following are not delegable: (1) The authority under § 63.6(g) to approve alternatives to the emission limits in §63.2983 and operating limits in § 63.2984. (2) The authority under § 63.7(e)(2)(ii) and (f) to approve of major alternatives (as defined in § 63.90) to the test methods in § 63.2993. (3) The authority under § 63.8(f) to approve major alternatives (as defined in § 63.90) to the monitoring requirements in §§ 63.2996 and 63.2997. (4) The authority under § 63.10(f) to approve major alternatives (as defined in § 63.90) to recordkeeping, notification, and reporting requirements in §§ 63.2998 through 63.3000.

[44] The following are not delegable: (1) Approval of alternatives to the work practice standards in § 63.3094 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[45] The following are not delegable: (1) § 63.3360(c), approval of alternate test method for organic HAP content determination; (2) § 63.3360(d), approval of alternate test method for volatile matter determination.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(89) Reserved	Reserved	
335-3-11-.06(90) Subpart MMMM	Subpart MMMM[47]	See Footnote
335-3-11-.06(91) Subpart NNNN	Subpart NNNN[48]	See Footnote
335-3-11-.06(92) Subpart OOOO	Subpart OOOO[49]	See Footnote
335-3-11-.06(93) Subpart PPPP	Subpart PPPP[50]	See Footnote
335-3-11-.06(94) Subpart QQQQ	Subpart QQQQ[51]	See Footnote

---

[46] The following are not delegable: (1) Approval of alternatives to the work practice standards in § 63.3493. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[47] The following are not delegable: (1) Approval of alternatives to the requirements in § 63.3881 through 3883 and § 63.3890 through 3893. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[48] The following are not delegable: (1) Approval of alternatives to the work practice standards in § 63.4093 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[49] The following are not delegable: (1) Approval of alternatives to the work practice standards in § 63.4293 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[50] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.4481 through 4483 and §§ 63.4490 through 4493. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[51] The following are not delegable: (1) Approval of alternatives to the work practice standards under § 63.4693. (2) Approval of major alternatives to test

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(95) Subpart RRRR	Subpart RRRR[52]	See Footnote
335-3-11-.06(96) Subpart SSSS	Subpart SSSS[53]	See Footnote
335-3-11-.06(97) Reserved	Reserved	
335-3-11-.06(98) Reserved	Reserved	
335-3-11-.06(99) Subpart VVVV	Subpart VVVV[54]	§63.5698
		§63.5728
		§63.5731(a)
		§63.5734
		§63.5740(a)
		§63.5743
		§63.5746(g)
335-3-11-.06(100) Subpart WWWW	Subpart WWWW[55]	See Footnote

methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[52] The following are not delegable: (1) Approval of alternatives to the work practice standards in § 63.4893 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[53] The following are not delegable: (1) Approval of alternatives to the emission limitation in §63.5120. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in §63.5160. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.5150. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in §§ 63.5180 and 63.5190.

[54] The following are also not delegable: Pursuant to § 63.7(e)(2)(ii) and (f), the authority to approve alternatives to the test methods in §§ 63.5719(b), 63.5719(c), 63.5725(d)(1), and 63.5758; pursuant to § 63.8(f), the authority to approve major alternatives to the monitoring requirements in § 63.5725; pursuant to § 63.10(f), the authority to approve major alternatives to the reporting and recordkeeping requirements listed in §§ 63.5764, 63.5767, and 63.5770.

[55] The following are not delegable: (1) Approval of alternatives to the organic HAP emissions standards in § 63.5805 under § 63.6(g). (2) Approval of major

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(101) Subpart XXXX	Subpart XXXX[56]	See Footnote
335-3-11-.06(102) Subpart YYYY	Subpart YYYY[57]	See Footnote
335-3-11-.06(103) Subpart ZZZZ	Subpart ZZZZ	§63.6670(c)(1)-(5)
335-3-11-.06(104) Subpart AAAAA	Subpart AAAAA[58]	See Footnote
335-3-11-.06(105) Subpart BBBBB	Subpart BBBBB[59]	See Footnote
335-3-11-.06(106) Subpart CCCCC	Subpart CCCCC[60]	See Footnote

---

changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[56] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.5981 through 63.5984, 63.5986, and 63.5988. (2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[57] The following are not delegable: (1) Approval of alternatives to the emission limitations or operating limitations in § 63.6100 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90. (5) Approval of a performance test which was conducted prior to the effective date of the rule to determine outlet formaldehyde concentration as specified in § 63.6110(b).

[58] The following are not delegable: (1) Approval of alternatives to the non-opacity emission limitations in § 63.7090(a). (2) Approval of alternative opacity emission limitations in § 63.7090(a). (3) Approval of alternatives to the operating limits in § 63.7090(b). (4) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (5) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (6) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[59] The following are not delegable: (1) Approval of alternatives to the non-opacity emission limitations in § 63.7184 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and defined in § 63.90.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(107) Subpart DDDDD	Subpart DDDDD	§63.7570(b)
335-3-11-.06(108) Subpart EEEEE	Subpart EEEEE[61]	See Footnote
335-3-11-.06(109) Subpart FFFFF	Subpart FFFFF[62]	See Footnote
335-3-11-.06(110) Subpart GGGGG	Subpart GGGGG[63]	See Footnote

---

[60] The following are not delegable: (1) Approval of alternatives to work practice standards for fugitive pushing emissions in § 63.7291(a) for a by-product coke oven battery with vertical flues, fugitive pushing emissions in § 63.7292(a) for a by-product coke oven battery with horizontal flues, fugitive pushing emissions in § 63.7293 for a non-recovery coke oven battery, soaking for a by-product coke oven battery in § 63.7294(a), and quenching for a coke oven battery in § 63.7295(b) under § 63.6(g). (2) Approval of alternatives opacity emission limitations for a by-product coke oven battery under § 63.6(h)(9). (3) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90, except for alternative procedures in § 63.7334(a)(7). (4) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (5) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90. (6) Approval of the work practice plan for by-product coke oven batteries with horizontal flues submitted under § 63.7292(a)(1).

[61] The following are not delegable: (1) Approval of alternatives to non-opacity emissions limitations in § 63.7690 and work practice standards in § 63.7700 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[62] The following are not delegable: (1) Approval of alternative opacity emission limits in Table 1 to this subpart under § 63.6(h)(9). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90, except for approval of an alternative method for the oil content of the sinter plant feedstock or volatile organic compound measurements for the sinter plant windbox exhaust stream stack as provided in § 63.7824(f). (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[63] The following are not delegable: (1) Approval of alternatives to the non-opacity emissions limitations and work practice standards in this subpart under § 63.6(g). (2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(111) Subpart HHHHH	Subpart HHHHH[64]	See Footnote
335-3-11-.06(112) Subpart IIIII	Subpart IIIII[65]	See Footnote
335-3-11-.06(113) ~~Reserved~~Subpart JJJJJ	~~Reserved~~Subpart JJJJJ	§63.8510(c)
335-3-11-.06(114) ~~Reserved~~Subpart KKKKK	~~Reserved~~Subpart KKKKK	§63.8660(c)
335-3-11-.06(115) Subpart LLLLL	Subpart LLLLL[66]	See Footnote
335-3-11-.06(116) Reserved	Reserved	
335-3-11-.06(117) Subpart NNNNN	Subpart NNNNN[67]	See Footnote

changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[64] The following are not delegable: (1) Approval of alternatives to the non-opacity emission limits and work practice standards in § 63.8000(a) under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[65] The following are not delegable: (1) Approval of alternatives under § 63.6(g) to the non-opacity emission limitations in § 63.8190 and work practice standards in § 63.8192. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[66] The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.8681, 63.8682, 63.8683, 63.8684(a) through (c), 63.8686, 63.8687, 63.8688, 63.8689, 63.8690, and 63.8691. (2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[67] The following are not delegable: (1) Approval of alternatives to requirements in §§ 63.8980, 63.8985, 63.8990, 63.8995, and 63.9000. (2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(118) Reserved	Reserved	
335-3-11-.06(119) Subpart PPPPP	Subpart PPPPP[68]	See Footnote
335-3-11-.06(120) Subpart QQQQQ	Subpart QQQQQ[69]	See Footnote
335-3-11-.06(121) Subpart RRRRR	Subpart RRRRR[70]	See Footnote
335-3-11-.06(122) Reserved	Reserved	
335-3-11-.06(123) Subpart TTTTT	Subpart TTTTT[71]	See Footnote
335-3-11-.06(124)SubpartUUUUU	Subpart UUUUU	§63.10041(b)(1)-(4)
335-3-11-.06(125) Reserved	Reserved	
335-3-11-.06(126) Reserved	Reserved	
335-3-11-.06(127) Reserved	Reserved	

---

[68] The following are not delegable: (1) Approval of alternatives to the emission limitations in § 63.9300 under § 63.6(g). (2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[69] The following are not delegable: (1) Approval of alternatives to the emission limitations in § 63.9500(a) and (b) under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[70] The following are not delegable: (1) Approval of non-opacity emission limitations and work practice standards under § 63.6(h)(9) and as defined in § 63.90. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

[71] The following are not delegable: (1) Approval of alternatives to the non-opacity emission limitations in § 63.9890 and work practice standards in § 63.9891 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(128) Subpart YYYYY	Subpart YYYYY	§63.10691(c)(1)-(6)
335-3-11-.06(129) Subpart ZZZZZ	Subpart ZZZZZ	§63.10905(c)(1)-(6)
335-3-11-.06(130) Reserved	Reserved	
335-3-11-.06(131) Reserved	Reserved	
335-3-11-.06(132) Reserved	Reserved	
335-3-11-.06(133) Subpart DDDDDD	Subpart DDDDDD	§63.11145(b)
335-3-11-.06(134) Subpart EEEEEE	Subpart EEEEEE[72]	See Footnote
335-3-11-.06(135) Subpart FFFFFF	Subpart FFFFFF[73]	See Footnote
335-3-11-.06(136) Subpart GGGGGG	Subpart GGGGGG[74]	See Footnote

[72] The following are not delegable: (1) Approval of an alternative non-opacity emissions standard under § 63.6(g). (2) Approval of an alternative opacity emissions standard under § 63.6(h)(9). (3) Approval of a major change to a test method under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90. (4) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90. (5) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.

[73] The following are not delegable: (1) Approval of an alternative non-opacity emissions standard under §63.6(g). (2) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90. (3) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90. (4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.

[74] For primary zinc production facilities, the following are not delegable: (1) Approval of an alternative non-opacity emissions standard under § 63.6(g). (2) Approval of an alternative opacity emissions standard under § 63.6(h)(9). (3) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90. (4) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90. (5) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90. For primary beryllium manufacturing facilities, the following are not delegable: (1) Approval of an alternative non-opacity emissions standard under 40 CFR 61.12(d). (2) Approval of a major change to test methods under 40 CFR 61.13(h). A "major change to test method" is defined in §63.90. (3) Approval of a major change to monitoring under 40 CFR 61.14(g). A "major change to monitoring" is defined in § 63.90. (4) Approval of a major change to recordkeeping/reporting under 40 CFR 61.10. A "major change to recordkeeping/reporting" is defined in § 63.90.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(137) Reserved	Reserved	
335-3-11-.06(138) Reserved	Reserved	
335-3-11-.06(139) Reserved	Reserved	
335-3-11-.06(140) Reserved	Reserved	
335-3-11-.06(141) Subpart LLLLLL	Subpart LLLLLL	§63.11399(b)(1)-(4)
335-3-11-.06(142) Subpart MMMMMM	Subpart MMMMMM	§63.11406(b)(1)-(4)
335-3-11-.06(143) Reserved	Reserved	
335-3-11-.06(144) ~~Reserved~~Subpart OOOOOO	~~Reserved~~Subpart OOOOOO	§63.11420(b)(1)-(4)
335-3-11-.06(145) Reserved	Reserved	
335-3-11-.06(146) Subpart QQQQQQ	Subpart QQQQQQ[75]	See Footnote
335-3-11-.06(147) Reserved	Reserved	
335-3-11-.06(148) Reserved	Reserved	
335-3-11-.06(149) Subpart TTTTTT	Subpart TTTTTT	§63.11473(c)(1)-(4)
335-3-11-.06(150) Reserved	Reserved	
335-3-11-.06(151) Subpart VVVVVV	Subpart VVVVVV	§63.11503(b)(1)-(4)
335-3-11-.06(152) Reserved	Reserved	
335-3-11-.06(153) Reserved	Reserved	
335-3-11-.06(154) Subpart YYYYYY	Subpart YYYYYY	§63.11531(c)(1)-(5)
335-3-11-.06(155) Subpart ZZZZZZ	Subpart ZZZZZZ	§63.11557(c)(1)-(5)
335-3-11-.06(156) Subpart AAAAAAA	Subpart AAAAAAA	§63.11567(b)
335-3-11-.06(157) Reserved	Reserved	

[75] The following are not delegable: (1) Approval of an alternative nonopacity emissions standard under § 63.6(g). (2) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90 (3) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90. (4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions
335-3-11-.06(158) Subpart CCCCCCC	Subpart CCCCCCC[76]	See Footnote
335-3-11-.06(159) Subpart DDDDDDD	Subpart DDDDDDD[77]	See Footnote
335-3-11-.06(160) Reserved	Reserved	
335-3-11-.06(161) Reserved	Reserved	
335-3-11-.06(162) Reserved	Reserved	
335-3-11-.06(163) Subpart HHHHHHH	Subpart HHHHHHH	§63.12000(b)

History: Effective Date: November 23, 1995.
Amended: November 21, 1996; September 25, 1997; March 27, 1998; November 19, 1998; July 15, 1999; January 13, 2000; September 7, 2000; March 14, 2002; October 3, 2002; April 3, 2003; October 2, 2003; March 22, 2005; December 12, 2005; July 11, 2006; April 3, 2007; January 22, 2008; August 5, 2008; January 19, 2009; March 30, 2010; May 23, 2011; May 29, 2012; January 22, 2013; May 28, 2013; September 24, 2013; November 24, 2015~~.~~;XXXXXX, 2017.

335-3-11-.07(1) Appendix A	Appendix A	Sect. 2, Method 303
335-3-11-.07(2) Appendix B	Appendix B	
335-3-11-.07(3) Appendix C	Appendix C	
335-3-11-.07(4) Appendix D	Appendix D	
335-3-11-.07(5) Appendix E	Appendix E	

[76] The following are not delegable: (1) Approval of an alternative nonopacity emissions standard under § 63.6(g). (2) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90 (3) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90. (4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.

[77] The following are not delegable: (1) Approval of an alternative nonopacity emissions standard under § 63.6(g). (2) Approval of an alternative opacity emissions standard under § 63.6(h)(9). (3) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90. (4) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90. (5) Approval of a major change to recordkeeping and reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.

ADEM Chapter 335-3-11	40 CFR Part 63	Exceptions

History: Effective Date: November 23, 1995.
Amended: November 21, 1996; September 25, 1997; November 19, 1998; July 15, 1999; January 13, 2000; March 14, 2002; March 30, 2010; May 23, 2011; May 28, 2013; November 24, 2015~~.~~;XXXXXX, 2017.

ADEM Chapter 335-3-11A	40 CFR Part 65	Exceptions
335-3-11A-.02(1) Subpart A	Subpart A	§65.8
		§65.46
		§65.102
		§65.156(b)(1)(ii)
		§65.158(a)(2)(ii)
335-3-11A-.02(2) Reserved	Reserved	
335-3-11A-.02(3) Subpart C	Subpart C	
335-3-11A-.02(4) Subpart D	Subpart D	
335-3-11A-.02(5) Subpart E	Subpart E	
335-3-11A-.02(6) Subpart F	Subpart F	
335-3-11A-.02(7) Subpart G	Subpart G	

History: Effective Date: March 14, 2002.
Amended: August 5, 2008; November 24, 2015.